

S E C O N D
R E P O R T

FROM THE

SELECT COMMITTEE

ON

COLONIZATION AND SETTLEMENT (INDIA);

WITH THE

MINUTES OF EVIDENCE

TAKEN BEFORE THEM.

Ordered, by The House of Commons, to be Printed,
10 June 1858.

Martis, 16^o die Martii, 1858.

Ordered, THAT a Select Committee be appointed to inquire into the Progress and Prospects, and the best Means to be adopted for the Promotion of European Colonization and Settlement in India, especially in the Hill Districts and Healthier Climates of that Country; as well as for the Extension of our Commerce with Central Asia.

Lunæ, 22^o die Martii, 1858.

Committee nominated of—

Mr. William Ewart.
Mr. Baillie.
Mr. Campbell.
Mr. Gregson.
Mr. Kinnaird.
Mr. Knight.
Mr. Lowe.
Mr. Lygon.

Mr. Mangles.
Sir Erskine Perry.
Mr. Seymour.
Mr. John Benjamin Smith.
Mr. William Vansittart.
Mr. Villiers.
Mr. Willoughby.

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.

Ordered, THAT Five be the Quorum of the Committee.

Jovis, 25^o die Martii, 1858.

Ordered, THAT the Committee do consist of Sixteen Members.

Ordered, THAT Mr. De Vere be added to the Committee.

Jovis, 6^o die Maii, 1858.

Ordered, THAT the following Petitions be referred to the Committee, viz.:—From Landed Proprietors, Indigo Planters, Merchants, and Traders in Calcutta and the Lower Provinces of Bengal;—and, Indigo Planters' Association in Bengal;—and, British Subjects resident in Calcutta and the Mofussil Districts of the Residency of Fort William, in Bengal.

Ordered, THAT the Committee have power to Report the Minutes of Evidence taken before them, from time to time, to The House.

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S E C O N D R E P O R T.

THE SELECT COMMITTEE appointed to inquire into the Progress and Prospects, and the best Means to be adopted for the Promotion of EUROPEAN COLONIZATION and SETTLEMENT in *India*, especially in the Hill Districts and Healthier Climates of that Country, as well as for the Extension of our Commerce with Central Asia, and who were empowered to Report the MINUTES of EVIDENCE taken before them, from time to time, to The House :

HAVE taken further Evidence on the Matters to them referred, and have agreed to Report the same to The House.

10 *June* 1858.

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MINUTES OF EVIDENCE.

Jovis, 6^o die Maii, 1858.

MEMBERS PRESENT.

Mr. Campbell.
Mr. De Vere.
Mr. William Ewart.
Mr. Kinnaird.
Mr. Lowe.
Mr. Lygon.
Mr. Willoughby.

Mr. Mangles.
Sir Erskine Perry.
Mr. Danby Seymour.
Mr. J. B. Smith.
Mr. William Vansittart.
Mr. Villiers.

WILLIAM EWART, ESQ. IN THE CHAIR.

Mr. *George MacNair*, called in; and Examined.

1964. *Chairman.*] YOU are, I believe, an indigo planter in India?—Yes, I am. Mr. *G. MacNair*.
1965. How long have you been in India?—I have been 20 years in India. 6 May 1858.
1966. Have you been constantly resident there during that time?—Yes; I was at home for about six months in 1854.
1967. In what districts have you resided?—In Lower Bengal, in the districts of Jessore, Kishnaghur, and Pubna.
1968. Have you heard the evidence given by Mr. Freeman?—Yes.
1969. Do you give your general concurrence to the tenor of that evidence?—I fully concur in all that Mr. Freeman said about the state of the law and police, and the general state of the country.
1970. Do you concur in what he said about the magistracy?—I do.
- 1971-2. And also about the distribution of justice?—I do.
1973. How long have you returned from India?—Last year I returned.
1974. Have you formed any general opinions about the settlement of Europeans, or, as it is sometimes called, colonization in India?—Yes; I think it would be very advantageous to encourage the colonization of India as much as possible; indeed, the safety and stability of the country depends much upon more Europeans being settled there. It would also tend much to the improvement of the natives, and to the prosperity of the country.
1975. Do you think it would be an advantage not only to the Europeans themselves, but the natives also?—I think it would; many of the most able governors strongly recommended colonization. Lord William Bentinck first granted to Englishmen the privilege of holding lands in the interior of India, contrary to the instructions of the Court of Directors. Sir Charles Metcalfe said he was convinced our possession in India would always be very precarious, unless we had a considerable European population attached to our Government by common interests and sympathies. If these recommendations had been carried out, in all probability this dreadful mutiny would never have occurred.
1976. Was Lord William Bentinck thoroughly convinced of the good policy of the settlement of Europeans in India?—I think from his minute in the council that time, in 1829 and 1830, you may assume that he was.
1977. Has he expressed himself so formally in words?—Yes.
1978. Does that appear on his minutes?—Yes, on the minutes of 1829 and 1830.
- o.54. A 1830.

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1830. I think the late system of the East India Company opposing the settlement of Europeans and conciliating the natives of India has not succeeded. If Government wish to retain that eastern empire, I think they must follow another system, and encourage the settlement of Europeans as much as possible. A considerable number might be employed in Government situations which are at present filled by natives in whom no dependence can be placed. Some thousands of European troops and their families might be settled in the hill districts, with grants of lands, and if roads and railways were carried through, these troops could be made available in any emergency; the very knowledge that such troops were within call would assist to keep the natives in subjection. India is no less favoured than England with respect to the possession of every description of minerals in the neighbourhood of Calcutta, in the districts of Burdwan, Bheerboom, and Rajmahal. We have abundance of coal nearly on the surface of the ground; also iron ore, lead, and limestone; we only want a protection for skill and capital to develop the resources of the country. There are at present a great many obstacles to the settlement of Englishmen; if those obstacles were removed, I have no doubt Englishmen would soon settle to a greater extent in India.

1979. Will you state what are the obstacles to the settlement of Englishmen in India?—The policy of the East India Company has always been opposed to the settlement of Englishmen in India; they commenced their government as a trading monopoly, and excluded Englishmen as far as possible. India has never been considered or administered as a British colony. It was only in 1833 that trading was partially opened, and not until 1837 could Englishmen purchase or hold land in their own names.

1980. That was under the Indian Act of 1837?—Yes.

1981. Using the power given them by the Legislative Act of 1833?—Yes, when the trading monopoly was partially done away with. At that time those most obnoxious Black Acts were introduced, which did more to prevent the settlement of Englishmen than any benefit to be expected from the opening of the trade. From agitation and opposition these Acts were delayed, but every few years they were brought forward again to harass and disturb the few English settlers in that country. At this present time there are fewer Englishmen settled in the interior of India than there were 20 years ago, English Government servants excepted. To induce Englishmen to settle in India, they require a reasonable protection of their personal rights and property, the same as Englishmen enjoy and are entitled to in any British colony. In India Englishmen have hitherto enjoyed the protection or privilege of being tried in all criminal cases before the Supreme Court by an English jury; but during the last 20 years, every few years some new Act has been brought forward to do away with that privilege, and to subject them to the jurisdiction of a native court, native judges, and a native jury, placing them upon the same level as the lowest natives of the country.

1982. Mr. Willoughby.] Are you alluding to laws actually passed, or to laws proposed?—I am alluding to the proposed Black Acts; a portion of the jury, by the proposed Black Acts, can be natives; by that Act a jury was not to exceed nine, nor to be less than three.

1983. Chairman.] Including natives?—Including natives. In that country, where the natives carry out their antagonistical feelings to the greatest extent, where corruption, bribery, and false evidence are the rule, how could a limited number of Europeans be expected to have any safety for their lives and property? You may as well propose to place the British inhabitants of Canada or Australia under the jurisdiction of the aborigines of those countries. The Hindoos and Mussulmans are such a litigious and vindictive race, that if Englishmen were subject to the native judges in criminal cases, those judges would use every means to degrade and dishonour them, and I think very few Englishmen would be found willing to risk their lives and property under such laws. I have heard many of them express that they would leave the country if these laws were passed. In the last Bill brought forward by the Legislative Council in Calcutta, it was proposed to exempt all government servants, even European soldiers and sailors, and people of the lowest situations, from the action and jurisdiction of the proposed native criminal courts and judges, which sufficiently shows their animosity and opposition to English settlers.

1984. Do you refer to the allusion in Sir Arthur Buller's speech in the Le

native Council?—He did not allude to that part of it, but he alluded to all the Government servants being exempted by these Black Acts.

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1985. Sir *Erskine Perry*.] Are you sure that it is a fact that soldiers and sailors were to be exempted?—Soldiers and sailors are to be tried by court-martial.

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1986. Mr. *Campbell*.] Practically that exempts them from the native tribunal?—Yes, they are to be tried by court-martial.

1987. Mr. *Willoughby*.] They are to be tried by military law?—Yes.

1988. *Chairman*.] They are not specially exempted by the Act to which you refer?—I think there is a clause to that effect.

1989. Will you go on with your statement?—The European community in India have also no mercantile or agricultural representation in the Legislative Council; at present the Legislative Council in Calcutta is entirely composed of Government servants; nearly every law brought forward by them is to strengthen the hands of Government, or to impose some new restriction upon the already over-restricted European settlers. I think it would be very advantageous if the Governor-general were instructed to select six non-official members from the mercantile and agricultural community. This plan is adopted in Ceylon and at Hong Kong, and I believe has worked well for the prosperity of those countries. I may mention that there are two judges of the Supreme Court who are members of the Council; but they are paid by the Government. I do not propose to interfere with the secret, financial or executive councils, but merely to have some non-official members in the Legislative Council.

1990. You mean you wish to secure the representation of the interests of the agricultural and commercial community?—Yes.

1991. Would you exclude natives of first-rate character and intelligence from some share in the Council?—No; if the Government thought proper, I do not think there would be any objection to have one or two natives of the upper classes.

1992. Will you proceed with your statement?—The inhabitants of India have no opportunity of giving their evidence before a Committee like this, where the wants and requirements of the country can be heard. They cannot give their evidence before the Legislative Council there. The sale laws and laws of land tenures are also very insufficient for the protection of property. As the natives are so dilatory and unwilling to pay what is due, it is quite proper to have very stringent regulations for the quarterly payment of Government rents. In Bengal, where the perpetual settlement is established, it is very beneficial to the landowners for the improvement of their property. Many of the large estates are made over in putnees, or perpetual sub-tenures, for which an increased annual rent is paid; also a large sum as premium fee or purchase-money, which makes a very profitable settlement for the original holders; but some fraudulent proprietors, after they have received a large sum for those sub-tenures, allow their property to be sold for default of Government rents, and purchase it in the name of some of their relatives or friends. A Government sale for arrear of rents is considered to release the property of all the sub-tenures. As these sub-tenures are at an increased rent, and not injurious to the Government claim for rent, I think there should be a protection for them, and the property should be sold, subject to all *bonâ fide* sub-tenures and existing leases which were duly registered within a reasonable time of being granted. Great care and caution is also necessary to investigate fraudulent claims; when a property is sold, the relatives or dependents of former proprietors generally bring forward numerous false claims to former tenures, and spare no means to try to prove them, to the great injury of the new purchaser.

1993. You appear to me to consider that registration and preventive measures would be the best expedient for preventing those fraudulent acts on the part of the natives?—Yes.

1994. Measures preventive of fraud on the part of the law and the Government, rather than remedial?—It would prevent fraudulent acts to a very great extent; there is a registration at present, but it is not compulsory. A paper registered is of course considered more valid than one not registered.

1995. Would you make registration compulsory?—Yes, I would.

1996. Mr. *J. B. Smith*.] Supposing a putneedar took a perpetual lease of the land, and was not subject to be ejected in the way you state, do you suppose he would

Mr. G. MacNair. would not be obliged to give a higher rent for his land?—He might; and it would be an inducement to do so, because there would be no chance of its being upset.

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1997. Every putneedar that takes land of a zemindar is fully cognizant that he may be deprived of it in the manner you have just stated?—Yes, to a certain extent he is; and he takes it upon the good faith of its being a profitable zemindary, and that the zemindar will continue to pay the sudder rents.

1998. Therefore, does not he get it at a much lower rent than he otherwise would?—In Lower Bengal there is such a demand for these tenures, that you have to pay a higher rent.

1999. But does he get it at a lower rent or not?—No, not on that account.

2000. *Chairman.*] Will you proceed with your statement?—The exclusive system of the civil service is also very objectionable. Of late years so many of the more experienced and able gentlemen of that service have been taken away for new and advanced employment, and been absent from the country, that a great many mere youths, a few months from college, with little knowledge of the language, and with no experience or business habits, are placed in charge of large districts. It cannot be expected that they could have any control over their courts' servants or over the police, consequently the business is entirely in the hands of the native omiah, who soon know their power, and use it for their own advantage. I have known court omiahs, with the small salary of 10 to 12 rupees per month, accumulating large sums in a few years, and purchasing landed property and building pucca houses. There are no doubt many very able men in the service who take an interest in their work, and give general satisfaction; but those gentlemen get promotion, and are frequently removed from their districts just when they are getting acquainted with the people, and becoming useful magistrates. I think it would be preferable to give them advancement in these appointments, and retain them where their services would be most useful. The most able men are generally made collectors, as I suppose Government think it most important to collect the revenues. The inexperienced youths are made magistrates, and the higher judicial appointments are filled by people whose energies are expended, and who are anxious to take the earliest opportunity of retiring from the service, which they can do upon a handsome pension, after an actual service of 22 years. If these appointments were open to competition in India, many well-qualified people would be found able to fill them, and it would also be a great inducement for English settlers to qualify themselves for those appointments where they would get advancement from their own merits and exertions. At present the uncovenanted deputy magistrates and deputy collectors of experience and long standing get about the same allowance as the young civilians get when they receive their appointments. I think it would be very advantageous to put the covenanted and uncovenanted services upon the same footing as it is in this country, and open the civil service entirely. I think there is a great necessity of inquiring into the nature and number of public appointments in India, the salaries and emoluments attached to them, and the principles upon which the public service could be supplied from English settlers in India. In India the system of advance prevails to a great extent.

2001. Mr. *Willoughby.*] Do you mean the advance of funds?—Yes, to native cultivators. In India, where the system of advance prevails to such an extent, where the native cultivators are generally so poor, they cannot provide seed for their lands, or engage to deliver any produce, without previously obtaining a considerable advance, generally equal to the value of the produce, a good law of contract is much required for all classes, English and natives. Government found it necessary to have stringent laws of contract for their own opium advances; and if they would extend that law to all parties, Europeans and natives, it would save a great deal of litigation and cases of affrays. The present law of complaining before the civil courts is so expensive and tedious, it is in fact an encouragement to ill-disposed people to break their contracts; it is a very common thing for small natives who save or have a little money, to lend it or make advances to natives upon their crops; most of them are ruined from not being able to recover their advances, which is the sole cause why so very exorbitant rates are taken by native dealers. These high rates bear hard upon the poor cultivators, and is the principal cause of their poverty. It seems to be a popular proposition of Government to put all their subjects upon the same footing and under the same laws; but they claim to keep their own servants of every grade, from the highest to the lowest, exempt

exempt from these laws, and also have different laws of contract for their own opium and salt advances.

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2002. Sir *Erskine Perry*.] You do not disapprove of the general principle of having one system of laws for all the inhabitants of a country, do you?—I do not approve of putting us all under the Mussulman and Hindoo laws. The laws must be separate for the Hindoos and Mussulmans. I think Government have not at their disposal in India a sufficient amount of scientific and engineering skill for the proper prosecution of public works. Their officers are constantly called away to their military duties. I think some skilful English engineers, acquainted with the deepening of rivers and canals, and the making of roads and bridges, are much wanted. The police is also in a very neglected state; instead of being any protection for life or property, it is considered a curse to the population. Almost three-fourths of the crimes are suppressed, to prevent the oppression of a police investigation. Dacoitee is very bad, but the subsequent police inquiry is considered very much worse. The system of taking evidence is very corrupt. It is the general opinion of the native and European residents in the Mofussil that the administration of criminal justice is little better than a lottery; the best chances in which are with the criminal. This state of affairs has been admitted by all Indian ministrations for the last half century, but to this day nothing has been done to improve it.

2003. *Chairman*.] Do you consider that the evils you have just now stated act as impediments to European settlement in India?—Decidedly they do, I think.

2004. I gather from your evidence that you make two general statements; the one, that India has been too much governed by a species of hierarchy; and the other, that it ought to be governed more as an English colony?—I think so.

2005. What class of people do you consider the best suited to settle in India?—People of skill and capital who would assist to develop the resources of the country, also engineers and miners, and agriculturists as overseers.

2006. Skill itself is intellectual capital, is not it?—It is, but you require capital also.

2007. The skilful man and the capitalist might combine together?—Yes, the skilful man is capital, and he can generally get on in India by getting employment.

2008. Will you state what you know about the rivers, canals and roads in Lower Bengal?—I have paid some attention to the state of the rivers, and have passed frequently through them. The rivers Jellinghee and Mattahungah, that lead from the Ganges to Calcutta, are in a very neglected state; they are quite impassable for seven or eight months in the year for boats drawing from 12 to 15 inches of water.

2009. Are they the Nuddea rivers?—Yes; the other river, the Bugurruttie, is much more shut up. In going to Calcutta, in December, I have seen upwards of 1,000 boats stopped in one place, with immense up-country boats and rafts of timber quite blocked together, that could neither get up nor down. There is generally a police darogah, with some people from the superintendent of the rivers sent there, but their presence adds to the mischief; they extort and rob as much as possible; no boat can attempt to get through without paying these people; many of the boat people run away, and leave their boats, which get broken and robbed. I have frequently had my boat broken; large boats that cannot get through are left there for six months till the inundation rises. A considerable amount of tolls is collected from these rivers, and little or nothing is done to improve them. I think, if a skilful engineer was appointed, much might be done to straighten their courses and deepen them, which would be of immense advantage to the whole country, by allowing the produce of the Upper Provinces to proceed direct to Calcutta. From these rivers being shut up during the dry weather, all the valuable produce of the Upper Provinces, also the grain and firewood from the eastern districts, are obliged to go by the circuitous and dangerous route of the Sunderbunds, incurring a delay of 20 or 30 days, with great risk and expense of transport.

2010. What would be the time if a short line were made from Nuddea down the river?—It would be a saving of three or four weeks; if one of the rivers was kept open, it would be a great advantage. The approach to Calcutta, through the Sunderbunds, is through a narrow shallow channel, scarcely as broad as this room, and quite unfit to allow so many boats to pass through it. So much is the additional risk by this route, that it is nearly impossible to get boats insured;

Mr. G. MacNair. eight per cent. is asked for insurance of hemp from Serajgunge to Calcutta, whereas the insurance from Calcutta to England is only two per cent. There is also a large amount of tolls collected from the canal, and I believe there is every facility to make a good canal there. With regard to the roads, I may state that, within the last two years, the Government granted some funds to make roads in some of the districts, and a little more attention has been paid to them, but the roads are principally made in the neighbourhood of the stations, or leading from one police station to another. From the materials of those roads they are generally quite impassable during the rainy season. There are no crossroads for the conveyance of produce, or for the benefit of the country generally. The transport of produce is so difficult and expensive, that much of the produce is stored in the interior for some months, till the inundation comes, when it is removed by boats. In June or July, when the inundation commences, you see thousands of boats collected at the different rivers, waiting to proceed through as soon as they are open. Indigo planters make roads to a very great extent; there is one large indigo concern in Jessore that has made 50 or 60 miles of roads within the last few years, with some little assistance from the ferry funds, but principally from voluntary contributions from ryots, and from private expense.

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2011. Where settlers establish themselves, is there a tendency to improve the roads?—Very great. In our own concern we have made roads to a considerable extent.

2012. Mr. J. B. Smith.] Are those metal roads?—No; there is only one metal road, the great military road to Calcutta. In our own concern we have made about 20 miles of roads, entirely at private expense, with some assistance from the ryots; we wished to make other 10 miles of roads, to connect some leading roads to some large bazaars, but were prevented from doing so by the zemindar, who would not allow us to cut roads through his lands; sometimes the zemindars prevent our making roads.

2013. Chairman.] Ought not there to be some overruling authority on the part of the State, the same as in this country, with respect to railways?—There should be. I have known the magistrate come out and order it to be done. People perhaps object to having a tree cut down; but if you have a proper magistrate, he will order it to be done, if it is for the public advantage.

2014. Mr. J. B. Smith.] In such a case is the zemindar compensated for the land?—Not generally; generally they would not ask for compensation; it would benefit the property.

2015. Chairman.] Would not the Eastern Railway, projected from the Ganges to Calcutta, be advantageous for the carriage of produce?—I think it would be very advantageous, both for the carriage of the produce coming down the Ganges and for the produce coming from the eastern provinces of Mymensing, Dacca, and Assam. That line has been surveyed two years ago, and has been sanctioned by Government, but not yet commenced. It would be very advantageous if it could be completed as early as possible. The distance is short, and there are no great engineering difficulties the length of the Ganges. If the Government would lay off the land, and allow the company to complete it, I believe it would be finished in two or three years. It is a short railway, about 120 or 130 miles long. It is called the Eastern Bengal Railway, which has been guaranteed by Government within the last six months.

2016. You have referred very much to the police; could you suggest any improvement in the state of the police at present?—As the magistrates are at present so distant from the police stations, they cannot exercise a proper control over them. I would recommend an extension of European superintendents, and the introduction of the English language.

2017. What are the principal products of Lower Bengal?—Indigo, sugar, silk, hemp, oil-seeds, some wheat, rice, and other small grain.

2018. Have those products been improved by European skill and superintendence?—Very much indeed; everything formerly produced by the natives was of a very poor quality, and inferior to that produced in other countries. Indigo, silk, sugar, and hemp have been brought to their present state of perfection by European settlers.

2019. Do natives sometimes employ Europeans to superintend their indigo factories and landed properties?—Nearly all natives who have extensive factories and landed properties, employ Europeans to superintend them; they find that their

their indigo produce is so much improved by European superintendence, that it fetches a much higher price and bears a better character. All natives know their own servants are dishonest, and cheat them to a great extent. I have heard an extensive zemindar, who had measured his property five times, say he never could depend upon a native measurement, and that unless he could hold one end of the measuring chain and his brother the other end, he never could depend upon its being correct. Natives in measuring lands have great opportunities of cheating; they themselves tell you they do not take employment for the small salaries they receive, but try to get as much as they can in other ways. I heard a police darogah say that he and all his native establishment were nearly in a state of starvation, because his district was so quiet and he could get nothing out of the people. All powerful natives generally oppress the poor and the weak, and encroach upon properties as much as possible.

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2020. In your indigo concerns, do you generally purchase landed property?—We do; we generally purchase all the property that is available within the respective lines of our concerns.

2021. Why do you purchase the landed property?—To give us protection for our operations.

2022. You do not buy it for the value of the property, but for the protection it gives you?—Not for the value and the profit we make upon the property, but for the protection it gives us.

2023. You become a zemindar?—Yes, we do.

2024. And then you have greater protection in your property?—Yes; we can carry the work on without the ryots running away.

2025. You are on a level with the native zemindars?—We are.

2026. How does that give you protection?—The native zemindars oppress the people by collecting increased rents, or by perquisites for themselves; and the people run away and leave our work undone, and injure the work; but when we have the property in our own hands, we can prevent that oppression.

2027. In fact, you prefer being a landlord to being a lessee?—We do, because it is more settled.

2028. What description of land tenures do you hold?—We hold some estates or shares of estates under Government, paying the rent to the Collector, some putnees, or perpetual sub-tenures from zemindars, also izaras, or leases for stated periods. As zemindaries in Bengal are now so profitable, they are seldom sold. We are obliged to take putnees and izaras at a very enhanced rate, and give large sums as purchase-money, or in advance; and it is for these sub-tenures that we ask to be recognised and protected in a new sale law.

2029. Do proprietors of estates under the perpetual settlement collect much amount of rent in excess of the Government rent?—Some estates are very profitable, collecting 10 or 12 times the amount of Government rent; others less, collecting two or four times the amount of Government rent.

2030. Are estates frequently sold for arrears of Government rent?—Formerly they were more frequently sold; of late years they have increased in value, and are now seldom sold except when proprietors are involved in debt, and are unable to get assistance in time to pay the quarterly rents.

2031. When you take a putnee or perpetual lease from the zemindar, what amount is generally paid as premium fee or purchase-money?—We generally pay for a putnee three or four times the amount of the annual rents.

2032. In the event of an estate being sold by the Collector for arrears of Government rent, is this putnee or sub-tenure recognised by the present sale laws?—No, it is not recognised.

2033. You confirm the evidence of Mr. Freeman and Mr. Theobald on that point?—I do.

2034. Are the small tenants or ryots entitled to hold possession of their lands?—They are considered entitled to hold as long as they pay their rents.

2035. Is that observation generally true, or is it limited to particular tenants?—Upon new land it is not considered that they are entitled; but what you call a koot-cast ryot is entitled to have a sort of right to the land, but very few have any pottahs or leases.

2036. It is a customary right?—Yes; it should be a recognised right. Under Lord Cornwallis's settlement it was intended, I believe, that it should be a recognised right.

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2037. Can the rents of those ryots be increased at the will of the proprietor?—The lands can be re-measured and assessed at the neerick of the pergunnah, that is, the rate of the pergunnah. They generally have lands in excess; if a man is charged for 20 begahs, he probably has 25.

2038. If the neerick makes the amount greater than before, of course the rent of the land is proportionately increased?—Yes.

2039. Do the zemindars of Bengal annually assess the different descriptions of crops?—Some of the smaller zemindars do so; but the more extensive zemindars generally fix the assessment according to the description of crops on the lands at the time of measurement.

2040. That is not an annual assessment?—Some of the very small ones do that occasionally, but generally it is not annual; it is generally fixed at the time of the measurement.

2041. At what rate do they assess the different descriptions of crops, when they do assess them?—From one rupee to one rupee eight annas per begah for grain crops; two rupees eight annas to three rupees for sugar-cane, mulberry, and tobacco; and two rupees eight annas to three rupees for tanks, gardens, and house steadings.

2042. What is the proportion of the Bengal begah to the acre?—About two-and-a-half begahs make an acre; it varies a little in the different pergunnahs.

2043. What do they charge for cotton?—About two rupees eight annas per begah.

2044. Does this system of assessing the rotation of crops by some zemindars, and charging higher rates for mulberry, sugar-cane, cotton, and tobacco, prevent the ryots from cultivating those crops?—It may sometimes, to a small extent; but if the crops are profitable, they will not be prevented.

2045. What is the extent of the indigo cultivated in Bengal, and what is the outlay?—About 4,000,000 of begahs are annually sown, and about 2,000,000 *l.* is the annual outlay; about 5,000,000 *l.* or 6,000,000 *l.* is the estimated value of the blocks of the indigo concerns, and about 2,000,000 *l.* are annually expended for outlay upon silk.

2046. Of course this great circulation of money created by the cultivation must assist in improving the condition of the ryots?—It does to a very great extent; it enables the ryots to pay their rent in coin, and not to be imposed upon by paying it in grain to any extent the zemindar may demand.

2047. Has the cultivation of the waste lands and the improvement in the condition of the natives in Bengal extended within your experience?—Very much indeed. Twenty years ago there was a very great portion of waste land in Jessore and Kishnagur, which abounded in wild buffaloes and hogs; those lands have all been gradually brought into cultivation, and at present there is scarcely any waste land in the districts. The condition and prosperity of the natives have been very much improved from the cultivation of more lands and the circulation of so much capital; they are better enabled to pay their rents, they have better houses and better cattle, and are better clothed than formerly.

2048. Is Jessore a district much peopled by European settlers?—It is, in the northern part especially; it is north-east of Calcutta.

2049. Of course the wages of the natives have increased in consequence?—They have.

2050. Do the native zemindars reside upon their properties, and do anything to improve their estates?—Very few of the large zemindars reside much of their time upon their estates; they reside principally in Calcutta, or the neighbourhood, to be free from the annoyance and extortion of the courts and police; the estates are consequently much left to the management of their servants, who extort as much as they can in rents and perquisites for themselves, and do little for the improvement of the property.

2051. Then the native zemindar class is an absentee class almost?—To a great extent; they have houses on their estates, and may come for a short time to them at different times, but they principally reside in the neighbourhood of Calcutta.

2052. What description of lands is mostly used for the cultivation of indigo?—New alluvial soils and churs formed on the banks of the large rivers, which are low, and the plant requires to be cut early before the inundation comes down; there is afterwards such a current of the water upon these lands, that they could not be used for rice, or any other crops.

2053. You

2053. You have stated that the population of the English settlers in Bengal has not increased?—No it has not, during my experience.

2054. What is the reason that so few Englishmen have settled in those districts of late years?—I believe principally from the unsettled state of the laws, and the want of proper protection for life and property.

2055. Has the increase of English settlers, in the interior of Lower Bengal, been at all proportioned to the increase of English settlers in Calcutta?—No; there has been a great increase in Calcutta.

2056. Do you think that the introduction of the English language in the courts of justice would be a benefit to India?—I think it would be of the very greatest benefit; it would in a great measure put a stop to false evidence, bribery, and corruption; the natives learn the English language very quickly; if it was ordered to be introduced I think they would be qualified, in two or three years, to conduct the court business in the English language.

2057. Do you think it is better for the judge to use the English language through an interpreter, employing his own common sense, than indirectly and often erroneously, through the *omlah*, in a foreign dialect?—I think it is; if you had a good interpreter you would arrive more at the truth through that than doing it in the present way.

2058. It would bring the facts of the case more home to his mind in plain English, than having to go through a course of putting his ideas into a foreign and only imperfectly understood language?—It would.

2059. In what situations under Government do you think more Europeans could be employed than are employed now?—In all the public offices, such as the Treasury, the Home and Foreign Departments, the Military, Public Works, Salt and Opium, Stamp Office, Mint, Post Office, &c.; there is at present a very large establishment of native writers in these departments; some of them receiving from 100 *l.* to 300 *l.* per annum, and even more, who do very little work; they are nearly all mere machines, who copy well, but cannot draught or write a letter of any consequence; for the present pay of these native establishments I should say a much more efficient European establishment could be kept, which would be a good training school for higher appointments to get on from their own merits and exertions.

2060. Would the natives feel much objection to learning the English language?

—No, they are very anxious to learn the English language, and they pick it up very much.

2061. How would it answer to commute the payment of the land revenue, and make a freehold sale of the land?—It might answer very well, and a large sum be raised if the natives could be induced to take it at a fair valuation, but they generally look upon these new schemes with great distrust. I do not think it would be taken up so soon after the mutiny. The natives lost much confidence in the Company's Government from the financial scheme of 1854, reducing the 5 per cent. loan to 4 per cent., and shortly after opening a new loan at 5 per cent., thereby reducing the value of every man's loan 20 per cent.; that measure created much distrust, which is still fresh in their memories; if the country were settled in the Queen's Government, probably they might take up their estates in freehold. The scheme for surveying the country has also created a considerable distrust; the natives were astonished that the Government would go to such an expense measuring and surveying the country; they thought they were going to do away with the perpetual settlement, and settle the land anew, they have so much distrust of new things.

2062. Was that a proof of their own ignorance?—No, they are not ignorant, it is distrust, and they distrust these new things; they cannot make out the object of what they are for at the present time. The Resumption Laws, too, gave them a great deal of distrust, some 20 years ago, when the *La Khiraj* lands were resumed. The Rajah of Burdwan appealed his resumption case to the Privy Council here, and his appeal was confirmed, and the resumption upset, and his lands were released; but all the rest of the poor natives who could not afford an appeal are still taxed for those lands. If they could join together, and appeal to this country, they would all be released.

2063. Do you refer to the lands which are free from Government rent?—Yes, the *La Khiraj* lands.

2064. You having been so long as 20 years resident in India, will you be good enough to state what sort of health you have enjoyed during that time?—Very good.

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2065. What

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2065. What have you to say about the healthiness of Europeans in general?—If the European settlers are moderate, and take sufficient exercise, I think they enjoy very good health; everything depends upon that. The state of living is better understood than it was formerly.

2066. Have the English cultivators and proprietors taken any pains in the establishment of schools in that part of the country?—They have; I have known one or two have schools in their own villages. There are schools at Jessore and Pubna, and at different places, and the planters all subscribe to them. In one case I gave a Government school free rooms, and I subscribe to two or three schools.

2067. Do you think that if English settlement had its proper scope, there would be a greater tendency to improve the education of the natives on the part of the settlers?—There would.

2068. Do you think that that tendency is displaying itself already, and would in that case be more likely to be further extended?—Yes, a great deal more has been done for education in the last eight or ten years.

2069. Mr. Mangles.] Do you mean by the settlers?—Yes, and by the Government.

2070. Mr. De Vere.] You spoke of placing in the hands of Europeans many offices which are now held by natives; do the natives undergo a special education to fit them for those offices?—No, they do not; they undergo an examination, but they have no special education that I am aware of.

2071. Do not you think that depriving them of those offices would have a deteriorating effect upon their education generally, and that there would be less encouragement held out to them to educate themselves than now?—It might be so to a certain extent, but not very much.

2072. To whatever extent it would operate, it would tend to keep back the educational progress of the native population of the country?—No, I do not think it would.

2073. Mr. Danby Seymour.] Are you aware that the Government give those places now to those who have distinguished themselves in the schools?—Some appointments are given to them.

2074. Do not you think it is only fair, as far as you can, to employ the natives of the country in the government of their own country?—If you could employ them beneficially, and you could put dependence upon them, it would be so, but if you cannot get trustworthy people it is not even for the benefit of their own native class to employ them.

2075. Do not you think that the planters entertain a very extreme idea of the notion of dishonesty of the natives?—I think we have a just one; the native dishonesty is proverbial.

2076. Do not you think that the extreme corruption is a disputed point?—No, they admit it themselves; their whole idea is to cheat; they do not take an employment for the small salary they get; it is to cheat, and to get what they can.

2077. How do you account for it that when 95 per cent. of all cases are tried by native judges there are so few reversals of their verdicts by the zillah judges immediately above them?—That is in civil cases; there are a great many reversals.

2078. The number of reversals is well known, is it not?—It is reported every year.

2079. Are you aware that the high authorities in India are not of your opinion as to the dishonesty of the natives, and that there are reports in favour of the way in which the admission of them to the higher offices has worked?—I do not think gentlemen acquainted with them are in favour of them. I mean of the omlah class.

2080. Would you call the Governor of Bengal acquainted with them?—Yes; he has great experience about them, and he has stated his opinion of the police very fully, and very unfavourably of the natives.

2081. He has also stated his opinion, has not he, of the way in which their promotion to the judicial offices has worked?—Yes.

2082. A favourable opinion, I believe?—I am not aware.

2083. Are you aware that he wished to put a native into office as Sudder judge, two or three years ago?—Yes.

2084. Does not that show that he had a good opinion of the native judges?—In one or two cases they may be better.

2085. A man

2085. A man may be corrupt in civil cases as well as criminal, may not he?—
He may.

2086. Are you aware that Sir George Clerk was strongly in favour of promoting natives even to collectorships?—No.

2087. And Mr. Mountstuart Elphinstone also, I believe?—That referred to the natives of Bombay; the natives there are different from the Bengalese; the Bengalese are the worst set in India.

2088. You say that there ought to be an inquiry into public employments in India; are you aware that an inquiry is going on by Mr. Ricketts at present?—I have seen some notice of it.

2089. Are you aware that he has made 49 reports already on the state of every public employment in India, and has visited every part of India for that purpose during the last two years?—I do not know how many reports he has made.

2090. Have you seen an account of it in the papers?—Yes; some part of it in the public papers I have seen.

2091. You have not seen an account of his inquiry?—Not a full report of it; but I have seen some notice of it.

2092. You said that you thought the servants of the Government should be found among the European settlers?—Yes, as much as possible. I think it would be a great inducement for Europeans to go to India to qualify themselves for those appointments.

2093. Do you remember why the covenanted service was established?—It was established at a very early time, I suppose, to send a better class of people to the country at that time.

2094. Was not it established because it was thought that the power was too great to be vested in the Governor-general to choose whomsoever he pleased in India to put into the offices?—I do not know.

2095. Do not you think that it would be putting a very great power into the hands of the Governor-general to allow him to choose at his own discretion from the people of the country?—No, so long as there is a free press to check those things.

2096. With regard to advances, almost all produce is made from advances, is not it?—It is to a great extent; you cannot get a carpenter or blacksmith to do anything in that country without advances.

2097. Are the accounts for those advances ever made up?—Yes, if the work is monthly; they are made up monthly, or as soon as possible.

2098. Is that the case with advances for indigo?—Yes.

2099. There is not a running account?—No.

2100. Is that the general practice?—It is the general practice among European planters; and if there is anything to receive, it is willingly paid before the Europeans, to prevent the natives cheating them.

2101. The cases in which you want a law of contracts are principally where you engage at a certain price with the ryot, and the ryot finds a better customer before the time for the delivery of the goods arrives, and sells to that other customer?—Yes; it shows their deception. If they can get a better price when the thing comes forward, they will dispose of it in that way, if they can: I have known many natives ruined in that way.

2102. Do you not expect a very high interest on the money you advance?—The natives take a very high rate.

2103. Do not the European planters take a very high rate?—No; there is no interest charged in indigo factory accounts.

2104. Out of the price of the goods the native ryot gets but a very small portion?—No; a fair price.

2105. What do you call a fair price?—As much as that article would be worth to himself, or as much as other people would give.

2106. If there was a law for advances as summary as the law of the Company with regard to opium, would not the ryots be placed very much in the hands of the planters?—No, I do not think they would; it would make them more correct if they knew that there was a strict law.

2107. Do you think that if they were here, and could give their own account, they would wish as summary a law to be general as is now the particular law with regard to opium?—No, they would not; nor would the opium people wish it either, if they could avoid it.

2108. You said that there were not engineers enough to do the civil engineering work

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Mr. G. MacNair. work in Bengal; do you think that it would be a good thing to have a corps of civil engineers employed by the Government?—I think it would.

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2109. Are you aware that some have been sent out?—Yes, a Mr. Sims, and one or two others.

2110. That was for a railway, was not it?—Yes; and he surveyed some of the rivers also.

2111. Do not you think that it would be a good thing to have engineers whose sole attention should be directed to the rivers?—Yes, a very great advantage indeed, because those artillery and military officers in India are not acquainted with the best improvements in those things.

2112. Civil engineering is entirely a different branch from military engineering?—Yes.

2113. And you think the time has arrived when the two should be divided?—Yes.

2114. Would it not be cheaper for the Government to engage a civil engineer for five years, or some specified time, and then take somebody else if he did not turn out well?—No doubt; and they would get more work done.

2115. You say you think that the introduction of the English language would prevent corruption in the courts?—To a great extent it would.

2116. Do not you think some amendment is required in the law of procedure; that written evidence should be done away with?—Yes, it is too tedious; it should be more oral.

2117. Are you aware that the plan of taking oral evidence has been tried in some places, Chittagong particularly?—No.

2118. You are not aware that it has been found to answer there, and that the Governor of Bengal recommended it to be tried in other parts?—No.

2119. Do you think there could be any plan adopted for improving the roads of Bengal, in which the zemindars and planters, and the inhabitants and the villagers would subscribe, if the Government gave a certain sum?—A small assessment might be laid on in all the villages, or upon the zemindars.

2120. And they would be glad to pay it?—They would willingly do so for improved roads; it is done in some cases.

2121. Are you acquainted with a minute of Mr. Halliday's upon that subject, where he says that at once there should be 3,000 miles of road made in Bengal?—Yes.

2122. Do you think any plan of that sort could be generally laid down, and carried out in 10 year's time?—I think it could.

2123. Were not the zemindars bound to keep up banks and make roads, to a certain extent, at the time of the perpetual settlement?—Some embankments they are bound to keep up.

2124. You say that sometimes an active magistrate comes out and obliges a zemindar to allow the roads to be made?—He does; I have seen it done.

2125. If he had the power to make any zemindar make any road, such power would be liable to be misused and would result in oppression?—It might be left to arbitration, and settled amicably.

2126. You said that the darogah, in a case where there was little for the police to do, could not live on his pay; do not you think the pay generally is very low for that class of servants?—It has been increased for the last three or four years, but it makes no improvement; they are as bad as ever.

2127. Is the pay now sufficient?—For that class of people it is.

2128. Do you know whether the civil servants of the company were formerly underpaid?—I believe in the early part of the Company's lease they were underpaid, but they are not underpaid at present.

2129. Do not you think it would be fair to try what paying the natives fairly would do to render them more honest?—There is no objection to it; it is tried in the civil appointments to a certain extent.

2130. Are you aware whether the natives have been sufficiently tried?—The pay of sudder ameens and moonsiffs has been much increased.

2131. Do you think you could bring any sufficient case of corruption against a sudder ameen or a principal sudder smeen?—No. I have heard of a great many of them, if they are not corrupt themselves; they have always some cousin or brother ready to take to any amount.

2132. A great deal of that is owing to the mode of procedure, which encourages false swearing as much as possible?—There is a great facility for it.

2133. Owing

2133. Owing to the great technicalities of the system in the Regulation Provinces, would you be in favour of having the Punjaub system introduced into Lower Bengal?—I think some part of that system would be advantageous.

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2134. Would you like the summary system that at present prevails in the Punjaub; would it be suited to the lower provinces of Bengal?—I do not think it would answer so well in Lower Bengal.

2135. Would you be in favour of a division of districts and the accumulation of all powers in the same individual to make the magistrate collector and judge?—No, I would not.

2136. Do you think the magistrate and collector should be the same individual?—No; I should have the magistrate separate, and I would have an efficient officer for a magistrate. You might have younger assistants for collectors, but I would have an efficient man for a magistrate.

2137. And you would not have the two offices united in the same person?—No; I would have separate offices.

2138. And you would keep the present system in Bengal, and improve it rather than depart from it?—Yes.

2139. You are aware that the introduction of the old system of the union of magistrate and collector in the same person is much mooted now?—Yes.

2140. When did estates begin to increase in value in Bengal; is it within the last few years, or 10 or 15 years?—From the last 10 to 20 years.

2141. Do you think that of late they have gone on increasing up to the present time?—Yes, they are higher at present than they have been formerly.

2142. Has that increase been greater in the last four or five years than previously?—It has.

2143. And you do not think it has reached its climax yet?—Yes; I think it is very high at present.

2144. How many years' purchase is given for land?—It is taken in leases; it is not bought as freehold land.

2145. Every piece of land you buy must be calculated to yield a certain rent; if you took a lease for 30 years of an estate at Jessore at 100*l.* a year, what would you pay for it?—It would depend upon what you could collect from it.

2146. Bringing in an average calculated at 100*l.* a year?—We generally give the collectable rent in that respect.

2147. What is the rate of wages generally for a day-labourer?—A day-labourer receives from two rupees eight annas a month to from four to five rupees; it depends upon the description of labourer.

2148. An able-bodied labourer, for instance, on railway works?—Four, five, and six rupees a month, an able-bodied man.

2149. It is by the day?—No, not by the day, but by the month.

2150. Is the work performed by contract generally?—Yes; generally it is; people are paid for their labour by contract work.

2151. It is generally on the system of advances, and paying the work at certain rates?—Yes; you give them probably two rupees in advance; they come to you and work for a month, and at the end of that time the account is squared.

2152. Are the accounts for indigo large or small?—It depends upon how much they can take; they come in for their own contracts, and propose how much they can take.

2153. You say the subject of the survey was discussed when it was proposed?—Yes.

2154. Do not you think that a good survey of Bengal is a very necessary thing?—Yes, and a great advantage, if properly done.

2155. Will not it be an advantage to all parties?—Yes; it will put a stop to much litigation about the boundaries of property.

2156. Was not it well done?—There was a little too much power given to the natives to decide the boundaries at the time. You want European superintendence.

2157. Is not European superintendence enormously expensive?—It is a little so.

2158. Do you think that in all those great Government works you could employ nothing but Europeans?—No; you could have Europeans to superintend the natives to a greater extent, and have efficient people to see the work done; a great

Mr. G. MacNair. a great many Europeans leave the natives to do the work, and do not look to the work at all.

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2159. That has not been the case with the survey, has it?—Frequently.

2160. Are there not uncovenanted European servants at the head of each party?—Not at the head of all the parties; on some there are.

2161. Are you acquainted with what was done on the subject of resumptions?—Yes.

2162. What was your opinion about the conduct of the Government on the subject of resumptions?—It was considered very unjust.

2163. Why was it considered very unjust?—Because the lands had been granted in perpetuity before.

2164. Do you think a law of limitation would be useful; that where a man had had possession of property for a certain number of years, his title should be unquestioned?—It depends upon the arrangement which he makes for the property, if it is a fair right.

2165. I mean like the Statute of Limitations in this country; if a man has held property for 20 years in this country, and no man has questioned his right, the property is his, and no man can question it; do you think that would be a good thing in India?—Yes, it would induce the people to improve the property.

2166. Suppose the Government has left you in possession of your land for 30 years, without questioning your right to it; you think it an injustice for the Government to step in?—I do indeed.

2167. That is what I mean, that there should be a certain time, after which, supposing a party had rights, he should not be able to avail himself of them?—Yes.

2168. Mr. Mangles.] Was the question of the resumptions purely a matter of property; was not it also a question of taxation; was not it a question whether the holders of those lands should be exempted in perpetuity from bearing any share of the public burthens, and contributing to the public expenses?—I suppose Government did it with a view to increase the revenue.

2169. Do you think it equitable that in a country where, like India, almost the whole of the revenue is derived from the land, any class of persons should be exempt in perpetuity from bearing any portion of the public burthens?—I think it unjust that they should be exempt; except in cases where it was granted for particular purposes.

2170. Was not the claim of those men as against the Government, that the lands which they held should be continued exempt for ever from paying any revenue to the Government?—It was; but those lands were given by the native princes for sacred and religious purposes, and other particular purposes, and they had to perform some of those purposes, and if the lands were given in good faith by the former proprietors of the country, the gift should have been upheld.

2171. To any extent that they might exist?—If they could produce documents given in good faith.

2172. Are you aware that by the law if they were really given for religious purposes, they are still applied to those religious purposes, and cannot be resumed?—In some cases.

2173. Any religious endowments?—No; I have heard of a number that have been resumed.

2174. I mean where the revenues are *bonâ fide* applied for those purposes?—They are not often applied for those purposes.

2175. Do you think it reasonable then that any class of persons should be exempt for ever from bearing any part of the public burthens?—No, except in particular cases.

2176. You said those resumptions are very unjust, and now you admit the contrary?—No; they are unjust when given for specific purposes.

2177. Do not you think that if they were given for the maintenance of a temple or mosque, and the man took the money and applied it to private purposes, it would be unjust?—Yes; but if a man gets a piece of ground for those purposes you cannot say how much he uses for the particular purpose, and how much he appropriates to himself.

2178. Are you aware of the nature of the grant which the Rajah of Burdwan appealed home?—No.

2179. Are you aware that it was land to an enormous extent which had been granted by a former Rajah of Burdwan to his own son for the colourable purpose of

of sacred ceremonies?—I believe it had been granted for the purpose of sacred ceremonies.

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2180. Do you believe that it was applied to those sacred ceremonies?—I am not aware how it was applied.

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2181. Do you think it just that that burden should *pro tanto* be thrown upon the general community, and that the Rajah of Burdwan, who has an enormous income from other sources, should, besides that, enjoy this land under the pretext that it was granted to be applied to sacred ceremonies?—It was given for that purpose by the owners of the soil at the time; it was given by the rulers of the country at the time.

2182. No; it was given by the Rajah of Burdwan to his own son for that purpose?—He gave it as his own property.

2183. Was not his own property liable to the Government revenue?—His general property is liable to the Government revenue, but whether that portion is or not I cannot say.

2184. Is it not the general present law of India that the whole of the land, as a general rule, should bear the burden of the public expenses?—The land-tax supports the Government expenses; but there was always in India a portion of the land given rent-free to different people, to different supporters and retainers of native rajahs.

2185. Did not the man who succeeded the next rajah, as a matter of course, resume all those grants, and grant new ones to his own people?—No, they have not been resumed much by the rajahs; they may have been forcibly in some places, but they have not been generally resumed by natives.

2186. Were they ever granted for longer than the life of the ruler who made the grant?—The people say they were granted for perpetuity, and some people produce old writings upon copper and brass to that effect.

2187. Supposing in this country that the Duke of Northumberland or the Duke of Norfolk were to produce a grant from King Stephen that neither he nor any of his descendants should pay taxes, do you suppose that people would think that equitable?—Yes; it should have been inquired into at a former period.

2188. You think it is equitable?—Yes; if you were to disturb all former grants, no grants would be safe.

2189. In India the land has always been held liable to support the Government?—Yes; but in all countries there are some exceptions.

2190. And yet any breach of that grant which you speak of you think would be an injustice?—Yes, the people look upon it as unjust.

2191. Does anybody besides the holders?—Yes, it was the general voice of the country that it was unjust, because it was given to a great many poor Brahmins who had not been brought up to business, and had to support themselves upon it.

2192. Were those large estates given to poor Brahmins?—Principally, but some portions were given to Mussulmans also.

2193. Are you not aware that grants under 100 begahs were not subject to being inquired into?—I think it was 50 begahs.

2194. Are you aware that the Government could not meddle with grants under 100 begahs?—There were some small ones that were resumed earlier.

2195. Supposing all those rent-free grants had been left as they originally were, and supposing the case that the people of India became really their own rulers, and were intelligent rulers, do you suppose that the people of India themselves would acquiesce in a small part of their own body being exempt in perpetuity from taxation?—From what I have seen of the natives, they would recognise those rent-free lands to the Brahmins, because they thought it was a sort of religious purpose.

2196. What proportion of those grants are made to Brahmins for religious purposes; do not you know that there are large zemindaries to the extent of thousands of begahs that were held by men who did not pretend to be Brahmins or anything of the sort?—That was not so in our part of the country.

2197. Were not those small grants to Brahmins exempt by the law from being meddled with?—Yes; I believe under 50 begahs.

2198. Then where was the hardship?—They resumed all the larger grants.

2199. They could not be resumed under 100 begahs?—I think these were the instructions to the special Commissioners who were appointed to inquire into these grants.

2200. You say you heard the evidence of Mr. Freeman?—I did.

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2201. You said that you generally agreed with him about the magistracy and the police, and the administration of justice?—Yes.

2202. Do you agree with him as to the ignorance of the covenanted servants of the native languages?—I do.

2203. Did you hear the question that I asked Mr. Freeman as to the examinations, to which they are now and have been subject for some years, namely, the two examinations that take place after they are out of College, before they can take any step?—I did.

2204. Are you aware of that examination?—I have heard of that examination.

2205. Do you know that it exists?—I believe it does.

2206. Are you not sure that it does?—I suppose so. I never was at an examination myself, but I have heard so.

2207. I asked Mr. Freeman this question, and I ask you the same. If you were told that one of the tests of knowledge of language is to show the examinee a report from a darogah, or native tehsildar, or native ameen, a report written in Bengalee if in Bengal, and Hindostanee if in Bahar, which he has never seen before, and he is required then and there, before the examiners, to read that report, and then and there to sit down and write with his own hand, in the native language, an answer to that report, should not you think the possession of that power argued a very great and sufficient knowledge of the native language?—It would if it could be properly done. I have seldom seen a magistrate that could do so; the system of writing the native languages is so very difficult for a magistrate to read, when he is not acquainted with the handwriting.

2208. Would it imply a sufficient knowledge of the languages that a man could read it, and was competent to write an answer in his own hand in the native language?—A man might read the printed language, but very few read the written language in the court.

2209. When he sees a report written by a darogah, and reads it, and writes his answer to it, does that imply a sufficient knowledge of the language?—If he is able to do it, it does; very few magistrates can do it.

2210. You say that the policy of the East India Company has always been opposed to the settlement of Europeans; do you mean since 1833?—I refer more to their early policy.

2211. Do not you think that if the early policy of the Government had not been opposed to the acquisition of lands by Europeans in the early period of our rule in India there would have been great danger that almost all the valuable estates would have passed into the hands of Englishmen?—I think it would have been an advantage to the country; it would have been in a greater state of civilisation. I do not think there would have been any danger from that.

2212. Do not you think that there would be great danger that all the estates would have passed into their hands?—I think that that would be an advantage both for Government and security of the country.

2213. Since that has happened, you say that Englishmen can hold lands in their own names?—Yes.

2214. And yet you say that fewer Englishmen are settled in India now than was the case 20 years ago?—There are, in our neighbourhood at least.

2215. How has it happened that the greater facilities and privileges which have been granted to Englishmen, have only resulted in there being fewer Englishmen to take advantage of them?—Those advantages have been much overruled by the proposed Black Acts. The people in Calcutta who are free from the laws of the interior, object to settling in the interior to be subject to those Black Acts.

2216. You say that those Black Acts interfere with the privileges of Englishmen, and place them on the same level with the lowest natives of the country?—If they were passed they would have that effect.

2217. Is not the great notion of the English law that all men are equal before the law?—If that is the object, the Government should give good laws, and efficient people to administer them.

2218. If there were efficient people to administer the laws, you would not think it derogatory to be placed on the same level with the lowest natives of the country?—I do not admit that, unless there were good English law, and trained lawyers.

2219. Is there no law in the world that is good but English law?—There may be.

2220. Are

2220. Are you not aware that there are great objections to the administration of the English law, not only in India, but in England, on account of its great expense?—I am not aware of that.

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2221. Have you never heard of an objection against the Court of Chancery?—Yes, but I have never been in that court.

2222. Are the natives of India very well satisfied with the Supreme Court?—Yes, they have more confidence in the European courts; they think they get justice in them.

2223. Have you never heard that many very wealthy families in Calcutta have been reduced to poverty by the operation of the Supreme Court?—That is owing to the litigiousness of the different branches of the families quarrelling for a division of the property.

2224. Is not law a very expensive amusement in Calcutta?—It is.

2225. Do you know what a bobolea is?—No.

2226. Did you never hear of a bobolea?—No, I did not.

2227. Did you never hear that a bobolea is the name of the jackals which the attorneys of Calcutta used to maintain to find suitors?—No, I have not heard that word used in my time.

2228. Have you never heard of the tricks that have been played to bring the natives into Calcutta, and render them amenable to the Supreme Court?—No.

2229. I mean by inducing them to sleep one night in Calcutta?—No, I have not heard much of those tricks; I have heard them mentioned in society, but I have not seen them practised.

2230. And when the poor man awoke in the morning he was informed that he had become amenable to the Supreme Court?—That shows the imperfection of the Mofussil courts, because they wanted to bring the man under the jurisdiction of the Supreme Court.

2231. The man himself not being willing?—He could get better justice from the Supreme Court, and I suppose that was the object of the claimant; if you get a decree in the Mofussil courts it is more trouble to you than if you were without it.

2232. Is there not the same difficulty in executing the decrees of the Supreme Court in the Mofussil, as there is when decrees are given by the country courts?—Sometimes, because the Mofussil magistrates have a great aversion to the orders of the Supreme Court, and they sometimes object to them, and will not fulfil them.

2233. Do not the same difficulties arise in the one case as in the other, owing to the tricks and chicanery of the natives themselves, whose property is at stake?—Not so much.

2234. Does a defendant like better to be ousted by the country court?—No, I suppose he is not partial to be ousted in any court.

2235. Do not they resort to resistance and intrigue?—Yes, they have a great deal of intrigue and resistance; as much as possible.

2236. Is it not as much with a decree of the Supreme Court, as with a decree of the zillah court?—It is not so troublesome.

2237. You say that it was proposed by the Criminal Black Act to exempt all the Company's officers from the jurisdiction of that law, and that Sir Arthur Buller strongly objected to it?—Yes, he thought that the Company's servants should be under the Black Acts as well as the English settlers.

2238. Are you aware who proposed that clause?—No, I never heard.

2239. You think that the object was to favour the servants of the Government?—I do; it was generally thought so.

2240. What should you say if you were informed that that particular clause had been proposed by Sir Lawrence Peel, who was a judge of the Supreme Court, and not a servant of the Government?—I should think that the clause was unjust.

2241. It could not have been introduced through favour?—I do not know who proposed it.

2242. You said that the Legislative Council was composed entirely of Government servants, and that even the judges of the Supreme Court are Government servants?—They are paid by the Government, and therefore I look upon them in that light.

2243. Are they appointed by the local Government or by the Government of the East India Company?—I suppose they are appointed by the Court of Directors.

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2244. That is not the case. Are you aware that their payment is by Act of Parliament?—I believe it is; but still they are paid by Government.

2245. Can they be removed except upon *malfeasance*?—No.

2246. And their salaries are fixed by Act of Parliament?—They are.

2247. Then how are they at all dependent upon the Company's Government?—They get their pay from the Company's Government.

2248. Does that render a man dependent upon the Government?—I do not say that they are dependent; I look upon them as Government servants because they are paid by the Government.

2249. Your objection is, not that a man is called a Government servant, but because being a Government servant he is dependent upon that Government, and likely to take the part of that Government and to be partial; do you suppose that the judges of the Supreme Court are in that predicament?—No, they are less partial than the other members of the Council, and seem to act more independently.

2250. Are they partial?—No, they have shown less wish to be partial than the other members.

2251. Do you think that the other members of the council are partial?—They have shown a great partiality in wishing to pass these Acts, to exempt their own servants.

2252. You say that no evidence can be given before the Legislative Council; are they not open to any representation by petition or memorial, or otherwise?—Last year, the inhabitants of Calcutta petitioned to be heard before the Legislative Council, and they were refused.

2253. I asked you whether they could not make themselves heard by memorial or petition?—I believe they can do so by memorial or petition.

2254. Cannot they state in a memorial all that they can state *vivâ voce*?—I am not quite aware of the regulations.

2255. You spoke of them very confidently?—I said, that in that instance they had not an opportunity of giving their verbal evidence in the same way as I am giving evidence before this Committee.

2256. You think that the exclusive system of the civil service is very objectionable; do you not think that opening appointments to all classes would be liable to great abuses?—No, I think that it would be very advantageous.

2257. Do you think that it would not be liable to this abuse, that grown men would go out from England who were friends of the Governor-general, or the friends of his friends in England, or his political supporters, and would get those appointments in India?—No, I do not think that it would be liable to so much abuse in that way as it is at present.

2258. Is it liable to any abuse when men go out as boys, and make the service the business of their lives, being obliged to remain in India?—They go out with their appointment, and they know that they are provided for, and there is the want of a wish to get on by their own abilities. Some of them are unfit for their appointments; but they are appointed and they are never removed, and the appointments are not open to general competition. There are very many people in the uncovenanted civil service, who are fit for those appointments, and can get no advancement beyond their service.

2259. You think that absolute virtue would always be shown, and that no retainers of the Government in England would be sent out to India?—It might be the case.

2260. Are you at all aware what class of people the Government officers have been in our colonies, who are appointed under the system which you advocate?—I should say that formerly they might have been not so good, but latterly good officers have been appointed in the colonies.

2261. Are the colonial servants of the Government equal as a body to the Indian servants of the Government?—I should say that they are quite.

2262. You said that the Government had not sufficient engineers for scientific purposes in India?—I do not think that they have.

2263. And you said that one or two had been sent out lately?—Yes.

2264. Are you aware of the number that have been sent out?—No. I have only heard of one or two being employed in those particular branches.

2265. Might there have been 10, or 20, or 50?—I have not heard of so many.

2266. You said that the military engineers were not competent men?—No, they are

are not trained in that department; they are not competent for the deepening of rivers and looking after that department. They may be very able officers in their own way.

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2267. Are you not aware that the employment of engineers in India in purely military works is very limited indeed?—No; a great many are taken for engineering works, for roads and embankments, and different things.

2268. You said that those military men should be confined to their own department, and that civil engineers should be employed in civil works?—Yes; I mean the general works of the country.

2269. Are not embankments and roads works of that description?—Yes, those are generally under military engineers at present.

2270. Are you aware that the really military works in India are very small indeed, and occupy a very small part of the attention of the engineering officers?—I am not aware of that.

2271. Are you aware that there are very few fortresses on the Bengal side?—There are not many,

2272. Are there any but Fort William?—No, not in Lower Bengal.

2273. What military employment is there for a military engineer?—To instruct his men in his own corps.

2274. There is no corps except the sappers and miners?—No.

2275. Is there military employment in Bengal for a military engineer?—I am not acquainted with that subject.

2276. Then why cannot the military engineers sufficiently attend to the civil engineering?—Because they have not been brought up to the civil engineering department, and they have not a knowledge of the newest improvements with respect to widening and deepening rivers, making bridges, &c.

2277. Have they not been instructed at Addiscombe and Chatham in all those matters?—To a certain extent, but not to the extent that a civil engineer would be capable of doing. I do not think that they get much instruction in civil engineering, and they have no opportunity of keeping up their information upon that particular branch of public works.

2278. You said that India ought to be governed as an English colony?—I think so.

2279. Do you think that that would be just towards the natives?—I think that it would be beneficial to the natives.

2280. Considering that the proportion of the Europeans to the natives is so small, do you think that it would be just to govern India upon the principles of the small minority, and not upon the rules and laws of the great majority?—It is better to improve the Government for them than to keep an inferior Government for the English settlers.

2281. Like which English colony do you think India ought to be governed?—Like Australia and Canada; I speak of the colonies generally.

2282. Are you not aware that those colonies which you have named govern themselves?—They have done so to a great extent latterly.

2283. Are the natives of India fit to govern themselves in that way?—They are not at present; but I think that it might be gradually done by Europeans.

2284. And you think that Europeans should have the making of the laws and the ruling of the country?—I think that they should.

2285. Do you not think that there would be some little danger that they would make the laws to suit their own interests, and not the interests of the natives?—No; I think they would make better laws than the laws which at present exist.

2286. Is it the experience of the world, where there has been a race of a different class and a different colour, that they have made a just and good Government?—When a civilized state governs an uncivilized one, I think you would have good laws, better than the Hindoo and Musselman laws.

2287. You said that a skilful man in India can generally get on; is that opinion compatible with your other opinions as to the badness of the laws and the administration, which prevent men from getting on?—A skilful man will find a market for his skill, and get on by his perseverance, although the laws are against his operations.

2288. Still he can get on?—Yes, he will generally get on in any place.

2289. You spoke about the Nuddea rivers; did you hear what Mr. Freeman stated about the size of those rivers?—I did.

- Mr. G. MacNair. 2290. Do you concur with him?—I do.
 2291. Do you think that they are not larger than what he stated?—I do not; they are medium rivers.
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 2293. How are they in the rainy season?—In the rainy season they may be extended in some places where the banks overflow.
 2294. Do not they often change their course?—No, not the Nuddlea rivers; the Ganges does.
 2295. You think that it would be practicable to have permanent works upon the Nuddea rivers?—I think it would be practicable to improve them to a great extent.
 2296. Are there not large churs in those rivers?—No; there are small formations, that could be carried away; and if the course of the river was straitened, the action of the water would prevent such formations.
 2297. Did you ever see Mr. May in India?—Yes.
 2298. Were not great exertions made by the Government, at the time Mr. May was there, to keep the rivers open?—Mr. May did a little, but the value of that little has been lost, because nothing has been done since.
 2299. You have spoken of the advantage of a canal to Rajmahal?—Yes.
 2300. Will not a railroad to Rajmahal be much better than the canal?—Yes, but water-carriage generally is considered cheaper for bulky articles than railway carriage.
 2301. You stated that the roads in Bengal were quite impassable in the rainy season?—They are.
 2302. Would it be practicable, at any expense that would pay, to make roads in Bengal that would be passable in the rainy season?—Yes, quite, for main roads.
 2303. To any extent that would pay?—I apprehend that it could be done by some assessment upon the zemindars and ryots.
 2304. Would that be consistent with the terms of the permanent settlement; is the Government at liberty to place an assessment upon the zemindars for roads and other objects?—I am not aware of any law to that effect; I think that the zemindars would do it voluntarily.
 2305. There are no stones in Lower Bengal?—No.
 2306. A road could only be made with bricks?—Yes.
 2307. What would be the expense of making roads that would be passable?—I cannot say at present correctly.
 2308. Would it not be something enormous?—I do not think it would be so very great; it would be much less in that country than in this, because you can make bricks in India at such a moderate rate, and labour is cheap.
 2309. What is the cost of making bricks there?—We can make bricks at 5 s. to 6 s. a thousand, including burning and everything.
 2310. You say that you desire the introduction of the English language into the courts of justice; do you think that would be just to the people?—I think it would.
 2311. Although they do not speak the language?—I think that it would be a great benefit to the natives.
 2312. Do you think that they would be able to understand the language of the court?—Very soon.
 2313. How is it that our officers do not understand the native language?—Because they do not give the same attention to it, and do not commence to learn it so early.
 2314. You think that English gentlemen, whose duty it is to learn the native languages, do not give the same attention to the subject that the natives would do?—No; I believe the natives would soon acquire the English language; they are very quick in picking up languages.
 2315. Do not you know that the English language is the most difficult in the world to learn?—Some people say so.
 2316. You think that the natives would learn the English language quicker and better than the civil servants learn the native language?—I think they would.
 2317. With regard to the police: you say that it is very bad?—Very bad indeed.

2318. You said that all powerful natives oppress the poor and the weak?—To a considerable extent they do.

2319. How is the Government to get better instruments of police?—By having more European superintendents.

2320. You think that would be just to the people of the country?—Yes, the people would like it themselves; it would prevent the oppression, in a great measure. The present oppression from the police is much complained of.

2321. You said that even in Calcutta, in the treasury and in the other offices in Calcutta, it would be desirable to employ English servants?—I think it would, to a considerable extent.

2322. Would it be just and fair towards the people of the country to take all the employment out of their hands, and give it to the English?—If you cannot find natives fit for those employments you must employ Europeans.

2323. How are the natives to be made fit without being employed?—You may make them fit for some of the appointments, but it is difficult to make them correct or honest without more European superintendence.

2324. Are they likely to be made correct or honest if they are not tried?—They do not seem to improve in that respect.

2325. Do you agree with Mr. Freeman that the darogahs have been worse since they have had better salaries?—They are as bad; they have not improved; they are as corrupt as they were, and they require larger bribes to do the same work that they did formerly; they say they are bigger men, and they require more.

2326. You think that it is possible to teach boys to swim without allowing them to go into the water?—No, I do not.

2327. *Chairman.*] Do not you think it would be an advantage for them to see a man swim who could swim better than themselves?—Yes, I think that they would get benefit from the example.

2328. *Mr. Mangles.*] You said that estates were now so valuable in Lower Bengal that they are seldom sold?—Yes.

2329. And you said also that there has been an enormous increase of cultivation; that the waste lands are much less extended; that the condition of the natives has much improved; that they are better clothed and live in better houses, and so on; will you state how that state of things, and also the greatly enhanced value of land, is compatible with the terrible misgovernment which you say prevails?—That state of things is owing to the influence of the Europeans, and to the money which they have spent in the country; it is not owing to the Government.

2330. You think that this great improvement has taken place in spite of the Government?—To a certain extent. If there had been good laws and better protection the country would have progressed to a greater extent. The country has improved to a very vast extent by the European settlers.

2331. Has it not improved in parts of the country where there are no European settlers?—Not nearly so much in the eastern parts and the Sunderbunds; you do not see the same improvement, though there is a great deal of cultivation in the Sunderbunds now.

2332. Still you could hardly compare the Sunderbunds with the fine beautiful districts of Kishnaghur and Jessore?—They produce beautiful crops of rice.

2333. Rice is the most inferior crop?—It is a low-priced crop.

2334. You say that there is great hazard to the possessors of putnees of losing their tenures by sales?—There is.

2335. Still you say that the sales are very few?—They may occur at any time; there is the fear of their taking place.

2336. Why do persons persist in giving a premium for putnees if they are so liable to lose them?—They cannot get them without.

2337. Does not the fact of their giving a premium show that the hazard cannot be very great?—There is still a dread of the hazard.

2338. Would persons give a considerable premium if they thought that the danger was great?—In the case of small proprietors, where there is more dread of it, they sometimes make an arrangement to pay the Government rents.

2339. *Mr. Campbell.*] Is not it absolutely necessary for the possessor of an indigo plantation, in self-protection, to take those putnees?—It is very necessary, and very important.

2340. It is a choice of evils, and the taking of the putnee is the lesser evil of the two?—It is. It is very important to have the putnees.

- Mr. G. MacNair. 2341. Mr. Mangles.] You stated that there had been a great enhancement in the value of landed property, and a great improvement in the condition of the people; and you said that that was mainly attributable to the number of English settlers. While so much prosperity has been created, and so much good been going on, how is it that there is a diminution instead of an increase in the number of English settlers?—They have been prevented by the expectation of the Black Acts being passed. Since the trade was opened in 1833, the yearly dread of these Black Acts being passed has prevented people settling in the interior who would otherwise have done so.
2342. And yet simultaneously with this fear the improvement has gone on?—Yes, by the people who are there.
2343. Does not that draw others?—No. A man who is settled there already continues there, and does the best he can.
2344. Have not the English settlers shared in the general improvement of the country; has not their prosperity been greater?—To a certain extent.
2345. And yet that has not been sufficient to induce others to join them?—No, they want the protection of the law and security for their property.
2346. How is the want of the protection of the laws compatible with the greatly increased prosperity?—The people who hold the property, and have their capital already embarked there, have done everything that they could to improve the condition of the country, but the laws have prevented new people from settling there.
2347. You do not intend to confine your remarks with reference to the improvement to zemindaries held by Englishmen?—Very much.
2348. You said that if the cultivation of any particular produce, such as sugar-cane, or otherwise, were profitable, the system of collecting their rents by the zemindars would not prevent the cultivation of valuable crops?—No, it would not.
2349. Do you suppose that if the cultivation of cotton were profitable the ryots would not cultivate it?—They would.
2350. To what do you attribute the non-cultivation of cotton?—To the want of proper roads for its conveyance, and the unsettled state of the laws.
2351. If the unsettled state of the laws does not prevent the cultivation of indigo or sugar-cane, how does it prevent the cultivation of cotton?—Cotton is a new thing, and requires new works and advances; indigo has been an established business in a manner. People have been in it for many years.
2352. Are there any works necessary for the cultivation of cotton?—Yes; you require dwelling-houses for the residence of the superintendents, and establishments, with store and press godowns, and heavy advances to natives for which there is no proper law of contract.
2353. Could not they find such dwelling-houses in the larger towns?—No; there are no larger towns; they must erect houses for themselves at the most convenient situation upon the property.
2354. Is there anything to prevent the cultivation of cotton, which does not also exist to prevent the cultivation of other things; is there any peculiarity in cotton?—Yes; there is the want of good roads, as a means of transport.
2355. Does not that tell also with regard to hemp and oilseeds, and other bulky things?—Not to the same extent, because cotton has to be taken overland 200 or 300 miles on bullocks' backs, and it is a bulky thing.
2356. Are not hemp and jute just as bulky?—Hemp is grown in Serajgunge where there is more convenience for carriage.
2357. Chairman.] You mean that cotton is such a very bulky article that it will not bear the expense of carriage?—Yes.
2358. Mr. Mangles.] Is not that the case with regard to jute?—That is more grown in Serajgunge, where there is transport by water.
2359. Could not cotton be grown in Bengal?—I believe it could.
2360. In the same way as hemp, upon the banks of the streams?—I think not. Hemp will grow in water or lower lands.
2361. Is it not said that the great desideratum for cotton cultivation is water?—Cotton requires irrigation during the dry season before the rain commences, but it does not require to grow in water; the plant would never live in water, and it requires a high country.
2362. With reference to the administration of justice, do you think that an English judge would do better by using the English language, and having the aid of an interpreter, than by learning the native language, and administering justice through

through the medium of that language?—I think so; he would understand the case better.

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2363. Are interpreters more to be trusted than other classes?—I think so; a good class of interpreters could be got.

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2364. Are interpreters more to be trusted than other classes?—I think you could get interpreters to be depended upon.

2365. How can you get interpreters to be depended upon when you cannot get darogahs to be depended upon?—You can get a better class of people for interpreters.

2366. Why does not the Government get a better class of people for darogahs?—I cannot say.

2367. Do not they try to get the best they can?—They may.

2368. You said that the payment of the five per cent. loan had excited great distrust?—Very great indeed.

2369. On what grounds?—When they opened the four per cent. loan, they thought the Treasury was full, and that it would be continued and not increased again, and within a twelvemonth or 18 months after that a new five per cent. loan was opened.

2370. Is not every Government and individual at liberty to pay their debts when they please; the men might have had their money?—They are quite at liberty, but they should have kept it at the four per cent., instead of opening it afterwards at five.

2371. Was there any faith pledged that they would not borrow at a certain rate; was not the whole thing to proclaim to the holders of the paper, Here is your money, or here is the four per cent. loan?—The people expected that they had sufficient money, and would not require to borrow so soon again at a higher rate.

2372. Did the Government tell them so?—It was said at the time that there were so many millions in the Treasury.

2373. By whom?—It was said in the financial reports.

2374. From where?—From the Treasury or the Government.

2375. What reports?—The reports of the money in the Treasury.

2376. What reports are published of the money in the Treasury in India?—The people have means of knowing it.

2377. Can there be any hardship or want of good faith in offering people to take their money, or take a lower rate of interest which they prefer?—The hardship was in opening a five per cent. loan afterwards.

2378. How is a man who is offered his money damnified by that?—It lowered the value of his loan 20 per cent.

2379. But he might have had his money if he had chosen?—I suppose some of them might, but it was not supposed Government had sufficient funds to pay off the whole of the five per cent. loan. It was reported they had about 15 millions in the Treasury, which would not have paid off half of the loan, if the holders of the five per cent. paper had all demanded their money. Trusting that Government would not require money soon again, and that four per cent. would be the established rate, many people took the four per cent. paper in lieu of the five per cent. loan. There was no war or extraordinary expenses at that time to require more funds, but within 18 months Government again opened a new loan at five per cent., which shows that their ability to pay off the former five per cent. loan must have been erroneous; that step was an immediate loss of 20 per cent. to every person who took the four per cent. paper, and consequently created great distrust among the native capitalists.

2380. How was a man injured or defrauded in any way according to that choice?—Because he afterwards lost 20 per cent. by it.

2381. That was not the fault of the Government?—Perhaps not.

2382. Mr. J. B. Smith.] He was induced by a false representation to invest his money?—Partly that.

2383. Chairman.] By an erroneous representation?—Yes; I suppose it was the intention of the Government to reduce their interest.

2384. Mr. Mangtes.] Can you say when, how, and where those false representations were made by the Government?—They were understood if they were not distinctly made.

2385. Upon what authority were they understood?—There was very good authority to show the people that they had not funds to carry on the government, they afterwards so soon opening a five per cent. loan.

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2386. How can you prove that the Government made a representation that they had so much money more than they really had; all they offered was, to pay the money off, or take the four per cent. loan; that was a free option?—It was, but it injured the people who took the four per cent paper.

2387. *Chairman.*] You think the Government should have shown more foresight?—Yes, it would have been very much better for them.

2388. *Mr. W. Vansittart.*] Your evidence gives me the impression that our legislation in India of late years has been with a tendency to degrade and lower the European, and to exalt the native character?—Yes.

2389. From what period do you date this?—From 1836 or 1838; since Mr. Macaulay made the minutes about the Black Acts.

2390. Do not you think it commenced with Lord William Bentinck, and was followed up by Lord Auckland?—No, I thought it commenced with Mr. Macaulay's minutes.

2391. Was not Lord William Bentinck the first Governor-general who threw open all those high appointments, with their large emoluments, to the natives?—He did encourage it.

2392. He commenced it?—Yes.

2393. That was very much followed up by his successor, Lord Auckland?—Yes, a good deal.

2394. The Lieutenant-governor, Mr. Halliday, is of this school, is not he?—I do not know what school he is of.

2395. He is considered to belong to the young India school, throwing open everything to the natives?—No, he seems to put great distrust in the natives; I think his opinion is more to have more European superintendents.

2396. Are not Mr. John Peter Grant, and Mr. Cecil Beadon, and others, connected with the council and the secretariat, of opinion that if anything, we should legislate more to elevate the native character and keep down the European?—I believe very much so.

2397. You consider that the civilians generally are in the hands of the native omlah?—I think very much.

2398. Do not you think that a native is better pleased with a decision passed by a young civilian than by his own native judge?—Yes; generally speaking he has more confidence in an European court.

2399. Does not he think, at all events, that the civilian was not bribed, and that he cared as little for plaintiff Ram Doss as he did for defendant Sham Sing?—Yes, the civilians are just, but they know they have great power with the omlah.

2400. Does he think the native judge is just and honest?—No.

2401. Would it not be necessary for the native to bribe the native judge as high as he bribes the civilian's omlah; if he gives the civilian's omlah 50 rupees, he would have to give the native judge 50 rupees?—Yes; he must bribe both.

2402. After having bribed the native judge, he would have to bribe the native judge's omlah?—Yes.

2403. In point of fact, he has to bribe, under the present system, the native court just twice as much as he does the young civilian's court?—He requires to do it to a certain extent.

2404. I gather, from your evidence, that you think the native character, at present, is in a very low and degraded state?—The class of court omlahs are too much so; but there are many respectable natives in the country, intelligent and trustworthy.

2405. In point of fact, he is corrupt, cowardly, and devoid of all truth and honesty?—Yes; there is a great want of moral courage and independent judgment in that class of natives.

2406. Have not the native officials and judges, namely, the moonsiffs and sudder ameens, behaved very ill during the late revolt?—In the Upper Provinces they have; and I dare say in Bengal they would have done the same, if they had had the opportunity.

2407. Have the police darogahs behaved equally ill?—In some places in the Upper Provinces they have.

2408. Do you think there would be any difficulty in procuring a sufficient number of young men of good education and family in this country, to go out and fill the situations of moonsiffs and sudder ameens?—No, if they had the expectation of advancement.

2409. Would

2409. Would not that be a great improvement?—Very great indeed.
2410. Do you think that by paying those native judges even higher than they are at present, they would become more honest?—A few might, but not generally.
2411. In fact, you are of opinion that, as at present constituted, we can expect no improvement in the native character?—More European superintendence would tend to improve the native character.
2412. Is not a sudder ameen's salary nearly 900 l. a year?—From 600 l. to 700 l., 800 l., and 900 l.
2413. And a moonsiff's?—They get from 200 to 300 rupees a month, some of them.
2414. And some fees besides?—Yes, they get some fees besides.
2415. You say that the zemindars and baboos of Bengal live principally in or near Calcutta, and not on their estates, owing to the maladministration of justice?—They do.
2416. But do not the zemindars in the Upper Provinces live on their estates?—I have not had much knowledge of the Upper Provinces, and cannot speak of them.
2417. Mr. Villiers.] When did you return from India?—Last year.
2418. I take it for granted that you only appear here as a man who has been engaged in some of the productive works of the country?—Yes.
2419. You have not written on the subject of India?—No.
2420. You have not studied its history particularly?—No more than other people.
2421. You intend to convey your impressions as a capitalist with respect to the obstacles to the employment of capital and to Englishmen going out there?—Yes.
2422. You do not pretend to speak with confidence that the Government is more degrading to persons subject to it in India than formerly?—I do not think it is more degrading, but there is more wish to enforce these Black Acts among a certain class.
2423. But you do not speak favourably of the former government of the East India Company as compared with the present?—I do not say they are better.
2424. You have heard the evidence given by Mr. Theobald and Mr. Freeman?—Yes.
2425. From what you did hear, and from what you have stated here, I do not collect that there is any difference in opinion?—No, I concur in all that they said.
2426. And you have dwelt peculiarly upon the imperfect character of the civil service?—The want of business habits, and knowledge of the language by some of their service.
2427. I observe you stated that in some respects they are worse now than they used to be, in consequence of those who are efficient being taken away to other employments?—Yes, being very frequently removed; sometimes three times a year.
2428. You have been in India 20 years?—I have.
2429. Has that occurred more of late years than formerly?—Yes; during the last five years to a greater extent.
2430. Is that owing to the greatly increased territory which the Company has acquired, and the necessity of having civil servants sent there?—I suppose so, and more people leaving the country.
2431. Are the employments better in those territories than those where they have been employed?—I believe they are.
2432. Do you infer from that that the civil service have a strong interest in the annexation or accession of territory?—I suppose they are anxious to annex territory; it gives them additional employment.
2433. Their numbers being limited, and they receiving better employments in consequence, they have a direct interest in accession of territory?—I cannot say they have a direct interest in it, but that system seems to be carried on to too great an extent.
2434. You propose to meet this difficulty of not having a sufficient number of efficient servants, by having a general employment of the non-covenanted or of persons who come out to settle?—Yes.
2435. And you have been asked whether that would not run the risk of the

Mr. G. MacNair. Governor-general bringing out persons advanced in life who have not done well here, and their favourites; would not that be met by submitting them to some tests previous to employment?—Yes.

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2436. You might have some test of their acquirements and capabilities?—Yes.

2437. And some report of their fitness for the special services in which they are to be engaged?—Yes.

2438. And you think you might have efficient men, equal in number to what you required?—Yes, I think so; gradually people would make it their object to go out and qualify themselves.

2439. From your observation of persons that would be available, and also from your opinion that people are ready to go out, you have no doubt that the evil you complain of could be met?—Quite.

2440. Do you know whether these matters have been brought before the Government of India, and whether they offer any objection to the system being adopted?—I am not aware.

2441. Do you express opinions here which you did not express there?—No, I do not.

2442. Are you maintaining the general opinion out there, or expressing the opinions entertained now by settlers there?—I think I am expressing general opinions.

2443. But you say there is no change of system, and you know of none being contemplated?—There has been none yet.

2444. Were you there when Lord Dalhousie was there?—I was.

2445. Were none of these matters brought under his attention?—I believe they were.

2446. We have heard that remonstrances of various kinds made to the Council are not attended to, in consequence of the persons forming the Council being ignorant of the real interests or being acquainted with the feelings of the people?—I have heard reports to that effect.

2447. You are not satisfied with the constitution of the Council?—No. I think there should be a non-official voice in the Council; there should be mercantile and agricultural men in the Council.

2448. Do you state that because you are not satisfied with the knowledge which the present persons there have of those matters?—Yes.

2449. Do you speak of that from personal experience?—Yes, from the laws they bring forward; they are not acquainted with the working of those laws.

2450. Was Sir Arthur Buller appointed by the Company or by the Government?—It is under an Act of Parliament that two of the judges of the Supreme Court should be Members of the Legislative Council.

2451. That is not the kind of appointment you refer to, when you say “non-official”?—No, I would have planters and merchants.

2452. You are aware that Sir Arthur Buller is not a person appointed by the Company?—He is a judge of the Supreme Court, appointed by the Act of Parliament.

2453. He seems to have made a statement there upon general matters?—Yes; upon his knowledge of the country and his observations.

2454. Was his speech delivered while you were there?—Yes; and it made a great impression.

2455. Was that from the novelty of any person in the Council giving expression to the feelings of the settlers?—Yes, partly; and his independent expression.

2456. Was he answered?—He was replied to, I suppose, in the ordinary manner; but I do not think what he stated was refuted or denied.

2457. You are not aware of any result from his speech?—I think it has had a good effect.

2458. You stated that these darogahs do not improve at all, though they have higher salaries; do you think that if the civilians were more competent, that if they knew the language better, and knew how much they were deceived by these people, from being more acquainted with the habits and the language of the natives, that might be some check?—A very great check. An efficient magistrate can improve the people very much.

2459. I think you stated that the Government have not extended a law of contract which they enforce for themselves, which would be very desirable to have enforced?—Yes, to extend to every one.

2460. Has

2460. Has that been brought before their attention, do you know?—Yes, I believe it has.

2461. And no attention has been given to it?—We formally brought to the notice of the Government the imperfect law of contract; there was a better law of contract formerly; that was done away with in 1850, or somewhere about that time.

2462. Is it in the cultivation of opium that they make their advances?—Yes.

2463. Was a better law of contract given by Lord William Bentinck?—Yes, and it was done away with.

2464. By whom?—I suppose by Lord Dalhousie; it was changed about six or eight years ago.

2465. Does it not greatly enhance the cost of production if people pay so highly for the advances that are made?—Yes, and the uncertainty, because there is a great loss to the natives and Europeans by the advances.

2466. There is no means of recovering them?—Yes, if you get a decree; but it takes two or three years to get it, and the people make off, and you seldom recover the amount of your law expenses.

2467. That applies to cotton as much as to indigo?—More to cotton; it would require 12 months before you got the return from that.

2468. You speak of the growth of cotton commercially when you say it does not answer to grow it in Bengal?—It has not been profitable to the people hitherto.

2469. With respect to the roads, you say the zemindars sometimes object themselves to roads being made?—They do.

2470. Have you ever heard of the zemindars of this country doing the same thing when they were not compensated?—Yes, but they have been offered compensation in India in some instances, and have refused it; they do it from a spirit of opposition to you.

2471. You do not mention that as peculiar to India; you have heard of people resisting improvement all over the world, although it was for their own interest?—Yes.

2472. You stated that they objected to novelties, and that those novelties were owing to the various breaches of faith on the part of the Government complained of by the natives?—Yes.

2473. You referred to certain changes in the law, and changes of administration?—Yes, they show a distrust to these things at first, or any new schemes.

2474. That is the reason why you referred to the resumptions?—Yes.

2475. Was that the general opinion of the Europeans out there, that bad faith had been shown with respect to the resumptions?—Yes.

2476. That it was impolitic, as shaking the confidence of the people in the Government?—Yes, it was considered so.

2477. It was an investigation into title, was not it?—Yes, they were ordered to produce their titles, but they had held the land for such a length of time that the titles might have been destroyed, and burnt, and very few of them held them.

2478. There was nothing more extraordinary in holding their land relieved from taxes, than a person in England holding land where the land-tax has been redeemed, or which is tith free?—No.

2479. To what extent has the scientific survey in Bengal and Behar proceeded?—In Bengal, when I left it in 1857, there were two or three zillahs finished, and the maps had been published of one or two of them. They were doing the zillah of Jessore in 1857, and Kishnagwah had been finished and mapped.

2480. Could you give the Committee any instances where the zemindars employ Europeans instead of natives, in preference; is it done in the case of works of skill, or in some cases where they cannot get natives to perform their works, or is it from mistrust of their character?—It is from mistrust of their character, they place more dependence upon Europeans; they improve the value of their produce; it is worth fully 25 per cent. more.

2481. You say the natives are untrustworthy, I suppose you mean natives of the lowest kind; you do not mean to say that there are not natives of a certain station that are just as trustworthy as Europeans?—There are very many trustworthy and intelligent natives; but the class of court omlahs are not generally trustworthy.

2482. Would you say that that extends to such a degree that you would not have

Mr. G. MacNair. have a native preside in a criminal court at all?—I would not; they are not fit for a criminal court; independent judges are wanted.

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2483. Do you mean that they are not fit from want of knowledge, or from want of moral character?—Want of moral character and independent judgment.

2484. Those judges now appointed in the criminal court are, besides that, not qualified by learning, are they, for that office?—No; they just have a smattering of the Company's regulations, but they have no legal training.

2485. They have not undergone any special or professional education?—No, they just cram themselves with the Company's regulations.

2486. Would it be possible to submit them to some test, to prove that they are competent?—Yes, it would.

2487. Has that never been suggested; has it never been complained of that they are ignorant men?—Their ignorance is much complained of.

2488. Has anything of that sort ever been suggested?—They have never had a legal education; there is no legal training for them.

Martis, 11° die Maii, 1858.

MEMBERS PRESENT.

Mr. Campbell.
Mr. De Vere.
Mr. William Ewart.
Mr. Gregson.
Mr. Kinnaird.
Mr. Lowe.
Mr. Lygon.

Sir Erskine Perry.
Mr. Danby Seymour.
Mr. J. B. Smith.
Mr. W. Vansittart.
Mr. Villiers.
Mr. Willoughby.

WILLIAM EWART, Esq., IN THE CHAIR.

Mr. George MacNair, called in; and further Examined.

Mr. G. MacNair. 2489. Mr. Willoughby.] YOU stated that you gave a general concurrence to the evidence of Mr. Freeman?—I did.

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2490. Do you also give a general concurrence to his evidence on the cross-examination?—I do.

2491. You stated that you were yourself favourable to the colonisation of India by Europeans?—I think it would be very advantageous.

2492. In what localities, according to your experience, would it be practicable?—In Lower Bengal, as much as possible, as overseers and people of skill and capital to develop the resources of the country.

2493. In any other place?—In the upper provinces, in the tea districts, and the other different districts, Europeans could be more employed of a different class.

2494. Are you aware that a reference was lately made to the local authorities by the Government of India, and that reports from the several local Governments on the advantage of holding out settlements for discharged soldiers and other persons resident in India have been published?—I have not seen that publication.

2495. Are not disputes constantly occurring between the zemindars, European and native, and the ryots, regarding their rights of property?—Yes, a good many disputes occur.

2496. And disputes leading to serious affrays, attended with bloodshed?—Not so many of late years. Formerly, when Europeans could not hold property, they were more numerous; but since Europeans have held property, they are much fewer.

2497. But they still occasionally occur?—Not often; very seldom.

2498. You heard what Mr. Freeman said about extinguishing the rights of the cultivators, in order that the zemindars might obtain the fee-simple?—Yes, but I do not think that you would require to extinguish the rights of the cultivators. No person who takes the land would require to turn away the ryots; they are the people who cultivate the land and pay the rents.

2499. Suppose

2499. Suppose the case of a zemindar who wanted to increase the rent of a ryot, and the ryot said, "This is contrary to immemorial custom"?—He can do it by the stated rate of the pergunnah. If there was a fixed rate in each pergunnah district it would be fair to do it.

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2500. You do not think the annihilation of those rights either just or practicable?—No; it would not be just to annihilate them to a great extent; but to assess them to the neerick of the pergunnah would be just for both parties. When the perpetual settlement was made by Lord Cornwallis it was a sort of understanding that the ryots should be assessed to the amount of the neerick of the pergunnah, which is a stated rate, probably 12 annas or a rupee a begah, or whatever it is, and that they should not be increased above that.

2501. You say there was an understanding; suppose there is a dispute about that understanding, how would you settle it?—It is generally considered that it is an understanding.

2502. Do you think any increase of European planters as proprietors practicable to any extent in the districts with which you have been connected?—No; the present concerns are all taken up; they are all engaged; but they occasionally change hands and new people come in. There could not be much increase in Jessore or Kishnagur.

2503. In regard to the moral, social, and political advantage which you and Mr. Freeman think likely to arise from the settlement of European colonists, would not that depend very much upon the character of the settlers themselves?—It would be the middle or upper class of Europeans that would settle there, and it would have a good effect upon the natives.

2504. In your opinion, are any, and if so, what restrictions required to secure the ryots in their rights and privileges, in the event of any extensive settlement of European proprietors?—Just the stated rate of rents; not to be increased above that would be of great advantage to them, because the zemindars oppress them in that way, and take them at higher rates, and extort a great deal out of them in all the births and deaths and marriages of their family. They probably pay 15 to 20 per cent. yearly in that way in excess of the rents.

2505. You think a law would be necessary limiting the amount of rent which a zemindar could demand?—I think it would be proper to have the neerick in the pergunnah; the neerick is a fixed rate.

2506. You heard Mr. Freeman's evidence in regard to the precautions taken by Government in advertising estates for sale?—I did.

2507. Do you concur in that?—Yes. I think the precautions are not sufficient; they should be more properly defined, and that would save a great deal of dispute.

2508. What precaution would you suggest, in addition to those now existing?—The tenure should be upheld, and the boundary laid down. When you purchase a property, and are allowed to take possession, one half of the quarrels are about the possession:

2509. That refers to the titles?—To a great extent.

2510. You are acquainted with the sale law proposed by Mr. John Peter Grant?—Yes, I have looked into it.

2511. Why was not that passed into a law?—There was a good deal of discussion about it, and it was postponed at the time, I suppose on account of the mutiny, and the Government being engaged in other things. It was an improvement; but it should extend the protection to under-tenures a little further.

2512. I presume the planters have every opportunity of representing any improvement which their experience enables them to suggest upon that or any other law?—They can do so by memorial or petition, but not verbally, not in a Committee like this.

2513. You say in answer to Question 1978, "If Government wish to retain that Eastern empire, I think they must follow another system, and encourage the settlement of Europeans as much as possible; a considerable number might be employed in Government situations, which are at present filled by natives in whom no dependence can be placed"?—Yes; I think it would be very advantageous to employ a number of Europeans in those different offices; and it would be a training school to bring them up for higher appointments.

2514. In answer to Question 2059, you allude to certain offices, such as the Treasury and the Home and Foreign Departments; and you state "for the present pay of these native establishments, I should say a much more efficient

Mr. G. MacNair. European establishment could be kept, which would be a good training school," and so forth?—I think so, because in all those offices they employ 20, 30, or 40 natives.

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2515. You think a European establishment could be maintained at the same expense as the present establishment?—I think it could, and be more efficient; one European in that department would do the work of five or six of the natives.

2516. Do you think we could hold India if we acted on the policy of excluding, as far as possible, the natives from public employment?—I would not propose to exclude them; I would employ them where they could be depended upon, and where you could get good people for the appointments.

2517. Then you are not of opinion that such a policy would be just to the natives?—Not to too great an extent; the upper appointments they are not fit for, but many of the inferior ones they are fit for.

2518. Do you consider the rent levied by the Government under the zemindary system excessive?—No; in Bengal it is not excessive, it is moderate.

2519. Have not very great improvements occurred of late years in India, such as the introduction of railways, and the construction of roads, canals, &c.?—In Lower Bengal there have been no improvements in the river or canals or roads; in the upper provinces there have been one or two.

2520. Has not steam navigation been introduced?—Principally by private companies.

2521. Not in the first instance?—No; it was commenced by the Government, and then taken up by private capitalists; but there is a great want of rivers and canals being improved in Lower Bengal.

2522. These efforts at improvements of that kind are being continued up to the present time?—Yes, they are in some respects.

2523. And has not a commencement been made in reforming the police?—No, not in the interior; the Calcutta police have had Europeans put in, but in the interior of the country, in the Mofussil, no improvement has commenced.

2524. Has nothing been done in consequence of a minute which Mr. Halliday drew up?—Not that I am aware of.

2525. Are not efforts being made on a very extensive scale to extend education?—Yes.

2526. Have not some of the most respectable planters been recently invested with magisterial power?—Yes, in some of the districts.

2527. That you think a move in the right direction?—Yes, I think that an improvement; you get men of experience appointed who would be a control over the police; if there are rights, their jurisdiction would require to be confined, to prevent them coming in contact with the covenanted magistrates; there is a jealousy between them.

2528. Do you consider, with Mr. Freeman, that it would be a desirable change to introduce barristers as judges in the Mofussil, and that English law should be administered through the English language, to the exclusion of the vernacular?—Yes, I think that would be a great improvement.

2529. Do you know who brought forward the law by which European functionaries, and, as you state, soldiers and sailors, are exempted from the Act you call the Black Act?—Mr. Peacock, I believe, who is the Legislative Member of the Council, brought it forward; but who made the different clauses I am not aware.

2530. You have stated that selections should be made from the planters, and that they should be substituted in time for the present civil servants. What means would a Governor-General just arrived in India possess of obtaining an accurate knowledge of the character and qualifications of the planters?—From his secretaries and the people appointed to select them; a new Governor arriving is always in the hands of his secretaries very much and of the people who have charge of the department.

2531. How do you account for the zemindaries of Lower Bengal being so valuable under the system of administration of which you have given so unfavourable a picture?—Because the Government, I suppose, had no survey or measurement of them when the perpetual settlement was made, and many of them are assessed very moderately and they have increased in value. They are not equally assessed; some are assessed with very little profit, and some where there is very great profit.

2532. You have stated, on behalf of the respectable class whom you represent, your great objections to the Black Act; is not the Government itself liable to be sued

sued in the Mofussil courts of justice presided over by native judges;—I have not known of a case against the Government in the Mofussil in that way.

2533. Can you state that the law does not render them liable?—It does not, that I am aware of. I think it is only the Supreme Court in Calcutta; I do not think they can be pursued in the Company's courts.

2534. *Mr. B. J. Smith.*] Have you paid any attention to the cultivation of cotton as well as indigo?—Upon a small scale I have tried it. I found that a very good description of cotton could be produced.

2535. In what part of the country?—In Jessore.

2536. Is there much cotton grown there?—No, very little. It is grown in Furredpore and Dacca to a greater extent.

2537. What is the quality of the cotton; is it not a short staple?—A short staple; small cotton; there is little attention paid to it there: there is very little grown in Jessore. If more attention was paid to it, it could be very much improved.

2538. Have you any idea as to the produce per acre of the cotton there?—No; the extent I cultivated was so small, I could not form a proper idea of it.

2539. Do you think it could be extended under the superintendence of Europeans?—I think that it could be both extended and the quality improved to a great extent, if they had a better state of the laws, and better roads, and the rivers open for transport. One of the great obstacles to cotton cultivation there is the want of good roads for transport.

2540. And until that want is remedied, there is not much prospect of any cotton being grown in India?—No, there is not.

2541. The price of the conveyance of cotton to the market being a very large element in its value?—Yes, it is indeed. I have heard natives who got it from the upper provinces say that both the land and water carriage was about equal to the value of the article.

2542. As regards indigo; indigo, which is a valuable article, can afford to pay 1*d.* or 2*d.* per pound carriage?—Yes, better than a bulky, less expensive article like cotton.

2543. But inasmuch as cotton is only of the value of 1*d.*, it cannot afford to pay that?—No; it requires the quickest and cheapest conveyance.

2544. What is the progress made in the railways in your neighbourhood?—In our neighbourhood there is only one railway, just sanctioned; it has been surveyed for two years, but it is not begun yet; there is only one railway in Bengal, that is the Northern Railway, which is open to Ranagunge only.

2545. Is it your opinion that there has been a great deal of unnecessary delay in proceeding with those railways?—I think so; at first both the contractors and the Government had considerable difficulty in organising a proper staff of assistants, and they had considerable delay in getting the lands settled by the Government, and the contracts sanctioned.

2546. But you have no doubt that the completion of those railways will add very much to the prosperity of India?—Not the least.

2547. And lead to a great extension of trade?—Yes, and will allow the Government to govern the country with much fewer troops, because they will be able to move them about better.

2548. You think that railways will be an advantage, not only in bringing the agricultural produce to the market, but in taking back at a cheap rate such articles as the natives want?—Yes.

2549. Particularly such an article as salt?—Yes, and European goods of every description; the natives have a daily increasing desire to use all European goods, and if they could be more cheaply conveyed to the interior, the consumption would be much greater.

2550. Is not the article of salt, which is a necessary of life, very much enhanced in value in consequence of the great expense of transport?—It is.

2551. As regards European manufactures, we have been told that the people in India are very fond of going naked; is that, in your opinion, because they have not the means of using European manufactures, or because they prefer it?—It is the custom of the country a good deal, but it is partly from the poverty of the lower class too.

2552. Do people who are able to afford the use of European clothing go naked?—No; the upper class dress themselves more, and of late years there has been more desire to use European cloth and goods.

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2553. You have no doubt that if the natives in general had the ability, they also would use European clothing to a great extent?—I think they would.

2554. Mr. Campbell.] You were asked a question whether or not the process of ruin to litigants in the supreme courts of Calcutta was more rapid than in the Mofussil courts, by reason of the legal extortions and expenses of those courts; is that your opinion?—No; the extortions of the Mofussil courts are greater.

2555. Would you be of opinion that the process of ruin would be more rapid in the Mofussil than in Calcutta to parties engaged in suits in court?—In the case of parties in the Mofussil, when they are summoned from their work and taken away, their ruin might be very great.

2556. Is not a party in the Mofussil required to maintain a fighting establishment in the defence of his property, and to bribe very extensively the almoners of the court, which he is saved in Calcutta?—Yes.

2557. Then you think the process of ruin would be more rapid than in Calcutta?—Yes, I think so.

2558. You are obliged to protect yourselves in the interior?—Yes, sometimes.

2559. Would that remark apply to planters and settlers, and the public generally engaged in trade in the Mofussil?—To all classes of people.

2560. And it arises from the imperfect state of the law, and the imperfect state of the police?—Very much.

2561. Would not the practical effect of opening the service be, to secure in the departments of the Government efficient servants?—I think so.

2562. Would not the efficient servant have an incentive to exertion, which he is at present deprived of by the employment of civil servants on the seniority basis, without regard to qualification?—Yes.

2563. Is it not the case with Calcutta barristers, that the pains-taking, efficient barrister rapidly acquires an independence, and the inefficient man is left behind?—Yes.

2564. That is practically your experience?—Yes, it is.

2565. You alluded to the improvements generally in the districts in the vicinity of your factories; do you attribute those improvements to the fact of your now being able to hold property in your own names since 1833, and thereby being able to direct your attention more to improvements than to defending your property?—Yes, and to the circulation of money.

2566. Mr. Freeman stated in his evidence that nine years ago Rammohun Roy was nearly unable to pay his Government revenues; what would have been the effect of his not paying his revenues upon the planters or zemindars that held putnees under him?—They would have been all disallowed, and it would have been very ruinous to the holders of the putnee.

2567. To what extent may putnees be held in Jessore, Kishnagur, and other districts, from Rammohun Roy?—I suppose to the extent of probably 8 or 10 lacs of rupees of rent.

2568. And all the bonus paid for those putnees would have been lost?—Yes, all the purchase-money would have gone.

2569. What effect would the introduction of the Black Act have upon the value of your own property?—It would reduce it in value very much.

2570. Would not most settlers desire to realise their properties if it were introduced?—They would.

2571. What would you do yourself?—I would desire to realise my property and leave the country.

2572. If that desire were general, what might the value of the properties, all being sellers and there being no buyers, be reduced to?—To a fourth of the present value.

2573. If they were all realisers and no buyers, would not they be reduced more than that?—The natives would take the landed property; but the indigo factories would be reduced to nothing.

2574. What proportion would the vats and works and buildings and boilers, in a factory generally, bear to the landed property?—It is about half and half.

2575. That half would be valueless; you would get nothing for that?—Quite so.

2576. With regard to the employment of a native establishment, do you not think that if the European civil servants were more efficient, you could employ more native establishments with less damage to your interest than you do at present?—Yes; if the European superintendence were efficient the native materials under it would work much better.

2577. They

2577. They would not have the same opportunity of extortion or oppression ?
—No, they would not ; it is for want of European control that they exercise so much of that.

2578. How long is it since planters have been selected as honorary magistrates ?
—Within the last nine months or so.

2579. Since the occurrence of the mutinies ?—Yes.

2580. It was never thought of before ?—It was never acted upon before ; it was proposed two or three years before ; it was just upon the emergency of the mutinies, I suppose, that it was acted upon.

2581. What is your opinion with reference to the interests of colonists and settlers of the present proposed change of Government from the Company to the Crown ?—It would be very beneficial, and would give every one more confidence in the Government.

2582. Would it be desirable that the agricultural or commercial interests of India should form a part of the council for the protection of those interests ?—Very much so ; it would be very beneficial, I think.

2583. What exactions may planters or other residents in the country be subjected to on surveys being effected of their property, or upon any other work being done in the mofussil that they are deputed to do by the civil authorities ?—If the surveys are under the control of the natives, there are considerable exactions to get the work properly done.

2584. And is it not possible for you to have the boundary wrongly defined, and favouritism shown in defining the boundary ?—Yes, quite possible ; the person who can pay most for it may have it decided in his favour.

2585. Those surveys are not conducted under the immediate eye of Europeans ?
—Not entirely ; they are left a good deal to the natives.

2586. Mr. *Villiers*.] What is it that marks the difference between the European management and the native management of estates, which induces you to give such a decided preference to the European ?—The European sees that only a proper amount is taken, and that no extortions are taken from the natives, and he sees that they are paid for the work given and the labour taken.

2587. That is if he is an honest man ?—Yes ; but that class of Europeans are generally so.

2588. It is rather on account of superior morality than skill that you prefer the Europeans ?—It is.

2589. From anything you have seen or heard or read, have you reason to believe that the civil service are averse to the increase of European settlers in the mofussil ; is there anything like a jealousy of the settlers ?—One case occurred lately where the magistrate recommended that the honorary magistrate's power should be cancelled ; and it was appealed to the Commissioner and the Deputy Governor, Mr. Halliday, and they both gave judgment that the magistrate's decision was unwarranted.

2590. I was rather talking of your general impression ?—I think they look upon them with jealousy in some respects.

2591. Mr. *Kinnaird*.] What is your opinion of the employment of the Sikhs as police ?—I do not think the Sikhs would do well for police in Bengal ; they are not acquainted with the manners and habits of the Bengalees, and they are of a more irritable disposition, and would not put up with their manners.

2592. You think they would not be adapted as a good substitute for the native police ?—They might do for watchmen, but not generally for the police.

2593. We are told that the natives will render no assistance to the police ; to what do you attribute that ?—To the trouble and expense they would be put to ; they are taken away to the zillah, and may be detained there for weeks.

2594. Do you think a properly protective police would be very acceptable to the people, and obtain their confidence ?—Very much so indeed.

2595. Are there any elements among the general native population that the Government could avail itself of for any purposes of local government ?—Not in the interior ; in the large towns there are many of the respectable class of people who would assist the Government in municipal committees and different things, but not in the interior. There you have not the same facilities.

2596. It is stated that the revenue system of Lower Bengal has acted very oppressively upon the ryot ?—It is not excessive ; it is more from the exactions and bribery and extortions they take out from the people ; the mere rents are not excessive.

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2597. It arises out of the revenue system and the land settlement that they have the powers of oppressing the ryot?—That is from the state of the laws and the police a good deal, because the powerful people oppress the weak.

2598. The native zemindars are in the habit of levying illegal cesses on their tenants?—A good deal.

2599. What are they?—For births, marriages, or deaths of any of their families, they take a small assessment from them.

2600. Have they any right to do so by law?—No.

2601. Is it known to the Government that they do it?—Yes.

2602. Has anything been done by the Government to relieve the population of those cesses?—Not that I am aware of.

2603. Those cesses are deemed to be, and are, a great oppression upon the people?—Yes, they are very oppressive.

2604. Do the indigo planters and occupiers of land levy those cesses?—No, they do not; and they take great pains that they shall not be levied by the servants.

2605. Therefore the effect of the increased number of Europeans settling in the country would be, to improve the condition of the people, and to elevate their social position?—It would, and gradually, too, put a stop to those extortions.

2606. And you think there have been in past times various impediments in one way or another to the settlement of Europeans?—The state of the laws and the police, and the uncertainty of the sale laws have been an impediment to them.

2607. *Chairman.*] You mentioned that the natives show a great inclination to use European goods; will you specify them?—English cloths and umbrellas, and hardware for cooking utensils; those are the things they use to a great extent.

2608. *Mr. Kinnaird.*] Are the umbrellas made up?—Yes, made up; there is a great demand for them now in India.

2609. *Chairman.*] I understand you to say that an infusion of Europeans would benefit the natives in two ways; first, it would raise the moral standard among the natives; and, secondly, inasmuch as a European can do five times as much work as a native, it would teach the natives to work better?—Yes.

2610. With regard to public improvements, such as roads and canals, is it not rather a wonder that those public improvements have not been introduced sooner, than that they are introduced now?—Yes; it has been a great loss to the country that they have not been introduced sooner.

2611. *Sir Erskine Perry.*] I have heard you express a very strong opinion against the Black Act; is not the Black Act founded upon the principle of having one law for all the inhabitants of the country, whether Europeans or natives?—It is putting the Europeans under the jurisdiction of the native courts and juries.

2612. You are aware that Europeans in the presidency are under the jurisdiction of native juries?—No, I am not aware of that.

2613. At the Presidency towns, at Calcutta for instance, the juries are taken from a panel consisting of Europeans and natives?—There may be a few natives in it, but they are the upper class of natives, very different to what you would get in the interior.

2614. You could not put Europeans in the interior exclusively under the jurisdiction of Europeans, could you?—I think a European should have the power of objecting to a native jury. A foreigner in this country has the power to object to an entirely English jury.

2615. At the present moment you have native judges in the civil cases in the interior?—Yes, but not in criminal cases.

2616. In magisterial cases?—They have only a limited power over Europeans.

2617. It would be impossible to place European magistrates in every court in the mofussil?—I think it would not.

2618. You have not considered the financial aspect of the case, have you?—European magistrates could be employed nearly upon the same pay as the natives receive.

2619. What is the average rate of pay of a moonsiff?—From two to three, and four and five hundred pounds a year.

2620. *Mr. Kinnaird.*] You consider that owing to the want of truthfulness and reliability upon the native character, Englishmen going to colonize and settle there ought not to be put under the native jurisdiction?—I do not think they should.

2621. Is that the opinion of those who have resided in the country generally?—It is the opinion of all British inhabitants in India.

Mr.

Mr. Josiah Patrick Wise, called in ; and Examined.

2622. *Chairman.*] IN what part of India have you resided?—In Eastern Bengal.

2623. Have you resided in any other part of India?—No.

2624. How long have you resided in Eastern Bengal?—Upwards of 30 years.

2625. In what part of Eastern Bengal have you resided?—In Dacca.

2626. I believe you are a proprietor and manager of indigo and other concerns in the interior of the country?—Yes.

2627. In what districts were you the proprietor and manager of those concerns?—In five districts, Dacca, Mymensing, Furredpore, Burrisol, and Tipporah, and lately in Assam, Cachar, and Sylhet.

2628. Were they extensive concerns?—Yes.

2629. Were they all established in your time, or in your recollection?—Part were purchased, and part established by myself.

2630. What was the effect of the European establishments and operations, on the prosperity and the condition of the country and people?—Wherever Europeans have settled, the condition and prosperity of the people, with a marked improvement of the country, has followed, and if the settlement of Europeans had been encouraged as recommended by Sir Charles Metcalfe, and other great Indian statesmen, the revenues of India might ere this have doubled. It is true since 1833 we have been permitted to settle, but the Indian Government has never ceased to display hostility towards European settlers, and opposed in place of encouraging all enterprise, and the investment of capital so necessary for developing the resources of the country and civilising the natives of India.

2631. Had the native zemindars and capitalists any concerns like yours carried on, on a large scale?—None.

2632. What was the nature of the revenue settlement in your districts?—The perpetual settlement.

2633. Under that settlement, of course the landowner is called a zemindar?—Yes.

2634. Is that settlement favourable to the investment of capital or not?—It is less so than it ought to be. At present, a person purchasing property must expect to be obliged to contest several lawsuits; he must be prepared to take possession, and to be opposed in doing so, and he must be ready to pay two or three quarterly instalments of the Government revenue before collecting any rent from the estate. It may look a good investment, but it is not a safe one, for after 12 years, short of an hour after you have had possession of property and improved it, with no little outlay and trouble, a suit may be instituted to quash the sale, and in consequence of the mistake of a collector, the sale may be reversed after 17 years, and not only is the purchaser obliged to give up the property, but he must also pay mesne profits over so many years, with probably 12 per cent. interest; I would not have property in India if I could help it; no one purchases it who regards safety.

2635. Does the zemindary tenure admit of improvement, which would make it more favourable for the investment of capital, without impairing the security of the revenue?—Certainly, with a better system, better laws, and better men to administer the laws. With Parliamentary discussion and the admission of men into the Legislative Council who have more at stake in the country than their salaries, give safety to life and property, give freedom to the press, and British capital and energy will flow into India. At present property is not safe. Capital and peaceable Europeans cannot settle in safety; and to make matters worse, we are periodically threatened with the passing of laws, under which no man of property or respectability could feel secure. We settlers say, Reform your system, improve the courts, give good magistrates and a better police, and then only should Europeans be made amenable to the local courts.

2636. Are there any other and subordinate tenures which are suitable to the European settler besides the zemindaries?—Putnees talooks, and talooks paying rent to the zemindars may be purchased and held by Europeans; also farms from zemindars and from the Government.

2637. What is the feeling generally of the actual cultivator of the soil towards European planters and settlers?—I think the feeling generally is most favourable. It is always the interest of the European to treat them well, to protect them from oppression

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oppression either by the landowner or the police; they get constant employment, and are regularly paid by the planter; they borrow money largely for the cultivation of indigo without being charged interest, with which they pay their rents to the zemindars, or the exorbitant dues to the money-lenders. Their differences with neighbours and native money-lenders are often settled by the planter; and in sickness, they find medicine and friendly aid. I believe it is an admitted fact, that wherever Europeans have been settled during the late convulsion those parts have been less disturbed, and probably the peace of many of the districts has been preserved by the European settlers; if so, it is another strong reason for a change towards the settler, and that increasing numbers should be encouraged; and the only way of doing so is by protecting them; making extended use of Christians as officials, court officers, and in the police, to check revolutionary movements; follow an opposite course as in past times, and it may be discovered that there are more enemies than are seen, many, but watching the opportunity. I can corroborate from personal knowledge the following statement: "If anything can more clearly illustrate the sense of security in which Indian officials in spite of all warning have indulged, it is that at the very time when this alarming mutiny was about to burst forth in the Bengal Presidency, it was actually proposed so to remodel the criminal jurisdiction of the country, as to subject the few Englishmen scattered over Hindostan to the anomalies of native law, to the tyrannies of native witnesses, who for a few annas will swear away the lives of their dearest friends, to the ignorance of native jurymen, who do not understand the value of trial by jury, and to the tender mercies of native magistrates, armed with a power of summary jurisdiction, unknown even in England, and by means of which an Englishman might be confined in their vile prisons, amidst all the fierce heat of India, for as much as two years." From the "Times."

2638. You appear to think that the experience which we have recently had in the mutinies confirms the inference which you draw, as likely to result from increased settlement by Europeans?—Yes.

2639. Do the natives resort to Europeans to settle their disputes in small matters?—Yes, they do very generally; and many Europeans pass several hours a day settling little village disputes. I have known planters give up two days in the week to this work.

2640. Do you think that from experience the natives have now more confidence in Europeans than they had 20 or 30 or 40 years ago?—I think that European residents are much more respected now than they were.

2641. Do you think that if Europeans were to extend themselves very much, a still greater confidence would be reposed in them?—I think that respectable Europeans settling in the country will always call forth that respect.

2642. In an equal ratio you think the confidence of the natives in the Europeans will increase?—Yes.

2643. In what way principally do you think that an increased settlement of Europeans would be beneficial to the country?—Throughout Bengal there is a complicated system of oppression. Zemindars, talookdars, ryots, and planters are, for want of protection, driven to self-defensive measures; the young magistrate shifted about from place to place, is no protection; money has its influence, and the powerful succeeds. How can it be otherwise? The magistrate, when yet an inexperienced youth, is put over a large district with perhaps 5,000 towns and a million of people, he is almost a stranger to the language, and only two or three years from college; his points of weakness are weighed to a nicety, and are worked upon by the most crafty people in the world; and upon these people (that is, his omlah) he must trust to allow the machine to work. True, he has the aid of pundits and cazees, ameens and principal sudder ameens, with magisterial powers, and perhaps a deputy magistrate; and from these officials to this young magistrate lies an appeal, which is final in the majority of cases. So that the higher court, that of the Sessions Judge, has little power over the magistrate; he has only to deal with cases of higher crime, such as murder and dacoitee, &c., in which men of property and respectability never appear at all. Thus the whole of the most important duties in a district devolve entirely on the magistrate, who, however talented and zealous, and there are many such, wants original training and experience, and who, however anxious to do justice, must find himself in a most trying situation, and overwhelmed with work. This system is one of the greatest obstacles to the settling of Europeans in the country.

2644. Do

2644. Do you confirm the evidence which has already been given of the incompetency of the magistrates sufficiently to understand the language of the country, and of the magistrate's dependence upon the omlah?—I do generally confirm what I have heard as to the state of the police.

2645. What is the state of the country as respects the safety of person and property?—Neither person nor property is secure. Under the present policy and settlement, I would discourage a friend from going to settle in India. I would not, if I could help it, have property in India; who could live in India in safety under such circumstances as I have above feebly attempted to describe, and with the prospect of still greater powers proposed to be given to such courts and magistrates to imprison a European for two years, or to impose a fine of 100 *l.*? A sudder ameen (a native) to have the power to do so for one year, with fine of 50 *l.*; and an ignorant moonsiff (also a native) to have power of imprisonment for three months, with fine of 25 *l.*; the practical effect of which would be to annihilate the value of all the property belonging to Europeans, valued at many millions sterling.

2646. In the present state of the police, could Europeans dispense with their private establishments for the protection of property?—I do not think they could remove the power to protect yourself, and you would soon find you had little left worth protecting.

2647. Have any measures been adopted within your recollection to improve the police?—Deputy magistrates have been appointed, generally natives, and not generally a good selection. Natives do not make good magistrates; they neither give satisfaction to the Europeans nor to the natives of the country. But I understood in India that a pressure from England for the employment of natives had, against the conviction of the local authorities, induced the trial, and it has proved a failure. Some increase of pay has also been allowed to darogahs and the lower grades of police officers, but the general impression throughout the country is, that this has failed to make them more honest; and this is not to be wondered at, as the same class of people continue to hold these situations. They have, under the system, great temptations to be largely bribed, and their continuance in office is very precarious. The first reform must be in the selection of better magistrates, men of more experience and local knowledge; secondly, their continuance in a place, and better paid; thirdly, not shifted into the revenue department when they become experienced magistrates; and, fourthly, a greater recognition of the European element in the subordinates of the courts, and particularly in the police department. The darogah's place might be taken by a European. Thus the magistrates would be strengthened by an efficient honest police by Europeans, and the lower departments filled by natives not residents of the place. The legislative enactment 18 of 1850 protects the magistrates, which is complained of; whilst the bearing and tendency of all other recent enactments has been to deprive the British subject of the protection of the English law as administered by the Crown judge, a birthright we all greatly cherish, and a privilege we want extended all over the country. The European settler has no security for property, and no certainty of reaping the benefits of any improvements. We have a refined system, unsuited to the wants of the people, which encourages forgery and perjury; and the business of the court is generally done by the native, because the European functionary is otherwise too much engaged, or he is new to the district, or about to leave it, or fresh from college, and generally ignorant of the work he has to do. We want men as magistrates of a certain standing, men who can take a plain straightforward common-sense view of a subject, without going into all the niceties of English law, unintelligible and incompatible with the habits of the people. Europeans of education and character have not been encouraged to take the appointments of deputy magistrates; natives of family and fortune and respectability have not been selected; but worn-out darogahs, of doubtful reputation, and others physically unfit, have been chosen for these most important situations. For these appointments, that is, for the all-important situation of magistrate or deputy magistrate, selection as to qualification and personal fitness ought to be the test; and, when found, no remuneration is too great to keep him in the department. Lord William Bentinck's Act 6 of 1832, of not allowing the police to interfere, has been a great boon to the people, considering the loss of property the lesser evil, than the infliction of a police inquiry. Whereas Act 5 of 1848, empowering magistrates to summon parties into court, and give heavy penalty

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penalty bonds upon the simple report of a darogah, has been often much abused. Men of extensive property, finding it difficult to satisfy the magistrates' sheriff as to the value of the security offered when he is looking out for his consideration in the shape of a bribe; Europeans have often been seriously inconvenienced by being brought from a great distance to give such securities upon a trumped-up report of a darogah, bribed by a zemindar; and the recognizance of 100 *l.* might be forfeited afterwards by a false case made up by an unscrupulous zemindar and darogah.

2648. Am I right in understanding you to say that the increase in pay has not improved the character of the darogahs, but that on the contrary it has increased their exactions?—It has apparently; I have heard that from many zemindars and other people.

2649. I believe that Europeans are liable only partially to the jurisdiction of the country magistracy?—The magistrate has great power over a European, being likewise a justice of the peace; he has power to cause his attendance in court upon the most trifling charge; he can fine him to the extent of 50 *l.*; he can put him under a heavy recognisance, and if charged with more serious crime, has the power to send him to Her Majesty's Supreme Court in Calcutta for trial. The magistrate, in short, has ample power over the European, and often more than he can with discretion use, and much more than any magistrate in this country holds.

2650. What means would you propose for the establishment of a jurisdiction in the interior over Europeans?—The Legislative Council, I believe, admits the reasonableness of our aversion to being tried by the local courts; but still it appears the Legislative Council deems it unjust to exempt us from trial in these courts, upon the principle, I have been told, that we can if hurt, make a noise; we are told also, that we ought not to have the privilege of the Supreme Court, for, if innocent, the privilege is of little importance, and if guilty the difficulties in the way often enable us to escape. Then our merciful friends add, the district judge is good enough for the native, why should he be less so for the European? Now, with proper courts, having independent judges and a jury of Europeans, it would be right to subject us to the local courts; but surely it is not right, expedient, or just, to put us lower, as has so long and lately so urgently been desired to put us, at the mercy of a native judge and a native jury; the manifest object being to drive us out of the country. It is petty charges more than serious ones that Europeans have to dread; a dozen charges may be got up by a vindictive native, and a native magistrate having the power to imprison, would be absolute ruin to the European, and this might be done by men, now acting as deputy magistrates, admitted by the highest authority to be unworthy of public confidence. Suppose these Black Acts had been carried into law, as was desired just previous to the breaking out of this rebellion, the scattered Europeans as a preparative measure might have been lodged in gaol. It has been the aim of the Government of India to lower the European settler in the eyes of the natives, and also to humiliate the higher classes of natives, who now stand aloof from the European official. Many years ago the higher natives used to visit and be received with distinction and kindness by the officials; but it is not so now, and I think that the marked respect formerly shown towards the European has also diminished.

2651. I think you stated that it was the object to drive the European settlers out?—Yes, one would suppose so.

2652. To whom do you impute that object; was it the effect of the laws or was it the intention of those who passed the laws?—The laws would have that effect.

2653. You do not mean to say that any Government would desire to drive settlers out?—One would suppose not, but practically that is the effect.

2654. Have you individually suffered from the consequences of administration such as you have described?—I have seriously suffered; and by way of illustrating the working of the system, I may proceed to narrate a few instances. In the year 1833-4 the estate of Buldakal in the Tipporah district was put up for sale for arrears of revenue. I became the purchaser and deposited the amount required by the law in bank notes and Company's paper, pending the Commissioner of Revenue's approval of the sale; and on that officer's doing so, I paid into the treasury of Commillah the whole amount, 1,15,000 rupees, and received the collector's order to take possession of the estate. I may observe at that time the law permitting Europeans to hold lands in India had not been promulgated, but it had passed all the preliminary stages, so I

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was obliged to get the permission of Government in anticipation to hold the estate; this was immediately granted by Sir Charles Metcalfe, then Lieutenant-Governor of Bengal. The ex-zemindar appealed to the Board of Revenue against the sale, and the Board had the power to reverse it upon any legal grounds; the petition was sent by the Board back to the Commissioner for his opinion, and that Commissioner was not the same who had previously upheld the sale, but the Collector of Chittagong, temporarily put in charge of the Commissioner's office, and he recommended the reversal of the sale upon grounds utterly unfounded, and in contravention of the law. First, he said the estate had been sold without making it known that the subordinate tenures had lapsed; this was not required, as the Permanent Settlement Laws of 1793 declare this, and every tenant knows it, and on the instance of such a notice before a sale could not be shown. Secondly, because the petition stated the estate had been sold at or towards sunset; this was purely false, as the sale took place in open cutcherry about 12 o'clock. Thirdly, that the Collector was a relative of mine, and had favoured me by accepting the Company's paper as security for my bid; this, again, was incorrect; but the collecting Commissioner did not give himself the trouble of duly inquiring. His thoughts turned upon benefiting the Government, for he reported that it would be fair to the under tenants to give greater publicity; and that as the estate was a very valuable one, he would, in recommending the reversal of this sale, advise the purchase of it on behalf of Government at the next sale. The Board adopted the recommendation, and illegally dispossessed me of a valuable property, and purchased it on the next sale-day, and that estate is now held by Government.

2655. *Sir Erskine Perry.*] What did they purchase it at?—Merely the difference of the increased revenue up to the date of sale.

2656. *C. from Airman.*] Have you suffered in any other case besides that which you have mentioned?—I have suffered in connexion with other matters in several ways.

2657. *D. dia w.* Do you consider that the extension of enterprise on the part of Europeans is checked through the circumstance which you have described?—Very much so, I think.

2658. *D. adenc.* Do you coincide with the other witnesses who have stated the great desirableness to the use of the English language in the courts of law, and the extension of the English language generally?—Yes.

2659. *D. uropen.* Do you think that an English judge, by means of an interpreter, and using his common sense on a question, would distribute justice better than by bearing through the ears of the omrah, and being obliged to rely on natives for the decision which he comes to?—I think so.

2660. *capital course* there are large estates and tracts of land in Bengal which were intended for Permanent Settlement, but which have reverted to the Government by

2661. *and by other means*; in what way are they let?—Generally in farms for periods of years; from five to ten years. The Government let them out in farms for

2662. *er will take them*; Europeans hold a great many of those farms. What is the peculiarity of those large estates?—They are chiefly under Permanent Settlement. Some of them have lapsed into the hands of the Government.

2663. *Do the Government let them out to individuals?*—Yes, in farm.

2664. *They have reverted to the Government, I understand you to say?*—Yes; the estates fell into the hands of the Government in this way; the Government grant having been paid, the estates are purchased by the Government.

2665. *Are those estates beneficial or otherwise to the settlers?*—They are beneficial to the settlers, of course, when taken in farm on reasonable terms.

2666. *Do the settlers pay a fixed revenue to the Government?*—Yes.

2667. *Of course they would rather be zemindars?*—Yes.

2668. *Are they better or worse than putnees?*—They are quite different from putnees; a putnee is a perpetual lease, and this is for eight or ten years.

2669. *A putnee is a superior lease?*—Yes.

2670. *These are like the izaras?*—Yes. Izaras are mere farming leases.

2671. *Are you acquainted with any of the hill tracts in India, and do you consider them suited for the settlement of Europeans?*—I am not personally acquainted with any of the hill tracts; but I have taken some hill tracts in Assam and Cachar for tea cultivation, and I consider them very favourable for the settling of Europeans. Of course the hill tracts near Sylhet, Darjeeling, the Himalayas, and

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and the Neilgherry mountains offer most favourable localities for Europeans to settle.

2671. Mr. Willoughby.] Do you speak of that from your own knowledge?—No; I had assistants up in Assam, and I have met people from Darjeeling, but I have never, as I said before, personally visited those places.

2672. What is the tenure of land in Assam?—I believe it chiefly belongs to Government.

2673. Could the Government sell or let it to Europeans?—Of course.

2674. Do the tea districts in the hills afford very great opportunity for the settlement of Europeans?—Yes.

2675. Both on the ground of health and also because there is a great quantity of waste land?—Yes.

2676. And that waste land might be converted to the cultivation of tea?—Yes, or any other produce.

2677. Does not the cultivation of tea offer a great resource of development to India, if it were extended along the Himalayas?—Yes.

2678. Do you think that the natives of India would be likely to extend their consumption of tea?—I think so.

2679. Is there any cotton cultivated in your part of Bengal?—Cotton is grown in large quantities in the Tipperah Hills; it is likewise grown in the Dacca and neighbouring districts, but not extensively. The soil is no doubt suited for producing the finest cotton. We have cheap and abundant labour almost everywhere in India, and it appears to me that capital and Saxon energy is only wanting; assisted, of course, with a ready and remunerative market, and with facilities of getting to it. If Europeans get waste land on favourable terms, and are safe in life and property, India will supply in a few years a large portion of the cotton required by England. India has an abundant population, and no production is better suited for the wives and families to be engaged in than cotton; the soil, the climate, and the requisites for irrigation, when that is required, have only to be attended to, and the result must be, with rail and other means of transport, an abundant supply of the finest cotton, and at a lower price produced, than from any other part of the world. I had cotton growing in a garden near Dacca for many years, yielding three and four crops a-year of the finest quality, pronounced so by men of experience; and from this I am led to think it can be grown of good quality.

2680. That is in that part of Bengal in which you were resident?—Yes.

2681. Are there any obstacles to the extension of its cultivation?—Make it safe for Europeans to remain in India, and give them encouragement by giving tracts of waste land in perpetuity, and India will not be behind other countries in productiveness.

2682. Are you in favour of a power of redeeming the land-tax and the fee simple upon the part of European settlers?—European settlers measure much prefer it, if they could get the fee simple on reasonable terms.

2683. Has the Company ever tried an experimental farm for the cultivation of cotton within your knowledge?—Yes, they had an experimental farm for many years, and expended a large sum of money upon it, but it was unsuccessful.

2684. What was the reason of that?—It is very difficult to say why year they wanted seed; another year they wanted money; another year a blight come over it; another year a hailstorm came, and at last came a caterpillars.

2685. In the districts in which your concerns are situated, what is the state of the roads, and are there sufficient modes of intercommunication in them and Calcutta?—The roads have been much neglected, the small water carriage have gradually been silting up, and the trade and intercommunications very much injured in consequence; so bad is it, that for a few thousand rupees a channel might be kept open during the year to a town, or large market, which is now shut for six or eight months. Of course the rivers to Calcutta are always open throughout the year.

2686. Is the country where you have been residing for so many years healthy for Europeans?—Very. I have been there a long time, and I have always found it so.

2687. Have you ever heard of instances of families continuing there for several generations?—No.

2688. You cannot tell how far the experiment may have succeeded, if it has been tried, of families continuing to reside there?—No.

2689. Has

2689. Has your attention ever been called to the circulating medium of India? —I think a gold circulation may be introduced very beneficially. It would draw out vast treasure in silver, which is now buried and out of circulation, to the great benefit of the Government and the population. Sovereigns and half sovereigns would, I think, be a very popular circulating medium; and the value of a sovereign being within a fraction of 10 rupees, the shillings and sixpences might be substituted for rupees, thus securing a uniform currency with this country. The gold mohur is seldom seen, and is always bought up at a premium for hoarding and working up into ornaments. I would also suggest the issuing by Government of paper, something like Exchequer Bills, payable after 12 months, bearing a less rate of interest than Government paper. Such paper would, I think, be of great advantage to merchants, who would use it largely in buying and selling in place of keeping large sums in the banks for which they get no interest.

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2690. Would you have a gold coin smaller than the half-sovereign?—You might have a quarter sovereign.

2691. As they have on the European continent at present?—Yes.

2692. Mr. Campbell.] What may be the annual value of the indigo produced in India?—The value of the indigo produced in Bengal and the upper provinces may be from 2,000,000 *l.* to 3,000,000 *l.* per annum, varying with the extent of the crops and the market price of the article.

2693. Is that all produced by English capital, and skill, and enterprise?—Nineteen-twentieths of it is produced by British capital and skill.

2694. You have stated that the annual value of indigo produced is from 2,000,000 *l.* to 3,000,000 *l.*; what may be the value of the properties producing this indigo, and do they belong entirely to English capitalists?—The value of the properties, including the putnees, talooks, and zemindaries throughout India, may be from 7,000,000 *l.* to 8,000,000 *l.*, varying with the value of money and price of indigo, and entirely held by English settlers and capitalists.

2695. Has this capital and property been acquired by men who have gone to India with nothing but that capital which a European carries everywhere, namely, perseverance, industry, and skill?—Yes.

2696. How does the quality of the indigo made under European superintendence compare with that made by natives?—That made by natives is from 20 to 30 per cent. less valuable.

2697. How do you account for that?—From the superior care and skill of European manufacture.

2698. Is that applicable to other staple commodities in India, such as silk, &c.? —Yes, to every commodity; silk and sugar, and so on.

2699. The value of silk, or any other commodity, produced by European capital and superintendence is enhanced by reason of that capital and superintendence?—Yes.

2700. Does the cost of capital in India interfere materially with the general production?—It does to a great extent.

2701. On what terms does the native agriculturist borrow from the native banker and capitalist?—He pays from 50 to 75 per cent.

2702. What increase may have taken place, in your experience, in the extent of produce and value in India of staple and other articles of production, such as rice, jute, silk, safflower, oil seeds, &c., by the influence of European example?—The production of nearly all the staple articles has doubled within the last 10 years, and in some of them much more; whilst the price in India has generally increased to a corresponding extent; for example, jute formerly sold at six and eight annas a maund, it now sells at two and three rupees; and in place of 3,000 bales shipped for this country in 1836, the quantity has increased to nearly 2,50,000 bales.

2703. Then you think that this is chiefly owing to the example and the influence and the enterprise of Europeans?—Chiefly so.

2704. And you think that that vast increase within the last ten years may be attributed to the fact of Europeans being enabled to hold lands in their own names to a certain extent?—To a certain extent.

2705. Sir Erskine Perry.] I understand that Europeans have not increased in number?—No, I think not in the mofussil.

2706. If that is so, your answer is not quite correct. This increase in the staple article must be owing to native capital and enterprise?—No, I think not.

2707. Mr. Campbell.] Have the industrious million participated to a fair extent

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in the increased prosperity consequent on this increased production and price?—No; I think a very large proportion of the profit has gone into the hands of the money lender.

2708. Differing from other countries, where such a state of things does not exist, increased production and rise in its value, can be taken as no index of the general prosperity of the great body of the people?—It cannot as far as the ryots are concerned.

2709. This, to a certain extent, must be taken as the cause of the exports from this country in exchange for the exports from India bearing no fair comparison?—In the year 1856–7 I observe that the total exports from India exceeded 25,000,000 L., whereas the imports to India were under 15,000,000 L., and the balance of trade consequently had to be made up by bullion shipments from this country.

2710. Would not the increased settlement of European capitalists in India have the effect of adjusting this balance of trade by the natural process of commodity for commodity?—It would doubtless have that effect; and looking at the vast population of India compared with the population of this country, and consequent power of consumption, if the legitimate returns for labour were within the grasp of the million, I consider that the balance of trade should never be against this country, and that if bullion shipments had to be made, they should be from India to this country in place of from England to India.

2711. This state of things must operate prejudicially to the value of profits in two ways; first, in decreasing the rewards of labour; and secondly, from the withdrawal of capital on the retiring of existing incumbents to their native country?—It has that effect.

2712. Then you believe that with better laws, and better protection to property, the planter or settler would retain his interest in such property with as much confidence as if he invested in agricultural pursuits in this country?—Yes, to a certain extent.

2713. Then the practical result of your leaving your capital for such pursuits would be to render the cost of capital more moderate and accessible?—It would; and the large diffusion of English settlers and capital in India would have the effect of improving the habits of the people and increasing their wants. Everything required by India could be better made and introduced from England, leaving India the produce and supply of the raw material. In short, all produce from the soil might be left to India, and manufactured requirements from this country; and this applies as much to the manufactures of Manchester and Glasgow, as to those of Birmingham and Sheffield.

2714. Then you are of opinion that the moral character, and civilization, and material well-being of the entire native population is certain to be advanced by the increase of British settlers in India?—Decidedly so; that is the inevitable result.

2715. Are the natives of India not favourable to such an increase?—Very much so; employment by Englishmen is much preferred to that by their own countrymen, from the general feeling of confidence in the honesty of the European; indeed, with rare exceptions, the word of an European would be preferred to the bond of a native.

2716. What field have you in your own properties for the employment of intelligent Englishmen?—My greatest want at the present moment, and the greatest want of zemindars and planters situated as myself, is steady young men, acquainted with the language. I could give employment at present to a dozen; and vast numbers might find similar employment in the same pursuits throughout India; but the difficulty has been to obtain them, and when you do obtain them, they have no knowledge of the native language.

2717. Do you think that the children of European soldiers, educated in the Hills, with a knowledge of the language and habits of the people, would find speedy employment; and if to the scholastic studies were added the rudiments of agriculture and the useful arts, that they would be valued as assistants and superintendents of all property where capital and enterprise is now embarked, either in European or native ownership?—India has no greater want at this moment than such a class of young men, and they are eagerly sought after by native zemindars and native capitalists, establishing, I think, the fact of the greater confidence they place in Europeans over their fellow countrymen in matters of trust, industry, and skill. Whether we regard India with its vast population, or India naturally beneficial to England, or our soldiers the mainstay
in

in India, I consider that a greater boon could not be conferred on all those interests, or one more calculated to yield abundant fruit, than the education and encouragement by well-organised institutions in the hills for the sons of our soldiers. India would benefit by the spread of truth, intelligence, and skill, and the soldier, in the preservation and elevation of his child, would participate and be improved by its beneficial and moralising effect. I may further remark that such a class, as they become largely developed, would be a strong and natural element to bind and strengthen our hold of India, and a formidable barrier against inroads upon that rule.

2718. To what extent may European capital be laid out in other commodities besides those you have mentioned?—In silk it is very largely laid out, and in jute and safflower purchases, and many other ways.

2719. In fact, the general products of India?—Yes, and those products are unbounded.

2720. The class of men to whom you have referred, in your opinion would open out a large field in India for the employment of capital?—Yes; they are very much wanted.

2721. You had the management of the Rajah of Tipporah's estate, had you not?—Yes, for many years.

2722. In the management of that property how may the police laws have affected him in his connexion with the Government?—He found them equally oppressive.

2723. Can you cite any prominent example of that oppression?—The independent territory of Tipporah borders on the Government property in Sylhet, and in that neighbourhood the people of the hills produce cotton and other commodities, and barter with the people on the plains, and they have places where they come and carry on that barter, and very often there are differences between the hill people and the people of the plains; the people of the hills are truthful, straightforward, and honest, but resentful when cheated or overreached, which is often the case when dealing with the Bengalee; on such occasions, from words they often come to blows, wounding, and sometimes murder ensues. These quarrels, often wrongly reported, bring the rajah into disrepute with the Government. On one occasion a police darogah intimated to the magistrate of Sylhet that a murder had taken place, that the rajah's people had murdered one of the subjects of the Company; the rajah was called upon to give up the murderers, and information was sent to the superintendent of police and to the Government. The rajah made inquiries, and found that the party murdered was actually his own subject, and that the place was within his own independent territory. He intimated this to the magistrate, and requested he would go personally or send some person who would give a faithful report. The magistrate sent his nazir, or sheriff, and that man demanded from the rajah 5,000 rupees to give a correct report that the murder had taken place within the rajah's territory. I was asked what to do by the rajah, and of course I told him not to pay the money, and information was sent by the rajah to the Government again, that he was quite positive as to the fact that the murder had taken place within his hills, and that the man murdered was his ryot. The Government ordered the magistrate himself to proceed to the spot; he went, but not to the place; he went a part of the way, and was duped by the nazir and police, and returned and reported to the Government that it had taken place within the Company's territory. Again the Government was addressed on the subject, now evincing great displeasure towards the rajah for persisting to the contrary, after the magistrate's report. Colonel Lyster, in command of the frontier, was ordered then to proceed to the spot with 100 or 200 men, and if he found the magistrate was correct, to proceed at once to the rajah's residence and wait further orders. The fear was that the Company were going to take possession of the whole territory; however, Colonel Lyster, on going to the spot, actually found that all had been correctly stated by the rajah, and that the magistrate had never gone near the place; he returned to Sylhet, and reported to the Government, and the magistrate, I believe, was censured (though I have no public information of that) and the nazir was dismissed the service; he was dismissed the service by the magistrate, but he was immediately put by the collector as nazir into his court, where he was when I left India, as far as I know to the contrary.

2724. Mr. *Danby Seymour*.] How long ago was that?—That was 12 or 15 years ago.

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2725. Mr. Campbell.] Those are facts within your own knowledge?—Yes.

2726. How do the resumption laws act upon property in your neighbourhood, within your knowledge?—They act very injuriously to the people generally, and the effect still exists. People remember them as a blight passing over the country; money was extorted from them in every possible way; the poor natives clung to their ground, and they lost it, and very often lost their money in trying to bribe away the officials from their doors.

2727. Sir Erskine Perry.] When was the resumption law commenced?—It did not commence in Bengal till about 1836.

2728. Mr. Campbell.] What was the purport of the law; how did it work so as to be destructive of the property of the ryot or settler?—The effect of the law is very injurious, because the boundaries of estates are not known; large rivers pass through, cutting away half the estate, and, on reforming, often taken by Government. I have seen parts of estates carried away from one side of the river and settled upon the other, taken by Government, and churs formed in the centre of rivers in the same way, taken by the resumption officers.

2729. Mr. J. B. Smith.] Is not Dacca the place where the beautiful muslins are manufactured?—Yes.

2730. Has that manufacture become extinct?—It is not extinct, but it is not carried on to any great extent now.

2731. Is the cotton of that beautiful manufacture grown in the neighbourhood of Dacca?—Yes.

2732. Might it be procured to a considerable extent?—Yes; by encouragement, I have no doubt, you could increase the cultivation of cotton of that kind very considerably there.

2733. You have never seen any muslins of the English manufacture equally fine with those of Dacca?—No, none.

2734. What kind of land is that beautiful cotton grown upon?—Chiefly upon the alluvial soil of the country about Dacca. Parts of it are very low, and the cotton is grown upon the low churs that are submerged during a great portion of the year.

2735. Have you ever grown any of it?—I have grown foreign cotton, and it answers remarkably well.

2736. Of this quality?—No, I never grew that; I have seen, however, the cotton growing from which the beautiful muslins are made.

2737. What kind of cotton is it?—It is a small annual.

2738. Is it a short staple?—Yes, it is a short staple; soft.

2739. Is there abundance of land in the neighbourhood suitable to grow that kind of cotton?—There is no want of land.

2740. Is there any want of labour?—No, there is plenty of labour.

2741. What is the value of labour there?—About three rupees a month; about 2 *d.* to 2½ *d.* a day.

2742. Did not the East India Company try some experiments in the growth of cotton in that country?—Yes; they had an experimental farm there.

2743. What was the extent of it?—Altogether about 100 acres.

2744. Was that farm on the high or the low land?—Upon the high land.

2745. Is the high land equally suitable for growing cotton with the low land?—Not without irrigation; where the natives sow cotton is generally in the low alluvial soil, which is damp, and they do not irrigate.

2746. Was this experiment tried with the native seed or with foreign seed?—With foreign seed.

2747. Of the American kind?—Yes, chiefly; it was a green seed, if I remember correctly.

2748. That experiment failed?—Yes, it failed.

2749. Who superintended it; was it an American?—No; he was an Englishman, but he had been in America.

2750. How was it that he failed?—I have just stated as I heard myself, that he complained of the want of seed, and sometimes he did not get money, and sometimes he got too much rain, and sometimes hail storms.

2751. Was this seed to have been furnished by the Company?—By the Government; the Government made every endeavour to introduce it.

2752. And the Government were to furnish him with money?—Yes.

2753. But

2753. But he was not regularly supplied with this, and had not an opportunity for carrying the experiment into effect?—That was his excuse; but I know that the Government spent a great deal of money, for several years, on the experiment.

2754. Did you see the cotton grown there?—Yes.

2755. Was it altogether a failure?—Yes; I have seen it left upon the bush unpulled for weeks and weeks together.

2756. Did the Company furnish him with machines for cleaning the cotton?—Yes, there was a machine sent out for cleaning the cotton.

2757. The Company went to a great expense, but there were no results?—Yes.

2758. Is irrigation possible in that neighbourhood?—Irrigation may be very easily made use of, for there is abundance of water from the rivers.

2759. Would not that very much increase the production of cotton and indigo too?—It would, probably. Irrigating for indigo would be very expensive; it covers so large a surface.

2760. What would be the facilities of getting cotton to market from Dacca?—From Dacca the facilities are by-river carriage. It is entirely river carriage. There is no road to Dacca. There is a proposal of a railway, which will of course facilitate the movement of produce to the Calcutta market.

2761. Is the cost by river carriage considerable?—Yes; and it has very much increased of late years.

2762. To what is that owing?—To the increased demand for all kinds of country produce, which has been very greatly increased of late years.

2763. Do you think it would be possible, if Europeans were to go to Dacca, that the cultivation of cotton might be made a profitable object?—I think that a European might carry on the cotton cultivation in the same way as we do indigo. He might give the ryots advances, and they would grow it. It would be a favourable employment for the natives.

2764. It would give employment to a great number of women and children now unemployed?—Yes.

2765. Would not the railway also give great facilities?—Yes, very great.

2766. Might not the navigation be very much improved at a small expense from Dacca to Calcutta?—There are great complaints of the canals leading into Calcutta being choked up by a very large number of boats; sometimes you cannot pass for days in consequence; there is that difficulty; but, otherwise, there is plenty of water communication with Dacca all the year round.

2767. Is that owing to the canals being too small?—Yes. There being only one canal, it was proposed to have two canals, one for boats going in, and the other going out, but I believe that has not been carried out.

2768. Have you any idea of the number of boats that go in?—There are many thousands of boats.

2769. You cannot tell the quantity?—No. The whole produce of India comes through those canals for eight months of the year.

2770. You have heard that notwithstanding all the difficulties to which you are exposed, and by which you are harassed by bad laws and bad police, still planters have settled in your district, and made it a profitable speculation; is it your opinion that the speculation would be less profitable if you had good laws and good police?—No; certainly it would be more profitable if we had good laws and a good police.

2771. Do you think that in the present state of things there is an inducement for an increased settlement in that part of the country?—No, there is not.

2772. Is it your opinion that Europeans or Englishmen, with capital and skill, may find equally profitable enterprises in other parts of our dominions without all those harassing difficulties which they meet with in India?—I think so. I would not go to India; I would take another beat.

2773. If you had known the difficulties you would have to encounter would you have chosen India?—No, I would not.

2774. Would you recommend your friends and relations to follow your example?—Not under present circumstances.

2775. You stated that there was a great increased production of a variety of articles, but that the condition of the people was not improved by that increase of production?—I think a great portion of the value of the production has gone into the hands of the money-lenders; that money is very scarce and very difficult to be had, and almost all the ryots are more or less in the hands of the money-lenders;

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lenders; they have their crops mortgaged to them, and they generally take a great advantage of the ryots.

2776. Is there any remedy which you could suggest to improve the condition of the people in that respect?—If Europeans were more settled with money, of course they would become the money-lenders, and would advance for articles required, and they would do it at a moderate rate; a great deal of the produce of the country is now raised by money advanced.

2777. Do I understand you to state that the social condition of the people employed by Europeans is better than the condition of the people employed by the natives?—I think in the neighbourhood of factories, the social condition of the people is better than what you see in other parts of the country.

2778. You think they are better clothed and better fed?—Yes.

2779. And that you attribute to their being more honestly treated?—I think so.

2780. You stated that it was a common practice with the natives to submit their disputes to the arbitration of Europeans?—With the lower orders that is the case; they, in many disputes, go to the factory of the European to have him to settle little differences.

2781. There is no obligation?—No, of course not.

2782. But they prefer it to the native courts?—Yes, and it is very useful; Europeans do a great deal of good in that way.

2783. Both parties consent to the arbitration of the Europeans?—Yes.

2784. And do they usually abide by that decision, whatever it be?—Yes, I think they generally do.

2785. Do they ever refer their disputes to natives in the same way that they refer them to Europeans?—Yes, they sometimes do; a zemindar will not take the trouble of looking into those troubles; he leaves them to his gomastahs and people, and they must pay money for it, and they do not so generally go to them to settle differences.

2786. Do you suppose that it is because of the cheapness that they apply to Europeans, or because of the justice which they get at their hands?—I do not say that the natives could not do them justice; but they come to the European to have little differences settled, and have not to pay for it.

2787. Mr. *Danby Seymour*.] Do they ever refer their disputes to a punchyett?—I have always encouraged as much as possible punchyetts, because there are many little disputes that the village elders can best settle.

2788. A punchyett is a jury?—Yes, of five men.

2789. Is the number fixed?—"Punch" signifies five, but the disputes are very often well decided by two or three of the village elders.

2790. Dacca is very near the coast, is not it?—It is about 100 miles from the sea.

2791. What is the nearest point?—Naraingunge; that is about eight miles from Dacca, where ships of 300 tons burthen can come.

2792. Suppose cotton is grown in considerable quantities round Dacca, you might ship it straight to Europe?—Yes, but it is rather a dangerous navigation from Naraingunge to the sea.

2793. The navigation to Calcutta is not very safe, is it?—At some periods of the year it is less safe.

2794. Is not there a project for having steamers on the Bramahpootra up to Gowahati?—Steamers now go up there twice a month; it was interrupted slightly by this rebellion.

2795. Is not there a company in existence for navigating that river on more extended principles?—No, not to Assam.

2796. Do you know what the tonnage of the steamers on the river is?—The Government steamers now plying up to Assam are about 200 tons each.

2797. Are there not a great many settlers in the upper part of Assam?—Yes; tea settlers as well as officials.

2798. Is not the time very great that is required to reach Upper Assam now?—They go from Calcutta to Upper Assam in about 12 or 15 days in steamers.

2799. I mean the ordinary traffic?—It would take six months to ascend as far as Upper Assam in native boats.

2800. How long would it take from Naraingunge up to Gowahati by a native boat?—It depends upon whether it is loaded or not, but certainly not under six weeks.

2801. Have

2801. Have you much communication with Assam?—There is a regular communication twice a month.

2802. Is there much trade?—Yes, there is a great difficulty in getting freight; those two steamers are loaded to the water's edge; the trade might be very much increased.

2803. What is the nature of the population round Dacca; is it Mussulman or Hindoo?—About half-and-half; it was a Mahomedan city.

2804. What is the Hindoo population; is it the regular Bengalee?—Yes.

2805. And the Mahomedans, are they a high caste Mahomedans?—No, they are not.

2806. Are they an industrious population round there?—Yes.

2807. You would find no deficiency of labour for any extension of trade?—None whatever.

2808. With regard to the Resumption Law, was not there a committee appointed by the Government to carry out that law?—No, there was no committee appointed; it must be nearly 16 or 18 years now since those laws were put into active operation. I stated that I thought a great blight had been thrown over the whole of Lower Bengal in consequence, and no corresponding advantage to the Government, I have heard.

2809. If there was not a committee, were not there commissioners or some other officials appointed to carry out the provisions of the Resumption Law?—They appointed special commissioners, and resumption officers named special deputy collectors.

2810. Were not there some distinguished civil servants who refused to act in that case because they thought the laws very unjust?—I believe so.

2811. Are you aware who they were?—No, I cannot name them.

2812. It appears that many officers thoroughly acquainted with the country considered the Resumption Laws very inexpedient and unjust?—Yes.

2813. Have you suffered yourself from the Resumption Law?—I have, more or less.

2814. In what way?—The Law of 1793 was set aside; by that law the Government could resume only on proof of its right to resume. The subsequent resumption laws cast on the parties defendants, who had been 60 or 70 years in possession, the onus of proving their titles.

2815. Does not the power of the Government, suddenly to bring forward such a law as that, render the tenure of all property insecure?—It does.

2816. Do you think there should be some general rule by which, after a certain time, titles cannot be inquired into?—It would be of great benefit; the limit is 60 years on the part of the Government.

2817. Do you not think that limit is too long?—Yes.

2818. What limit do you think would be fair both to the Government and to the settlers?—Twelve years.

2819. In the case of the Rajah of Tipporah, do you think that the mere dismissal of the offending nazir was a sufficient punishment?—I do not.

2820. What do you think it would have been fair, in a case of that sort, for the Government to have done?—It would have been fair at the least to have paid the rajah's expenses.

2821. Do you think the nazir should have been punished besides dismissal?—Yes.

2822. Do you think so slight a punishment as dismissal would deter others?—No.

2823. Do you not think that there ought to be a law by which a servant dismissed the Government service in one department ought not to be employed in any other Government department at any time?—He ought not, certainly, and such an order is sometimes given in dismissing from public employment for grave offences.

2824. Do you think that the people seeing that a nazir dismissed by one officer of the Government was immediately employed by another, really believed that the Government wished to set their faces against corruption?—No; but I am not aware that the Government knew anything of this; of course it was the local authorities that put him in employment again.

2825. Would not the dismissal of an important officer like a nazir, be brought under the eye of the Governor of Bengal?—The dismissal was doubtless a Government order, but not the re-appointment.

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2826. Could a collector employ so important an officer as that without its being known at Calcutta; ought not the Governor to be cognizant of a fact of that sort?—Certainly, but I doubt the Government being cognizant of the appointment.

2827. Do the planters make their advances through money-lenders?—No.

2828. Do the money-lenders become security for the advances made to the ryots?—No, we make our own advances to the ryots.

2829. But you do not make them through money-lenders?—No.

2830. Do you make up your accounts with the ryots, or do you have a running account?—No; we make up the account every year.

2831. Supposing that Europeans came into the country to buy for ready money, would any impediments be thrown in their way by the planters settled in the country?—No; many Europeans are now purchasing in that way.

2832. Has it been done lately?—Yes.

2833. And is doing now much more than formerly?—Yes, greatly more.

2834. And would be done much more if there were roads?—Yes, railroads in particular.

2835. And the more ready money transactions could be encouraged the better for the country?—Yes.

2836. You said the money-lenders absorbed all the best part of the capital thrown into the country of late years; as the capital increases, do you find that the rate of interest diminishes?—No; it still remains much the same.

2837. Is the money monopolised in the hands of the natives?—Yes.

2838. How do the natives, the money-lenders, employ their money?—They give it out to the ryots and carry on extensive mercantile and banking transactions.

2839. If they give out 1,000,000*l.* in one year, and in 10 years they have 2,000,000*l.*, one would expect that the rate of interest would diminish or the production increase?—The production has increased vastly of late years.

2840. Then all the capital that has been accumulated by the natives is put out afresh to increase production?—A great deal of it.

2841. Do the money-lenders invest in Government securities or property?—Many of them purchase land, and many invest largely in Government securities.

2842. Is the money which you advance obtained from firms in Calcutta?—Yes.

2843. Is that the capital belonging to the firms in Calcutta, or are they merely agents for British capitalists?—They are chiefly agents for British capitalists.

2844. Then the capital comes chiefly from England?—Yes, a good deal of it.

2845. And that as much now as formerly?—Yes, more now.

2846. Speaking of the fine manufactures that used to exist at Dacca, they are nearly entirely destroyed now, are they not?—They exist to a very small extent; you can, however, get the same quality at any time by ordering it to be manufactured.

2847. A fine manufactured article is a proof of civilization, is it not?—Yes.

2848. Then looking to the last 50 years in India, you would say that the population of India has retrograded?—The population has not retrograded I think; Europeans are not so numerous as they used to be, out of Calcutta.

2849. Mr. *Kinnaird.*] Was the magistrate who did not do his duty a European?—Yes.

2850. Had the rajah adopted the usual mode of paying a bribe, he would have saved himself a great deal of trouble and expense?—I prevented the bribe being paid, and the rajah was very much annoyed at it afterwards, because he got a great deal of annoyance and was put to considerable expense.

2851. Bribery and corruption seems to be the ordinary mode of settling those things?—Yes.

2852. I think you stated that you had been upwards of 30 years in India?—Yes.

2853. And your health was very good?—Yes.

2854. How many times have you returned home?—I was 28 years out without ever coming home at all, and I never felt ill until I came home.

2855. Therefore, with ordinary precautions and care, what is your opinion of the chances of European life in India?—I think a European residing there and taking care of his health, leading a sober life, and having plenty to do for both mind and body, he is as likely to have good health there as in any part of the world.

2856. Did you require much medical attendance while you were there?—No, I was never seriously unwell.

2857. You

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2857. You said that if the suggestions of Sir Charles Metcalfe had been adopted, European settlement would have been encouraged?—Sir Charles Metcalfe was very favourable to European colonization, and if his views had been adopted subsequent to 1814, of course we should have had a great many more Europeans, and the resources of the country would have been very much developed long ago; and the revenues of India would have been increased greatly.

2858. Is the zemindar at all jealous of the European, as a general rule, coming into the district?—He has sometimes occasion to be so; the European getting a zemindary, it is his wish always to do justice as far as possible towards the poor; I have myself had 1,000 houses of ryots transferred over to a property of mine in one year, leaving a neighbouring zemindar because they were oppressed by him. My object was to take none of the exactions which the zemindars do, and as far as possible to do justice towards the ryots. The consequence is, they generally prefer the protection of a European zemindar, and the native zemindars do not like that, because his property becomes less productive if the ryots leave his estate.

2859. You think that the tendency of the European resident is to raise the social character of the ryot?—Quite so.

2860. You have agreed with all previous witnesses as to the disgraceful state of the police?—I quite agree in that respect as to the police.

2861. Can you make any suggestions for its improvement from your experience?—The great improvement is an able magistrate, with as far as possible a large increase of the English element, the subordinates of the police will then be made honest, and there will be no fear. It is an able man at the head that is chiefly required. I have seen a district in a state of misrule, and in the course of a short time an able magistrate would put all right. Darogahs and every one are put right in a few days by an able man. If he knows his business, he has plenty of power, and the laws are sufficient; he only requires to put them in force.

2862. I suppose the very name and reputation of an effective civil servant coming into a district has a good effect?—Yes, a wonderful effect.

2863. You recommend the introduction of the European element more largely into the police; can it be obtained?—There is no want of it. If you make a respectable situation for a European, and give him the hopes of advancement by good conduct, and raise him up to be a deputy magistrate, and a full magistrate, you will get plenty of Europeans of birth and education to take the lower appointments, with expectation of rising to the higher.

2864. The exclusive character of the civil service has tended to keep them out?—Yes.

2865. You told us that a great number of the native magistrates were very badly selected; who is responsible for their selection?—The Lieutenant-governor of Bengal has the patronage.

2866. You told us of some false cases trumped up between a zemindar and a darogah, is that very common?—Very common.

2867. When you hear of such cases it creates no surprise?—None whatever.

2868. It is a melancholy reality?—An every-day occurrence.

2869. You talked about the effect of the policy of the Government being rather to drive the European away. I suppose you meant that there was not only no favour or inducement shown to them, but that every discouragement is rather thrown in their way?—I think so; I think those laws that have been periodically threatened to be brought upon us have been discouraging, and has led to that feeling of dissatisfaction in India.

2870. With reference to your evidence as to Assam, you said that there was plenty of land to be had there. What is the title that you get in Assam?—It is Government land; you get it for 99 years from Government at a very moderate rate of assessment.

2871. Do those two steamers which ply there belong to Government?—Yes.

2872. They have been apparently not sufficient for the wants of the district?—Not nearly sufficient.

2873. May any private company set up?—Yes; and the Government are ready to retire the moment they do so.

2874. Does the tea cultivation in Assam require European superintendence?—Yes, there are a great many Europeans up there; it requires a great deal of care in looking after.

P. Wise. 2875. Is labour cheap there?—No; that is one difficulty in Assam; it is not so easily got.

2876. Would it be easy, if there were proper arrangements, to transport labour?—People are not very fond of leaving their homes; they prefer working at home; there is a difficulty in getting labour.

2877. *Mr. Willoughby.*] In what way has the Government of India exhibited their hostility to the European planters?—I more particularly refer to the Black Acts.

2878. That is the only symptom of hostility of which you are aware?—We blame the Government for not giving us better magistrates.

2879. At what rate do the Government grant leases for 99 years in Assam?—I think the first 15 years you pay no rent, and afterwards you pay four annas up to 30 years, and then you do not pay the full rate until 50 years, and that is only eight annas a begah; about one rupee eight annas an acre.

2880. It is by those favourable terms that the Assam Tea Company has been formed?—Yes.

2881. Are you aware that within the last two or three days the Assam Tea Company have divided nine per cent.?—I have heard that.

2882. Does that case support your opinion, that the Government of India is hostile to the settlement of Europeans?—No, not that particular instance.

2883. Do not you know that similar favourable terms have been offered in the Kumaon districts?—Of course, that is a recent event; I am talking of the Government of India for the last 30 years.

2884. Probably you admit that a considerable improvement has taken place on the part of the Government within recent years as regards planters?—It must be very recently.

2885. *Chairman.*] Do you mean that the feeling of the Government is hostile to settlers, or is it the system?—It is the system that we feel pressing upon us.

2886. *Mr. Willoughby.*] You stated an instance where the purchase of an estate was reversed after 17 years?—Yes.

2887. Was that under your own knowledge?—Yes.

2888. Will you state what the circumstances were?—The law prescribes that you will serve the notice at the residence of the party whose estate is to be sold, and in one of the largest towns on the estate. This notice was served upon the man's house; the man's house was his cutcherry where he made his collections; but it turned out after 12 years, which no man ever found out before, and which was not stated in his petition to the judge to reverse the sale, that this place where his house was and where he collected his rent, although it was in the centre of the estate, was actually not a portion of the estate; it was a bit of La-Khiraj land upon which his house happened to stand, and he proved that that bit of land was not a portion of the estate. But the law prescribes that the notice shall be served upon a portion of the estate, and the sale was reversed in consequence after 17 years.

2889. Did you hear the questions which I put to Mr. Freeman as to the precautions taken by Government when sales of estates are advertised?—Yes.

2890. Do you concur that those precautions are taken on those occasions?—Yes.

2891. That they must be given one month's notice?—Yes.

2892. In what year did this reversal of the sale after 17 years take place?—The reversal of the sale took place last year; within the last 12 months.

2893. How could such a reversal take place under the law where all those precautions are prescribed?—It was a sale not for arrears of revenue, but for a decree; and the facts are as I have stated.

2894. Was there a defect in the title-deeds?—No, the law prescribes that the notice shall be given upon a portion of the property to be sold.

2895. Then it was not the act of the Government, but of the court of law?—It was the act of the collector, and allowing the law to take effect in that way; two judges were in favour of reversal, and one much opposed to it, and it was a question raised in the last court, not in the lower courts, and ought not to have been admitted, I think, at that stage.

2896. You state that the sessions' judges have very little power over the magistrates; are there not appeals from the magistrates to the sessions' judges in many cases?—Yes; but in the greater part of the small cases the magistrate's power is final; the judge's power of interference is very little.

2897. What

2897. What is the number of settlers in the districts that you are best acquainted with?—In the five districts in which I am, there are not a great number of Europeans; there are perhaps not above 20 or 40 altogether.

2898. You have expressed your concurrence in the evidence of Mr. Freeman and Mr. M'Nair, that a great change should take place in the courts of law in those districts; namely, that English law should be administered by English barristers through the medium of the English language?—I think the introduction of the English language would be a great improvement and an able bar.

2899. Do you consider the administration of justice in an unknown tongue would be beneficial to the inhabitants of those districts?—It is unknown just now; the magistrates are very many of them quite unacquainted with the language.

2900. I am referring to the population?—I think the people would learn the English language very quickly, and it would have a moralising and good effect upon them, and if so encouraged become generally known; it gives an entirely new and improved turn to the native mind.

2901. In what towns would you establish courts of law of that kind?—In Dacca, and Moosshedabad, and Patna, and all the large central towns.

2902. A court of that kind would occasion considerable expense?—I should think not.

2903. You think that a court of justice, with the chief officials Europeans, would not be more expensive than a court of justice with a European presiding, and the rest of the establishment natives?—Of course there would be an increase of expense.

2904. And the chief advantages of those courts would be derived by the planters?—No, I think better justice would be distributed for the benefit of all.

2905. How would you obtain interpreters on whose honesty and fidelity you could depend?—There are many Christians well acquainted with the language, whom you could use as interpreters; there would be no want of them.

2906. Throughout the districts?—Yes, there are a great number of half-caste Christians well acquainted with the language.

2907. Can you state the year in which the Tipporah case of murder, in which the rajah was concerned occurred?—It must have been about 16 years ago.

2908. You have alluded to the cotton from which the Dacca muslin is fabricated, and you stated that any quantity of land is available for the cultivation of that kind of cotton?—I said there was a large quantity of land suitable, I think, for cotton cultivation.

2909. Is that land waste?—Some parts; a good deal of land is wasted in the Dacca districts.

2910. Is not the reason why cotton is not grown in India frequently that those interested in the land find that some other product is more profitable?—Of course, they will take to what will give the most profitable returns.

2911. Such as indigo, for instance?—Yes, or silk, or anything else; and it would be a question for the ryots and settlers, after trying cotton, whether it was a profitable speculation or not.

2912. You stated that cotton might be grown, and would give the population employment?—Yes.

2913. What is there to prevent it, if the profit derived from cotton cultivation would be equal to or greater than the profit from the cultivation of any other produce?—I alluded to the children and females of the family, that they are doing nothing, and that a crop of that sort would be very profitable, and might be grown without any increased labour or expense to the family.

2914. Of course, the planter would consider what would be most advantageous to himself?—Yes; he will not grow it if it is not profitable.

2915. Is not another reason for the limited production of cotton in India this: the uncertainty of its price when it is imported to this country, that price being dependent upon a plentiful or scarce crop in America?—The question would be, whether we could grow cotton cheaper than they could do in America. A man is paid a dollar a day there, and with slave labour; whereas he gets 2*d.* and 3*d.* a day in India, and the question is whether we could send it to England cheaper than they do from America.

2916. Even under existing circumstances, whenever the price of cotton is high in this country, the quantity imported into England greatly increases?—Yes; the higher price induces shipments from India.

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2917. You stated that you would not go again to India if you had your choice; has your residence in India been profitable to you?—Tolerably so; I would have been a very rich man if the Government had not taken that property from me 20 years ago.

2918. When did the Resumption Law, upon which you animadverted, cease?—It ceased about five or six years ago.

2919. Was not it an inquiry into titles?—Yes.

2920. In allusion to the exclusive character of the civil service, is it not the fact that what is called the uncovenanted service has very largely increased within the last few years?—The uncovenanted service has greatly increased, chiefly natives however.

2921. I mean both natives and Europeans?—Then of course it has very greatly increased.

2922. And without a corresponding increase to any great extent in the covenanted service?—Yes; we complain that there are not more able men of a certain standing in that service.

2923. Has not there been great progress made in improvements in India of late years; what is called in the common phrase attempting to develop the resources of India?—I do not see a great deal of that; I do not see any new roads or canals; I hear of them in the upper provinces and in the north-west, but it is not the case in Lower Bengal.

2924. Have you not heard that 34,000,000 *l.* have been already subscribed for, or are about to be subscribed for, for the construction of railways that have been proposed?—Yes, I have heard so, and it has been going on for a great many years, but has made very little progress up to this time.

2925. Have not steam-boats been introduced on the rivers in India?—Yes; and that is a great improvement.

2926. And have not considerable efforts been made to extend education?—Yes, to a great extent.

2927. Do you concur in the evidence given by a former witness, that Europeans should be employed in the public service in preference to, or to the exclusion of, the natives?—I do not know what departments you refer to; in a great many of the lower departments you would not get Europeans to fill them, but where practicable I think the Europeans would do the work better, and probably more efficiently than the natives, and would be more to be depended upon in the police.

2928. Do you think such a policy would be just to the natives of India?—There are plenty of appointments for both. The effect of employing natives in important positions seems to endanger our power, and not to employ them is considered by many to be unjust. I have heard, the only native officials who have gone against us have been the thorough Mahomedan deputy collectors and joint magistrates.

2929. You have heard the former witnesses upon the subject of extinguishing the rights of the ryots in Lower Bengal with a view of putting the planter in possession of the fee-simple of the land?—Yes.

2930. What is your opinion upon that subject;—I think we have no right to extinguish the ryot's rights; they have been given to him by the perpetual settlement, and he is as much entitled to them as we are to our rights.

2931. Mr. Villiers.] Have you ever met with anybody since you have returned that was disposed to go out to India to take his capital there, and who has consulted you upon the matter?—Not one.

2932. Do you think there are any people who are inclined to go there who are deterred by the reports that are brought home of the obstacles and the disadvantages that the Government present to employment of capital?—I think they would look upon them as discouraging to Europeans.

2933. You were there 30 years?—Yes.

2934. Did you find the same defects in the administration of justice and the same disadvantages which you have named to the Committee when you first went out there as when you left?—They appeared to me when I went out to be less. I think the magistrates were much better men in those days; they were abler men; now we have young men as magistrates over districts; there was no such thing 30 years ago.

2935. You attach peculiar importance to the defective administration of justice, is that as engendering a sense of insecurity to persons and property?—Yes.

2936. Do you say that that applies to natives as well as Europeans?—To both.

2937. Do

2937. Do you think the natives would complain if justice were administered in the English language?—I do not suggest it with the idea that we should have any advantage over them; it is only to have better justice for all.

2938. Do you think they would not soon ascertain whether justice was done?—Yes.

2939. And you believe, notwithstanding what has been said of their impurity generally, that they would appreciate a good administration of justice?—Yes.

2940. Did I rightly understand you to say, that when a sale was set aside 17 years after you had purchased it, the Government took it to itself?—No, that was another property; the sale there was reversed immediately, within five or six months.

2941. The Government did take the property where the sale was reversed?—Yes, the Government purchased it, as recommended by the official who deprived me of my rights.

2942. Has it been profitable to the Government?—Very much so.

2943. Did you make any complaint; had you any reason to suspect that there was unfairness, or did they merely apply a defective law, and take the benefit of it?—The gentleman to whom it was referred to make inquiry did not make inquiry; if he had done so, he would have found that the three allegations were quite untrue; I was no relation of the collector. I paid in the amount stipulated for; and the law was not infringed in any way by the under tenures being upset.

2944. What is the condition of that property which the Government holds itself; is there a good deal of it?—Yes.

2945. Is it a profitable way of holding land?—Government might sell, and be freed from litigation as zemindars with their subjects.

2946. What is the nature of the tenure under them; is it that of a tenant of a zemindar?—Yes.

2947. Do those who pay the rent also pay the revenue?—Yes.

2948. Who manages these properties?—The collector of the district.

2949. Is there much unappropriated land in the province which you are acquainted with?—Yes; but the uncultivated land is not so much where I have been residing; it is more towards the hills.

2950. Does the Government set up that land at so much; can anybody purchase it?—No, they can farm it.

2951. In Assam you say a great deal is unappropriated?—Yes.

2952. Did I rightly understand you to say that there was inconvenience from not making a gold currency as well as a silver currency?—Great inconvenience.

2953. You mean that gold is not a legal tender?—No, it is not a legal tender; the Government will not receive it in payment of the revenue.

2954. And you cannot pay your debts in gold?—No, and the consequence is, that boat loads and cart loads of silver are sent when you have a very small payment to make. The Government will not receive more than one-third of the revenue in bank-notes.

2955. Do the Government issue notes?—No, the Bank of Bengal issue them.

2956. They are convertible notes?—Yes.

2957. I think you stated as your opinion that if gold was currency as well as silver, it would correct the great inconvenience felt in this country, and indeed in Europe, from those constant drains of silver to rectify the exchanges?—There is a very great quantity of silver buried in India, and if there were a gold currency, the natives would immediately convert that into their deposit, and the silver would come into circulation.

2958. Do you mean that they would prefer gold to silver?—Yes.

2959. It would not be so available for their ornaments?—It is chiefly gold they turn into ornaments.

2960. What is the objection to gold being the standard as well as silver?—The impression of the Government is, that gold being largely brought in from New South Wales, it might be given in of a lower value to the Treasury, and cause a loss; that was their impression, and they refused to have a gold coinage in consequence.

2961. What did they expect; have they not a mint there?—Yes; but they might very well have the same coin as we have here; the sovereign is a very favourite coin all over the world, and would be preferred to the present coinage in India.

2962. You do not think that that alone would correct the exchange. Suppose the exchange is generally against us between our trade and India; does not that arise

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arise because there is not consumption enough of our products?—Yes, it would not correct it; other mediums must be brought into play to do that; our manufactured articles must go to India in exchange for the raw material.

2963. You are of opinion that it would improve the condition of the consumer in India generally if settlement took place more than it does now; that there would be more capital, more employment, and their consuming power would be greater?—Yes, I think so.

2964. And that, you think, would increase the demand for our manufactures?—Yes.

2965. You state that the natives are well disposed to the settlers, and that they feel that their condition is improved?—Yes.

2966. Has there been any manifestation of that better feeling towards them than to other Europeans during the late mutiny?—In all Lower Bengal there has been no disposition to mutiny; the lower orders have cultivated their fields the same as in former days, and have not sympathized with the mutineers.

2967. And it is in the lower provinces where the indigo planters are principally settled?—Yes, including Taboot.

2968. Are there any records of those cases that take place in the courts of justice; can you find a report of what has occurred in any particular case?—You can in civil cases more freely. In criminal cases they generally burn all the records at certain stated periods, keeping one or two of the principal papers.

2969. Is there anybody on the part of the press who attends in those courts?—No.

2970. There is no supervision of that kind?—No, it is much wanted.

2971. Has not there been a cheap native press circulating in those provinces?—No; there are several newspapers published in Calcutta in the native language.

2972. But not in the Mofussil?—No.

2973. Is that prohibited?—No.

2974. Would it not be attended with some advantage?—Yes, it would be useful.

2975. Have not the Europeans encouraged it?—No.

2976. Have not the planters had a press of their own?—No, they chiefly look to the European papers which are published daily in Calcutta.

2977. Would the press circulate in the Mofussil amongst the natives in their own language?—Yes, they are very fond of news.

2978. Has not the native press been abused in some respects?—Yes.

2979. It has been circulated to the prejudice of natives against the Europeans?—Yes.

2980. Mr. [Danby Seymour.] Is not there a "Dacca News?"—Yes, lately established.

2981. Mr. [Villiers.] When you stated that the money-lenders got such an exorbitant interest, to what do you ascribe that; is it to the want of security they receive for their money, or to the scarcity of money in proportion to the demand?—There is an insecurity in lending the money too; but it is the want of money among the European settlers to lend out; we have not the means, and we pay a high rate of interest ourselves when borrowing money.

2982. Is there any want of capital in India, supposing any person wanted, in order to increase his work, to borrow money?—There is great difficulty, seeing they pay 12 per cent., besides other commissions, bringing it up to 17 or 18 per cent.; and no European can get it for less out of Calcutta.

2983. Is that because they offer the security of property in the Mofussil?—Yes; in Calcutta you can get it upon property there at six and seven per cent., and in the Mofussil it is double that.

2984. I think you have confirmed everything that has been said before upon the prospect that the country would present to capitalists going out there, if they were not deterred by bad laws and the spirit of the Government?—Yes.

2985. And that, up to the outbreak of the mutiny, there continued a jealousy or something like a spirit of detraction of those persons who came out from Europe to settle there?—Yes.

Jovis, 13^o die Maii, 1858.

MEMBERS PRESENT.

Mr. Campbell.
Mr. De Vere.
Mr. Wm. Ewart.
Mr. Gregson.
Mr. Kinnaird.
Mr. Lowe.

Sir Erskine Perry.
Mr. Seymour.
Mr. J. B. Smith.
Mr. Wm. Vansittart.
Mr. Villiers.
Mr. Willoughby.

WILLIAM EWART, ESQ., IN THE CHAIR.

William Theobald, Esq., called in ; and further Examined.

2986. *Chairman.*] I BELIEVE you wish to make some indispensable correction in the statement which you made on a former occasion?—Yes ; I think it is quite indispensable, in one point of view. I took the liberty of stating my opinion of the effect of Act 4 of 1837 on the restriction which was contained in the statute of 1834. The statute opened India in point of fact only as regards the provinces acquired during the last century. I stated that my opinion was that the effect of Act 4 of 1837 was to repeal the restriction in that statute as respected provinces acquired during the present century ; in point of fact, to open the rest of India to Europeans ; and I was asked by Mr. Willoughby whether I was aware of the decision of *Ouseley v. Plowden*. I stated that the effect of that decision was to confirm my opinion. At that time I had only seen the remarks of the judges at the trial of the case of *Ouseley v. Plowden* ; there were points reserved for their consideration ; and I have since obtained a copy of their final judgment, and I find that they held that the restriction upon the right of settling in India remains as it was under the statute of 1834 ; that is, that India has been opened by that statute only as to those provinces which were acquired previously to the end of the last century, and that we have the right to enter the provinces acquired this century only by licence. The Court does not appear to have given that judgment with very much confidence, and they expressed anything but satisfaction as regards that state of the law.

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2987. Did the Court deliver that opinion on a question brought directly before them, or was it an *obiter dictum* as it were, a collaterally given opinion?—No ; it was expressly given upon the construction of the statute, consequently the law requires to be altered by Act of Parliament.

Mr. Josiah Patrick Wise, called in ; and further Examined.

2988. *Sir Erskine Perry.*] YOU have given an opinion upon the unacquaintance with the native languages of the European magistrates. Bengalee, I believe, is the language of the country in which you lived?—Yes.

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2989. The population of that country is about 30,000,000?—Yes, that is the population of Lower Bengal, speaking roundly.

2990. What has been the language used in the courts of justice and the police courts?—Hindee chiefly, but Bengalee is the language of the country.

2991. Persian used to be used within a few years?—Yes.

2992. How long ago is it since Persian was abolished?—About 10 years.

2993. That was in Lord William Bentinck's time, I think?—Yes.

2994. That is more than 10 years?—Yes.

2995. Up to that period the administration in the courts of justice was carried on in a foreign language?—Yes, in the Persian language.

2996. It was the language of business of the Moguls, the former owners of the country?—Yes.

2997. Since that period the magistrates and the judges have used the Hindee language?—Yes, chiefly in conducting the court business.

2998. But the Hindee language is not intelligible generally by the Bengalee population?—Not by the lower orders.

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2999. Not

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2999. Not by the bulk of the population?—No.
3000. Hindee is not the vernacular language of the province of Bengal?—No.
3001. Nor is it intelligible to the bulk of the population?—The lower orders do not understand it well.
3002. Have you ever seen either a magistrate or a judge administering his functions in the Bengalee language?—I have; I know several.
3003. How many cases do you think you have heard?—Not many; I know one or two judges who can read the language, but very few of them do.
3004. The great majority of the judges and magistrates use the Hindee language in dispensing business?—Yes, chiefly.
3005. Then in point of fact the objections that have been made to the use of the English language, as the language of business, are equally applicable to the Persian language as being a foreign language, and also are in some degree applicable to the Hindee language?—Yes, it may be considered so.
3006. Have you been much in attendance in the courts of justice in the Mofussil?—No, very little; I have had a good deal to do with them, but personally I have been very little there.
3007. You have stated that you do not think the European judges and magistrates are very well acquainted with the native languages?—Not generally, particularly the young magistrates.
3008. Did you ever, in the course of your experience, hear or know of any judge in Bengal who was capable of giving off a judgment in the Bengalee language, with the reasons for his decision, so as to make himself intelligible before the audience?—There are very few that can do that.
3009. Do you believe that there is a single judge in Bengal who is able to give off a judgment in a language intelligible to the crowd, in the same manner that a judge in this country is able to do?—I know one judge who takes home cases and reads them off as freely as English; that is an exception; I do not think it is general.
3010. Have you ever been in attendance on the Supreme Court at Calcutta to see how the proceedings are conducted there?—No.
3011. You probably are aware, from your experience, that the mode is by having two interpreters in the court?—Yes, I am aware of that.
3012. And that every question put in English by the advocates is translated into the native language to the witness, and heard by the whole court?—Yes.
3013. And the answer in like manner is handed up to the judge, who takes it down in English?—Yes, I am quite aware of that.
3014. The consequence is, that every word of evidence that is delivered in the Queen's courts is intelligible to the whole of the crowd of natives who are assembled?—Yes.
3015. Is it not the fact, also, that the judges in English procedure only judge of the case upon the evidence brought to them in court?—They do so.
3016. Therefore, in point of fact, the evidence upon which the judge makes up his mind is exactly the same as the evidence which is given before the whole of the public assembled?—Yes; but a judge who knows the native character, and the native evidence that is often brought before him, does not, I think, go entirely by that evidence.
3017. He goes, as judges in this country do, by his knowledge of human nature, and the habits of the people?—Yes, perhaps so.
3018. The evidence is patent to the whole world, exactly in the same manner as it is made known to the judge?—Yes.
3019. And you think that is a satisfactory mode of doing business in a country, circumstanced like India, with a few Englishmen placed in authority?—At particular courts; it would not do over the country in the Moonsiffs' courts, for instance.
3020. Not in the small courts where the judge comes in contact with the witnesses, and is obliged to be their advocate as well as judge?—No; and the bar must also be acquainted with English to admit of it.
3021. Suppose this system were introduced into the principal courts, the zillah courts for instance, in the Mofussil, do you see any difficulty in introducing it?—No, you would get interpreters very easily.
3022. The establishment required would be two to three interpreters?—Yes.
3023. Those men are to be got upon very small pay; from 20 to 25 rupees a month

a month would obtain the services of very intelligent young men, educated in Missionary and Government schools?—A larger salary than that would be required for so important a situation perhaps.

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3024. Are you not aware that in the Bombay police courts, and the small cause courts, rates of pay like that have been found sufficient to secure the services of competent men?—There are translators in the zillah courts who translate papers for the judge, who get about 100 rupees a month; but of course a better description of men is required for these situations.

3025. If such men are translating the evidence in a zillah court, does it consist with your knowledge, that in such a court, presided over by a European judge, there would always be a number of persons acquainted with the native language and with the English language to detect any mistranslation or misinterpretation upon the part of the interpreters?—Particularly if the bar knew English; they would understand it, and the audience generally would do so.

3026. In using the English language as the language of business in those superior courts, would it not also be very easy to require the judge to record all the evidence, as it is taken at the time, in English?—He would necessarily do so, and always, I believe, does so now; they put down the evidence in English as the case proceeds.

3027. That is the course pursued in the Queen's courts and in the courts of this country?—Yes.

3028. Would not that make a most excellent record of the proceedings in the case upon the very cheapest terms?—It would. I think all records ought to be kept in the English language.

3029. Therefore would not one of the advantages of conducting the business in the English language be that it would afford facilities for appeals to the courts above in the cheapest and simplest manner?—Yes.

3030. If the interpreters were to be corrupt, and give false translations to answers given in open court, are you not of opinion that they would be at once detected by some of the persons in the court?—Yes, the judge and the jury, the advocate and attorney would know immediately.

3031. Would it not also be competent to the Government, if the English language were used in those courts in the interior, to require the judge, whether a native or a European, to be conversant with the language of the country?—Yes.

3032. And you would also think it desirable that he should be conversant with it?—I should.

3033. Do you think there would be any difficulty, with salaries such as are now given to the zillah judges, of 3,000*l.* a year and upwards, to require that barristers appointed to those posts should make themselves conversant with the native language?—No, I do not.

3034. And would there be any difficulty if such a reward were held out?—None.

3035. You do not think the proficiency of the Europeans in the native languages is ever likely to be so great as the proficiency of the natives in the English language?—The natives very easily learn the English language, and they are very desirous to learn it, and this would be a great encouragement to learn it.

3036. They begin at a much earlier period than Europeans, do not they?—Yes, they begin at a very early age and learn it very quickly.

3037. Has not the chief stimulus to the natives to go to the Government schools been the hope of learning the English language?—Yes, with the hope of getting situations in the Government employment, which are greatly valued.

3038. And they do, in point of fact, learn it at an early period of life, and become conversant with the language?—Yes; in Dacca College there are 500 scholars all learning English; the same in Calcutta, and all the provincial towns.

3039. Have you heard some of the native speakers at public meetings in Calcutta?—No; I have seen reports of them.

3040. You are aware that some of them speak English as well as we English do?—Yes.

3041. And sometimes better?—Yes, perhaps so.

3042. As to the native judges, you do not seem to give a good opinion of the native morality generally?—I think their morality is below that of the European, and when beyond the reach of bribery they are too often swayed by personal feelings.

- Mr. J. P. W. 3043. And especially you distrust the natives in offices?—I particularly refer
to the police offices.
- 13 May 1858. 3044. In the police offices the pay is very low?—Yes.
3045. And the powers very large?—They are open to bribes.
3046. And probably in all countries where the power has been great, and the salary very small, a great deal of official immorality is the result?—They are very often turned out of employment; the situation is not very certain; petitions are put in against them, and they consider the place unsafe, and take advantage of that to get as much money as they can.
3047. Do you know enough of the history of India to know that up to the end of last century the pay of European officials was very small?—Yes.
3048. And in those days the complaint of the corruption of Europeans was very great?—Yes.
3049. In the present day probably your opinion would be, that English morality in office stands very high in India?—Yes, it stands very high.
3050. The pay also being very high?—Yes.
3051. Are you of opinion that if the same process was applied to the natives, if those invested with great powers also got adequate pay, there would be an improvement in their morality?—Of course that would be the case.
3052. The reasons why Europeans receive greater pay than natives, are founded a good deal upon Europeans having to leave their own country and to make a great many sacrifices?—Yes, and upon their education and expensive habit; the native judge in his own country has a high social position amongst his countrymen, and 600 *l.* a year is as much as 3,000 *l.* to the European judge.
3053. Is that paper, which you hold in your hand, a return to the House of Commons?—Yes, a judicial return.
3054. Can you state from that return what is the number of uncovenanted Europeans and Indo-Britons in the revenue and judicial service?—The sum total is 3,082.
3055. The number of natives in the same year amounts to how many?—The number of natives is 2,846.
3056. What are the salaries of the natives in the judicial and revenue establishments there, under 240 *l.* per annum?—There are 1,377 and 656.
3057. How many does that make altogether?—Two thousand one hundred and nine.
3058. Out of 2,846 employed, 2,109 get salaries under 240 *l.* per annum?—Yes.
3059. How many natives are there on salaries of 600 *l.* per annum?—Forty-three.
3060. How many are there from 840 *l.* a year to 960 *l.* a year?—Two.
3061. And from 960 *l.* and upwards, how many are there?—Four.
3062. Is it the case that those native judges have the whole bulk, 95 per cent., of the civil business in their hands?—Yes, I believe so.
3063. They have therefore, of course, numerous means of being corrupt, having the whole of the business of the country before them?—Yes, that is the civil branch, but the corruption has been more particularly applied to the criminal branch in my evidence.
3064. And 2,109 of them, the great majority, have salaries under 240 *l.* per annum?—Yes.
3065. Are you aware what the salaries of the European zillah judges are?—£. 3,000 a year.
3066. Do you think there would be any difficulty in making it, to a native judge, a condition precedent of being appointed to office, that he should be thoroughly acquainted with the English language?—No difficulty at all.
3067. And you would have him keep all the records of his evidence, and the judgment he gives, in the English language?—Yes, most decidedly.
3068. So that an appeal should go up to the Court of Appeal in the way I described before?—Yes.
3069. With respect to the Europeans who are settled in the Mofussil, you object to such Europeans being placed under native judges; have Europeans increased, within your experience in the Mofussil?—No, I do not think they have increased.
3070. The districts in India in which they are situated are, in point of fact, very few, are they not?—It is chiefly in Bengal.

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3071. Do you think there would be any difficulty in making Europeans in the Mofussil subject to the European courts only; that is to say, to the courts presided over by Europeans, placing down for that purpose a few more European judges in the districts where the planters are located for the transaction of business?—There would be no difficulty; there are only four or five places.

3072. Four or five good judges would be sufficient?—Yes.

3073. Do you think there would be any difficulty in obtaining from the Calcutta bar gentlemen acquainted with the Hindoo language, who would give satisfaction to the Europeans if they were there placed?—No.

3074. If at the same time the salaries of the native judges were somewhat raised, do you think there is reason to believe that with the European example, and with the publicity of their proceedings, an improved purity and official morality would be obtained?—I think so, in time.

3075. Then if those improvements took place, if the planters got competent judges of their own colour and morality, what objection would there be in placing the whole of those provinces under one system of law?—There would be no difficulty if we had good judges and an English jury, and the English language; there is no objection to it.

3076. Do you not think, therefore, that the principle by itself is quite sound of placing the whole districts under one law, provided competent judges be appointed?—Quite so.

3077. And you think the salaries I have mentioned, namely 3,000 L., are sufficient to procure competent men?—Yes. well-trained English judges.

3078. Mr. Willoughby.] How many European judges of the kind you have advocated would be required for Lower Bengal?—I fancy there would be five or six zillahs; Dacca and Moorshedabad, and Patna. I speak of the large towns in central positions, where courts of that kind might be established.

3079. Sir Erskine Perry.] How many are there now?—There is a judge at each zillah.

3080. You would not by my plan increase the number, so much as the quality?—Exactly.

3081. Mr. W. Vansittart.] Dacca is a very fine city, is it not?—It was a large city, and is still a large city.

3082. I suppose there are very many rich Mahajans, and other influential natives, residing there?—Yes, a great many.

3083. Do you consider that they are as respectable and intelligent as their equally swarthy brethren in Calcutta?—Yes, I think so; in Dacca itself there are a great many respectable natives of great intelligence and worth.

3084. It has been stated to the Committee that an European in Calcutta does not like to be tried by a jury composed partially of natives; does that hold good with reference to his feelings towards the natives at Dacca?—I think a European would prefer a jury of his own countrymen, and would consider that he was entitled to have that indulgence.

3085. You say you know the Rajah of Dacca, Tipperah?—Yes.

3086. He is an intelligent, opulent, and advanced-minded native, is he not?—The present one is not; the former one, who is dead, was very much of that character.

3087. How is it that there are so few of these intelligent and advanced-minded natives?—You find a good number of very superior men in India, men of great intelligence and worth.

3088. Do you know Chittagong?—I have been there once only.

3089. Was not there a colony of Christians there?—Yes; Portuguese.

3090. What is the condition of that colony?—It is not in a very favourable state. We have also in the Dacca district large colonies of native Portuguese; they have married and intermarried, but they are not a very good class of people.

3091. They have all deteriorated very much?—Yes; they are uneducated, and have bad habits.

3092. Do not you think that Lower Bengal and Eastern Bengal generally are much more unhealthy than the Upper Provinces?—I never was in the Upper Provinces, but I do not think Lower Bengal is unhealthy.

3093. Not Jessore; Pubna and Purnea?—The natives do suffer occasionally with cholera and fever, particularly after the rains.

3094. Some of our police thannahs, for instance, are very unhealthy; they are

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are under water nearly half the year, from inundations?—Yes, and they are very unhealthy, in consequence, at some places and seasons.

3095. Is it possible, therefore, to get a better class of darogahs, jemadars, mohurrihs, and burkundauzes to be induced to be stationed there than we have at present?—No, if you give them good pay; they are very fond of getting into the employment of Government in the police department.

3096. You think you might get better police material, and burkundauzes particularly?—Yes; there are places of course where they would suffer; I know of several unhealthy thannahs, where they do suffer very much, and they are always anxious to avoid going to those places.

3097. Messrs. Theobald, Freeman, MacNair, and yourself, all seem to agree as to the wholesale bribery and corruption going on amongst the native omahs; is not that the case?—There are exceptions, but they are few, and they are well known, and it depends altogether upon the magistrate, the great or less corruption of the police.

3098. Do you not think that the natives generally are very poor?—They are comparatively poor.

3099. Do you not think that, owing to their poverty, the system of bribery is greatly exaggerated?—No; I have a great knowledge of the state of the bribery, and I must say it is very bad in Bengal.

3100. With regard to the resumption laws, you say they have acted very oppressively towards the natives?—Yes.

3101. You must allow that a very large portion of those rent-free or lakhiraj lands had been fraudulently obtained, and that the holders had no sort of right or title to them?—I quite admit that as fact, but after so many years the question of right and the policy became very doubtful; and the practical effect, as seen by myself, was the ruin of many, and the feeling universal that the Government was dealing harshly and unjustly.

3102. They had been fraudulently obtained in very many cases?—They may have been fraudulently obtained. I knew of one instance where property had been pledged to the Government, and it was sold to meet the security; it was bought by a person and was resumed by the Government afterwards, and I thought it a great hardship.

3103. Many of our magnificent provinces, during this late revolt, have been overrun and ruled over by our paid Mahomedan officials and others?—Yes.

3104. Do not you suppose, knowing as you do the native character, that many cases have occurred, and will be proved to have occurred, where they have forcibly alienated large tracts of the estates from zemindars, and made them over in perpetuity to their favourites and retainers?—It is a possible case.

3105. On our reconquering those provinces, would there be anything unjust in our collectors refusing to recognise those tenures?—Of course there would not; but such a case appears to me very different to that in respect to the resumption laws, where certain rules of procedure and registration were prescribed by the law and neglected by the Government, and after the lapse of so many years, where the property may have changed hands many times. In the Chitagong district it was a wholesale sweeping away of the rights of the whole population, nearly causing an insurrection. In the Dacca district it operated very injuriously.

3106. If the special deputy collector, namely, the resumption officer, made an unjust resumption, his decree was appealable to the special Commissioner?—Yes.

3107. And the aggrieved party had an appeal from the special Commissioner to the Sudder Deewanny Court in Calcutta?—I think the special Commissioner's decree was final.

3108. It is now some five or six years since those resumption laws have ceased, so they cannot now operate to the prejudice of any European settler?—No.

3109. Do you agree with Messrs. Theobald, Freeman, and MacNair, as regards the ignorance of the civilians of the language of the country?—Yes, I agree with them generally, that they know the languages imperfectly, referring particularly to very young men now holding the situation of magistrates.

3110. Do you know the Calcutta paper called "The Friend of India"?—Yes.

3111. Is not that a very fair and ably written paper?—Yes.

3112. Since

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3112. Since you were examined on Tuesday I have received my edition of it, dated March the 11th, and I find this fact stated, "The 'Hurkaru' states that a conspiracy to murder all the Europeans of Baraset"—that is about 16 miles from Calcutta—"and release the prisoners, has been detected at that station. The chief conspirator was an up-countryman, esteemed by the natives as a jogee. He was supposed to be a person of particular sanctity. The plot was disclosed by a jemadar, at whose suggestion the magistrate of Baraset so secreted himself as to be able to overhear the pretended jogee attempting to inveigle others into his plans. When the man said, 'Should the magistrate come to know of our conspiracy, sooth him with gentle words; should he still doubt, slay him;' the magistrate leapt from his hiding place, and the villain, with an accomplice, a mooktear, was apprehended." How do you reconcile this fact with the ignorance you and your friends above-named represent the civilians as possessing of the native language of the country?—It would not require a great knowledge to know what he said.

3113. We have been told that, except in three instances, no civilian can hold a conversation with a native more than five minutes; this would take more than five minutes?—Perhaps so; that is a single case; with one or two exceptions, I have never known a judge able to take home a record of a case, read it, and write off his decision; but I do not say that this perfect knowledge of the language is all that is required to make a very good judge, for I know to the contrary in many instances.

3114. How do you reconcile this statement with the well-known test that a young civilian has to undergo, namely, that before he can accept an appointment he must be able to read and write an order?—I have not seen a young civilian who could read and write the Bengalee language in that way.

3115. To carry out this system of substituting English in the zillah and Mofussil courts, do you think that a few English interpreters only would be sufficient to conduct the business?—With a good English bar, and publicity, I think they might be well able to conduct the business as proposed.

3116. Would not it be necessary to substitute Europeans for the native omlah?—No, I do not think so.

3117. Do you think bribery and corruption might be stopped by merely having a few interpreters and still keeping up the native omlah?—I think that if the judge is a good judge, or the magistrate a good magistrate, very little bribery can go on, and very little does go on; it is stopped immediately by officials well up to their work.

3118. Do you think that if the native judges were to be paid as high as the English judges, they would be honest?—Very likely they would.

3119. That opinion is not shared in by Messrs. Theobald, Freeman, and MacNair, is it: Mr. MacNair seemed to think that the higher you paid a native the more bribes he took?—That has been the effect with respect to the thannahdars; it is often said that the higher you pay them, the larger bribe they require, but I question this very much.

3120. Some of the sudder ameens, and principal sudder ameens, receive as high salaries as 1,000*l.* a year; and yet are there not instances of their joining in this revolt; for instance, Khan Bahadoor Khan, the sudder ameen of Bareilly, in Rohilcund?—Yes, and there are many other instances, I am afraid.

3121. Mr. De Vere.] You have spoken of two sales in which you were concerned, in which reversals took place?—Yes.

3122. One was reversed after 17 years?—Yes.

3123. Did I rightly understand you to say that the cause of that reversal was the irregular service of the notice?—It was upon that account.

3124. Was not that notice required for the protection of the party whose estate was sold?—It was an objection that was brought up; not at first; if it had been brought up at first, of course the sale might have been reversed earlier.

3125. Is it not the fact that the law which requires the service of such a notice was intended for the protection of the seller?—Of course it was; but you ought also to protect a purchaser.

3126. Then the irregularity in this case was, that a notice required for the protection of the selling party had not been properly served?—Yes.

3127. With regard to the second sale, you said that it was reversed after a few months?—Yes.

3128. Had you no appeal from the order of reversal in that case?—No, there was

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was no appeal against that; I might, perhaps, have appealed to the Governor-general in Council, but I doubt it; it was from the Sudder Board; the Sudder Board recognised the stopping of the sale.

3120. Then you had an appeal, and did not make use of it?—There is no appeal from the Revenue Board as to a sale; I believe they have final powers.

3130. The property was subsequently purchased by the Government?—It was afterwards purchased by the Government.

3131. Was it purchased at an open sale?—It was purchased at an open sale.

3132. Did you bid at that sale?—No. I was put to great inconvenience at the former sale; I had to bring the money from Calcutta, having great difficulty in getting the money; and I was obliged to send it up under guard a great distance, and to send it away again under a guard, which cost a great deal of money. It was during the rainy season, and I suffered great inconvenience; and I did not go to the second sale.

3133. Due notice was given of the second sale?—Yes.

3134. You said that if you had not lost that large property, you would have been a very rich man?—Yes.

3135. Did not you state that the sum paid by the Government was a small advance upon the sum you had paid?—It was merely the revenue that had accrued between the two sales.

3136. Then it must have been a very profitable purchase on the part of the Government?—Yes.

3137. And due notice having been given, you did not bid?—No.

3138. You have suggested the substitution of the English currency for the Indian currency; is there not a closer analogy between the Indian currency as now existing and the decimal system which has been proposed in this country, than between the present English currency and the decimal system?—I believe there is a very small fraction betwixt the Indian currency and the present currency of England. I thought it might be substituted very easily; that is, 10 rupees is about 1 L sterling, the value of a sovereign.

3139. In case the decimal system should be adopted in this country, would not the fact of having substituted the present English currency for the Indian currency form a difficulty in the way of introducing the decimal currency in India?—I think it would.

3140. You said, alluding to your own case, that a settler may have very good health in India; to what part of India does that observation apply?—To Lower Bengal.

3141. The plains of Lower Bengal?—Yes, the plains.

3142. Would you go so far as to say that settlers would have a reasonable prospect of bringing up a family in good health there?—I know a great many who have done so.

3143. What has been the health of their children?—They keep pretty good health.

3144. And do they arrive at the age of manhood there?—Yes; I have known several families.

3145. Have you known any case in which the third generation of settlers remained there?—No; I have often heard that disputed.

3146. If the second generation of a settler can attain the age of manhood, why is it that we have no instance of a third generation found upon the land?—I believe they deteriorate; the second and third generation would be inferior to the first.

3147. Do you mean to say that the children of a settler who arrive at manhood in a state of perfect health are inferior?—I do not think they are equal to those born in this country, and those that are sent home to this country have all the benefits of an invigorating climate, education, and associations so beneficial to develop the mental and physical powers.

3148. Do you mean that they are deteriorated in body or in mind?—Both, but particularly mentally.

3149. To what extent has that deterioration taken place?—Not to any very great extent in the first generation, but the education is not so good in India as in this country; the companions, the associations of England altogether are of very great use to a youth educated at home.

3150. You have spoken of the corruption of the native judges; have you known

known any instances in which that corruption has been proved, and punishment awarded against the judge?—I do not think that I expressed myself so strongly that the native judges were corrupt.

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3151. Have you known any instances in which corruption has been proved against native judges, and punishment awarded?—I know of one instance, and the judge was removed from office; but it is not very common.

3152. What was the nature of the corruption charged against him in that case?—He was charged, I believe, with having, through his family interests and servants, taken money; and he was removed from office in consequence.

3153. There was no proceeding against him on the part of the person who supposed himself injured?—Yes, there was a proceeding; no judge can be removed from office without being tried. There was a commission appointed to try the case; the sudder ameens are always tried under a commission.

3154. He was not punished, except by removal?—He was dismissed the public service.

3155. Mr. Gregson.] At Question 2929 you were asked; “You have heard the former witnesses upon the subject of extinguishing the rights of the ryots in Lower Bengal, with a view of putting the planters in possession of the fee-simple of the land?” to which you reply, “Yes.”—“What is your opinion upon that subject?” “I think we have no right to extinguish the ryot’s rights; they have been given to him by the Perpetual Settlement, and he is as much entitled to them as we are to our rights.” Do you object to interfere with the rights of the ryots under any circumstances; for instance, by an arrangement to pay the value of those rights?—No.

3156. Is it practicable to make an arrangement with them to purchase their rights?—Yes, there is no difficulty about that.

3157. Sir Erskine Perry.] It is done every day?—Yes.

3158. Chairman.] You referred to the English language being used in the courts by means of an interpreter; if the courts were worked by means of the English language and by means of an interpreter, would that, in your opinion, do away with the necessity of employing the native omlah?—Of course they would not be required.

3159. Mr. W. Vansittart.] Who would take charge of the records, and write out the evidence?—Of course you would require to have omlah for that.

3160. Mr. Willoughby.] Is it usual with the planters in Lower Bengal to retain their children without sending them to England?—No; as far as they possibly can they send them to England, when they are able to do so.

3161. About how many instances have occurred within your knowledge of the children of planters remaining in India up to the age of 21?—I have known half a dozen instances.

3162. Mr. Williers.] When you speak of the natives, do you refer only to the Hindoos?—Both Hindoos and Mussulmans.

3163. Your opinions apply to both equally?—Yes, I have a better opinion of the Hindoos than of the Mussulmans.

3164. Chairman.] Do you know of any cases where a third generation has been found?—No; it is a question that has been very much mooted whether the third generation would live in India up to the age of 21.

3165. In your experience have you known a third generation in India at all?—No, not up to the age of 21.

3166. Mr. Seymour.] What is your opinion upon the subject?—My opinion is, that they do deteriorate in the Lower Provinces of Bengal.

3167. Chairman.] Do you, or do you not, think that the apprehensions of the deleterious nature of the climate of India have been much exaggerated?—I think so.

Mr. James Dalrymple, called in; and Examined.

3168. Chairman.] WILL you be so good as to state in what capacity you were in India?—As an indigo planter and silk manufacturer, and largely connected with sugar.

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3169. Were you in the management or partnership of any firm?—I was in the management of the firm of J. & R. Watson.

3170. How long were you in India?—Upwards of 30 years.

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3171. Always

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3171. Always in the same capacity, as manager?—No; I went out as an assistant first, and then I became a manager and partner.

3172. How long is it since you returned from India?—Three years.

3173. To what part of India was your knowledge confined?—Moorshedabad, Rajshahie, Pubna, Kishnagur, Maldah, and Midnapore.

3174. Your experience is confined to Lower Bengal?—Entirely to Lower Bengal.

3175. Have you many European assistants in your concern?—Yes, we have upwards of 50 in the concern.

3176. Have you had any difficulty in keeping up the number of those assistants?—Yes, we have had great difficulty in keeping up the same class of men.

3177. What was the cause of the difficulty?—The uncertainty of getting on in India, the uncertainty of the laws, and the annoyances of the police.

3178. What was the nature of the business of your firm?—Indigo, silk, and sugar.

3179. In what districts or parts of Bengal were your concerns, and did you employ a large working capital?—We had a very large capital.

3180. Can you state the amount of the capital you employed?—Upwards of 200,000 *l.*

3181. Annually?—Yes, annually.

3182. What do you consider to be the amount of the property the Messrs. Watsons invested in their concerns?—Upwards of 300,000 *l.* in block.

3183. That is exclusive of the annual outlay?—Exclusive of the annual outlay.

3184. How much is the whole annually?—Upwards of 200,000 *l.*

3185. Does that make 500,000 *l.* altogether?—The block is upwards of 300,000 *l.*, and the annual expenditure is 200,000 *l.*

3186. Have you also capital invested in land tenures?—We have.

3187. What kind of tenures?—Zemindari, putnees, pottahs, izarahs, and all the under tenures common in Bengal.

3188. You have heard the evidence given by several of the witnesses before this Committee?—Yes, I have.

3189. Have you heard Mr. MacNair's?—Yes; I have heard all his, and all Mr. Wise's, and part of Mr. Freeman's.

3190. Do you generally confirm the evidence given by those witnesses?—Yes, I generally agree with their evidence.

3191. With regard to the police and magistracy and the law courts, do you confirm their evidence?—Yes.

3192. The police is entirely native, is not it?—Entirely native.

3193. Do you, with those witnesses, think it would be desirable to have an infusion of European superintendents into the police?—Very desirable.

3194. On what grounds, from your experience, do you complain of the state of the police at present?—They are extortionate; they are corrupt: in every sense of the word; they extort from all classes, and get up false cases; they instigate quarrels; they instigate both the lower orders, over whom they have great power, and also the zemindars, to quarrel, and principally with Europeans.

3195. Have you had personal experience of that extortion and corruption?—I have.

3196. Could you briefly and clearly give us a specimen of such corruption and extortion which you yourself have undergone?—Yes, in the case of a darogah; he applied to me for allowance, which he said he had been in the habit of receiving from the former proprietor of a concern that we had just purchased. It was on our taking possession the man came to me for the money. I refused to give it him, and he was dissatisfied. Shortly afterwards he left the district; but before the manufacturing season commenced, the most particular time of the whole year for an indigo planter, when the river is rising, he was re-appointed to the station. He again applied for the money, and I still refused; we had only worked a few days when he shut the factories, by preventing the people from working; he came to me in the evening and asked for his money again, and after much consideration, and seeing that the concerns were stopped through his opposition, I gave him a certain sum of money, the sum of 80 *l.* We got on very well till the manufacturing was about closing again, when he demanded the balance of what he said was due to him, and I again positively refused; he completely

completely shut the factories, and we did not work another day after that; the plant went all under water, and I had only recourse to a magistrate, 54 miles distant. I went to the magistrate, and he happened to be from home; he was out in the district. It was 10 days before I had a hearing. After hearing me he called for the darogah; the darogah came to the station, accompanied by 150 working people and small cultivators, and presented a petition as from them against me, accusing me of murder, arson, rape, and every offence that could be committed, and the magistrate took up the case; but on allowing me to cross-examine them they got confused, and said they did not even know what was in the body of their petition, and they acknowledged that the petition had been written by one of the lower officers of the thannah. For 18 months my case against the darogah for extortion was undecided, and I had several trips to Kishnagur, being called in by the magistrate, and no hearing was given, and the magistrate was shortly after removed; and a new magistrate came, and he called up the case and decided it without giving me any notice, or calling for any of the witnesses. He exculpated the darogah, re-appointed him to another station, and recommended the Government that I should be severely punished for having acknowledged bribing the darogah. We lost a very large sum from not being able to work off the plant.

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3197. Was it the original sum of 60*l.* which you gave the darogah to which the magistrate referred?—Yes; that was the money I gave him to allow the workmen to come to the factories; we lost many thousand rupees besides that in being unable to work off the plant.

3198. How was the darogah exculpated?—Merely that the magistrate disbelieved the statement, and said that I should not have bribed a policeman.

3199. On what ground did the magistrate find you guilty of bribing the darogah?—On my own acknowledgment that I had given him the 60*l.* I made a statement of the whole facts as they took place.

3200. Supposing you had not given the 60*l.*, what loss would you probably have incurred?—We lost about 2,000*l.* eventually.

3201. What would have been the loss if you had not paid that 60*l.*?—About 6,000*l.*

3202. Mr. W. Vansittart.] In fact you bribed the darogah exactly one year's salary; they get 50 rupees a month?—No, they got 30 rupees at that time.

3203. Then you gave him two years' salary?—It may be; I know that he was in the habit of receiving 150 rupees a month from the factories before we purchased them.

3204. Chairman.] In what year did this happen?—It is some 20 years ago; but it is a common thing to this day.

3205. Do you give this case as a solitary instance, or as a general specimen of what may occur to a gentleman situated as you have been, in the part of Bengal with which you are familiar?—I have known many such cases.

3206. Up to the present time?—Up to the present time.

3207. In the long time you have been in the country have you marked any improvement in the state of the police?—No, not generally.

3208. In what way, in your opinion, could the police be improved?—By a greater number of Europeans being employed; by European supervision. The darogahs ought to be under a European nearer than the magistrate.

3209. Have the magistrates, as a body, improved since you have been in India?—No.

3210. Do you generally concur in what former witnesses have said respecting the covenanted magistrates?—Generally.

3211. What is the character of the class called deputy magistrates?—The native deputy magistrate is very unfit for the police.

3212. In what respects?—They want energy; their caste is much against their being able to detect robberies, and they are generally unfit for the police.

3213. Do you complain of them both as protectives and as detectives?—They are not protectives.

3214. Are they good detectives?—No; they are not good detectives.

3215. Is it your opinion, in confirmation of what other witnesses have said, that it would be beneficial to have a more extensive employment of Europeans?—Certainly.

3216. If the uncovenanted service were put on a more independent footing, could

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could qualified Europeans be found in the country to fill the office of magistrate?
—There would be no difficulty I should think.

3217. What salaries do you pay to the persons engaged in your concern?—
They vary from 150 to 1,000 rupees a month, with commissions.

3218. Would you be much benefited by having the power of employing a
greater number of Europeans in your concern?—Certainly.

3219. That is what you want, in fact?—Yes.

3220. Would the infusion of a certain number of Europeans into your establish-
ment be of utility to the natives in bringing them forward, and almost acting as
a means of instructing them?—Yes.

3221. It would be advantageous to you, to the Europeans employed, and to the
natives?—Yes.

3222. Have you suffered from the want of a good law of contract in your inter-
est as a European capitalist?—We have suffered.

3223. Will you state how you suffer exactly?—The system of Bengal is all on
advance; we advance for everything; when we advance we take a contract in
writing from the native that he is to perform certain duties, and if he refuses to
do so afterwards, then we have no redress in the courts; we have in our con-
cerns upwards of 20,000 yearly contracts.

3224. And you have not adequate means of enforcing those contracts?—No;
we cannot enforce the contracts.

3225. Are you of the same opinion as the preceding witness, that the Govern-
ment, where it is itself a manufacturer, as in the case of opium, has a separate
law of contract, and do you think it would be just to you as an independent
planter to have the benefit of that law of contract?—Yes.

3226. What has been your experience of the conduct of the covenanted civil
service with regard to yourself and your property in India?—I think the cove-
nanted civil service are very deficient in the language; they are much too young;
they have no knowledge of the native character, and they have much greater
powers put into their hands than their knowledge warrants.

3227. With regard to the language; are they familiar with the language?—
They are very deficient in the language; they are put in power before they have
a knowledge of the local language, though they may know the languages as they
are taught them, but not to speak them in the country.

3228. Would you draw a distinction between the knowledge that is required
for exchanging ideas in common conversation in language, and diving into the
difficulties of a case at law in a court of justice?—There is a very great difference
between the languages taught in the colleges and the languages spoken in the
Mofussil.

3229. Therefore a man passing a very good examination may not always be
found equal to the difficulties he meets as a magistrate upon the bench?—
Certainly.

3230. Do you speak of that from your own experience?—Yes.

3231. Of course you have known some superior men acquainted with the lan-
guages?—Many.

3232. Upon the whole, which way does the majority incline, on the side of
the deficient or the superior men?—The very inefficient.

3233. In your recollection can you state that the number of European settlers
in the part of India where you have been has increased or diminished, or con-
tinued the same?—It continues about the same.

3234. Has it continued the same in Calcutta?—No.

3235. Has it much increased?—Yes, much increased.

3236. To what cause do you attribute the small number of European settlers
in the part of the country where you have resided?—To the police laws, the
revenue laws, and the difficulties altogether in the country; you are subject to all
sorts of false charges and extortions.

3237. Supposing you were a newly-arrived Englishman at Calcutta, with
some idea of settling in Bengal, and you went, as you naturally would, to some
person of experience to inquire about the country where you were to settle, would
the account you would receive from that person of experience be such as possibly
to deter you from settling there?—It certainly would.

3238. You agree generally with other witnesses as to the insecurity of property
in that part of the country?—I do.

3239. Have you made any observations on the working of the sale law?—I have; I have had much to do with the sale laws. *Mr. J. Dalrymple.*

3240. Do you complain of those sale laws?—Yes

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3241. On what account do you complain of them?—In purchasing property, you have many difficulties to contend with as to getting possession; you have disputes about the boundaries, and about the many under-tenures which there may be in the estate; and they are not upheld by the sale law.

3242. In that respect you confirm the statement of former witnesses, that the sale law is not sufficient to give security to the under-tenures under the zemindar?—No.

3243. Have you anything to add to the evidence given by the previous witnesses upon that subject?—No.

3244. You confirm it only?—Yes.

3245. With regard to roads, do you confirm the opinions of the witnesses given upon that subject?—Yes; there are very few roads in Bengal.

3246. Are roads very much required?—Very much required.

3247. Are the roads in Bengal sufficient for the purposes of traffic and inter-communication?—Not at all.

3248. Is it your opinion that a greater number of European settlers, if they were induced to settle in the country, would be one means of improving the roads?—There is not a doubt of it.

3249. The superior civilisation of an old country is impatient of that backward state of intercommunication which exists in a country like India, is not it?—Yes.

3250. Therefore they would have on the one hand a desire to mend the roads, and on the other the capital to improve them?—The roads in our own concerns the planters generally repair, but they do not answer for general traffic, which requires continuous lines of road.

3251. Would you think it possible that the road system in your part of Bengal might be conducted by a road committee; I refer to the cross-roads, not the great roads?—Certainly.

3252. If there were a greater number of European settlers, would there be the materials for forming committees between the natives and the settlers to secure the formation of cross-roads?—Yes, not a doubt of it. The Government for the last two years have been making some local roads through Moorshedabad and Kishnagar, to employ the natives; there was a famine two years ago, and it was to employ the natives, and the money was generally laid out through European settlers.

3253. Do you think it desirable, in a part of the country like that where European settlers place themselves, to encourage, if it were possible, some such means of local self-government as might be given by managing their own roads, and to a certain degree their own concerns?—Yes; if the Government were to make the roads I have not a doubt that they would be kept up by the inhabitants, both European and native.

3254. And that would be a good opportunity of initiating the natives and confirming the Europeans in the habit of managing their own local affairs?—Yes.

3255. You think it desirable that they should learn by degrees to manage their own local affairs?—Yes. They understand making roads; I have known a native make a road for 100 miles, from a religious motive.

3256. Do you think that it would be possible to encourage such a spirit among the natives of India?—Yes.

3257. The planters would naturally be inclined to adopt it from their national habits, and the natives would borrow it from the planters?—Certainly.

3258. Do you know the Nuddea River?—Yes.

3259. Do you confirm the statements of previous witnesses upon that subject?—Yes.

3260. That you might save an immense circumnavigation by a simple line of improved river transit, and that that improvement has not been made?—Yes.

3261. Have you suffered personally from the unimproved state of the Nuddea River?—Yes, in the transport of goods.

3262. Is it a commercial state of suffering, common to all those interested in that part of the country?—It is complained of by all India; the Nuddea Rivers being shut up for certainly nine months in the year.

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3263. But you probably are of opinion that means have been used by the Government to keep the rivers open?—The means used have been very small.

3264. Are you of opinion that those means admit of further improvements?—Much.

3265. Considerable?—Considerable.

3266. What is your opinion of the general state of cultivation where European settlements take place?—Since I went to India it is very much improved, and certainly quadrupled.

3267. You have no hesitation in ascribing that improvement to the settlement of Europeans?—It is entirely owing to European energy.

3268. Is the condition of the natives improved also in those districts where European settlement takes place?—Yes, it is; the lower orders are much better fed and better clothed, and the houses are much better.

3269. Then you naturally draw the inference, that if there were further settlement there would be further improvement?—Yes.

3270. Do you think that if settlement went on to a greater extent, there would be a desire among the European settlers to improve the intellectual condition of the natives by means of schools and elevating their moral character?—Certainly.

3271. Much has not been done in that respect hitherto, has it?—A good deal has been done amongst European settlers by subscriptions.

3272. We have heard of schools in Jessore?—Yes; you only hear of schools at stations, but those who are distant from the stations subscribe.

3273. Do you know any instances of English settlers who have established private schools of their own?—No.

3274. Do you think that if there was a very considerably increased number of British settlers, there is a probability that such schools and such improved means of communication would be extended in proportion to the increased number of European settlers?—There is not a doubt of it.

3275. Mr. W. Fansittart.] You have concerns in Maldah?—Yes.

3276. Do you know anything of Darjeeling?—No.

3277. You say that the Europeans in the Mofussil do not increase, owing to the defective state of the laws and the police?—Yes.

3278. Do you not think that it is to be attributed to the superior advantages held out in Australia, Canada, and other possessions for the investment of capital?—No.

3279. Do you mean that there has been no increase of indigo factories and other manufactories in the Mofussil, or do you merely refer to Europeans?—To Europeans merely. There has been a considerable increase in manufactories of all kinds, but there is a greater number of country-born employed now than used to be the case.

3280. If there are more of those factories and manufactories built, surely that would bring more European men and a greater investment of capital; if new factories spring up, surely that must increase the European community?—It has not hitherto increased the Europeans; there are several grades between the European and the native; it has increased the Christians.

3281. I referred to settlers and men of considerable property, like yourself?—No.

3282. Mr. Lowe.] Do you think that the British colonies do offer greater inducements than India to settlement?—Yes, I do.

3283. And yet you do not think that those inducements keep people away from India?—The laws in the Mofussil certainly keep more from settling in the country.

3284. If the laws and police were as good in India as in Australia and Canada, are the inducements held out by India as good as those held out by Australia and Canada?—I think so.

3285. Do you think the climate is as good?—Lower Bengal is perhaps not so good; Europeans could not labour in Bengal.

3286. People could not bring up their families there, could they?—Not generally.

3287. Is not that a great drawback?—It is a very great drawback.

3288. Is not a residence among a heathen population a very great drawback?—A very great drawback.

3289. Instead of having a working class of the same elements as at home, the same as in Canada and Australia?—Certainly.

3290. Is not there an element of uncertainty in India that does not exist in Australia and Canada, from the possibility of native risings and rebellions?—
Yes.

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3291. Do not all those reasons show that, even if those reforms which you mentioned were to take place, it is not very probable that there would be a large European emigration?—No; there may be a larger European capital.

3292. But a large European emigration you do not think there would be?—No.

3293. A young man having his fortune to seek would prefer to go to an English colony, supposing all were done to improve India that could be done?—I am not certain upon that point.

3294. Can you suggest any remedy for the land tenure; you are aware of the land tenure in Australia or Canada, are you not?—No.

3295. A man buys his land in fee-simple, and pays nothing to the Government; could anything be done in India to make the tenure approximate to that?—No; the tenant-right of the ryots stands in the way.

3296. What remedy do you suggest for the grievances you complain of?—That the under-tenures should be recognised by the Government; and that in the event of a Government sale they should be upheld.

3297. How would you prevent the Government being defrauded of its revenue in that case?—By giving notices beforehand; the different tenures would be registered, and it might be easily known what claims there were against an estate before the sale came on. There is a great practical difficulty.

3298. I suppose in a zemindary each party is liable for the whole rent; every acre is liable for the whole rent?—Exactly.

3299. Would you propose to disturb that arrangement, or would you leave it still liable?—It involves a great many questions. I have considered it a good deal. There is the protection of the Government rent. An extensive zemindary might be divided into 50 different tenures by the holder, and in the event of a sale those tenures would be all upset.

3300. Would you propose to relieve any part of the zemindary from the Government rent, or should it be leviable over the whole, as now?—Over the whole.

3301. Each putneedar would be liable to pay the whole rent in default of everybody else?—The whole estate would be sold.

3302. Supposing a small part of a zemindary is upon putnee, the putneedar is liable still for the whole rent; would you propose that that should be continued?—When one portion of the estate is to be liable the other would also be liable.

3303. Each is liable for the whole?—Each is liable for the whole.

3304. Would that be a great discouragement to settlement in itself?—It would.

3305. Supposing every householder in Belgrave-square were liable to the Marquis of Westminster for the whole rent of Belgrave-square, would not that be a great discouragement to taking houses in that square?—Yes.

3306. Is not that the case?—Yes, but under different circumstances. Most of the sales are from fraud; they are not, generally, from being unable to pay the rents, but from fraud, to dispossess some other shareholder or party.

3307. You cannot suggest any remedy which would secure the Government their rents, and protect each putneedar from not being liable for more than his share of rent?—Only that the putneedar should be recognised by the collector. A remedy was suggested by the Indigo Planters' Association.

3308. That would save his putnee from sale?—Yes.

3309. But it would not save him from an unfair proportion of rent?—No; but he would get back what he paid in excess of his own share, through the collector.

3310. With regard to the magistracy, do I rightly understand you to adopt the sentiments of those witnesses who agree with Sir Arthur Buller in his speech in the Legislative Council?—I agree generally with the evidence given on that subject.

3311. You object *in toto* to any European having any case, civil or criminal, tried before a native judge?—Yes, I do.

3312. Do you think it possible entirely to do away with native judges, and replace them by Europeans?—I would not do away with civil judges.

3313. You think there must be some native civil judges?—Yes.

3314. To

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3314. To what extent do you think so; up to sudder ameens?—Yes, and principal sudder ameens.

3315. And moonsiffs?—Yes, and revenue officers.

3316. Do you object to appear before them in your own cases?—No; we generally do appear before them.

3317. Do you consider it a grievance that you do so?—No, we do not consider it a grievance in appearing before a civil judge; it is appearing before a criminal judge that we object to.

3318. You do not object to appearing before a native judge in a civil suit. If one of your men sues you on a contract, do you require that it should be heard before an English judge?—No, we generally take the course the law provides.

3319. Are you content with that, or is it a ground of complaint?—The little chance of a European being heard in those courts is a ground of complaint; he cannot defend his own case except through the mooktears.

3320. Do you wish that done away with, or is it possible to do away with it?—I do not think it is possible to do away with it.

3321. In criminal cases you claim that you should only be brought up before an English judge?—Yes.

3322. You object to appearing before a native judge even in the smallest case?—Yes; but in small cases we have no exemption, and are tried before natives.

3323. Suppose the case of a trifling assault?—Yes, we are tried by natives.

3324. You do not object to it, do you?—Yes, we object to it.

3325. What is the point that you do object to in what is called the Black Act?—That we shall be liable to be tried by natives, and put into gaol by them, if that is passed; at present that cannot be done.

3326. It is the difference between fine and imprisonment that you object to; you do not object to incurring a small fine under the native magistrate, but you do object to a power of imprisonment; is that it?—We object to the natives trying those cases where they can imprison or impose heavy fines; we entirely object to the natives.

3327. You admit that for smaller offences, where fines only are levied, it is necessary that Europeans should submit to native jurisdiction?—Not in criminal cases.

3328. Sir *Erskine Perry*.] If competent English judges were placed down in the districts where the planters are settled, would they be sufficient to provide for those cases brought before them by Europeans?—They would be competent certainly; the present judges have very little knowledge of the law.

3329. Therefore if the Black Acts were established in India, the appointment of a few English judges in those districts where the English are settled would suffice to remove all those objections that you now have against the Black Acts?—If we were to be tried by English judges, according to English law.

3330. It is only in Bengal and Tirhoot that English planters are to be found in any numbers?—Yes; but that is a very large country.

3331. There is a return before Parliament from which it appears that there are only about 300 settlers altogether in India; have they increased within your recollection?—No, they have not, but they are much more numerous than that.

3332. Do you think that the objections of the planters to the introduction of the Black Act, that is to say, the introduction of one uniform system of law, would be removed if a few competent English judges trained in law were established amongst them?—I say raise the natives to our standard, and do not reduce us to theirs.

3333. Therefore what you object to is incompetent or corrupt native judges and incompetent English judges?—Yes; we object entirely to native judges.

3334. Would your objections be removed, and would the interests of the natives be promoted, if competent English judges were placed there?—Yes, judges and magistrates.

3335. Then do you think that the objection of the planters to the Black Acts would be removed?—Yes. I mean by the Black Acts the power of the natives over us.

3336. Have you ever been located in any other provinces except Bengal?—Never.

3337. In Bengal, under the perpetual settlement, there is a great facility for purchasing land, is not there?—No; there are very few estates for sale; they are only now and then for sale.

3338. When

3338. When those estates are for sale is there much competition for the purchase of them?—It depends upon the estate; sometimes there is. Mr. J. Dalrymple.

3339. How many years' purchase is an estate generally sold for?—It is sold for 10 or 12 years', but putnees and other tenures are sold for much less. 13 May 1858.

3340. A zemindary is sold for 10 or 12 years?—Yes.

3341. For how many years is a putnee sold?—It differs in different parts of the country; in my part of the country it is only a year and a half or two years' purchase; but then we pay the rent according to the collections, with a small discount for collecting. There are so many different ways of taking tenures in India.

3342. How do you account for a putnee tenure fetching so very small a sum?—Because you pay for the profit on the estate besides the Government rent. By buying at the Government sale, you have only to pay yearly the amount of rent paid to the collector, while in the case of the putnee, you have to pay what the zemindar has been in the habit of collecting.

3343. And that varies from year to year?—Yes.

3344. Do you find that in those sales natives come forward to compete with Europeans for the purchase?—Yes.

3345. And are they generally inclined to go as high in the purchase as Europeans?—They go higher.

3346. In point of fact, you generally get outbid by the natives?—Yes.

3347. Suppose that the Government assessment was set up absolutely for sale for redemption, do you think that that would induce Europeans to buy more largely, assuming that the ryot's tenure remained?—No.

3348. Why do you not think so?—They would have so many difficulties to contend with after purchasing.

3349. If they purchase now, why would not they purchase more freely if they could buy the land out and out, paying the Government a redemption for the land tax?—I have never thought of the matter; I foresee many difficulties with respect to the under-tenures with the ryots.

3350. You of course do not advocate that the ryot's rights should be disregarded by the law?—Certainly not.

3351. You are not aware as to the power of purchasing land in the Upper Provinces?—No.

3352. Mr. Villiers.] Do you mean to state that the difficulties of procuring land constitute one of the obstacles to European settlement?—No.

3353. You do not attach so much importance to the law in that respect?—No.

3354. You dwell most upon the administration of justice?—Yes.

3355. I presume you would state in private what you have stated to the Committee?—Yes.

3356. Is not your report of the disadvantages under which settlers labour concurred in by almost every one under the same circumstances who has returned to England?—Yes.

3357. And is not that report calculated to deter people from going out?—Yes.

3358. And if you could give a better report, do not you think that that would encourage settlement?—Yes.

3359. May we not suppose that the very few settlers who go to the Mofussil is to be accounted for from the fact that they make some inquiries beforehand, and are much discouraged by the accounts that they receive?—Yes.

3360. You stated that you had some difficulty in keeping up the number of your assistants?—Yes.

3361. What was the reason of that?—There are fewer Europeans now who go to India than went formerly.

3362. Why is that?—It is from the difficulty of getting employment.

3363. A witness who preceded you stated that he could have given a great deal of employment to Europeans if they had come out?—Yes, but fewer Europeans go out now.

3364. The inducement is not sufficient?—The inducement is not sufficient to take them into the country.

3365. You do not know that they are deterred by the climate?—No; many people who go to India go to invest money, not to become assistants; and in the country the want of security prevents many persons from going.

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3366. What would an assistant earn in the way of salary?—It depends upon his experience; we give salaries varying from 150 rupees to 1,000 rupees a month.

3367. Do you know any instance of Europeans being offered to go out to India, where they have been found disinclined to do so?—No, I have not.

3368. Then how can you speak to there being a disinclination on their part to go out?—From the difficulty of getting them.

3369. Would it answer the purpose of any person in your position to send out Europeans?—I have sent out already one or two, but many more are wanted. I am not able to hold out prospects to them which would enable them to make a competency.

3370. There is nothing in the treatment which they receive from the civil service in any way, or from the character of the Government, that would deter them?—Certainly; the whole behaviour of the civil service towards Europeans has a deterring effect.

3371. Did I rightly understand you that the language that is learned in college by a civil servant is not the language which is spoken in the Mofussil?—It is very different.

3372. Therefore no European judge understands the proceedings which take place in the court?—It is only from experience that he can acquire that language.

3373. Are the proceedings conducted in a different language from that which is spoken?—No; the proceedings are conducted in Bengalee, but it is spoken very differently from what it is written.

3374. Do not you know that a civil servant learns the Bengalee language?—Yes, but I have never seen one able to converse with the natives on his coming to the country from college.

3375. That is from an imperfect knowledge of the language, not from being altogether unacquainted with it?—Yes, it is from an imperfect knowledge of the language.

3376. You have spoken of incompetent magistrates; have you ever seen the difference between a competent magistrate and an incompetent magistrate?—I have seen many competent magistrates.

3377. What has been the effect of having a competent magistrate?—A competent magistrate's district is in order. There are few dacoitees, few quarrels, and everything goes on smoothly.

3378. Can you say that the police is better in that case than when the magistrate is incompetent?—Much better. I know several magistrates whose police I should think it impossible to bribe.

3379. You attach peculiar importance to the competency of the magistrate, as far as removing those minor evils which you mentioned connected with the police?—Yes.

3380. What is the opinion among the planters and settlers as to the attention paid to their remonstrances or applications to the Government at Calcutta?—They generally think that no attention is paid to their remonstrances and applications.

3381. These grievances to which you have referred with respect to the police, the administration of justice, and the state of the communications, have been brought before the authorities at Calcutta?—Yes.

3382. They have been brought before the Council by way of petition or memorial?—They have been.

3383. What is the impression amongst settlers with respect to the attention which the petitions received; is it that the petitions are unheeded?—Yes.

3384. To what reason do you ascribe that?—Disinclination, and perhaps the difficulty of being able to comply with them.

3385. Do you mean that they do not appreciate sufficiently the interests and wants of the settlers?—No.

3386. With respect to the Nuddea rivers, has that question ever been considered?—It has often been discussed in the papers.

3387. Has it been brought before the authorities; is there any official report made upon this complaint, that for eight months in the year those rivers are unnavigable?—I believe it has been brought before the Government by the Indigo Planters' Association.

3388. And nothing has been done?—Nothing.

3389. Do you think that it is possible to do anything?—The mouth of the
three

three rivers runs through our property, so that I know it very well; and I believe that a great deal might be done.

3390. Would it require a great expense?—It would; not the amount which they collect from the tolls for that purpose.

3391. You are of opinion that, if roads were made, they would be supported by an assessment on the natives, or, at any rate, at their expense?—In the original decennial settlement there was so much assessed for roads, but it was afterwards added to the rent, and not applied to the roads.

3392. Do you mean to say that there was a special rate for the maintenance of the roads?—Yes, I think there was; it was a separate item under the decennial settlement.

3393. When was it discontinued?—Many years ago it was merged in the rent.

3394. Do you believe that there would be any disinclination on the part of the natives, looking at the great advantage of having good roads maintained, to pay something towards their maintenance?—It was proposed some years ago, and that was the objection which the natives made, that they had already paid for that in their rent-roll; what is called the jumma.

3395. Are you alluding to the revenue, or the rent?—To the revenue.

3396. Who do they conceive should keep up the roads?—The Government.

3397. In consequence of the payments which they make for rent?—Yes.

3398. You stated that you had known an instance where a man, from a religious motive, had made a road for 100 miles?—Yes.

3399. Then there is no want of knowledge as to making roads?—No; they are inclined to give the expenses. The road I have referred to was from the Jessore district towards Moorshedabad.

3400. There is no kind of difficulty in procuring the labour for making the roads?—Not in the least.

3401. There is no difficulty in getting labour for any purpose, is there?—At some seasons there is a scarcity of labour.

3402. Do you agree with those gentlemen who have preceded you that the natives are grateful for employment generally, and become attached to the settlers?—Yes, they are. There is a great improvement in the lower orders since I went out to India, in this respect, that the great anxiety of a man who would be called a ploughman in this country is to get a plough of his own; and when those men get ploughs of their own, few of them will work for other people; they will not work for hire.

3403. They become cultivators?—They do.

3404. Do not they become also general consumers of manufactures and everything else if they are better employed?—Yes.

3405. Do you believe that there is a power of consuming more English manufactures than are now consumed?—Yes.

3406. Do you think that that would be the result of allowing English settlers to establish themselves?—Certainly.

3407. Mr. Willoughby.] You went out to Bengal, first of all, as an assistant?—Yes.

3408. Did you afterwards become a partner in the factory to which you have alluded?—Yes.

3409. Then you were not disappointed in the expectations which induced you to go to India?—No.

3410. Sir Erskine Perry.] Does it consist with your knowledge that a great many planters have been unsuccessful in India?—Many more than have succeeded.

3411. You think that the majority have been unsuccessful?—Yes.

3412. Mr. Willoughby.] You stated that you employed 50 Europeans, and that you were in want of a great many more. Does not that arise partly from your not being able to hold out sufficient inducements for them to proceed to India?—No; it is the difficulty after they get to India. A man of small capital can do little or nothing.

3413. Is it not the case that because you are not able to hold out sufficient inducements to Europeans to leave this country to take service in your own concern, that is one of the causes of your want of Europeans?—A man going out to India looks for something beyond merely an assistantship. A small capital in India is of little use.

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3414. You state that the covenanted servants of the Government are totally incompetent; are you not aware that the Government endeavour to insure competency by a test on first appointment, and afterwards on promotion?—Yes.

3415. You have alluded to the insecurity of the tenure under the sale law; are you aware that Mr. Grant proposed a sale law which was to recognise under-tenures, provided a certain portion of the revenue due to the Government was put upon the tenure in proportion to its size?—Yes.

3416. Can you state why that law was not passed?—There was so much to be done in order to effect the object of the law, that it could never have been accomplished.

3417. It was in consequence of the objections raised to other parts:—No; there were so many forms to go through.

3418. The planters objected to it upon that account?—Yes.

3419. Did they suggest remedies?—Mr. Grant's sale law was since I left India, or just about the time I was leaving, I think.

3420. You alluded to the want of roads: are not materials for making roads in Bengal very scarce?—There are bricks; they are no great expense.

3421. Is the Government rent in Lower Bengal excessive under the zemindary system?—In many instances it is.

3422. In what part?—On the Ganges, for instance, where the assessment is modern.

3423. Do you concur in the statement which was made by a former witness, that in many cases the zemindars levy eight or ten times what the Government levy?—No, I have never been aware of that.

3424. Are you not aware of any cases in which the zemindars levy more than the Government?—They do.

3425. You state that the rate is excessive; at what rate is it per begah?—I have had particularly to do with the assessment upon the resumption lands.

3426. What rate per begah is levied upon the zemindaries with which you have been connected?—Rice in many zemindaries is only four annas a begah; about three begahs make an acre. The higher lands again have let for eight annas. Then the mulberry and sugar cane lands are much higher. I know some mulberry lands that let for two rupees, and sugar-cane lands for three rupees per begah.

3427. Levying the rent upon the crop and not upon the productive powers of the land has ceased, has not it, in Bengal?—No; the zemindars levy upon the crop, but the Government do not levy upon the crop.

3428. What do the Government do?—They levy upon the soil.

3429. And you are of opinion that those rates which you have mentioned are excessive?—Yes, on the resumed lands; the newly formed alluvial soil.

3430. I am not talking of the resumed lands?—In the zemindaries the revenue is not excessive.

3431. With respect to the making of roads, how would you provide funds for that purpose; do you think that the whole expense should fall upon the Government?—The making of the roads should fall upon the Government.

3432. You think that the whole expense of making the roads should fall upon the Government, although the zemindary is, to a great extent, private property?—Yes; it was provided for in the decennial settlement.

3433. Was it provided that the zemindars should not be compelled to assist?—The zemindars after the settlement were obliged to make and keep up the roads. An assessment was made upon the estates to provide for that, and the Government took it into their own hands, the same as they did with the embankments.

3434. Is not there a fund set aside by the Government for the repair and construction of roads, called the Toll and Ferry Fund?—Yes, there are funds, but I am not aware of their being set aside for roads in my districts.

3435. Is not there a committee appointed in every large town, consisting of some of the principal natives, and the collector and judge, by which those funds are now managed?—Not in large towns; only at stations. Many ferries do not belong to the Government at all, but those roads that are repaired are seldom connected with the general traffic of the country; they are more about the stations.

3436. You have alluded to the Nudda rivers; you state that they are shut up for nine months in the year, and that the Government have neglected certain means of improvement which they might have adopted; to what means of improvement

improvement do you refer?—They are left to one superintendent, with a few natives under him, and the work is seldom commenced until the inundation has gone down so far that there is no strength of current to keep the channel clear.

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3437. To what work do you refer?—To the keeping open of the rivers.

3438. Do you mean by dredging?—No, there is no dredging; there are mats and bamboos placed in such a way that the current strikes them, and carries off the sand.

3439. Would not the expense of such an engineering work be very great?—It would be, but there is a provision for that; there are the tolls; they were instituted to keep the rivers open. Every boat that passes down those rivers pays a toll.

3440. Are not the tolls appropriated for the improvement of the navigation of the rivers?—Not the twentieth part of them.

3441. Then to what are they appropriated?—The Government appropriates them.

3442. They levy a toll for one purpose, and appropriate it to another?—I believe the tolls realise about three lacs of rupees a year, and I think that the expense is not 50,000 rupees a year.

3443. You have stated that education would be greatly extended by an increase in the number of European settlers. Your factories, you state, are worth 300,000*l.*, and you expend 200,000*l.* a year upon them; have you any schools attached?—We have native schools paid by ourselves, and native doctors.

3444. To what extent are European settlers subject to the criminal jurisdiction of the native magistrates; what punishment can a native magistrate inflict upon a European planter?—The native magistrates are of many grades. The only exemption of Europeans is that they cannot be imprisoned by natives.

3445. But you have known him inflict fines?—Yes.

3446. Have any persons on your estate ever suffered punishment by the sentence of a native magistrate?—Natives have, but not Europeans.

3447. Do you know any instance of a European planter having been fined and imprisoned by a native magistrate?—Not to my recollection, but a native magistrate might fine.

3448. I wish to ascertain whether you or your class are subject to the criminal jurisdiction of the natives?—We are subject, in a great respect. The higher punishments cannot be inflicted, but the fines are.

3449. And the imprisonments?—I have never known a European imprisoned by a native.

3450. Although Europeans may be liable, there cannot be any practical grievance, if you, with all your 30 years' experience, are not aware of any case of the kind having occurred?—No, I think they are not liable.

3451. You state that when zemindaries are sold they realise 10 or 12 years' purchase; are you aware that for every acre of ground which the Government has purchased under contract with the companies who are constructing railways, they have paid 20 years' purchase?—No, I am not aware of that.

3452. Assuming that to be the fact, that proves that the value of land has very much increased?—No; it is a very different thing cutting a railway through a man's property and giving him an estate to look after.

3453. Would the railway double the value?—The railway might in some cases go through the best part of the estate.

3454. When you have attempted to obtain European assistants, were you ever told in this country that the conduct of the civil servants was a bar to those Europeans going out?—No, not in this country.

3455. You have alluded to memorials not being attended to by the local government; is it not the fact that all laws, previously to being enacted, are published in the Government Gazette?—Yes.

3456. And has not everybody a right, whether European or native, to make any representation upon the subject of those laws, if they think they are likely to affect their interests?—Yes, they might represent.

3457. And they do so?—In many cases they do.

3458. Do you concur with the previous witnesses in thinking that Europeans should be employed in preference to natives in many situations, which are now filled by natives?—In many cases.

Mr. J. Dalrymple. 3459. You are not an advocate for excluding natives from public employment?—No.
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—Yes.
3461. Do you think that that would be just to the natives?—If a better class of natives could be found it might be considered unjust; but it is seldom that you can get the better class to take employment.

3462. You agree with the former witnesses with regard to the precautions now taken under the old sale law, that is, where a zemindary is put up for sale, there must be a certain notice given?—Under the old sale law notice was given in the Gazette, that the estate was to be sold within a certain time.

3463. And objections must be made within a month after the sale?—Yes; objections by those to whom the property belongs.

3464. What other precautions would you suggest to obviate the injustice of which you complain?—In the case of the zemindaries, which are divided and subdivided into under-tenures, if those tenures were recognised by registration, or there were some court to look properly into their value to see that they were not collusive tenures, then the estates might bring much more money.

3465. Have not much greater efforts been made of late years in endeavouring to develop the resources of India by the local authorities, than was the practice when you first went to India 30 years ago?—Yes, certainly, very much greater.

3466. Mr. Seymour.] In the case to which you referred in regard to bribing the darogah, when the darogah first came to you to ask you for money, why did not you go immediately to the magistrate instead of giving it to him?—If I had not given it the factory would have been shut up.

3467. Why did not you inform the magistrate immediately after you had given it to him?—The magistrate was 54 miles off, and I could not go immediately. Magistrates are perfectly aware that bribery is common.

3468. You think that it would have had no effect if you had gone to the magistrate and said, "I am obliged to give this man money, because otherwise he will stop my factories, but I disapprove of it, and I only gave it to him till I could come and tell you"?—I did so in the second instance, and what was the result? the whole of the crop was destroyed, and I got no redress.

3469. Do you think that the Government should have a separate law of contract for their own commercial undertakings, such as opium?—No.

3470. Supposing that they make any alterations in the sale law for their own benefit, do not you think that they should give the planters the benefit of them?—Yes.

3471. If they did so, would not that be a guarantee for the improvement of the law?—Yes.

3472. Do you approve of the exemption of all the civil servants from the law?—No.

3473. The Government, on the whole, has become more despotic of late, has not it?—Yes.

3474. This alteration was introduced only a few years ago?—Yes, in 1850 I believe.

3475. Do you object to having a separate revenue jurisdiction for property, having all questions with regard to the payment of revenue decided by a revenue authority, instead of being brought into the civil courts?—No, I think there must be separate revenue courts, as at present, with an appeal.

3476. Do you think that the servants of the Government look upon independent planters with a kind of suspicion?—Very much so.

3477. Do you think that that feeling might be removed?—It might.

3478. What do you think would tend to remove it?—If the European authorities were made more responsible for their acts, I think it might be removed.

3479. Do you think that the admission of independent Europeans to the Council would have a tendency that way?—Yes, I think it would.

3480. Do you think that an infusion of persons not in the civil service into offices of trust under the Government has a tendency that way?—Certainly.

3481. Do you think that that acts as a check upon the civil service?—It would if it were done to a greater extent; it is not carried out much at present.

3482. If some high appointments were open to uncovenanted servants, do you think that that would make a balance between the two services?—Yes.

3483. Are

3483. Are you aware that the roads about London, where there is the clay, are made with half burnt clay, which answers remarkably well?—No.

3484. Do you not think that by half burning the alluvial soil of Bengal, you would get a good material for making roads?—No, there is too much rain.

3485. If you burnt the soil to the consistency of bricks, you think that it would make capital roads?—Yes, we do so now.

3486. Are the bricks laid down regularly, or are they broken up for making roads?—The usual custom was to lay them down whole, but now they lay them down broken, in the same way as macadamised roads are made here.

3487. Are you aware that in Holland whole bricks are laid down?—Yes.

3488. With reference to the rivers, are you aware that dredging machines have been sent out to Calcutta?—I have seen them in Mr. May's time, 30 years ago, but not since.

3489. Are you aware that some machines have been lately sent out?—No.

3490. Are you aware that the Government have had under consideration the improvement of the canals leading into Calcutta?—Yes; but that is very different from improving the two rivers of which I spoke.

3491. It is proposed to make great alterations with regard to the canals leading into Calcutta?—Yes.

3492. The question of the Nuddea rivers becomes daily more important, because of the great increase of the commerce of Calcutta, especially within the last three years?—Yes, if the Nuddea rivers were put under Europeans, serjeants for instance, they would be kept open much longer; that is to say, if men were to live at the mouth of them.

3493. The great obstacles which now exist to produce coming by the rivers into Calcutta ought to engage the attention of Government very seriously, ought it not?—The attention of the Government has often been called to those rivers.

3494. Are you aware that they have had under recent consideration the Mutlah project, which is a project for making a new port?—Yes.

3495. Would that obviate some of the defects?—No.

3496. Is not every encouragement given to self-government, as far as possible; has not a Municipal Act been passed, by which all towns are encouraged to govern themselves?—I am not aware of that.

3497. Should you say generally that the population of Bengal is under-fed and under-clothed?—It depends upon the weather; in the winter they are certainly under-clothed.

3498. What is their food?—Rice.

3499. But do they get rice?—Yes.

3500. Is there a good metalled road six miles out of Calcutta?—The roads about Calcutta are very good, and they are metalled, but the metal is all brought there, and they do not reach far.

3501. On the road to Jessore, is there six miles of good metalled road?—I never travelled that road.

3502. Are more Eurasians and natives employed by independent planters of late years than was the case formerly?—A good many more.

3503. As you say that you would wish a separate jurisdiction for European planters, would you have any objection to a separate tax being laid upon the planters to pay for those judges?—I dare say that the planters would very willingly pay if they could get justice.

3504. Are there large tracts of waste land in Bengal?—None to my knowledge.

3505. Not even in the Sunderbunds?—There may be in the Sunderbunds.

3506. If you got a tract of rich land, might you not attract labour to it?—Yes.

3507. The wealthier natives live in the European fashion, do not they; they would use the commodities and the manufactures which are made in England to a considerable extent, would they not?—Yes, they wear English clothing.

3508. Do you think that the magistrates in Bengal often keep people in prison unlawfully?—Very often.

3509. Have you known an instance of a person having been kept for six months in prison unlawfully?—I cannot bring any case to my recollection at present.

3510. But it is very common?—Yes.

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3511. Do you think that it would be possible to have some kind of *habens corpus*, or that the magistrate should show a reason, if he keeps a person in prison for a certain time without bringing him up for trial?—Yes; I have known witnesses kept in confinement for six weeks.

3512. Is it not the common practice to manacle the witnesses?—They are very often put in the stocks at night.

3513. Have you ever seen large bodies of witnesses left for a considerable time till the judge is ready for the case?—Yes.

3514. Guarded by the police?—Guarded by the police.

3515. Why are the witnesses put in confinement?—To prevent other people from mixing with them, to bribe them, or to make them say what they choose.

3516. Is that the only reason?—That is the only reason that can be given.

3517. Do not they very often come unwillingly?—I have never known a respectable native give evidence willingly.

3518. The police carry them off, and oblige them to give their evidence?—Yes, in cases of dacoitee principally.

3519. Have you ever seen as many as 200 or 300 witnesses huddled together and guarded by the police?—No, I have not.

3520. Mr. Willoughby.] In what respects has the Government of India become of late years more despotic?—The civilians are much more despotic now than they used to be.

3521. You said the Government of India?—The Government of India and the civilians are about synonymous, I should think, so far as we are concerned, in the mofussil.

3522. In what respects have the local authorities become more despotic of late years?—They are much more against Europeans now than they were 20 years ago.

3523. Mr. Seymour.] Are the servants of the Government so responsible now, if they do wrong, as they were formerly?—No, they are not.

3524. Is there not an Act which exempts their conduct from being investigated now?—Yes, I think there is.

3525. Passed within the last few years?—Yes, in 1850.

3526. Cannot the Government now take land without the consent of the owners, which they could not do formerly, for any public purpose; has not the collector a power to do that, or is it only in the Presidency towns?—I am not aware of that.

3527. Mr. Campbell.] You say that the police, instead of protecting property, are a fruitful source of quarrel in the mofussil?—Yes.

3528. Would that evil exist to the same extent if you had efficient magistrates?—No.

3529. The police would not have the same means of creating those quarrels as they have with inefficient magistrates?—No.

3530. You have known of several cases where there have been efficient magistrates, where crime and the power of the police to create disputes does not exist?—Yes, I have.

3531. I believe it is an ordinary course with natives in the police, when they are sued, to become plaintiffs instead of defendants, to remove suspicion?—Yes; they make their reports, but that does not make them plaintiffs.

3532. You mentioned also that the previous proprietor of the property which you purchased had this police force in pay?—He had.

3533. Then I suppose it is a very economical way of getting justice to support a police force at your own expense at the factories?—Yes, but it is a bad necessity.

3534. That is a cheap way of having justice, in fact?—Yes.

3535. You are aware that the Lawrence Asylum exists in the hills for the education of the sons of European soldiers?—Yes.

3536. Would young men educated at that asylum, having a knowledge of the native language, be efficient assistants for you to employ?—No doubt.

3537. Would not they be better than men arriving from England without any knowledge of the customs, habits, and languages of the people?—Yes.

3538. Would you recommend an extension of those schools for the education of the children of European soldiers in the hills?—I do not know how far it now goes.

3539. You are aware that in your own concerns there is ample scope for the employment

employment of such persons?—I have not a doubt that most of the assistants would prefer the employment of the Government, were it made worth their while, to remaining as indigo planters.

3540. You mentioned that you advanced for all your indigo and silk works?—Yes, everything.

3541. Large balances may accumulate?—Yes.

3542. What balances, in your experience of 30 years, have accumulated against the ryots?—A crore of rupees, or million sterling.

3543. You think that balances to the extent of nearly 1,000,000*l.* have accumulated from the time that you have been manager and owner of those properties?—Yes.

3544. What amount of those balances have you remitted to the natives?—Many lacs of rupees; more than half the amount perhaps.

3545. You mentioned the difficulty of civilians understanding the local provincial languages of the districts in which you have been, with respect to the law; do not you think that the introduction of the English language would prevent that difficulty?—Yes, it would.

3546. In fact, the law is carried on at present in the Hindee, in the Bengal territory; whereas the language spoken is the Bengalee?—Yes, the Hindee is the language of the court at present.

3547. The Hindee is as little understood by the generality of the Bengal population as the English?—English is less understood, because there is no attempt to make them understand it.

3548. With regard to the subject of health, you have never suffered much in your health, have you?—No.

3549. With reference to the labour market, you were asked if a difficulty did not exist as to colonization by reason of Asiatic labourers being there; do you think that that is any difficulty to the settler?—No.

3550. Do you know any place where labour is more abundant than it is in India?—It is very abundant.

3551. And with more perfect laws, and the facility of roads, canals, and rivers, you yourself know of no other place where better fruits for enterprise exist than in Bengal?—Certainly not.

3552. In your long experience you have realised those results?—Yes.

3553. Would not the registration by a putneedar of his putnee, and his liability to pay the rent to the Government, get rid of the difficulty to which you are now exposed?—It is done in many instances where there is only one putneedar in the zemindary.

3554. If instead of the Government, as at present, making you liable to the whole extent of the zemindary for a forfeiture in case of sale, you had the power of paying your own portion, would not that remedy that difficulty?—Yes.

3555. If the Government allowed you to pay the portion of the revenue that belonged to your putnee, and did not hold you liable to the rest of the estate, would not that be a benefit?—It would.

3556. Would it not secure the putnee?—It would.

3557. This would entirely free you from the responsibility of paying the zemindar's rent?—Yes; the collector already has the power of recognising the putnee in the event of a sale.

3558. With reference to the administration of justice, what effect would your imprisonment when in the superintendence of your works have upon your property at the commencement of manufacturing?—It would be complete ruin.

3559. Are you aware of the value of the produce, both export and import, that passes the Nuddea rivers by the Ganges and up to Delhi and Gurmuctiesur, down to Calcutta, annually?—No; it is a very great amount.

3560. How many boats daily pass those rivers?—I do not know, but the collection of the three Nuddea rivers is upwards of three lacs of rupees.

3561. The boats that pass the Nuddea rivers to Calcutta, by the Sunderbunds, make a circuit of a month, do they not?—Rather more, I should think.

3562. Would not a canal from Rajmahal to Calcutta, and a moderate toll imposed upon boats passing, remedy this?—No, I think it is not wanted.

3563. Is not there a considerable risk and loss in making the circuit by the Sunderbunds?—Very great.

3564. Were you a sufferer during the operation of the resumption laws in India?—Yes.

80. MINUTES OF EVIDENCE taken before SELECT COMMITTEE

- Mr. J. Dalrymple.
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3565. Do you support any schools at the stations?—Yes; we subscribe for schools.
3566. Do you teach the English language in those schools?—Yes.
3567. That is, in addition to those schools in which you teach the native languages within your own factories?—Yes.
3568. Do you know of any case of torture; has any case come under your observation?—I have known many cases of torture.
3569. *Chairman.*] By the natives?—By the natives.
3570. Mr. Campbell.] Do you think that the agricultural and commercial interests might well be represented in the Legislative Council in Calcutta?—Yes, I think they might.
3571. Mr. Gregson.] With regard to the Nuddea rivers, you say that the channels are imperfectly kept open by the Government; could those rivers be rendered generally navigable at a moderate expense?—Only for part of the year.
3572. For boats?—For boats. If they were to expend even the amount which they collect upon the rivers they might keep them open for at least five months in the year.
3573. You think that that might be done for all purposes of navigation?—Yes.
3574. *Chairman.*] You have been asked whether a European, thinking of going to Calcutta, would be deterred from going out in your service in consequence of what he had heard happening in your part of Bengal; do you think that a European, hearing of the chance of a false accusation being made against him, as was made against you, accusing him of rape, murder, and arson, would be likely to be deterred from going out?—Yes, I think most probably he would.
3575. Do you think that any man would be disinclined to go out under those circumstances?—Yes.
3576. Are the European settlers on good terms with the natives?—Yes.
3577. With the ryots particularly?—Yes, with the ryots particularly; the ryots are the objects of their care.
3578. And the good understanding between the two keeps increasing?—Yes.
3579. And you think that a greater extension of settlers would habituate the ryots to European intercourse?—Yes.
3580. And would they get attached to the settlers?—Yes, so far as a native can get attached.

Martis, 18^o die Maii, 1858.

MEMBERS PRESENT.

Mr. Campbell.
Mr. De Vere.
Mr. William Ewart.
Mr. Gregson.
Mr. Kinnaird.
Mr. Lowe.

Sir Erskine Perry.
Mr. J. B. Smith.
Mr. W. Vansittart.
Mr. Villiers.
Mr. Willoughby.

WILLIAM EWART, Esq., IN THE CHAIR.

Mr. James Thompson Mackenzie, called in; and Examined.

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3581. *Chairman.*] HOW long have you been in India, and in what part?—I was 11 years in India; in Lower Bengal.
3582. When did you return to this country?—Six years ago.
3583. In what capacity were you in India?—I was an indigo planter and a merchant.

3584. Had

3584. Had you indigo factories and zemindaries?—I had indigo factories and zemindaries of my own, and I had the general management of several other indigo concerns and zemindaries.

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3585. In what districts were the villages with which you have been acquainted situate, and what amount of Government revenue did they pay?—The villages which I held on lease and zemindaries were principally situate in Jessore, Kishnagur, Pubna, and Baraset. The yearly Government revenue was about 20,000*l.* The indigo concerns which I had the management of were in most of the districts in Lower Bengal, the annual outlay on which being about 60,000*l.* Upon sugar and silk there was about 60,000*l.* a year more; and the Government revenue upon the zemindaries was also about 60,000*l.* a year.

3586. Since your return from India have you kept up any connexion with India?—Yes, I have still property in India. I have been a merchant at home for six years, and am a director of two East Indian railways, and a proprietor of East India stock.

3587. You have heard a good deal said about the defects of the criminal Courts; what are the principal defects of the criminal Courts where you have been?—Expensiveness of the suits; useless forms; the multiplying of appeals and consequent delay; corrupt native officials; no reliance to be placed upon native testimony as given in the courts; inexperience of the young Anglo-Indian magistrates, who are made from the youngest members of the service, in place of the oldest and most experienced; and the utterly inefficient and mischievous system of police.

3588. Under this system, you do not consider that justice is done to the cultivators?—They neither expect, nor have they any chance of it.

3589. Do you mean by the cultivators the farmers?—Yes.

3590. Do you include the labouring class as well as the farmers?—Yes.

3591. What is the smallest cost that a criminal action can be brought for?—About nine shillings; which would be equal to a month and a half's pay for agricultural labour.

3592. When you state that no reliance can be placed upon native testimony, do you apply that to all natives?—I applied it to the evidence given in the Courts, which, as a rule, is generally hired and false, as no respectable native can be induced, under scarcely any circumstances, to go into court to give evidence.

3593. You say that the native officials are corrupt; do you believe the natives look upon corruption as any disgrace?—They do not; any native having authority always expects to make money out of that authority. I believe that the cultivators and farmers are a very hard-working, sober, and industrious class, and perfectly truthful if you go into the villages and ask any question; but give them any authority, and they immediately seem to change their nature and become tyrants, and I believe the real difficulty in legislating for Bengal is in respect to the habits of the people.

3594. Do you mean that they think corruption is one of the ordinary perquisites of authority?—Entirely.

3595. Then it is a perverted sense of right and wrong in the minds of the people?—Corruption is looked upon by a native in quite a different way to that in which we look upon it; the native looks upon it as a perquisite.

3596. Are you of opinion that innocent people are convicted before the criminal tribunals?—I should think, of those convicted of minor offences, at least from a third to a half of the people are quite innocent, but in the more heinous cases it is difficult to get a conviction.

3597. How do you arrive at such a calculation?—For two or three years I took a good deal of trouble inquiring into it.

3598. How many villages had you?—About 200 or 300 of my own, and the general management of from two to three thousand.

3599. And you drew your inferences and made your calculation from them?—Yes.

3600. And you arrived at the inference that one-half were innocent?—I should think one-half of them in minor offences.

3601. This must give the people a general distrust in the distribution of justice?—A very great distrust.

3602. Whose fault is it that innocent people are convicted?—In the first place, I think it is a very great mistake that, latterly, we have made the youngest and

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most inexperienced members of the Civil Service magistrates in place of their seniors. No reliance can be placed upon the evidence; and if the magistrate were merely to convict upon the oral testimony before him, it is no criterion whatever to go by. A judge ought to be well acquainted with the customs and habits of the people, and decide chiefly upon the probabilities of the case.

3603. You think that this conviction of the innocent arises from two causes, the corruption of the natives, and a want of familiarity with the language and usages of the people, on the part of the magistrate?—Yes.

3604. Do you consider that the police are efficient, or not?—So inefficient, that it would be the greatest blessing to the country to dismiss them all, and there would be much less crime.

3605. Do you consider that the police oppress the people?—Most grievously.

3606. In what way?—The great power of the police in oppressing the people arises from the horror that any respectable native has of giving evidence in a Court; so that whenever a crime is committed, the police pretend that all the respectable people round about are required to give evidence in that case, and they then go and extort enormous sums of money from them to be released from attending at the Court.

3607. Does the system which you have described induce the people to hoard their wealth?—It is to some extent the cause of that.

3608. Do they do it largely in that part of the country with which you are acquainted?—Very largely.

3609. That you know from your familiarity with such a number of villages?—I am quite aware of it.

3610. Can you give us any idea of how far the system of hoarding extends in that part of the country with which you are acquainted?—In the part of the country that I am particularly alluding to at present, in the centre of Jessore, the working classes for the last 10 or 12 years have made very large sums of money by being engaged in the cultivation of date sugar, and what were formerly common labourers have saved a little money; I suppose upon the average they clear 6s. to 8s. a year, which they hoard.

3611. Do they bury it?—They bury it.

3612. That habit has been long prevalent in India in consequence of the oppression of the governments under which they lived?—From time immemorial; it has become a habit of the people.

3613. Do you consider that the consumption of any British goods has the same chance among the people in the state of those which you describe, as it would have if such evils did not exist?—I think it is the principal cause of the small consumption of British goods; because any sign of wealth would be an additional motive with the police, the zemindars, and the money lenders to oppress the people.

3614. Will you state what you consider would be the most efficient and simple manner of improving the police?—I should think to abrogate a great portion of the regulation laws which we have introduced, and which are quite unfitted for the customs and habits of the people. I would introduce the system that has answered so well in Scinde and the Punjaub; and in addition to that, I think we ought to have a large introduction of European superintendents. A very good class to select from would be steady sergrants of European regiments, who had passed an examination in the native languages.

3615. With regard to the system of civil suits, have you any fault to find with that?—Yes, the expenses are much higher and the delays far greater than in criminal actions.

3616. Have you had any personal experience yourself in civil suits?—Yes, involving property of from 200*l.* to 30,000*l.*, and I have had appeals to the Privy Council.

3617. Do you complain of the high costs in those courts?—Yes; before final realisation, I have seldom known a case where the expenses of the suit did not exceed the amount in litigation; I mean the legal expenses and the expenses in addition to them, which you are compelled to pay, in order to get the cases through the courts. You have enormous sums to pay for copies of the proceedings; and all must done upon stamped sheets of paper of very small size. Then you have to pay large sums to the mookhtears, vakeels, and amildars.

3618. Mr. Villiers.] It is like dispatch money in this country?—Yes.

3619. Chairman.] What do you consider the principal ingredients in the cost

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of civil suits?—The principal ingredients are the sums you are compelled to pay for copies of proceedings, and the dispatch money.

3620. On gaining a decree in a civil suit, can you realise?—No, that is only just the commencement of a series of appeals, all of which you have to go through; and having gone through all this series of appeals, if you attempt to realise the decree, the defendant brings into Court a number of false witnesses to prove that whatever property you attach belongs to some one else. Then the Courts make a long inquiry about it, and if you were to put up that property for sale, it would be sold subject to all those different claims made upon it, and indeed very few will purchase any property sold for a decree in a civil suit; and it is the cost of all these vexatious proceedings that makes the expenses of the suit so enormous.

3621. What number of appeals can there be upon the decision of a civil suit?—Upon the suit itself there might be three, but then it is the multitude of the stages whilst the suit is going through the courts; it is there that the enormous delays are. Unless you have seen a suit in the Mofussil carried on, no one could comprehend the cost and vexation of those delays; it is quite different in this country.

3622. Do you not think that the speedy decision of suits and the stoppage of appeals, is almost indispensable in a semi-barbarous state of society?—The contrary state of things is the greatest evil that can be endured.

3623. If it is bad in a highly civilised state of society, is it not much worse in a semi-civilised state of society?—Much worse.

3624. Are many false actions brought?—I believe the great majority of the small actions are false.

3625. Those are brought against the ryots, are they not?—By the money-lenders, principally, against the ryots, or by a zemindar against any of his ryots, with whom he has any dispute.

3626. The difficulty of procuring money at a reasonable rate of interest is one of the evils in your part of India, is not it?—It is the great evil to the cultivators.

3627. Would the addition of a number of Europeans facilitate the means of borrowing capital?—The natives, as a class, are so unpunctual in their money engagements, that it would be very injudicious for Europeans to lend to any natives, unless they were his own farmers, because of the difficulty of realising your claim by civil process.

3628. Under this system, I conclude that the rights of the poor are not protected?—They are not.

3629. Are the cultivators generally in debt, or otherwise?—Very many of them, I believe, hopelessly.

3630. Do you lead the Committee to infer that the people generally are becoming impoverished under such a system?—The better class of farmers under our rule are generally becoming impoverished; we are creating a small class of farmers. Within the last 40 or 50 years there has been a very large extension of the ground under cultivation; but the better class of farmers live in less comfort than they used to do under the Hindoo and Mahomedan dynasties.

3631. To what do you attribute that deterioration?—In the first place there is no security for property.

3632. Are the debts, which you describe the money lenders as claiming, real debts or false debts?—The majority of them may have some foundation, but the sums that they claim are, as a general rule, quite fictitious.

3633. What are the terms that they charge?—For money advances from 50 to 100 per cent., but when they advance in grain they generally charge from 100 to 200 per cent., because they have to be repaid in kind.

3634. Is there a fixed legal rate of interest in Bengal?—Yes, 12 per cent.

3635. When the money lenders charge so much higher, do not the cultivators appeal to the Courts?—They cannot; because, to evade the law, the sum in the bond is never that actually advanced; besides which, the delays and expenses of civil process are very deterring.

3636. They are deterred by the delays of justice?—By the enormous delays and expenses.

3637. Do you attribute any of those defects to the revenue system?—Not to the revenue system.

3638. Do you agree with the opinion already given to the Committee that the zemindars have too much power?—I look upon the zemindars as having a great deal

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deal too much power, particularly in the case where the zemindar pleases to compel the attendance of his farmer at his own house whenever he chooses, although he may live 40 or 50 miles distant; that is a great means of oppression, because if the zemindar wants a present from his farmer, the zemindar's servant goes and says to him, "If you will not pay it you must come to his house."

3630. Sir *Erskine Perry*.] Is that by law?—By law the zemindars can compel the attendance of any farmer they choose; they can compel by force if they choose, under the pretext of requiring an adjustment of the accounts for rent alleged to be due.

3640. *Chairman*.] That is an abuse of power not countenanced by the English landowners?—That power, is, as a rule, less abused by them.

3641. As a class, when they have the means, are the natives willing to meet their money engagements?—I believe, as a class, there are no people so unpunctual in meeting their money engagements as the natives of Bengal.

3642. Is there any practical law by which a zemindar in Bengal can summarily collect his rents?—There are many, but they are not readily available if carried out according to the proceedings of the courts.

3643. If I understand you correctly, both the law is defective and the means of carrying the law into execution?—I blame more the means of carrying the laws into execution than the laws themselves.

3644. Do you believe that this difficulty in the prompt collection of the rents is a great cause of disputes and affrays in that part of the country?—I think it is one of the causes of those affrays; because when a village is in arrear, the zemindar sends out a body of men to collect the money forcibly, and they generally go and plunder the village as well as collect the rent.

3645. How do the English zemindars do in such a case; have they recourse to forcible means for collecting their rents?—In some cases.

3646. Then that leads to such laws as the Affray Bill?—Yes, naturally; that is one of the causes.

3647. The revenue laws we may conclude are bad?—Some of the revenue laws are very good, but it is the inefficient administration of them that I complain of.

3648. Do you believe that new revenue laws are necessary?—No; I would rather repeal a number of the existing laws, and give efficient administration to those most in accordance with the habits and customs of the people.

3649. Your principal reform would be confined to the administration of the laws?—Yes.

3650. What do you believe to be the average extent of cultivators' farms in Bengal?—They vary very much according to the quality of the land; but I assume, as the average through Bengal, 12 acres.

3651. What is the average rent per acre?—Taking the average of Bengal, I should assume that the farmers pay about 4*s.* of rent, and 2*s.* of illegal exactions; that would make an average of 6*s.* per cultivated acre per annum.

3652. Is that the English acre?—The English acre.

3653. To whom do those exactions go?—To the zemindars, their servants, and the police.

3654. Of course they would not be made by an English zemindar?—Not by the zemindar himself; but even with the English, with the very best intentions, their native servants will exact perquisites from the people.

3655. It is a deeply seated vice in the constitution of society that causes the evil, and not always superior power?—It is so.

3656. It is the machinery by which the power acts, even when it is not the power itself?—Whenever a native gets power, he always abuses it.

3657. What is the average gross produce per acre?—I should estimate the money value gross produce per acre at about 32*s.* through the whole of Bengal.

3658. What is the average gross produce per acre which the Government receive as revenue?—In Bengal about from a sixteenth to a twentieth of the gross produce is revenue.

3659. Would there be difficulty in now legislating to give complete security to under tenures of cultivators with ample security for the Government revenue?—There would be the greatest difficulty, if not impossibility, arising from the habits of the people: for unless a sale for arrears of Government revenue were to cancel nearly all the under tenures, fraudulent titles would be given to an extent that would interfere with the value of the estate, and prevent the Government revenue being collected.

3660. Has not the very stringency of the sale laws of 1845 prevented frequent resort to sales of zemindaries?—It is the only instance on record that has caused punctual payment by the native.

3661. Do you believe that any slight change in the sale law of 1845 would give security to under tenures?—I think the extension of the 26th clause would; under that clause all leases granted in good faith at fair rents, if registered within two months from the date of execution, and approved of by the revenue collector, stand good for 20 years, even although the property is sold for arrears of Government revenue; now if that clause was extended to such cultivation as date trees, where the farmer only gets his remuneration after six or seven years, but for a subsequent period of from 50 to 60 years; I would make that clause apply as long as those lands were under such cultivation.

3662. Are the date tree plantations specially excluded from the benefit of the law?—No; upon date trees, for the first eight years, the farmer gets no return, but he gets a return afterwards for from 50 to 60 years; so that a 20 years' lease is not sufficient for him. I would considerably extend the time.

3663. Is new legislation on the subject of sale required, or would it be advisable?—I do not think new legislation on the subject of sale required, nor do I think it advisable.

3664. Why not?—Because since the time of Macaulay's commission, we have been in India making a wholesale manufactory of laws. The laws we have introduced one year, we have repealed the next. We had the Legislative Council making laws; we had the Sudder Court of Calcutta giving the construction of the law, and in many cases the terms of the law and the construction were quite opposed. That the Government afterwards stopped; and I think the great mistake we make in legislating for India, is that we legislate for the people of India after our ideas and the habits and customs of this country, quite forgetting that they are entirely inapplicable to those of the natives.

3665. Then might not you by an infusion of adequate experience of the native character among the Legislative Council that make the laws render it possible to frame laws to meet the exigencies of the case?—I look upon it that in Bengal it occasionally is not laws that are required, it is justice; it is much better to have a summary injustice than the certainty of a long tedious delay of litigation.

3666. Then am I to understand that to leave the sale law as it is, would be better than to reform any mischiefs complained of in the present state of the law?—The objection I have is a political one, and that is shared in by many of the oldest and most experienced officers of the Company. Since the enforcement of the resumption laws, the only standard we have in India with the natives, is the law of the perpetual settlement, and if we commence changing and abrogating that, I think the natives will lose all confidence in us and our legislation, and the zemindars might think that by-and-by we intended to do away with the perpetual settlement altogether. The most experienced people in India have been very averse to tampering with anything that related to the perpetual settlement for merely political reasons.

3667. Could you suggest any legal method by which the cultivators might again become the real possessors of the land?—I would permit the zemindars to purchase the fee simple of the Government revenue, they would then be able to resell the farms to the cultivators in perpetuity. This would give a free trade in land, and either the settler or the farmer, if he wished a portion of the land, could secure the fee simple as in this country.

3668. Are the cultivators of India desirous of acquiring land?—I believe there are no people in the world that would make such sacrifices to acquire land.

3669. At how many years' purchase do you suppose the zemindars would redeem the Government revenue?—At from 25 to 30 years' purchase.

3670. Have you any data for supposing that they would give 25 to 30 years' purchase?—I have frequently talked upon the subject with the principal zemindars in Bengal, who are all in favour of data that would give 25 to 30 years' purchase. I infer that from the very high prices which are paid for released Lakhiraj land, which is the only land that would be in analogy with such a title as could then be obtained; also the extreme price paid for the putnee talooks; and the zemindars objected, and very properly in my opinion, that 20 years' purchase that the Government paid them for land taken for the railways was not sufficient; they wanted 25.

3671. If the zemindars redeemed their land revenue at 25 to 30 years' purchase, would

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would they have a large profit in reselling the farms to the cultivators at a smaller number of years' purchase?—A very large profit, because the gross sum which the zemindars collect from their estates in many cases bears no proportion whatever to the revenue they contribute; and as they would only have to redeem the Government revenue, they would sell out at the gross rental which they receive from the farmers.

3672. The Lakhiraj lands are free?—Yes; they were originally granted for religious purposes, both by the Hindoo and Mahomedan dynasties, and these grants have since been confirmed by us.

3673. Have the people in India the means, and have you any data for believing they have sufficient funds, to meet such payments?—There must be ample means; for the annual gross produce of Bengal at the place of production is estimated at from 70,000,000 *l.* to 90,000,000 *l.*; and within these last 20 years there has been a balance of trade in favour of India, amounting for that period to 140,000,000 *l.*, and for the adjustment of which about 40,000,000 *l.* has been paid to Bengal in bullion, the difference being required for the home charges of the Company.

3674. How do you make that calculation of 40,000,000 *l.* going to Bengal?—From the Custom-house returns.

3675. Would this bring the hoarded wealth out into circulation?—I believe it would be the most efficient or the only means of bringing the hoarded wealth into circulation. The farmers in India being so desirous to procure land, they would at once resort to their hoarded wealth to buy their farms.

3676. You think, I infer, that there is a great deal of hoarded wealth in India?—Yes, a great deal.

3677. And that the circulation of that hoarded wealth might be a great boon to the country?—Yes; and with respect to the hoarded wealth, there is a general belief in Bengal that an immense quantity is lost. The men go and hide it, not telling their own families where it is, and when they get imbecile or in their dotage they do not tell about it, and it is never found.

3678. Would there be any political advantage in the cultivators becoming in this manner possessors of their farms?—Yes; I believe it would be of the greatest political advantage, because both the zemindars and the cultivators would then have a direct interest in the supremacy of our rule and its continuance, having purchased up their portion of the Government revenue; for they would know very well that if any new conquerors took India they would re-assess them.

3679. You wish to give the cultivators as well as the zemindars an interest in the proprietorship of the soil?—Yes.

3680. And you think that would be a guarantee against internal disturbance as in other countries where there are small proprietors, as in France?—Yes.

3681. What do you propose should be done with the money so realised?—As security to those who had redeemed in this manner their portion of taxation I should apply it, in the first instance, to paying off the existing loans. I would even take a portion of the money in payment of the loans at a fixed rate, and as the average interest we pay at present on these loans is about 4½ per cent., if the land was redeemed at 25 years' purchase, there would be a saving to the Government of half per cent, and the surplus might be invested in profitable irrigation works, which where they have been adopted have yielded a return to the Government of 30 to 50 per cent. besides immensely benefiting the people.

3682. Are you overstating the probable results?—I have thought well upon it, and talked with many people, and that is the result I have come to.

3683. Are the present zemindars of Bengal generally descendants of old families?—No, the zemindars of Bengal are, many of them, contemporaneous with our rule.

3684. Do you believe that under the Hindoo and Mahomedan dynasties wealthy families remained for many generations?—I think it was the same as under our rule; wealthy families remained for only two or three generations; the real old families of Bengal were the cultivators, who were the real proprietors of the soil.

3685. Did they hold their property in direct descent from the earliest ages?—Yes.

3686. Did the perpetual settlement do any injustice to this class?—It did the greatest injustice; in no history do we ever read of such a spoliation of a people.

3687. How is that?—By it we transferred the proprietary rights from those cultivators

cultivators to the zemindars. It is a great question whether the latter were hereditary tax-gatherers or not, but we transferred the real proprietary rights of the farmers to those tax-gatherers.

3688. You do not question the fact of their being tax-gatherers, but whether they were hereditary tax-gatherers or not hereditary tax-gatherers?—Yes.

3689. Therefore the present race of zemindars are all new men?—Nearly all new men. The principal man, the Rajah of Burdwan, is I believe descended, like many others, from the native officials engaged in the perpetual settlement, and by which they made enormous sums of money.

3690. Do the zemindaries frequently change proprietorship?—Very seldom.

3691. Do the zemindars live as absentees away from their property to a great extent?—Since the law subsequent to 1840, and particularly by the law of 1849, which was most injudicious in conferring enormous powers upon young magistrates, they have compelled absenteeism in a great measure. The respectable natives do not like now residing upon their estates.

3692. Is there a great difference between the management of the European estates and the native estates?—There is a considerable difference in some, but it depends in a great measure upon the European; of course there are good and bad European as there are good and bad native zemindars.

3693. Are the estates better managed where the proprietor, whether a native or a European, employs European superintendence instead of native superintendence?—Unquestionably.

3694. Am I to understand you to say that the European superintendence very much increases the value of the property?—It very much increases the value of the produce, gives greater security to the people, and in some degree relieves them from oppression.

3695. It therefore follows that it is the interest of the native zemindars to employ European superintendents?—As much as they can.

3696. Is it the interest of the ryots that European superintendents should be made use of by the zemindars?—Of the greatest interest to them.

3697. Do you consider the civil service, take it as a whole, in Bengal an efficient body?—When I was in India I imbibed the general prejudice that the civil service as a body were not efficient, but since I have been at home, and have had more experience, I should say that, as a body, there is none under Her Majesty's Government so efficient as the superior servants of the Company. I may be permitted to say that we never hear of the public money being squandered in India in the way it is in this country.

3698. You speak of their moral character, do you?—I speak of the inefficiency of the heads of departments in this country. In India every man has risen by his experience, and, upon the average, is efficient; whilst in this country it is quite the reverse.

3699. Do you complain of the proceedings of any members of the civil service in suits where natives and Europeans are parties; is partiality shown where the Government are parties to the suits?—Amongst the younger members of the service, when there is a case between a native and a European, I think there is always a leaning on the part of that young member in favour of the native, but the higher courts are quite impartial as between the native and the European. Where Government is concerned in a suit, I think there is a partiality shown to the Government by the young Collectors; but where the natives are the judges there is the most gross partiality shown. They do this from a mistaken belief that if they acted independently, Government would be displeased with them; but nothing could be more impartial than the higher courts of the Company, where Government is concerned; and when a case comes before the Governor-General in Council, it is decided entirely upon the equity of the case, and all legal technicalities are thrown over; but it is a long series of appeals, in most cases, before you reach that point.

3700. To what do you attribute the leaning of the younger members of the civil service in favour of the natives?—The native cases are always most complete in false evidence, and they, being strangers, believe this evidence; and it is only after a man has had a little experience of the native character that he does not believe their statement. As he gets more judgment and experience he acts more independently.

3701. It is the superior organisation of falsehood on the part of the natives?—Yes, he has not had experience of that.

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3702. Then, so far, I understand you to modify your former answer with regard to the complete efficiency of the civil service, by the representation which you make of the inexperience of the younger servants?—It is the younger members who are magistrates that are inexperienced; the higher members, such as Collectors and Judges, are very different.

3703. From your experience, do you believe that any defects exist in the civil service, and if so, what are they?—I believe the principal defects are: that they make the youngest and most inexperienced the magistrates, and the whole safety and security and happiness of a district depend upon the efficiency of the magistrate. Next, they promote a man from being a magistrate to being a Collector. Now, during the time he was a magistrate he had very little, and in some cases no experience whatever of revenue suits. Then, from being a Collector he is promoted to be a Judge; and having, in his capacity as magistrate and Collector, had no experience whatever in any civil suit, he is called upon at once to decide the most difficult and intricate civil suits, and questions of inheritance and possession of property and land.

3704. Do you consider that a previous education in law is required on the part of those persons who are to be judges afterwards in civil cases?—The earlier system that prevailed in Bengal 35 to 40 years ago, was far preferable to the present one.

3705. Do you think it desirable to unite the magistrate and collector in one?—I would go further, and make the magistrate the oldest and most experienced officer in the district, and at the highest pay, instead of being the youngest at the lowest pay.

3706. Would you recommend a union of the two offices?—It would be preferable to the present system.

3707. In some cases, or generally?—In the perpetually settled districts I think it would be more desirable than in others.

3708. Are you of opinion that any higher revenue could be raised than at present?—I believe that a much higher revenue could be raised with less pressure upon the people than at present, because both in Akbar and Shah Jehan's time, they received double what we do in revenue.

3709. Do you consider it desirable to raise a larger revenue?—By bringing an immense extent of land in the North Western Provinces under cultivation, and getting a revenue from them, you might do it; you could not increase it in Bengal; but it might be desirable to impose an income tax upon the now untaxed money lenders.

3710. Would your proposal be rather to extend the area of cultivation than to raise the assessment in Bengal?—Entirely; we could not increase the assessment on land.

3711. Do you believe that in former times the internal communications of the country were better than now?—Unquestionably; during the Hindoo and Mahomedan dynasties the interior of the country was intersected by roads; during our rule we have merely made great military roads.

3712. Are the remains of those roads which existed under the Hindoo and Mahomedan dynasties, traceable in your part of the country?—Yes, they are traceable.

3713. What do you consider the best means of increasing the revenue?—The first means to increase the revenue would be to give an efficient magistracy and police, to give security to property; next to intersect the country with good roads, to open up the means of communication, and bring lands into cultivation which are now lying waste; and in districts that require irrigation I would have a large and comprehensive system of water supply.

3714. Do you think that a summary and equitable system of administering justice with few appeals would be a very great advantage?—I am quite convinced that it is the chief thing that is required. You want a simple system of Courts by which you can enforce engagements freely entered into, and that will induce capital to go into the country; but at present if any man advances money to a native, other than his tenant, it is lost.

3715. Is it better to run the risk of occasional injustice in the case of abolishing appeals than to have prolonged delay by means of an extended system of appeals?—In a country like India, unquestionably the shorter system is the best.

3716. Can you give us any idea of the sort of notion which the cultivators entertain of their relationship to the East India Company?—The general belief amongst the cultivators is this: that India belongs to our Queen, but that she has leased

leased it to the Company for a certain sum of money, and after they have defrayed the expenses of collection and all the expenses of Government, whatever sum is over belongs to them as a body of shareholders; they look upon them exactly as a lessee.

3717. Can you state how you arrived at the opinion of the natives?—I had 140,000 people in the villages, which I held of my own, and I was in daily intercourse with them, and took a great deal of interest in their affairs and opinions, and talked to them freely.

3718. Was this idea entertained by the better educated natives?—Yes, even by the large zemindars; it is the nearest approach they can make to the fact.

3719. Of course your opinion upon this subject is strictly limited to the country where you have been living, that is, Lower Bengal?—Yes, all my remarks are entirely limited to that district.

3720. Is the name of the Queen as well known in India as that of the Company?—Quite, because the rupees are struck in the name of the Queen, and bear her effigy.

3721. Do you think that the transfer of the Government of India to the Crown would or would not increase the stability of our rule in that country?—Ever since I have been in India, and at home, I have constantly advocated that; it would give a great stability to our rule, India being governed in the name of the Queen; because, as the natives look upon the Company as simple lessees, they would, no doubt, look with much higher respect upon the *employés* and servants of the paramount power.

3722. Do you think that such a transfer would be favourable to the increased settlement of Europeans in India?—Unquestionably it would, if added to good Government.

3723. In the villages, with so many of which you have been acquainted, were there any Christian cultivators?—There were a few, and they were very industrious.

3724. With what feelings were those persons looked upon by the natives?—The natives looked upon them in this way; they seemed indifferent whether they turned Christians or not; and as for the missionaries coming amongst them, they were very glad indeed to see them. But if any of the Government officials took a prominent part in missionary matters (as the natives cannot draw a distinction between what a Government officer does in his public capacity and what he does in his private capacity), they would immediately say, "The Government are interfering with our religion," and a great apprehension and fear would be got up; but where perfectly unconnected with the Government employées, the natives are very glad to see the missionaries; they do not mind about natives turning Christians, so long as they suppose there is no pressure from Government upon them.

3725. An entire freedom of missionary effort, uninfluenced by the Government, you think would not be objected to, and would find its best security in such freedom?—I am quite confident of it, and it was the opinion of Bishop Heber that any seeming assistance on the part of the Government would be fatal to missionary efforts.

3726. Would not the free and not unduly influenced extension of Christianity be an advantageous thing for the encouragement of settlement in India?—Yes, it would, if unaided by the Government, either directly by grants, or indirectly by its servants.

3727. I draw from your evidence that you have had considerable experience in the cultivation of date sugar; can you give us an idea of the extension of the cultivation of date sugar in your part of India; is it increasing much?—There is a small area of about 100 miles by 200. Date trees will flourish all through Bengal, but it is only in this small area where they will produce sugar; that area runs from Calcutta in a north-east direction; they require to be within the actual influence of the sea-breeze, and neither too near nor too remote; that would give you an area of about 20,000 square miles; the date produces upon an average about a ton and a half of sugar per acre, and if one twentieth of this land that is fit for the cultivation of the date tree were under such cultivation, it would give about 900,000 tons, say three times the annual consumption of Great Britain.

3728. Has the cultivation of the date tree much increased in your experience?—It has very much increased, and it merely wanted the security of the land to have had a further enormous increase; the security of land to Europeans would have increased it tenfold.

3729. Do you allude to the security that would be given by an extension of the

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the 26th section of the Sale Law?—Yes, that would have given a sufficient security.

5730. And what other security was required?—Good police and good criminal courts.

3731. Is not the sugar produced from the date tree of an inferior description?—No, there is more saccharine matter in it than in cane sugar.

3732. Does it require a more artificial process in the production?—No; it is made into what is called goor, and then khar, and that is turned into sugar. The sugar which comes to this country, and is known as Dobah and Chowgah sugar, is principally date.

3733. Where are the refineries?—There are some at 70 and at 150 miles from Calcutta, and there are three very large refineries near Calcutta.

3734. Do you think the increased cultivation of the date tree sugar is likely to have an extensive influence upon the sugar market?—It would be the greatest benefit to the people of India and to this country; when once the tree is under bearing it is not subject to climate. After heavy European outlays upon the extension of the cane cultivation in Bengal, it was found to be so liable to the white ant, that it did not pay to plant; but when once the date trees come into bearing, they last from 50 to 60 years, and you can grow other crops between them.

3735. And so simple a system of making sugar as that would require small European superintendence?—The natives make it into the rough sugar, and they sell it to the European refineries, where one European might be capable of making from 1,500 to 2,000 tons a year.

3736. It would be an encouragement both to the native cultivator and to the European refiner?—It would be the greatest encouragement both to the native cultivator and to the European refiner, and would lead to the settlement of many more Europeans as refiners in India.

3737. These trees are held in small lots, are they not?—Two other Europeans and myself planted very largely, but I do not know of any other Europeans having done so; they are principally held by the smaller farmers.

3738. I believe there is a remarkable increase in India, as elsewhere, in Manchester and Liverpool, and other places, of the number of Greek traders who now act as merchants in various parts of the world?—Immense. When I went to India first scarcely a Greek was known; now about one-third of the trade between Calcutta and this country is carried on by Greeks. I believe in a few years it will be the same as in the Mediterranean, the Levant, and the Black Sea, that the Greeks will have beaten the Europeans completely out of the Calcutta trade.

3739. To what do you attribute that?—Our principal London Indian houses now are not merchants, but merely agents, doing very little upon their own account. The smaller houses have introduced the expensive system of hypothecating their bills of lading to the banks. The Greeks appear to have large available capital, and assimilate more with the habits of the natives than we do; their habits and customs of deception are much more in accordance with those of the natives than those of Europeans.

3740. They are two nations long debased by despotism, and therefore more congenial in their minds and characters than a free nation and a despotically governed nation would be?—That is the answer I wish to convey.

3741. Mr. De Vere.] What is the practice on the expiration of the leases of the occupiers as to re-lettings or renewals?—In India if you occupy a farm for 10 years without a lease, it gives you a right of occupancy, and the zemindar cannot turn you out; he may increase your rent legally only to the pergunnah rates. If your lease has expired, and you take a new lease, you can enter into new terms for it, if you wish to renew it; but in India I believe it has been held that the right of occupancy by a cultivator, at a fixed rent for 10 years, gives him the right of occupancy in perpetuity; the zemindar cannot legally turn him out, but he may increase his rent as a farmer.

3742. When the occupancy ceases, are the lands let again by competition; I refer to the occupant of the soil?—It is a very rare case where the occupier of the soil occupies it upon a lease at all; because when he has occupied the soil for 10 years he has a right, as long as he pays the rent, to hold it; the zemindar cannot turn him out.

3743. What is the course of inheritance by which the land descends in the family

family of the occupiers?—It depends entirely upon whether it is a Hindoo or a Mahomedan; it follows the custom of the Hindoo or the Mahomedan law.

3744. I think you said that a man's duties in the office of magistrate give him no experience that can guide him when promoted to be a judge?—None whatever; he has never had a civil suit before him.

3745. Has the magistrate no function for hearing small civil cases, such as wages?—That is merely a question of contract; in a question of contract he has.

3746. Would not the hearing of those cases give him some experience when he came to decide more important cases?—Not the slightest, and the cases are very rare and unimportant.

3747. Does not his experience as a magistrate enable him to judge of the value and bearing of evidence, and is not that knowledge particularly important for a judge in India, where false evidence is prevalent?—It is necessary, of course, to have that, but it gives him no idea of the law of inheritance, &c.; and, moreover, parol evidence, which is everything in criminal cases, is of the slightest possible value in civil suits as they are conducted in India.

3748. It must give him experience as to the value and bearing of evidence?—It gives him experience as to the reliance that may be placed upon evidence not documentary, but none as to the value of documents.

3749. You have recommended a comprehensive system of irrigation; would it be possible to organise a system of irrigation by which advances should be made for that purpose by the Government, and repayments by instalments with interest to be made in certain proportions by the owners and occupiers of the soil?—I should think that it would be very complicated; I believe that the present system of the Government of making a fixed water rate is much better. The parties benefited by the water pay a water rate for the water they use.

3750. You think that a better system than that of making Government advances?—It is much more simple.

3751. Mr. Gregson.] You spoke of the works of irrigation yielding a profit of 40 to 50 per cent.; in what district was that?—In the North-Western Provinces, in Madras, and in Bombay. The Government returns show a profit derived averaging from 30 to 50 per cent., besides enormously benefiting the people. We do not so much require extensive works of irrigation in Bengal.

3752. What is the length of time before this profitable return of 30 to 50 per cent. is realised?—In some of the instances in the Upper Provinces they have had a return upon the second year.

3753. But generally, what is the average time?—We are quite in our infancy at present with regard to the question of irrigation. The Ganges canal is a very great work, and has commenced giving a very large return.

3754. Do you know to what extent capital has been applied to works of irrigation?—I believe about 800,000 *l.* has been applied by the East India Company, exclusive of having sanctioned an outlay of 2,000,000 *l.* for the great Ganges Canal; I am speaking from memory.

3755. Has much capital been expended by individuals?—I am not aware of any.

3756. You spoke of date sugar, and you said that the produce might be easily raised to 900,000 tons; what is the present produce?—In Bengal the Government wished to get returns upon that, and they sent into the districts to count the trees; but the natives were immediately apprehensive that there would be a tax; that the Government were going to assess the trees; so that the returns which were made up were false. But I made an estimate on my own account, and I assume when I left India that it was about 80,000 or 90,000 tons. I should think, at present, it might be about 150,000 tons. In any other country the export of the sugar is some criterion; but in Bengal, as the great consumption is amongst the people, the export is no criterion of the quantity raised.

3757. What is the produce of cane sugar?—We have five different descriptions of it.

3758. Speaking generally of the whole, what is the produce of it?—About a ton and a quarter per imperial acre, against a ton and a half of the other.

3759. What is the total produce of that cane sugar?—The greatest part comes from the North-Western Provinces, with which I am not so well acquainted.

3760. Do you know the relative cost per ton of the date sugar and the cane sugar?—You must form a judgment in this way: where the planters have grown the cane sugar upon their own account, they found that it was so expensive that they

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they could not do it. I believe there is no place in the world where you can make sugar so cheap as from the date trees of India.

3761. Do you know the relative cost of the cane and the date sugar?—I should say that it would pay the ryots very well to grow date sugar that would not cost them above 12*l.* a ton.

3762. And how would it be as to cane sugar?—I should think not under 20*l.* or 24*l.* a ton.

3763. And you say that the date sugar has more saccharine matter in it than the cane sugar?—Yes, so the return shows.

3764. You mentioned that the Calcutta houses are not merchants but agents, and you stated that the Greeks are rising rapidly in consequence of their deceptive practises; do you not think that the absence of deception upon the part of the English houses would be rather an inducement to the natives to deal with them in preference to the Greeks?—The Greeks assimilate more with the people; they go in themselves amongst the natives, and look after all the little details of the things.

3765. Is not that rather annoying to the natives than otherwise?—No, a native rather respects a man who is a good cheat, if he does it effectually and is not found out.

3766. He rather admires him, and prefers him to a European who does not cheat?—Yes, it would seem so.

3767. With reference to caste, are you of opinion that the Hindoos and Mahomedans do equal justice to the Christians as to their own people?—It is quite out of the question to suppose that a Mahomedan judge would do so, because his prejudices are entirely opposed to those of any other sect.

3768. Are the natives as much prejudiced against the mixed race of Indians as against the Europeans?—I am not aware that the natives are prejudiced against Europeans.

3769. I thought you said that the natives generally would not deal equal justice to Christians as to Mahomedans and Hindoos?—A Mahomedan may be very much attached individually to a person, but when it comes for him to deal with the Europeans as a class, he is entirely opposed to them.

3770. Do you speak in the same way with respect to the Hindoos?—Not so strongly. They are much more liberal in their religion and manners than the Mahomedans.

3771. What is the feeling of the Hindoos and Mahomedans towards the mixed race, as compared with the feeling towards Europeans?—The natives as a class despise the mixed race, but they do not the Europeans.

3772. Would you on that account provide European magistrates and European Courts for Europeans and East Indians as Christian courts?—I would allow no European to be tried by any native, for I am convinced that he does not get a fair trial; I should make the highest European officials try the Europeans and East Indians in the district Court; I mean such as the Commissioner.

3773. You would exempt East Indians and Europeans from the native official Courts entirely?—Not from the civil Courts, but I would exempt them entirely from the jurisdiction of the native criminal Courts.

3774. Mr. W. Vansittart.] I gather from your evidence, that your general views coincide with those of Messrs. Theobald, Freeman, Macchar, Wice, and Dalrymple, namely, that the system of police is as bad, corrupt and useless as a police can be, and that the laws, with the exception of the sale laws, are very badly administered?—I go still further than they as to the police. I approve of the sale law, but think it might be improved upon. The administration of all the other laws is decidedly and notoriously bad.

3775. I understood you not to find fault with the sale law?—Not as a law, it is simply with the administration of it.

3776. I thought that you did not think that there was any alteration necessary in the sale law?—No.

3777. Have you seen a letter in the "Times" newspaper, regarding the employment of some native Christians by the magistrate of Houghly as a police for that district?—Yes.

3778. What do you think of that arrangement?—I do not quite comprehend the letter. If they are to be employed as an exclusive class, I think it injudicious; if the guard is to embody Christians with all other denominations I think it very judicious.

3779. Is not the native Christian population in India very large?—It is such a fraction that it is scarcely countable.

3780. Are there not native Christians in most districts?—A few.

3781. Are there not many both at Jessore and at Dacca?—Very few.

3782. You do not think it possible to carry out this system to any great extent in India?—I look upon it that it would be impossible, you have not the Christians.

3783. Do you agree with Messrs. Theobald, Freeman, Machair, Wise, and Dalrymple, as regards the ignorance of the civil service, when they have said that there are not three civilians in the Mofussil capable of conversing with a native for five minutes together?—I entirely disagree with them upon that question, so far as my experience of the civil service has been with respect to all members appointed since 1839. Before that time Persian was the language of the Courts; since that time the civil servants all pass examinations in Bengalee before they go out to India. After they have been six or eight years in the country they are very good linguists, and there are none but what can read and write it.

3784. You say that the young and most inexperienced civilians are made magistrates, then collectors, and then civil and sessions judges, and you think that that is a great defect?—Yes.

3785. After a young man has been an assistant to a magistrate and collector for two or three years, and then a magistrate for five or six years, do you really think that there is any great difficulty, with all the regulations at his elbow, in efficiently performing the duties of a collector?—Very great difficulty; the regulations are so complicated and confused.

3786. Do you not think that the collector's duties are very simple as laid down, by what you can learn from the regulations?—If he was sure that he could get the right regulation to bear; but he is entirely at the mercy of his omlah, as to whether it does bear or not.

3787. You do not think that the knowledge of the native language which he has acquired by being an assistant and a magistrate, would enable him to shake off the thralldom of his omlah as a collector?—Not until he has had experience of the law; no doubt it would give him the habit of knowing what credence is to be placed upon testimony.

3788. Do you not think that the collector's duties are very simple; for instance, the sale law is very simple; the Dakhil Kharaj cases, or register, are very simple, and the Lakhiraj cases are all finished?—There are the resumption of the lands on the formation of new churs and the resumption of lands which belong to the Bheels, and have now become arable lands, and those are all Government questions still decided by the collector. There are also the butwaras, or the sub-division of estates, suits for setting aside distraints, and summary suits for rent.

3789. You do not think that a magistrate being made collector is a good system?—Not at all.

3790. You think the old system of the combination of the magistrate and collector preferable to their separation; are you aware that they have never been separated in the North Western Provinces, and that by a recent order of Mr. Halliday, the two offices are to be united in Bengal?—I am quite aware that in the North Western Provinces they have never been separated, and I think it is a very good thing; I understand that the order has been passed, but not carried into effect.

3791. With reference to a question put to you by an Honourable Member, do you not think a civilian having been a magistrate is a good training for him to undertake the duties of a session judge?—It is a very good training; the best training that he could have.

3792. You could not have a better training for a session judge than to have been a magistrate first?—It would be impossible.

3793. With regard to the civil duties of a judge, do you think that the magistrate would be able to perform them?—I think that the mistake is in making a person a civil judge who has had no experience in civil cases.

3794. You do not object to a magistrate becoming a session judge, but you object to his becoming a civil judge?—Yes; I think that is the right distinction to be made.

3795. You say that summary injustice is better than the present tardy system of

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of justice; do you, therefore, suggest that the present system of appeal should be abolished?—A great many of them; I would have only appeals upon law, and not upon fact.

3796. Would you suggest that the Panjab or non regulation system should be introduced?—Some modification of it, I think, should be introduced; I think that system is much preferable.

3797. Will you kindly explain the non-regulation system?—The non-regulation system, as distinguished from the other, is this. The one is justice and the other is law. You have a simple question of justice there. The magistrate decides upon the merits of the case, untied by the regulations or anything of the kind. It is more in the old style of an Indian hakim; he hears the evidence, and decides summarily upon it.

3798. Mr. *Fuliers*.] He is not tied down by any rules of the Court?—No; while in the other case the whole time of the magistrate is taken up with preparing and writing useless forms.

3799. Mr. *W. Fansittart*.] In point of fact, the law is carried quicker into execution under the non-regulation system than under the regulation system?—Yes.

3800. Do you mean to say, then, from that, that a sessions judge under the present system has considerable difficulty in having a capital sentence passed upon a person by the Sudder Deewanny and Nizamut Adawlut at Calcutta?—There is the greatest difficulty in getting his decisions confirmed, on account of the forms that have to be gone through. It was all but impossible to convict under the old forms, and the same remark applies to thuggee.

3801. You think that the Sudder Deewanny and Nizamut Adawlut is rather a clog upon speedy justice in India?—Yes, and a great curse to the people.

3802. You appear to have a very bad opinion of the native character generally; for instance, that the zemindars have too much power, and that the lower orders are very unpunctual in meeting their engagements?—Yes.

3803. Do you mean the Committee to understand that there are no intelligent and advanced-minded natives?—There are a few very intelligent and very advanced-minded natives.

3804. Do not you consider the Rajah of Burdwan to be one of this kind?—Yes.

3805. Are there not a great number of that description?—No, I should think that he is one of the very few exceptions.

3806. You say that the natives, when they obtain a little power, are sure to abuse it?—As a rule, always.

3807. Is it true that indigo planters are in the habit of keeping large bodies of latteals, or bludgeon-men, to coerce the zemindars and the ryots?—The principle is the same in India as the feudal system was in this country. When the courts are utterly useless, every man is obliged to protect himself, if he wishes to get justice done. It is useless going to the courts, and so he helps himself.

3808. What are your views regarding the native sudder ameens and moonsiffs?—The sudder ameens and moonsiffs, as lawyers, are very competent; but I apply the remark to them as I did to the natives, that whenever you give them power, they expect to make money out of that authority more than any salary that you could pay them.

3809. You think the young civilians' courts far preferable to the ameens' courts?—Yes, unquestionably, for fairness and incorruptibility.

3810. Do not you think that you might get, for the salaries paid to those sudder ameens and moonsiffs, very respectable men?—I think we might for sudder ameens' pay, but not for moonsiffs'.

3811. Do you think there would be any difficulty in obtaining a number of young men of good family in this country to go out to India to fill the situations which are now held by the sudder ameens and moonsiffs for their present pay?—There would not be much, perhaps; although the pay is not sufficient for a European, except that of a principal sudder ameen.

3812. Mr. *Lowe*.] You state that the native evidence is almost always false?—Yes, as given in Court.

3813. And yet you think that there ought to be no appeal from the decision of the judge, on matters of fact?—No, because I consider that the party taking the direct evidence is the best judge of what reliance should be placed upon that evidence.

3814. You

3814. You think that he is a better judge than a court of appeal would be, that did not see the witnesses?—Much better than a court of appeal.

3815. Would not the fact of there being a court of appeal over the judge, induce him to take more pains in sifting that evidence?—I should give in India one appeal in every case, but no more, and that only where the Court, in the first instance, was a petty or subordinate one.

3816. Sir *Erskine Perry*.] Do you know why the system of appeals has been so general in India?—The natives have an idea that it is to compel the use of the Company's stamped paper.

3817. Is it not the case that the Company have been obliged to put in office gentlemen who are young, or who are not acquainted with the law, and have, therefore, been obliged to establish a rigid system of appeal to watch those men; is not that the principle?—I cannot answer that question.

3818. Mr. *Lowe*.] Would you have the proceedings of the Court carried on in English?—In the Mofussil courts certainly not, because the natives would have no reliance upon the decision. If the appellate Court in Calcutta were a mixture of civilians and English lawyers of 10 or 12 years' standing, it would be very advisable to have the proceedings in English. But I do not think that it would be advisable to have the proceedings in English in the Mofussil courts, because the natives would have no confidence in the decisions.

3819. Are you of opinion that the civil servants of the Company who preside in those courts, are able to conduct the proceedings in the native languages?—For the first four or five years as magistrates they do it very imperfectly; afterwards as judges, collectors, and commissioners they do it efficiently.

3820. You have heard it stated that a magistrate is very often in great difficulty in deciding a case from not understanding colloquially the language in which the case is conducted; is that in accordance with your experience?—It is with a magistrate of two or three years' standing, but not with a man of six or seven years' standing.

3821. Is not it a very important consideration that a judge should be deciding upon a case which is conducted in a language which he does not colloquially understand?—Unquestionably; but it is of the utmost importance to secure the confidence of the people.

3822. You think that the people would have more confidence in a wrong decision where the proceedings were conducted in the native language, than in a right decision where the proceedings were conducted in the English language?—As a class, they would lose all confidence if the proceedings were conducted in English.

3823. Even suppose that the decision in English should be more just?—That is assuming that it is more just; I do not think it would be.

3824. Take the case of magistrates who do not thoroughly understand the native languages, will you state why you think that cases would not be better adjudicated if the proceedings were conducted in English?—You have to legislate for the natives as well as for the Europeans, and the natives would be dissatisfied and would distrust your Courts, if the proceedings were in English. There is no analogy whatever between our Courts in Bengal and our Courts in Ceylon.

3825. Do you think that the young magistrates would decide better if the case was conducted in English, than when conducted as now in the native language?—I think it is more experience of the character of the evidence that is required in order to arrive at a just decision. No reliance can be placed upon the testimony that is given; you require experience of the witnesses.

3826. Taking the magistrates, who are not always men of great experience, do you think that they would decide better if the proceedings were interpreted to them in a language which they do understand, than they would do if the proceedings were carried on in a language which they only partially understand?—They would, unquestionably; but who would answer for the honesty of the interpreters?

3827. Then you do not think that the confidence of the natives will depend upon the good decisions of the court, but rather upon the language in which the proceedings are conducted?—They would regard the language far more as a general rule than the decisions. The natives in the interior get copies of their cases from the court; they sit round about the copy in the village and they read the decision, and one man acts as a magistrate and the other as a judge, and they plead and talk of it all through the village; and if the proceedings were conducted in English, everything of that kind would be put an end to.

3828. Does not it sometimes happen that a magistrate in giving judgment, from

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from his ignorance of the language, makes obvious mistakes in the nature of the case upon which he adjudicates!—Yes. I have stated that in nearly one-half of the minor cases they convict innocent people.

3829. Does not he show his ignorance in his decision?—That is frequently the case.

3830. Does not that create distrust in the tribunal?—No; the natives say that it was their misfortune that the magistrate did not know better, or that he was deceived or misled by the people about him.

3831. They say, at any rate it was in the native language!—Yes; they hear the decisions, and they have confidence in them.

3832. Do you think that natives should be allowed to be judges in any case?—In civil cases, but not in criminal cases, where Europeans or East Indians are parties.

3833. And in civil cases up to what amount?—Wherever you have native agency I would have a strict European surveillance over them, with unquestionably good lawyers, and good administrators.

3834. You would have native civil judges, with an appeal to an English judge?—Yes.

3835. Is there any other improvement that you could suggest in the judicial system?—The great defect of the civil system, is the multiplying of appeals and the proceedings of the Court. In this country, when you get a decree, that settles the question. In India, when you get a decree, you have generally 20 different suits.

3836. In a single appeal?—In appeals and contentions arising from a single suit.

3837. With regard to the police, do you consider that the present police in Bengal is better or worse than having none at all?—I think that they would be much better with none, than with those now employed.

3838. What is your suggestion for remedying that evil?—I would put steady men from the different European regiments who have passed an examination in the native languages as superintendents; but as a general rule, when young civilians enter the service, I would put them into the *tannahs*, and so let them obtain a good knowledge of the customs of the people.

3839. You have spoken of the sale law; that is the sale by the Government of the land of a defaulter of revenue?—Yes.

3840. Do you not think that if the Government undertakes to sell a man's land, it should give a good title?—Any party claiming an interest in a property so sold must make an objection within 15 days, or else, afterwards, no objection can lie. I would make the collector send up his proceedings to the Commissioner 15 days before he advertised the property for sale; and it once having been passed by the Commissioner, and put up for sale, there should be no appeal from that, and whoever bought the property would be the final purchaser.

3841. Do you think that the analogy of the Encumbered Estates Court in Ireland would apply; that the Government should give a good title to the land?—They do give a perfect title at present after the final confirmation of the sale.

3842. The Committee have understood from former witnesses that it is open to other persons to object to the formality of the sale?—They can do so by indulgence and exceptionally within 30 days.

3843. Ought not the Government to look to that, and not to throw that risk upon the purchaser?—The only reason for which you can upset the sale for arrears of revenue is from the insufficiency of the notices.

3844. Ought not the Government to take that upon itself, and not throw it upon the purchaser?—I have proposed that these inquiries should be made before the sale, in place of afterwards, and that if an estate is put up and sold, there should be no appeal from it.

3845. Sir *Erskine Perry*.] What native languages do you speak?—I speak a little *Hindoostanee*, and *Bengalee* pretty well.

3846. Which do you speak best?—*Bengalee*.

3847. Have you been present in the native magistrates' Courts yourself?—I have been present when the Europeans have been presiding.

3848. But only in those Courts?—I have been once or twice in native Courts in civil cases, where the *sudder ameen* presided.

3849. Do the Europeans administer judicial duties in *Hindoostanee* or *Bengalee*?—In *Bengalee*.

3850. For the most part?—Entirely.

3851. That

3851. That evidence differs from the evidence which we received from Mr. Wise?—I speak from an experience of many years in different districts.

3852. Have you ever resided at Calcutta?—Yes.

3853. Have you been present in the Supreme Court?—Yes.

3854. The business there is conducted in the English language entirely?—Yes.

3855. The decisions being in English, and the proceedings being in English, have you ever heard that dissatisfaction is caused to the native mind?—No; because the natives who have the cases there, generally speaking, speak English; they are the principal people in Calcutta.

3856. Do not you know that there are about 95 per cent. of the cases in the Supreme Court that are native cases?—I suppose fully that.

3857. And do you think that of the 95 per cent. half of the natives having those cases speak English?—I suppose that 20 per cent. of the whole cases used to be from three or four native families.

3858. Do you think that of the 95 per cent. of cases brought before the Supreme Court 10 per cent. of the parties understand English?—I think that very likely 15 to 20 per cent. understand English. In taking mortgages the natives often put a jurisdiction clause in their deeds to secure the hearing of any dispute in the Supreme Court, because a party advancing money prefers to make his advances upon such mortgage to having to go through all the tedious delays of the Mofussil courts.

3859. Whatever may be the per centage of the parties who know English, do you think that the natives of Calcutta are dissatisfied with the decisions and the proceedings of the Supreme Court?—Not at all; they have the very highest opinion of the Court, and the greatest confidence in it.

3860. Are you acquainted with the Small Cause Court?—I have never been in it.

3861. Are you aware that the smallest causes are administered by an English judge, and in English?—Yes.

3862. Are the proceedings of that Court popular in Calcutta?—Very popular.

3863. Are you not inclined to correct the statement which you made, that if the proceedings of the Courts were conducted in English it would give dissatisfaction to the native community?—There is not the slightest parallel between the two cases. You require to have been a resident in the Mofussil and in Calcutta to know the difference between them.

3864. If in a court, such as the Small Cause Court in Calcutta, where the proceedings are conducted in the English language, causes are decided to the satisfaction of the natives, how do you distinguish that from a similar court 10 miles off, filled with similar people, and with similar cases?—The causes decided in Calcutta are generally simple contracts, or questions of sale, or any minor criminal actions, but they are quite different from the complicated cases which occur in the Mofussil courts with reference to the proprietorships of land, the division of property, and the Resumption Laws.

3865. Do you not think that those cases which arise in the Small Cause Courts include cases of fraud and conspiracy, and the most complicated cases in which evidence has to be sifted and weighed that can be brought before a court of justice?—It is very rare, and when it is so they have the best barrister in Calcutta to conduct them, when they can afford it.

3866. Do you see any distinction between a case occurring in the Small Cause Court in Calcutta and a case occurring in the Mofussil?—The cases are perfectly distinct.

3867. With regard to the tenure of land in the Mofussil, are there any village communities having rights?—That was a great mistake in our perpetual settlement that it almost did away with them.

3868. Are there any talookdars?—Yes.

3869. What rights have they now?—There are a great variety of the talookdars.

3870. Are there a great many proprietary rights of different kinds?—A great variety.

3871. As to the ryots' tenures, have they a perpetual right of cultivation?—If they occupy for ten years, except as lessees, they have a perpetual right of occupancy, and they cannot be turned out, although the zemindar has the power of increasing their rent to the pergunnah rent.

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3872. As to the question of the Christian police corps, are Christians excluded from any Government service in India?—To my knowledge, I do not know of any native in the capacity of a darogah, or moonsiff, or sudder ameen, who is a Christian; there may be, but not to my knowledge.

3873. There is no law against it?—There is not.

3874. I believe the native Christians, generally, are not of a very high class in society?—As a rule, they are generally of the lower class, particularly of what are called the weaver class, in the districts of which I speak.

3875. Probably the exclusion from office would depend more upon their unfitness for office, than upon any rule of the Government?—The Christians of whom I speak, would not, from their education, be fitted for the higher appointments.

3876. You do not believe that there is any rule upon the subject?—I am aware of no regulation to that effect; but in practice, there were none of them employed.

3877. Do you think that the East India Company would sanction any exclusion of native Christians who are fitted for office?—There is a general impression that that has been the course of the Government, but I cannot say whether well funded or not.

3878. Surely in Calcutta, there must be native clerks in the Government employ, who are Christians?—Yes, there are.

3879. Do not you think that European officers would employ the same class of men in the Mofussil, if they found them ready and fit for office?—Yes; a number of the descendants of the Portuguese, are employed in the Mofussil as clerks.

3880. I did not refer to the Portuguese, but to the natives?—I think they ought to be employed if fit for it.

3881. In your opinion, are there any obstacles to the settlement of Europeans, with capital in the mofussil?—The laws, I think, in a great measure, prevent the settlement of independent Europeans. I think that the law of 1840, and the law of 1849, giving the enormous power that those laws do to a young magistrate, naturally enough tend to prevent any man subjecting himself to it. Again, the natives are so superior in fraud and chicanery, and so unscrupulous, that in business transactions they have become too much for Englishmen.

3882. Your remedy would be to appoint only experienced men as magistrates?—Yes.

3883. And you would give those summary powers rather to the elders in the service than to the young men?—Yes.

3884. You are of opinion that the exercise of summary power is far more difficult, and requires far greater facilities than the exercise of judicial powers where there is an appeal?—Yes.

3885. Mr. Willoughby.] You stated with regard to small civil suits that they were frequently brought by money lenders for the purpose of extortion?—Rather for some sinister purpose.

3886. And you stated that the natives as a class were so unpunctual in money payments that it would not be safe for Europeans to make advances?—Not unless to the people of their own villages.

3887. May it not arise that the number of the suits originates in the unpunctuality with which the natives discharge their obligations instead of their being brought for purposes of extortion?—No, because the native knows that if he gets his judgment it is of little or no use to him; it is obtained to hold it as a threat over the party.

3888. If a man will not pay his debts there is no other alternative?—He could never realise the debt by the process of the Court.

3889. You have stated that the native zemindars generally, and Europeans occasionally, resort to force to collect their rents?—Frequently. A large village will occasionally stand out and say that they will not pay their rents.

3890. Is it not the object of the laws that are complained of, which are enacted by the Government, to prevent such proceedings, and to protect the rights of the zemindar and those under him?—Yes, but by the revenue laws the zemindar is compelled to pay his revenue every three months, or else his property is sold. There is no practical law by which he could collect his rent in three months.

3891. Under the zemindary system, is the Government rent excessive?—It is smaller than it has ever been under any former collectors in India.

3892. Can

3892. Can you give the Committee an idea of the average rates?—I should assume it to be about a sixteenth to a twentieth of the gross produce; I do not suppose that the Government revenue would average 1s. 6d. per cultivated acre at the very extreme, taking it all through Bengal.

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3893. Then the rate at which the revenue is levied cannot be one of the causes which oppose the settlement of Europeans?—No; for there is no country in the world where the people pay so little rent as the people of Bengal.

3894. What is the general condition of the ryots in the parts of Bengal in which you have resided?—There are so many classes; there seems to be a tendency in the labouring classes to become small farmers, men with one plough and so on; I think that there is a great increase amongst that class, but a decrease amongst the better yeomanry, as they would be called in this country; they do not live in the same comfort as in ancient times.

3895. You are an advocate for the redemption of the land tax, and you stated that the zemindars could then sell to the ryots; the object of my question is to ascertain whether they would have the means of paying the amount?—A great number of them would; there is a middle class in the villages, and a number of the respectable farmers would have ample means.

3896. You alluded, in your answer to Question 3699, to suits being filed against the Government, although you stated that there was a leaning on the part of the native and inexperienced European judicial authorities towards the Government, it is the fact that any person may sue the Government in the courts of law in the Mofussil?—Yes; I have had several cases against the Government myself.

3897. And you have known of suits being decided against the Government?—Yes, I have had several decrees against them myself; those suits were decided by the Company's judges.

3898. You have alluded to the inexperience of the magistrates on their first appointment; is not one of the causes of that inexperience the fact that, under Lord William Bentinck's administration, all original jurisdiction was taken from the European authorities and vested in the natives?—In the criminal courts the magistrates have as much original jurisdiction as ever; but in subdivisinal courts a few of the native magistrates are permitted to exercise original jurisdiction, with no appeal to a magistrate, and only to the judge.

3899. Under the former system a young European was vested with very limited jurisdiction, and so rose up to the authority of a sessions judge; but now that school for training is done away with?—Yes, exactly.

3900. Is it the fact that the Government, as far as it can do so, with the view of insuring competency, prescribes tests for passing in the native languages on original appointment, and further tests on promotion?—Yes.

3901. You alluded to works of irrigation; what is there to prevent the great zemindars establishing works of irrigation, seeing that they are not liable to increased demands upon the part of the Government?—It would be very difficult to get five or six zemindars to agree together upon the principle of doing it; and in order to pay, it must go through a large tract of country; I believe it can only be done by the Imperial power.

3902. Who do you think should pay the expense of those works of irrigation from which the zemindars alone would derive the benefit?—I should propose that the Government should levy a water rate upon the occupiers of the lands benefited by the irrigation.

3903. Would not that be opposed by the zemindars under the permanent settlement?—We do not require irrigation in Bengal.

3904. To what part do you refer?—Principally to the North-West Provinces.

3905. You have alluded to missionaries; is there any opposition on the part of the Government or the local authorities to the operations of the missionaries?—None whatever.

3906. May not as many missionaries as like resort to India, and freely conduct their operations?—Quite freely.

3907. Has the number of European settlers increased in the parts of India with which you are familiar?—No, I should think it has rather decreased. There may be more Europeans, but fewer settlers.

3908. To what cause do you attribute that?—The principal cause was that in 1848 the Union Bank failed in Calcutta, and with that a number of the mercantile firms went. They had been in the habit of making large advances to the indigo factories, and in Kishnagur and Jessore, and other districts, they have

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have been obliged to curtail the European establishments. Four concerns adjoining each other in Kishnagur used to disburse about 400,000 *l.* yearly; they have spent latterly only 200,000 *l.*

3909. You have given a very unfavourable opinion of native honesty; was not the Union Bank a European concern altogether?—European and native.

3910. But it was chiefly managed by Europeans?—Yes, chiefly.

3911. And there were great complaints of the management, not only on account of carelessness, but something worse?—You must draw a distinction. Had the Union Bank carried on its concerns for five years more, it would have paid every one in full; but their securities, being forced upon the market at a period of panic, realised but little. I was in no way connected with it. The directors were all Calcutta men; many of them attached to the Queen's Supreme Court, and the rest merchants and attorneys.

3912. Do you agree that civilians appointed since 1839, cannot read and write, and speak Bengalee fluently?—As a body they can speak it; I may illustrate that. An Englishman goes down to Scotland; he may go down to Aberdeen or the west of Scotland. He cannot understand exactly the dialect of each of the places which he passes through, but he understands quite well what the people say to him, and they understand what he says to them. In each district of Bengal there is a peculiar dialect. It is quite possible that any civilian going there at first does not understand the peculiar dialect of that part of the district, but as a rule every tolerably efficient officer can read and write Bengalee.

3913. Mr. J. B. Smith.] Do the natives understand him?—Yes, they do.

3914. Mr. Willoughby.] You have alluded to the want of roads in Lower Bengal; is not that partly to be attributed to the great want of materials?—No. I have made a great many roads in Bengal, and we found that you could make very good fair roads for about 100 *l.* a mile. If you wanted to make pukka roads of brick, they come to about 1,000 *l.* a mile.

3915. Is not there a toll and ferry fund established by the Government?—Yes.

3916. To what purpose is that fund appropriated?—To keep up the roads intersected by the ferries.

3917. Is not there a sort of municipal body established to control the fund?—Yes, composed generally of the magistrate and collector, and one or two of the settlers.

3918. Were you yourself ever upon one of those committees?—Yes, for a number of years.

3919. You do not concur with preceding witnesses that courts of law, upon something like the same principle as the Supreme Court of the Presidency, should be established in the Mofussil?—I think it would be very unadvisable; and the principles and rules of practice would be inapplicable, detrimental, and misunderstood.

3920. A system of that kind would require that the administration of justice should be conducted through the medium of interpreters?—Entirely.

3921. And you think that that would be a very great evil?—I think that it might almost endanger our empire.

3922. You have alluded to the Greeks settling and increasing in Calcutta; is there any obstacle to British subjects settling in Calcutta in the same way?—None.

3923. Do not gentlemen of your class proceed to India, not with a view of permanent settlement, but with the ultimate view of returning to England, after having secured the object for which they go there?—As a rule, all the people go to come back.

3924. Were you disappointed in your expectations, or did you prosper?—I was among the few fortunate people; I was very well satisfied.

3925. Are not the planters in the habit, whenever they can do so, of sending their children home?—Yes, always.

3926. Do you know any instances of European children being kept in India up to years of maturity?—There is a great distinction to be made between the Portuguese and the British subjects.

3927. I allude to British settlers?—As a rule it seems to be almost physically impossible. You do rear the people, but if they are kept in India about six or eight years they seem to degenerate, both physically and morally.

3928. According to your experience, have the Government, or the local authorities, evinced any hostility towards the settlement of Europeans?—No, not

as far as I am aware since the repeal of the Act forbidding Europeans to hold land.

3929. You have alluded to its being impossible under the ordinary law to convict for Thuggee and Dacoitee?—It was impossible to convict for Dacoitee until they extended to that offence the law applicable to Thuggee.

3930. And that law has completely succeeded as far as Thuggee is concerned? It has very much improved the state of things, and Dacoitee has decreased considerably since that law was introduced. The accused are convicted on the evidence of approvers from among the accomplices; and the laws of evidence are not very strictly insisted upon.

3931. Have not much greater efforts been made of late years in endeavouring to develop the resources of India, than was the practice when you first went to India?—No; I do not know what the Government have recently done, with the exception of guaranteeing the railways.

3932. Have they done nothing in the way of promoting steam navigation?—No: not recently.

3933. Did not the Government set the example by introducing steamers upon the Ganges?—Yes; I was concerned in one of the other companies. The Government set the example, but I do not think that it was done by the Government as an inducement for the Europeans to follow, but merely for their own imperial purposes.

3934. What do you say with regard to the Assam Tea Company?—The Government introduced that unquestionably; but that was many years since.

3935. Is not that a great advance in the development of the resources of India?—Yes.

3936. May not the same be said as to the Kunoan plantations?—Yes.

3937. Mr. *Villiers*.] Would you say that no further reforms are needed, as the Government are now advancing so rapidly in improvements?—I think that a number of practical reforms are required.

3938. You have stated that there is no hostility on the part of the Government in India to settlers, that there is no jealousy on the part of the civil service, and nothing to deter settlers?—As a body, the Government certainly have not offered any hostility. There may be individual cases of the civilians being rather jealous of the Europeans in the district.

3939. Did I understand you correctly that the administration of justice is so defective that it actually drives people away from their properties?—The inefficient administration of justice is, I think, the principal cause of the respectable natives being so many of them absentees, and as soon as a European gets money he wishes to get to Calcutta out of the jurisdiction of the native magistrates.

3940. Is the administration of justice worse now than it used to be?—I speak of when I first went to Bengal in 1838; I think in 1850, when I left India, it was worse than when I first went.

3941. Were there some regulations respecting magistrates, or did not some circumstance occur in 1840 and 1849 which provided an inferior magistrate?—It provided an inferior magistrate, and gave him such an enormous power that I believe there is no country in the world where such a magistrate has so much power.

3942. Or where he is so inefficient?—Where a man in office as a magistrate is so inefficient, and has got such enormous power, by it he can ruin any zemindar he pleases.

3943. What was that law which was passed in 1840 which increased the power of the magistrate, and provided less for his qualification?—It was a law by which, if there was any dispute about property, the magistrate could go upon the spot, or send and enquire, and the party that had held possession of the property for the preceding month was kept in possession, and the magistrate referred the disputants to the civil courts to settle their disputes. That law was very good; but in 1849 they passed an additional law, as a sort of rider to this, by which the magistrate, after putting one party in possession, might bind the other party over to keep the peace in any amount that he chose; the magistrate also taking security from the other party to an unlimited amount. In India you can prove anything; it is only a question of a few shillings, and where you can do that you have only to get a few witnesses to

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prove that a man has committed a breach of the peace, and the magistrate has the power to enforce the penal bond against that man.

3044. Do you persist in saying that the magistrates are inferior, as far as their competency is concerned, as well as having greater powers than used to be the case?—Unquestionably since the time of Lord William Bentinck, because before that they were older men, and more conversant with native habits.

3045. Do you refer to some regulation that has taken place since Lord William Bentinck's time, allowing younger men to assume the office of magistrates?—I do.

3046. Men were older when they were made magistrates in Lord William Bentinck's time, and they are now younger by some regulation that has been passed?—Yes.

3047. Your proposed alteration is that no man should act as a magistrate until he has more experience; where should he acquire that experience?—It is very difficult to say where the school should be; but I think that the best way would be to make him superintendent of police, giving a criminal jurisdiction, but no judicial power; making him, in fact, work personally under a magistrate, or session judge, or circuit commissioner.

3048. You find them defective just the same in the criminal courts as in the civil courts?—As a rule they are not so defective in the civil courts, because as a rule they have been 10 years in the service before they are made judges.

3049. Would there be any difficulty in their practising in the criminal courts in the same way as they do in this country?—I think it would not answer, for this reason, that they would be upon an equality with the native pleaders, and I think that in India you ought to keep up the European magistracy as a dominant race. Therefore I would not have them pleaders, and afterwards judges.

3050. What is the deficiency which you point to in those persons who are magistrates; is it their want of knowledge of the habits of the people, or is it their want of learning?—It is their want of knowledge of the habits of the people; they believe the evidence, instead of believing the probabilities of the case.

3051. You mentioned a change in the way of making the magistrate a collector?—For the purpose of getting more efficient officers.

3052. Is not there an objection to their being magistrates and collectors; would not the collector enforce the magistrate's decision before any appeal could be made?—In every case I propose one appeal; many suggestions have been made upon that subject, some of them by Mr. Grant, than which nothing could be better. The union of the fiscal and judicial duties would not clash prejudicially except in rare cases.

3053. Was not the system altered in Lord William Bentinck's time?—Yes.

3054. Were not the collector and the magistrate one?—Yes.

3055. And he altered it?—Yes, he altered it.

3056. You stated that the land revenue in Bengal is less now than anywhere else in India, or than at any former time under any conquest?—Most decidedly.

3057. Do you think that that is consistent with your other statement, that the ryots are worse off than they have ever been under any rule before?—They are worse off; there is less security of property to the ryots in Bengal than they ever had under any other rule.

3058. Have you ever considered what they were exposed to under any former conquerors?—They had a summary system of justice, and the truth was often arrived at by threats and torture; if a man was caught in a theft, very likely his hand might be chopped off; the native talookdars in those days used to have what the natives called Paradise cages, iron cages into which people were put and tortured.

3059. That was summary justice?—Yes, that was summary justice.

3060. And you would prefer to return to that?—Not at all; but I would prefer to have suits quickly and summarily decided.

3061. But you refer to the past times, when those practices were in force?—Yes; but I do not advocate those barbarous practices.

3062. You talk of facilities being afforded for irrigation by redeeming the Government debt?—The Government debt amounts to about 60,000,000 *l.* at present;

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present; the Government revenue derived from Bengal is 3,500,000*l.* If that was sold at 25 years' purchase, they could first pay off the whole of the Government debt, and the surplus might be invested in profitable irrigation works, which would return the Government some 30 or 40 per cent.; so that the tax-payers would have a security that, as they had redeemed the tax, they would not be called upon for fresh taxes.

3963. Do you propose to pay off the public creditor?—I would give the people the option; if the parties redeeming their land choose to redeem in the public debt, let them do so, or in money.

3964. I thought you talked of paying off the debt itself?—I would give the parties the option, if they please, in place of paying the money to pay it in Government securities, because it would give immense confidence to the natives in redeeming, if they thought that they should take the public debt as part of it.

3965. Your proposition of paying off the Government debt has reference to paying off the land-tax?—Yes, entirely.

3966. I understand you to say that you do not object to the sale law?—I only wish it modified.

3967. What is the obstacle to the cultivation of the date?—What is required is to give a permanence to the title, which under the existing law you cannot have; I have alluded to one clause of that sale law in which I should make the words "20 years," apply for 50 years, or as long as the lands were so cultivated.

3968. You want an alteration of the sale law?—I want that modification of it.

3969. You are of opinion that we could extend our trade with India, in the export of the manufactures of this country?—To a very enormous extent.

3970. Is that by improving the condition of the natives?—By giving security that the show of wealth would not be an additional reason for oppression.

3971. Do you think that we could extend it to the amount which we have to correct in the balance of trade, which you put at 2,000,000*l.* a year?—For the last 20 years it has averaged a bullion remittance of more than 2,000,000*l.* a year, but for the last four years it has been something like 7,000,000*l.*

3972. Would you go so far as to say, that if our laws were improved or better administered, and more security were given, and more temptation offered to settlers to go out to India and take out capital, the natives would consume the manufactures of this country to that extent?—I have not a doubt of it; the average yearly consumption of our manufactured goods is only 10*d.* a head upon the population, and our goods are highly appreciated and much desired.

3973. Have those defects in the administration of justice to which you have alluded ever been referred to the Legislative Council, or to the authorities in Calcutta?—The authorities in Calcutta have been referred to frequently. There was Mr. Dampier, the superintendent of police, one of the most efficient men in the service; he mentioned that he was sick of making new laws for the people of India, for he found that every new law the natives turned into an additional means of extortion.

3974. What is the fact with respect to persons who complain as strongly as you and others do of the administration of justice; what attention do they receive on the part of the authorities at Calcutta?—Every civility is shown to the parties.

3975. Everything short of redressing the grievances?—They think to redress grievances by enacting new laws; and I say, "If you would repeal three-fourths of your existing laws and give efficient administration to the other fourth, that is what is required."

3976. The reforms required are not effected?—No; not such as I have suggested.

3977. And you see with no apprehension the transfer of the government from the Company to the Crown?—Not the least; I want, with that, a good system of government; I think it would give stability to our rule in India.

3978. While in India you thought the civil servants inefficient?—Yes.

3979. Since you have returned to this country you have thought otherwise?—I have quite changed my opinion.

3980. That is since you have ceased to have experience of them?—Since I have had experience of how the departments are conducted at home I am better able to appreciate the officials in India by the contrast.

3981. Do you speak of the civil departments at home, or of the way in which the

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the public generally manage business?—I speak entirely of the Government offices in this country.

3982. You do not allude to banks or commercial speculations, or the way in which railways are carried on?—No.

3983. Are you a director of Indian railways?—Yes; of two.

3984. And a proprietor of Indian stock?—Yes.

Joris, 20^o die Maii, 1858.

MEMBERS PRESENT.

Mr. Campbell.
Mr. De Vere.
Mr. William Ewart.
Mr. Gregson.
Mr. Kinnaird.
Mr. Knight.

Mr. Lowe.
Mr. Seymour.
Mr. J. B. Smith.
Mr. Villiers.
Mr. Willoughby.

WILLIAM EWART, Esq., IN THE CHAIR.

Mr. James Thompson Mackenzie, called in; and further Examined.

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3985. Mr. Kinnaird.] WAS your health good in India during the whole time you were there?—No; I was obliged to come home once, and once I went to Singapore. I was twice given over as almost dead.

3986. Was that owing to the climate?—No; it was owing to undue exposure in both cases.

3987. Do you think that a European, with care, can enjoy a fair measure of health in India?—The Europeans residing in the agricultural districts, as a class, have nearly as good health as those at home.

3988. You would not dissuade anybody from going out with a view of settling?—Certainly not.

3989. You think that by using common precautions, and not unnecessarily exposing themselves to the sun, Europeans may enjoy good health in India?—Yes.

3990. I think you mentioned in your evidence that there were very few native Christians in India?—Very few.

3991. Are you not aware that there are at least 5,000 in Kishnagar?—If the Government have official returns to show that there are 5,000, I should admit it; but if they have not, I should doubt it very much indeed.

3992. Are you not aware that in Backergunge there are at least 1,000?—That may be; but it is a very populous district; and Kishnagar has a population of from 800,000 to 1,000,000; and even 5,000 out of that is very few.

3993. You referred to an article written by Mr. Pratt: at the end of that article there is a statement showing that there are no less than 400,000 Christians in India?—I very much doubt there being 400,000 native Christians in India.

3994. Did I rightly understand you to advocate the complete exclusion of Christians from any employment under the Government?—Certainly not.

3995. Then should they be found equally healthy, equally robust, and equally capable, there could be no objection to employing them as well as others in the police or in any other department?—What I advocate is, that if the parties are qualified for any Government appointment, their religion should not be a disqualification, nor should it be held specially to qualify them for an appointment.

3996. I believe that the East Indians are very numerous in parts of Lower Bengal?—No; principally in the large towns; in Calcutta, for instance.

3997. Are they not very numerous in the lower parts of the Mofussil?—There are very few there.

3998. You spoke of the Greek merchants being in large numbers in Calcutta, are you aware that there are only about eight Greek houses in Calcutta?—I am not aware of that from my own experience, but I should think that was about the number.

3999. And

3999. And there are altogether in Calcutta about 150 merchants and agents?—There are not eight English firms doing as much business as those eight Greek firms who, I believe, as will be shown by the exports, do one-third of the trade from Calcutta to this country.

4000. I suppose the reason for the success of the Greek is, that he attends more to the business personally in all his bargains and trade than perhaps the British merchant does?—I should attribute it to the Greeks combining together in a great measure, in any operations. They act entirely as a body, which the English merchants do not; they act quite independently of each other.

4001. A former witness has recommended the issue of some convertible Government paper, like our Exchequer bills, at a low rate of interest, and payable at fixed periods as an investment for capital waiting for employment in India; do you join in that recommendation?—If payable at terminable periods, such as three and four and five years, I think it would be very useful to the Government.

4002. And received in payment of revenue by the Exchequer?—If Government would take it in payment of the revenue it might be very useful to the people.

4003. Are you of opinion that it would be an advantage to open the Legislative Council to the non-official classes?—If you would restrict it to the British merchants and not pay them, allowing them to be unpaid members, I think it would be a very great advantage.

4004. You are aware that some British merchants are on the Legislative Council in Ceylon?—Yes, I have been in Ceylon.

4005. It is found practically to work very well there?—Practically it works very well there; but if you would allow me to say so, there is no parallel between the settler in Ceylon and the settler in India, because the European settlers in Ceylon have, as a rule, employed very few natives, and have scarcely any commercial or social intercourse with the native inhabitants; they get the labour over from the Malabar coast, and so both the settlers and their labourers are an alien class.

4006. Mr. J. B. Smith. I understand you to state, as your opinion, that it is indispensable to the encouragement of European settlement in India that Government should afford complete protection to life and property by the establishment of good laws, and an efficient police?—Yes.

4007. You say that those essentials do not at present exist, and that the result is that the natives are afraid to be known to have money?—Yes.

4008. You say that hoarding to a great extent exists now, from the same causes as have occasioned it to exist from the earliest ages, namely, a constant apprehension of plunder?—Yes.

4009. Are there not reasons for supposing that an enormous amount of money is buried in India?—There is every reason to suppose so.

4010. And, whilst so buried, it is as utterly useless as if it were yet in the mine?—Quite.

4011. If this money could be brought into circulation, would it not be a great benefit to the community?—A great benefit to the community, and to the country.

4012. You suggest, as one means of bringing it into circulation, to permit the zemindars of Bengal to purchase the fee simple of the Government tax upon their lands?—Yes.

4013. Supposing this course were practicable, if the Government applied the money received for the redemption of the land-tax to the extinction of the like amount of their funded debt, their financial condition would not be worse than it is at present?—It would be better by half per cent., because they could redeem at 25 to 30 years' purchase; and the average interest of our debt at present is about four-and-a-half per cent., including the last loans; and redeeming at 25 years' purchase would be only equal to four per cent.: so the Government would gain half per cent. in the financial operation.

4014. Suppose they could effect it at such a rate as would just redeem the like amount of debt that the tax produced, then they would be in this condition: on the one hand the revenue from the land-tax would be diminished, but on the other hand their expenditure for interest on their debt would be *pro tanto* diminished?—Exactly; the one would equalise the other.

4015. If the land-tax were thus redeemed, would not the Government be saved by the expenses of collection?—Not very largely.

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4016. Are there not a great number of persons employed in the collection?—
The expense of enforcing the collection in the permanently settled districts of Bengal is very small, because the Government there look to the estate and not to the proprietors.

4017. Do you know how much the expense of collection is in Bengal?—There have been various estimates made upon it; but the Government themselves cannot arrive at the exact amount, because the collector, as well as being the collector and collecting the Government revenue, is the revenue officer in whose court all cases of rent are brought by the proprietors, lessees, or whatever people they may be; so that it is very difficult to estimate what is the actual proportionate amount that should be allocated by the Government on account of the expense of collection.

4018. At the same time that the Government would be released from the expenses of collecting the revenue, would not the tax-payers be gainers, by being relieved from the exactions of the corrupt native tax-gatherers?—It would be an enormous advantage to them.

4019. If it were practicable for every 1,000 rupees received for land-tax to extinguish the same amount of debt, the State would be no losers, while the tax-payers would be greatly benefited?—Upon every 100 rupees extinguished the tax-payer would save 50 per cent. in illegal exactions, assuming him to be a cultivator of a free estate.

4020. Would it not be a great advantage to the people as well as to the Government, if they had an opportunity of investing their money in land, instead of burying it in the ground?—Very great.

4021. If the land-tax were redeemed, would it not be a great encouragement to European settlement, seeing that settlers could then possess lands on the same terms as in any other of our possessions?—The greatest encouragement, because then a European could purchase, with a perfect title, the piece of land which he required for his purpose.

4022. If a good system of registration were adopted, and suitable laws were enacted for the protection of parties in the enjoyment of their property, you think it would be a great encouragement to settlement in India?—The greatest encouragement, the chief thing required, would be, first, a complete survey of the country; every tenure should be registered, and the registered proprietor should be recognised as the proprietor of that estate.

4023. Would not the free circulation of wealth and the enactment of good laws tend to the improvement of the whole people, by affording means of employing capital and giving increased employment to labour?—Yes, the greatest.

4024. Would not the consumption of British manufactures be greatly increased under such circumstances?—It would very soon be doubled and trebled.

4025. Is it not reasonable to expect that the Government would be better able to raise a greater revenue from an improving population than from an impoverished population like the present?—Unquestionably.

4026. And that there would be a great increase in the imports?—A very great increase. The Government have both an export and import duty, so the larger the amount of trade, the greater the revenue the Government would receive.

4027. With regard to roads, so far as your observation goes, were the roads better under the Hindoo and the Mahomedan rule than at present?—From all inquiries I could make, and from the vestiges of the roads that have existed, I should say that the internal communication of the country was much better under both the Hindoo and the Mahomedan rule than it is at present. The village communities, now no longer in being, are understood to have maintained their respective proportions of the roads.

4028. Do you think that as soon as the country is opened out by railroads there will be a greater influx of Europeans?—The railways will do an immense deal; but in addition to the railways, you require roads to act as feeders.

4029. But will not the existing state of the laws and the police still be an obstacle to extensive settlement in India?—Until you improve the police there is no security for property; every man must protect himself.

4030. The Government a few years ago put a stop to the circulation of the gold currency; do you think it would be advantageous to restore it?—Most advantageous.

4031. Would not the circulation of gold release a large amount of silver which is now hoarded?—A very large amount of silver; and it would be an immense moving

saving to this country, because the balance of trade could be discharged by the shipment of gold from Australia direct to India instead of being sent to this country, and thence to the Continent to be exchanged for silver for transmission to India; whilst, if the late unfavourable drain should recur, it might be difficult in two or three years to procure the silver required: for already the value has increased some 10 per cent.

4032. Inasmuch as gold goes into a smaller compass than silver, would not the natives be more disposed to hoard gold than to hoard silver?—If you improve the system of police, then the natives will think of using their money for the acquisition of property instead of hoarding it; if the same system continues, it would no doubt lead to an increased hoarding of bullion. If you had a gold currency in place of a silver one, with the same inefficient system of police, it would rather tend to increase the hoarding.

4033. My question was, whether there would not be a preference of hoarding gold to silver; would not there be a larger quantity of silver released?—Greater in bulk but not more in value.

4034. Would there be a preference of hoarding gold to silver?—It would be much more convenient to hoard, being in a smaller space.

4035. Mr. *Villiers*.] What is the hoarding amongst the natives for; do not they make ornaments of the silver?—I did not refer to the ornaments of silver. The natives use the silver and gold as ornaments, and they very frequently hoard the ornaments in addition to the gold and rupees.

4036. They use gold as much as silver for ornaments?—Those that can afford it prefer gold to silver for ornaments.

4037. What was the date of the prohibition of gold as a currency?—It was after the discovery of the Australian mines; strictly speaking, I believe that gold never was a legal tender in Bengal; there was an order of the Council passed, I do not recollect the year, I think it was about 1840, authorising the collector to receive the gold mohurs at a fixed rate; the Government, after the discovery of the Australian gold, merely cancelled the former order of the Council.

4038. Gold was never a legal tender?—I think I have seen it stated, that prior to 1780 or 1790, it was, in some parts of India; but not subsequently, I think.

4039. Do you know what the policy of the former Government was in preventing gold being the standard as well as silver?—The perpetual settlement in Lower Bengal was made in rupees; it was at a fixed rate of rupees; a number of the Company's loans were made at a fixed rate of rupees, and the pensioners of the Company were paid at a fixed rate of rupees; and the Government had a great doubt about the policy of introducing a gold currency, as to how far it might interfere with the engagements which they had entered into and which were payable in rupees.

4040. Mr. *J. B. Smith*.] When the Government received those gold mohurs in payment of the revenue did they receive them at a fixed price in silver?—They received them at a fixed price in silver of 16 rupees for the gold mohur; but during the time I was in India the gold mohurs, coined by the Company, were generally sold, in the interior of the country, at a premium of about 10 per cent.; what were called the old gold mohurs were generally at a premium of 20; being of very pure gold; and the natives used them, in a great measure, for making ornaments.

4041. Mr. *Villiers*.] What is the date of the establishment of the mint at Calcutta?—It was established by Colonel Forbes; I think about 1830 to 1832.

4042. Mr. *Willoughby*.] Are you aware that in 1853 a circular order was issued by the Calcutta authorities, enjoining their collectors and others not to receive gold in payment of the Government revenues or other dues?—Yes; there was such an order; there was a minute of the Council formerly passed, authorising those gold mohurs to be received, and when the Australian discoveries came into effect they cancelled this minute, as I have previously stated.

4043. *Chairman*.] Do you think that if the redemption of the land tax were allowed, many of the zemindars would avail themselves of it?—I think a great many of them would; I should say the strongest argument for their doing so would be that three-fourths of the whole of the estates in Lower Bengal are mortgaged, and the mortgagees, for their own security, would insist upon the redemption of the land, and after this law had been carried into effect very few would advance money upon an estate until the land-tax was redeemed.

4044. Do you remember having read a report of Mr. Thomas, of the civil service,

Mr. *J. T. Mackenzie.* in favour of a scheme for the redemption of the land tax, which is inserted in the Appendix to the Report of the Committee on the Cotton Cultivation of India?—

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Yes.

4045. Mr. *Villiers.*] Does the mint only coin silver?—Silver, gold, and copper.
4046. Mr. *Willoughby.*] On what data do you suppose that the natives, or any one else, would be induced to redeem their estates at 25 or 30 years' purchase?—From the high price at which the La-Khiraj lands that have been released command, from the very high prices paid for putnee talooks, and the price which the Government have paid to the zemindars for the railway lands at 20 years' purchase, and to which the whole of them objected, they said that they ought to have had 25 at least; and I think they ought.

4047. Would you propose yourself to effect redemption at that rate?—Yes, freely.

4048. What interest does the capital which you have invested in putnees or other tenures yield?—When I had putnees they yielded but little, if any, money return; the zemindaries yield from six to twelve per cent., dependent wholly upon the improved condition of the property.

4049. With regard to the roads under the Hindoo and Mahomedan rules, to what period do you refer?—In Shah Jehan's (the grandson of Akbar) time, unquestionably the country was covered with roads; that was the golden age of Bengal, but even up to the time of our taking the dewanny in Bengal the roads were in a much better state than at present, though not, by tradition, equal to what they were in Shah Jehan's time.

4050. Your opinion of that time is chiefly gathered from tradition and the books?—Yes, from tradition, ancient manuscripts, and the vestiges of the roads.

John Abraham Francis Hawkins, Esq., called in; and Examined.

*J. A. F. Hawkins,
Esq.*

4051. Mr. *Lowe.*] YOU were a servant of the East India Company?—I was.

4052. In what year did you go to India?—In 1822.

4053. When did you come home?—In 1849.

4054. What office did you hold in India, and where?—I was, for a short time, an assistant in the office of the Register of the Sudder Dewanny Adawlut in Calcutta, and then an assistant to the magistrate, and register of the suburbs of Calcutta. I was then joint magistrate of Baraset, about 16 miles from Calcutta. My next appointment was being for a short time in charge of the office of the Remembrancer of Legal Affairs, in which I had charge of the Government suits in the different courts. After that I was Magistrate and Collector of Purnea, to the north-east of Bengal. I was then Judge of Purnea. I was then Acting Session Judge of Shahabad, a little above Patna, in Bahar. I was then Commissioner of Circuit and Revenue of the Rajshahie division; that was in Bengal. Then I was Register of the Sudder Court for 10 years, and was then a Judge of the Sudder Court.

4055. For how long?—For two years.

4056. After your return, you were one of the Law Commissioners?—Yes; and I was appointed secretary, afterwards, of the Law Commission.

4057. What are you now?—I am in the Examiner's Office in the India House, conducting the judicial and legislative correspondence with India.

4058. Your total service has been almost entirely judicial?—Except that I have been also a commissioner and a collector of revenue.

4059. Several witnesses have spoken with regard to the Black Act, or rather Bill; how did that Bill originate?—The last proposed Black Act is to be found in these words of the Law Commission Criminal Procedure Code: "No person whatever shall, by reason of place of birth, or by reason of descent, be, in any criminal proceeding whatever, excepted from the jurisdiction of any of the criminal courts;" that was the proposal.

4060. What are the names of the Law Commissioners?—The Master of the Rolls Sir John Romilly, the late Chief Justice of the Common Pleas Sir John Jervis, Sir Edward Ryan, Mr. Cameron, Mr. Macleod, who, as well as Mr. Cameron, was one of the Law Commissioners in India, Mr. Thomas Flower Ellis, and Mr. Lowe. For a time I was one of the Commissioners, and upon the resignation of Mr. Millet, the secretary, I was appointed secretary to the commission.

4061. What was the date of that?—About the middle of 1856.

4062. Mr.

4062. Mr. *Villiers*.] There were several persons that had acted in India who were on that Commission?—Yes; Sir Edward Ryan, Mr. Cameron, Mr. Macleod, Mr. Millet, and myself, had all been in India.

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4063. Mr. *Lowe*.] Did the passage which you have read emanate directly from the Commissioners, or how did it arise?—The whole of the Black Acts that have been issued for the last 20 or 25 years go back to the Act of Parliament of 3 & 4 Will. 4, c. 85. An enlarged power of legislation was then given to the Council of India, including a power of legislation with regard to all Europeans. There was a proviso in the Act which said that there should be no legislation to the effect of making Europeans amenable to the criminal courts in the Mofussil in capital cases. When that Act came out, a despatch was sent to India on the 10th of December 1834, from the Court of Directors, which has these words: "When the Act says you shall not pass laws making them capitally punishable otherwise than by the King's Courts, it does, by irresistible implication, authorise you to subject them in all other criminal respects, and in all civil respects whatsoever, to the criminal jurisdiction of the Company;" and every Law Commission that has proposed to deal with the administration of criminal justice in the Mofussil in India since that time, has recommended a clause to the effect of making the Europeans in the Mofussil amenable to the Company's criminal courts.

4064. *Chairman*.] Then it was an inference drawn from the words of the Act of Parliament by the directors?—Yes.

4065. It was an expression of their opinion?—Yes; but it has been thoroughly adopted by the Law Commission in India. Shortly after the Commission was appointed in England by the 16th and 17th of Victoria, the Commission received instructions from the President of the Board of Control, Sir Charles Wood, directing them to proceed to the amalgamation of the Supreme and the Sudder Courts, and, in fact, to have one system for the whole of India. Then those codes of procedure, and those rules for the constitution of various courts, were framed upon the understanding and upon the principle that they were to be applicable to the whole of India, superintended by one high court for each Presidency, which court was to be held at the presidency town.

4066. Mr. *Campbell*.] That being a fusion of the Supreme Court and the Sudder Court?—Yes; that being a uniting of the two together.

4067. Mr. *Lowe*.] Then had the Commissioners no discretion left them to make any alteration in favour of Europeans?—It appears not; their instructions are precise. "The intention of amalgamating the Supreme and the Sudder Courts in each of the Presidencies has already been announced to Parliament, and the first matters we are anxious you should take into your consideration are those preliminary measures necessary for the purpose." So that it seems to have been announced to them that the amalgamation of those two courts and the formation of one system for all India was a foregone conclusion, and that they should carry it out.

4068. *Chairman*.] Therefore the Commissioners acted in a ministerial capacity only?—With regard to that they acted in a ministerial capacity only.

4069. Mr. *Lowe*.] It would not have been in their power, I presume, to have made courts to which natives should have been liable, but from which Europeans should have been exempted?—No; I do not think that was the intention of the instructions communicated to them.

4070. What are the provisions in the Commissioners' scheme which are disapproved of in India by the European population?—That is the main one I understand to have been disapproved of, and also some provisions with regard to the jurisdiction of the criminal courts.

4071. By the Commissioners' scheme a European can be called up before a moonsiff in a criminal court?—Yes, supposing the whole code to be entirely carried out as it stands.

4072. What jurisdiction of native judges in criminal cases would Europeans be liable to if the scheme of the Commissioners had been carried out in its integrity?—They would be liable to the whole of the criminal courts of every class. There are two classes of courts that are called subordinate criminal courts; criminal courts of the first class, and criminal courts of the second class. The first assistant to the magistrate and the principal Sudder Ameen are to be judges of the subordinate criminal courts of the first class; then the second assistants to the magistrates and the moonsiffs are to be judges of the subordinate criminal courts of the second class.

4073. Is the second assistant to the magistrate a native?—No, he is a European;

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European; the first assistant to the magistrate has more extended power than the second, but they are both Europeans.

4074. What powers have those two subordinate courts in the way of punishment?—"Judges of the subordinate criminal courts of the first class are empowered to pass sentence in all cases tried by them, provided that they shall not for any offence sentence any person to imprisonment for a term exceeding one year, or to fine exceeding 200 rupees," and the lower court "shall not for any offence sentence any person to imprisonment for a term exceeding three months, or to fine exceeding 50 rupees."

4075. So that the effect was that the first court could imprison a European for a year, and the second for three months?—Yes, if brought before them; the full impression on the minds of the commission, however, was, that the Europeans would not be brought before them. It was supposed that the magistrate never would refer a case, in which a European was a defendant, to a native judge.

4076. They could not entertain the jurisdiction without its being referred by a European magistrate?—Except under a special order of the Government.

4077. Mr. Campbell.] The first and second court could not hear any case without an order of the Government?—It is a general provision that the moonsiff shall receive no criminal case at all originally of any kind whatsoever; that it shall be referred; that he shall only try cases upon reference by a magistrate.

4078. Mr. Villiers.] The magistrate being a European?—Yes.

4079. Mr. Campbell.] That is on reference to the moonsiff?—Yes; on reference to the moonsiff, or the sudder ameen either; but there is a clause in the code allowing the Government specially to authorise any judge of any class to receive cases without reference from a magistrate. All those cases those judges would have the power of trying and punishing, but upon reference by a magistrate, the Government may dispense with the magistrate's sanction by giving a general power to those officers to receive cases directly.

4080. Mr. Villiers.] An order of the Government may give a general power to those judges to hear cases?—"Criminal cases shall be brought before the subordinate criminal courts by reference to the magistrate" (that is, the European magistrate of the district). "It shall, however, be at the discretion of the Government, respect being had to the public convenience, to authorise a subordinate criminal court also to receive such cases on complaint, preferred directly to such court, or on the report of a police officer."

4081. Do not you consider that that is an order that has reference to particular cases, and not a general suspension of the rule that the magistrate shall refer everything to the judge?—No, that was not the intention of the commission. It was generally believed by the commission that, for the public convenience, the Government would give their authority to the judges of the subordinate courts at a great distance from the magistrate to receive cases; that instead of compelling a man to come and go 50 miles, the Government would, in such cases, authorise the moonsiff upon the spot to receive cases within his jurisdiction without going to the magistrate.

4082. Mr. Lowe.] The intention was not to get Europeans under native jurisdiction by a side wind?—Certainly not; it was never thought of.

4083. That being the state of the law, do you think that it was fraught with any practical grievance to the European community?—I should think that by them it would be thought a practical inconvenience.

4084. In what way?—I could easily understand a great objection, on the part of Europeans, to being made amenable, criminally, to the courts of the native judges.

4085. Would it really have brought them under the courts of the native judges?—I do not think it would; I think the magistrate would have kept all their cases in his own hands.

4086. What is your own opinion with regard to the claims of the European residents in the Mofussil not to be criminally tried by a native judge?—I consider their claim a good one, I would not put them under a native judge.

4087. Was that the opinion of the commission?—The question was raised in the commission, and the opinion was, that in drawing up a general procedure for one set of courts for the whole of India, there must be one system of procedure for the whole. The Commission were also of opinion that Europeans should be made amenable to the Mofussil Courts, but that it was not likely that the magistrate would make over a European to the subordinate judges.

4088. You

4088. You are of opinion that it is not right that the European residents should in any case be brought before native judges in criminal cases?—No, not before native judges.

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4089. Will you state the reason for your opinion that the English residents in the Mofussil ought not to be tried criminally before a native judge?—I believe the impression upon the mind of a European would be that he would not get justice. Now, a native may have a twofold feeling, either a national feeling as against the European; or, on the other hand, a feeling of fear that he must do more for the European than he would do for one of his own countrymen. Either case would be prejudicial to the true administration of justice.

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4090. *Chairman.*] In either case the balance of justice would be disturbed?—Yes.

4091. *Mr. Campbell.*] From your own great experience of the natives, what is your opinion of the tendency of the natives if placed in authority over Europeans?—I have known natives willing to do justice to all; at the same time I think there are many natives in office who might be influenced by that feeling of nationality.

4092. *Mr. Seymour.*] Would you consider East Indians to be Europeans; if either father or mother was European, would you put them in the English category?—Yes, much more than in the native category.

4093. *Mr. Lowe.*] Will you state shortly what the recommendations of the commission were with regard to the criminal procedure for India; how was a man to be tried according to the plan recommended by the commission?—There are two ways of bringing a man before a magistrate; in the first instance, the one is by complaint to a police officer for the more serious crimes, who investigates upon the spot, and inquires into the truth of it; and if there is ground, he sends the case to the magistrate with the parties and witnesses. In cases of assault, and those that were excluded from the police officers' jurisdiction, complaint would be preferred by petition to the magistrate himself; he proceeds to take the evidence in either case, and punishes if it is within his jurisdiction, and commits to the session court if it is not within his jurisdiction.

4094. Is there any indictment?—No; there is a charge, the charge being that the man has been guilty of a certain crime with reference to a particular clause of the penal code; and the way to discover what particular crime he has been guilty of (that is, the particular act of crime, and its circumstances) is from the evidence given before the magistrate, a copy of which has to be furnished to the defendant.

4095. The legal conclusion is drawn from the depositions?—Yes, those depositions being given, together with a copy of the charge, to the prisoner.

4096. Upon that he is tried?—Yes.

4097. Is that a good criminal procedure in your opinion?—It is.

4098. What provision is there for appeals in criminal cases?—There is at present, I should explain, a right of appeal upon the record; that is to say, when a man has once been tried by a subordinate court and punished, he can appeal to the next superior court, and insist upon its retrying him upon the record. This code does away with that; it gives a man a right of petition to the appellate court, but it leaves it at the option of that court to call for the record or not, and to reject the petition at once, if it sees ground for doing so.

4099. I believe there is only a single appeal?—Yes, there is only a single appeal, giving however, the High Court at the Presidency a general control over the whole criminal administration.

4100. *Mr. Villiers.*] Are any of those offences punished capitally?—There is no court but one, which is the highest court of all, that can sentence capitally.

4101. *Chairman.*] Is the power of appeal not subsequent to trial only, but subsequent to the punishment also?—The man has been sentenced. The law gives a power of appeal after conviction upon the record, but the punishment is not suspended.

4102. *Mr. Seymour.*] Is there corporal punishment in India?—Corporal punishment was entirely abolished, but it has been since admitted with regard to juvenile offenders.

4103. If a man was sentenced to corporal punishment, would it be inflicted before the appeal?—It used to be in former times.

4104. And then there was an appeal afterwards?—The man had a right of appeal in all cases. Some magistrates might have suspended the infliction of the punishment,

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punishment, and others not; when the sentence was to flog a man, it was generally found more convenient to flog him at once than to keep him in confinement, with a chance of appeal.

4105. Mr. Lowe.] Some gentlemen have given evidence before us that there ought to be no appeal; is that your opinion?—No, it is not.

4106. Will you state why?—I should say that a power of appealing to a higher court is necessary, and especially under a system of this kind, where you have a large number of natives scattered all over the country, exercising criminal powers, the best way of showing how those powers are exercised by those several criminal judges is by a petition of appeal to the superior authority. Then again, I have always looked in India upon the right of appeal to the Superior Court in Calcutta as of the utmost use in helping to equalise the administration of criminal justice throughout the various districts; you have a sessions judge in one district who will sentence a man to 14 years' imprisonment for a case of burglary, while in another, for the same offence, a man is sentenced to five or six years. The Superior Court having all this before it, has it in its own power to equalise the administration of criminal justice throughout the country, and does very beneficially exercise that power.

4107. Passing to Sir Arthur Buller's speech; you have read that?—Yes.

4108. With some portions of it you agreed?—Yes.

4109. In that part, for instance, in which he deprecates a European being tried by a native judge on a criminal trial?—Yes.

4110. But he does not go with what you have noticed?—I think he has mistaken the object that the commission have in view.

4111. He does not notice the fact that a European could not be tried except by an order of the magistrate?—No; but Sir Arthur Buller has taken objection to the provision which says that the High Court and Session Court exclusively shall have jurisdiction in respect of "offences however punishable under any clause of the penal code charged against public servants of the first four classes described in clause 14" (that is, of the penal code) "whether as such public servants or otherwise." There are four classes of public servants who are to be tried only by the Session Court, or the High Court in Calcutta. Sir Arthur Buller takes exception to this rule, on the ground that the civilians and the military officers of the East India Company are protected, and those only; that the commission have gone out of the way to give protection to them, while they leave all the other Europeans in the Mofussil subject to the jurisdiction of the other courts, and he objects to that; now, those four classes run as follows in the penal code: "first, every covenanted servant of the East India Company; second, every commissioned officer, military or naval, in the service of the East India Company; third, every commissioned officer of the King's army while serving under the Government of India." We have disposed under those three classes of the whole of the Queen's and the Company's covenanted servants. Then comes the fourth class; "every judge." Sir Arthur Buller seems to have supposed that the commission intended by that the European judges. Now, it does not cover a single European; they are all natives; every European judge in the civil service is disposed of in the term "every covenanted servant of the East India Company." From the clauses I have read to the Committee with regard to the criminal courts, you will find that every moonsiff and every principal sudder ameen, is a criminal judge; the same may be said with regard to the civil code; the civil code commences with saying that, "There shall be three grades of judges in each zillah or district, zillah judges, principal sudder ameens, moonsiffs," and it was intended by the commission that every man exercising judicial power in the Mofussil, should be tried only by sessions judge; the distinction was intended to be entirely official, and the code goes on with other clauses which show that; that whereas certain European official authorities in the Mofussil were to be tried by a certain court, so by that same court were certain officials of the natives to be tried. The reason for the rule was, that you are obliged to maintain a distinction of that kind in India; the people have not the same notion of official disparity, as compatible with an equality in the eye of law which you have in this country. Once allow a principal sudder ameen to be brought even for an assault before a moonsiff, and that man's influence is for ever gone. It was to protect, and to secure the position of, the public officers in the Mofussil, that those clauses were drawn, and Sir Arthur Buller has mistaken the purport of them; my own opinion is that the thing should have gone further, and have made some distinction

distinction with regard to Europeans; but Sir Arthur Buller has mistaken the full intent and purport of the clauses as drawn by the Law Commission.

4112. The question was not between official and non-official Europeans, but between officials and non-officials of any kind?—Yes; every principal sudder ameen and every moonsiff being a judge is by this clause only triable by the sessions court.

4113. With regard to trial by jury, what trial by jury is afforded to a European under this code in criminal cases?—He is to be tried by a jury of which the number is not to be less than three nor more than nine, the rule being that “criminal trials before the sessions judge, in which a British subject, or an European, or an American, or an East Indian, or an Armenian, or a person of any other class to which the Governor-general in Council may see fit to extend this rule, registered according to such rules as the Governor-general in Council shall prescribe, is the defendant or one of the defendants, shall be by jury, of which at least one-half shall consist, if such defendant desire it, of persons so registered.”

4114. What is the reason of that rule with regard to the constitution of the jury, partly native and partly European?—The prosecutor may be a native and the defendant may be a European; it secures so far to the European, that one-half at least of the jury shall be Europeans; and it requires for a conviction two-thirds at least, together with the consent of the judge; and that was considered to be sufficient security for the European.

4115. Turning to the civil jurisdiction of the courts, will you state what the procedure recommended by the Commissioners is?—The leading salient points of the procedure are, the total abolition of written pleadings that we now have, the examination of the parties, the framing of issues, and the single appeal.

4116. How is the examination of the parties and the framing of issues to be done?—First of all, the plaintiff takes out a summons in a form given here, and there is a day fixed for the hearing, and on that day the parties are to appear; and then the rule is, when they do appear, that “in all suits in which both the parties appear in person, or by attorney or vakeel, before the judge, they or their attorneys or vakeels may be examined orally by the judge; and it shall be incumbent on them respectively to answer such questions in regard of the suit as he may think proper to put to them.” That is the preparatory examination, and upon the statements of the parties the issues are prepared. There may be a subsequent examination of parties as witnesses; they may be twice examined, first for the framing of the issues, and then further to get more particularly at the facts of the case.

4117. Then the judge may decide at once, if the parties come prepared?—Yes.

4118. What do you think of that as a matter of procedure; is it adapted to the wants of India?—It strikes me as being the real essence of the whole procedure, and one which is admirably suited to the people; we have had it lately under a law; the new law of evidence enacted in India in 1853 allows the parties to be sent for and examined, which was totally unknown before. The experience of that law is that it has been found to answer admirably; it cuts the case short in the commencement very often by bringing the parties face to face.

4119. Under the law of 1853 the pleadings have taken place before the parties?—Yes, and there are to be no pleadings here whatever; nothing in a written shape, except certain statements referred to in the rules.

4120. *Chairman.*] Is not there a power in the person summoned, to send another person to represent him?—Yes; but the power still exists in the court to send for the principal.

4121. Do you approve of that power of substitution?—Yes, I do, for a country like India.

4122. *Mr. Lowe.*] There are some persons whose dignity would be hurt by attending the court?—Yes.

4123. And there are other people who are old, and would be unable to attend?—Yes; and women cannot appear in public; you must have such a power.

4124. Have you seen some statements addressed by Mr. Theobald to the President of the Board of Control, and which have been published?—Yes.

4125. There is a statement with reference to this procedure; have you seen it?—Yes. I think that Mr. Theobald is a good deal mistaken.

4126. Will you be good enough to state in what respects?—Mr. Theobald says, in the first instance, at page 20, that, “it is little but a re-casting of the existing procedure.” Now I think that he is mistaken there.

—*Jenkins,*

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4127. Will you state some of the differences?—The entire abolition of the present written pleadings and the substitution of the examination of the parties makes a great difference in the case.

4128. Is there anything else in which you think Mr. Theobald is mistaken?—Mr. Theobald says: “One of Mr. Bentham’s great objects was, to bring the parties litigant before the judge, as a father brings his children before him in their quarrels (venerable sage, that saw in justice the exercise of the most benevolent affections!) at the very first step of a litigation. Without this being done, a procedure would not, I apprehend, be natural according to Mr. Bentham. This is not done in the code.” It appears to me to be done in the code.

4129. Is there any step previous to bringing the parties before the judge?—Nothing but the summons.

4130. Could that be dispensed with?—No.

4131. The second step after the summons is the appearance of the parties before the judge?—Yes, and the examination.

4132. Which may be final?—Yes; it may not be necessary to frame an issue at all; the parties may come to an understanding at once.

4133. Are there not two sorts of summonses, one requiring the party to come and frame the issues, and the other requiring the party to come up for final judgment?—Yes.

4134. So that it depends upon the plaintiff whether the case shall be decided summarily or delayed?—Yes.

4135. You do not consider that observation of Mr. Theobald’s to be borne out?—No; I think that a little examination would show that nothing more could be done than has been done with a view of expediting matters.

4136. Do you know the procedure in the Punjaub?—Yes.

4137. Is it in any respects more summary than what is recommended here?—No; in the Punjaub code, the rules require that there should be something in the shape of a plaint.

4138. This is even more summary than the county court jurisdiction in England?—I believe it is.

4139. This is to be applied both to Europeans and to natives?—To all.

4140. Parties are allowed to give in written statements?—Yes.

4141. What is the power, and what is the object of it?—“For the purpose of assisting the judge in framing the issues, the parties, or their attornies, or vakeels may tender at the first hearing of the cause written statements of their respective cases, which statements the judge shall receive and peruse, and put on the record; but he may, nevertheless, frame the issues from the allegations of fact which he collects from the oral examinations, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements so tendered by the parties, or their attornies, or vakeels. No such written statement shall be received after the first hearing of the case, unless called for by the judge under the power hereinafter contained. It shall be competent to the judge, at any time before final judgment, to call for a written statement, or an additional written statement, from any of the parties, for the purpose of assisting him to frame or amend the issues.” That power was considered an advisable one to give to the courts, in order to get at the bottom of those very intricate cases which we sometimes have in India, and it was considered a good one by the commission.

4142. The statements are not in the nature of pleadings presented by either party?—No.

4143. But they are statements reduced into writing which might be difficult to bring out in oral examination?—Yes; it is stated distinctly that they shall not be by way of answer one to another.

4144. Is there any other statement of Mr. Theobald’s which you wish to correct?—No; there are one or two points upon which I think he is mistaken with respect to the jury trial.

4145. It has been stated to the Committee that it would be a great improvement if the proceedings in the Mofussil courts were conducted in the English language; what is your opinion upon that subject?—To that I entirely object.

4146. Will you state your reasons for that objection?—I believe that the impression upon the minds of the natives would be that it was an act of gross injustice; and I do not see how the proceedings are to be carried on in English,

as the natives understand only their own language, without creating a sense of injustice in the minds of the natives.

4147. Are you of opinion that suitors do practically suffer from the ignorance of the civil servants of the East India Company of the native languages?—They may do so in petty criminal cases at the commencement of the civil servants' career; but I believe that a man is competent to carry on his duties in the native language probably within the first six months, certainly within twelve months. As men are trained now, they are obliged to pass an examination in the native languages in all the early stages of accession and promotion to office. Twenty years ago the proceedings in the courts were conducted in Persian; but since that they have been conducted in the vernacular language.

4148. *Chairman.*] Did the native understand the Persian when it was the language of the law courts?—He did not; but there was not a single court where there were not a number of persons who did understand Persian, and who could convey to the mind of the native suitor what was intended by the Persian documents. But you will not find scattered over the country, and attending upon the courts, people who could convey to the natives what was intended by a document drawn up in English.

4149. *Mr. Lowe.*] It is stated that the proceedings in the courts in Bengal are carried on in Hindee?—There is no such thing as Hindee proceedings in the Lower Provinces at all. Those who have made the statement have mistaken Hindee for Hindostanee. The European officers of the Government probably speak Hindostanee better than they do any other language; but it is not to be supposed that Hindee or Hindostanee would be altogether unintelligible to the great portion of the people in Bengal. When a regiment from Behar or the Upper Provinces comes down to Barrackpore or Berhampore, it is not to be supposed that what they say is perfectly unintelligible to the whole of the Bengal community. They get on as well as others. But the fact is that the civilians do understand the language of the country in which they are employed, and they can converse in that language with the people who are brought before them.

4150. Do you think that it is right that the Hindostanee should be used in the courts of justice in Bengal?—No; it is not used: as far as the record of the local court goes, it is entirely in the Bengalee. I speak of what I recollect of India, and of the cases coming before me as a judge of the Sudder. The summonses were in Bengalee, every document was in Bengalee, the evidence was in Bengalee, and the order of the court was in Bengalee.

4151. *Chairman.*] The Hindostanee is used in the higher parts of India?—The Hindostanee is spoken in the higher parts of India, but it is the *lingua franca* of India; and if a man can speak Hindostanee well, he will get pretty well through most parts of India.

4152. *Mr. Lowe.*] You have stated that the young inexperienced civil servants do make errors from not understanding the native language?—Yes, occasionally.

4153. Do you think that it is right that the judges should learn the native language at the expense of the suitors?—Certainly not; but there is not much of that; the probabilities of a young civil servant going wrong in the petty cases he has to try might be greatly avoided by good superintendence over him. By sending him out occasionally to a police tannah at a distance from the head station, and into the district for purposes of local inquiry, where he could find nobody but natives to talk to, would soon get him over his difficulties.

4154. Are gentleman placed in those situations at an earlier age than used to be the case?—The magistrate is brought to the office of magistrate at an earlier age than he used to be.

4155. Do you think that that is an improvement?—No.

4156. How has that happened?—From the overgrowth of territory, as compared with the strength of the service.

4157. The civil service has not been augmented in proportion to the augmentation of our dominion?—No.

4158. Supposing it could be afforded, a great deal would be gained by an increase of the civil service?—Yes; and I would adopt the plan in Bengal which has been adopted in the Upper Provinces, of having the Magistrate and Collector united. There are objections to it, but I believe that the experience of the older officer would be of infinite value in the magistrate. The natives understand the system thoroughly; they understand the union of functions in one officer far better than being sent for what they want from one officer to another.

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4159. It has been suggested that it would be desirable to increase the civil service from the uncovenanted service in India; that is, to give the Governor-general a power of employing gentlemen of the uncovenanted service in offices, which have hitherto been appropriated to the covenanted service?—That is a very large question, and the way in which I would look at it is this. The service in India has been kept free from jobbery by a nomination to the service in one quarter from home, and a nomination to office by another in India. These who send out our civilians from home, can do nothing with them after they once get to India. Those who employ them in India have no part whatever in the nomination of them to the service. Now you would break down that if you gave the nomination to the service and to the office both to the same individual; and I think on political grounds that the thing is to be objected to.

4160. You have stated that the commission were ordered to take measures for the amalgamation of the Supreme and Sudder Courts; are you of opinion that that amalgamation is desirable or practicable at the present time?—I do not think that it is either desirable or practicable at the present time.

4161. Will you state why?—The amalgamation of those two courts is a thing that I would keep in view, but I should look at it as far distant. You have now different courts of law, presided over by judges who have been trained very differently. The two systems of the Queen's and Company's courts are now, whether in regard to procedure or law, very different from each other; and I do not see how it is possible to proceed with a satisfactory amalgamation. A great deal must be done before that amalgamation can take place. There should be an approximation in the system of justice administered by the Queen's courts and the Company's courts; it should be done gradually, and then perhaps the one may slide into the other. What I mean is this: you have four codes of procedure for the four different sides of the Supreme Courts: the Law, the Equity, the Ecclesiastical, and the Admiralty. You have those four different codes in the Supreme Court. You have a different procedure in the Company's courts. What I would like to see, in the first instance, would be, a simple code of civil procedure adopted by the Supreme courts for all sides of the court, and that the Company's courts should have the same code. Then you might have the same penal code, and in most respects the same criminal procedure adopted by the Company's courts and the Queen's courts. A construction put upon the code of law or the code of procedure on the part of the Supreme Court, watched as it would be by the Company's courts, would give us the benefit of the judgment of the Supreme Courts, and we should have the same codes of procedure, the same criminal law, and to a great extent the same kind of administration. Then as to civil law, there is no such thing as a substantive civil law beyond the law administered to the Hindoos and Mahomedans. I desire to see a substantive code of law prepared for the Mofussil, and it might be founded upon the principles of English law. With regard to the law of contract, we could very easily frame a code of laws which would embody some of the leading principles of the Hindoo and Mahomedan and English law. That law introduced and acted upon in the Mofussil would bring us a point nearer to the law administered by the Supreme Court, and then you might carry it even further. I should have no objection to see a barrister from the Calcutta bar put upon the Sudder Bench. In this way we should approximate both as to procedure and as to law, and in the course of time the two courts would be much better prepared to slide into each other than they are at present.

4162. Will you explain the present state of the law in India, out of Calcutta, a little more fully. Suppose a Hindoo sues a Mahomedan, what law prevails?—The law of the defendant; but the case supposed can scarcely happen under the personal law, say of inheritance, for in a case of that kind both parties would be Hindoos, and the same with regard to Mahomedans. Where the Hindoos and Mahomedans sue each other is with reference to contracts. A contract is under no law in the Mofussil. The Supreme Court administers the personal law not only with regard to cases of inheritance, succession, marriage, and adoption, but it also includes contracts.

4163. In Calcutta if a Hindoo sued a Mahomedan the law would be the law of the Mahomedans?—Yes.

4164. If, on the other hand, a Mahomedan sued a Hindoo, it would be the law of the Hindoo?—Yes.

4165. If a Frenchman sued an Englishman what would the law be?—The English law.

4166. If

4166. If a Frenchman is defendant, under what law would he be sued?—Under the English law. My impression is, that the Supreme Court administers the personal law only of the Hindoos and the Mahomedans. In the Mofussil we have the administration of personal laws with regard to Hindoos and Mahomedans concerning all cases of inheritance, succession, marriage, adoption, and caste; but the personal law there does not extend to the law of contract. In such cases there is no law in the Mofussil except the law of equity, justice, and good conscience of the judge; he has no other law to follow. That is the great want in the Mofussil, that we have no written law, no authoritative code or digest of any kind; and I look upon the want of a written law as tending to demoralize the people, by promoting litigation. When you have a Hindoo or a Mahomedan brought into our courts upon their own laws, I have seldom seen a case in which it has not been a question of fact rather than of law. For instance, a man will say, "So-and-so died, leaving two sons;" and the other party will say that he died, leaving three sons; but the moment you settle the matter of fact, they do not dispute the question of law; and I believe it would be much the same if you gave the people a written law, as I have above stated. If you gave them a law that they could follow out of court, you would prevent a great deal of the litigation and the evil that goes on. A Mofussil substantive civil law is a great desideratum in India.

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4167. Though the English system of law says that no contract is valid without consideration, another system says that, if solemnly made, it is valid without consideration; it entirely depends upon the judge?—Yes.

4167*. There is nothing to decide in those cases under the law in the Mofussil?—No, nothing whatever. A man might go and look for a case that had been decided before.

4168. Did the Law Commission consider that question?—Yes.

4169. What was their opinion upon the subject?—That there should be a law.

4170. When was that report made?—That report was made in 1856.

4171. What practical steps did they recommend to be taken?—That a digest of substantive civil law should be prepared; that was recommended by all the commission, with the exception of two dissentients, Sir John Jervis and yourself.

4172. We agreed in the necessity of providing a law, but we only differed as to the manner in which it should be done?—Yes.

4173. Whether it should be by a code or by the adoption of the English law?—Yes.

4174. Has any step been taken to carry out that recommendation?—None whatever, that I know of. If I may be allowed to refer to it, here is a letter of Sir Laurence Peel's, he being the Chief Justice of the Supreme Court of Calcutta, upon the same subject. He writes to Sir Henry Hardinge, the Governor-general, in July 1845: "The questions which your letter proposes to me I am enabled to answer without delay, because I have previously given the subject a full and anxious consideration. The *lex loci* Act, if accompanied by a digest of such parts of the English law as it was deemed expedient to introduce into the Mofussil, would introduce no difficulties, subtleties, or technicalities whatever. It is, in my opinion, indispensable to the success of this experiment that a digest should form a part of it, which might readily be enacted." That was what he then proposed, and his words express the wants of India as to a code of civil law.

4175. Would not the labour of a few weeks be sufficient to prepare a law of contract practically sufficient for the wants of India?—Yes; the most unfortunate thing that we have had to contend with in India is, the apparent dislike there has been to receive anything at the hands of a Law Commission. I am afraid we have suffered from that.

4176. Is there a little jealousy in that respect on the part of the civil service?—I do not think that the proceedings of Law Commissions have got into the hands of the civil service, generally.

4177. But on the part of the higher authorities?—I think it an unfortunate thing that more countenance has not been given to the Law Commissions, because there are in the hands of the authorities in India, and in this country, the labours of Law Commissions for the last 25 years, which if once adopted would give India a very different administration from what it has now.

4178. Mr. Campbell.] That experience has not been reduced to law?—We have these labours here reduced to two as superior codes as you will find anywhere.

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where. However, the authorities are not to blame for this, because they had it before the Legislative Council when the mutiny broke out.

4179. Mr. Lowe.] The Commission prepared two codes?—Yes; the civil procedure and the criminal procedure, which are far superior to anything which they now have in India.

4180. You were one of the original Commissioners?—I was one of the original Commissioners.

4181. Did the Commission enter upon their labours under a distinct understanding and undertaking from the Government, that what they recommended should be carried out?—That was the impression upon the minds of the Commission.

4182. It has been stated that the civil servants of the Company have been anxious to obtain some Act protecting them from liability for their conduct as such civil servants; that is founded, is not it, upon the case of *Calder v. Halkett*?—Yes, but it is a mistake.

4183. In what way?—I held the office of register of the Sudder Court in Calcutta for 10 years, and that was the channel for the communication of all correspondence upon legal subjects with the Supreme Government; and I believe I can say that, during the whole of those 10 years, not a single letter upon the subject passed through my hands. Here is the Act, which was passed in the year 1850, giving protection to the judicial officers of the East India Company in the Mofussil; and it agrees almost word for word with the recommendation of Sir Laurence Peel himself, who was the party to originate it. I have the letter of the Supreme Government sending home Sir Laurence Peel's letter, and the Act itself is almost a copy of a paragraph of his letter.

4184. What is the effect of the Act?—It is very short: "No judge, magistrate, justice of the peace, collector, or other person acting judicially shall be liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction; provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of: and no officer of any court, or other person, bound to execute the lawful warrants or orders of any such judge, magistrate, justice of the peace, collector, or other person acting judicially, shall be liable to be sued in any civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same."

4185. What was the case of *Calder v. Halkett*?—It was a case of false imprisonment that Mr. Halkett, the magistrate of Nuddea, was charged with by Mr. Calder. How the case was decided in the Supreme Court I am not quite prepared to say, but I think it was given in favour of Mr. Halkett, under the Act of Parliament which protects judicial officers. That was overruled by the Judicial Committee of the Privy Council, who seemed to think that the protection which the law intended to give was not of that nature that Mr. Halkett claimed.

4186. The effect was that the civil servants of the Company had not that protection which magistrates and judges in England have?—Yes. Sir Laurence Peel says, in proposing this law, "This, as far as the courts of the East India Company are concerned, will make the law what I believe the intention of the Legislature to have been to make it. The decision of the Privy Council in the case of *Calder v. Halkett*, has given a different meaning to the Act, and that decision of course must be followed by Indian courts. In my opinion, justices of the peace are very inadequately protected, as well as inferior judges generally;" and the Act, as I have stated, is almost word for word, a paragraph of his own letter.

4187. It has been stated to this Committee that the Government of the Company has become more arbitrary of late years, and it has been attributed very much to that Act?—That I cannot say.

4188. With regard to the indigo planters in the Mofussil, and their relations to the ryots, does the state of the law at this time afford the indigo planters any means of getting undue control over the ryots?—I do not know that it gives them any means of getting undue control over the ryots. When an indigo planter has once made his advance to the ryot, he has his immediate summary application to the court if the ryot does not carry out the terms of the contract.

4189. How does that work practically?—It depends very much upon the character of the planter; in some places it works well, in other places it is thought to be an engine of oppression.

4190. Is

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4190. Is it not the fact that it is very much the practice to get a decree against a ryot?—That is supposed to be for the purpose of getting a hold upon the ryot.

4191. He does not exactly perform his contract, and then a decree is obtained against him?—He gets a contract to cultivate so much indigo, and he gives indigo that will not pay off the sum that he is indebted to the planter; the planter has the option to go to the court to get the balance, and he gets a decree which may or may not be enforced. If it is not enforced he has a hold against him for the future; if the ryot should go off to a rival planter he has a hold against that man by the decree, which he can put into force at any time.

4192. Then from that moment he has great power over him?—Of course if he chooses to exercise it.

4193. Practically when such a decree is obtained, the ryot does not leave the indigo planter?—No; he may go and tender the whole of the balance in court if he chooses, and get rid of the decree.

4194. A good deal has been stated before the Committee with reference to Mr. Grant's sale law; are you familiar with the details of that law, and with the objections taken to it?—The objection which the indigo planters took, was chiefly with respect to the working of the Act.

4195. What was the object of the Act?—One of the leading objects of the Act was to give protection to under-tenures under the revenue laws; now under-tenures are not protected, that is to say, the moment an estate is sold for arrears of Government revenue, every intermediate tenure between the zemindar and the cultivator of the soil, with certain specified exceptions, is immediately abrogated; it falls to the ground. One of the great objects of Mr. Grant's sale law was to give protection in such cases.

4196. How was that to be accomplished?—By a local inquiry, to ascertain whether it was a fair rent that the intermediate tenure holder was paying.

4197. Supposing it was a fair rent?—Then he proposed to maintain the tenure.

4198. If he thought that it was a *bonâ fide* transaction?—Yes; in fact a *bonâ fide* transaction is now maintainable under the law, notwithstanding a sale, if it is for 20 years.

4199. If it is for less than 20 years, it was proposed to maintain it if the result of the inquiry was favourable to the putneedar?—Yes.

4200. Mr. Villiers.] The inquiry is as to whether it is a *bonâ fide* transaction, not as to the rent being a fair rent?—It is as to whether it is a *bonâ fide* contract, and also as to whether the rent is a fair one.

4201. Mr. Lowe.] The inquiry respects both?—Both.

4202. Was not that question whether the rent was a fair rent, a substantive consideration?—I have several papers relating to that subject which I shall be happy to hand in to the Committee.

4203. With regard to the Opium Contract Act with the Government, what is the nature of that Act; does it give the Government a summary remedy against people to whom they have made advances?—The old law did so. That law has been altered in some respects; a new opium law came out last year. The officer who made the advance had the power of proceeding against the man to whom the advance was made, and of enforcing his claim.

4204. How was he to proceed?—Supposing the party taking the advance had not cultivated the specified quantity of land, he first called the man before him, and went into the evidence upon the subject, and fined him, and levied the penalty.

4205. If he did not pay the fine, what happened?—He was sent to prison for a certain number of weeks or months.

4206. Will you state what the new Act is?—By the new Act there is also a penalty on the cultivator who has received advances neglecting to cultivate the full quantity of land; that is a penalty that may be enforced by the opium officer.

4207. With a power of fine and imprisonment in the same way?—To the extent of three times the amount of the advance.

4208. And in case of default of payment, what is to be done?—My impression is, that it is to be enforced in the same way as a decree of court. You take the man's property and sell it, or send him to gaol. With regard to all other penalties for embezzlement and illegal purchase of opium, and various other offences formerly punishable by the opium officer, the party must now be tried by a magistrate.

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4209. Does the law limit the power of the officer?—Yes, he must go, as a prosecutor, before a magistrate.

4210. Mr. Lowe.] The power of adjudicating, except in one case, is taken out of the hands of the officer, and put into the hands of a person who is more impartial?—Yes, and into his hands in preference to the judge, with reference, I presume, to those provisions of the penal code which include offences against the revenue laws.

4211. It has been suggested, that it would be a great boon to the European settlers to make the provisions of the old Opium Act apply to their dealings with the ryots?—You could not give to the indigo planter the option of sending the man to gaol. In the one instance you would have a man acting in his own case, while in the other instance it was a public officer, having no personal interest.

4212. You think that it would not be a good thing?—No.

4213. You think it would be against justice?—Yes; there were some offences under the old indigo laws made punishable criminally by the magistrate, which are not so now, those laws having been repealed.

4214. With regard to the redemption of the land tax, what is your opinion upon that subject?—From the high price that you would have to pay, probably 25 years' purchase of the Government revenue, to redeem, I do not think that it could be done; I think it quite hopeless.

4215. You heard Mr. Mackenzie state that he was willing to redeem at that price; suppose persons are willing to do it, do you see any objection to it?—No; anything that could be done to throw capital into the land I see no objection to.

4216. Is not a great deal of the difficulty, with regard to the tenure of land in Bengal, owing to the want of a complete survey and valuation of the land?—Not so much with regard to tenure as to the ascertainment of what is comprehended in the tenure. As good a survey in Bengal as there has been in the North West Provinces would have saved us a great deal of trouble and litigation.

4217. Chairman.] How far has the existing survey of Bengal proceeded?—We have had no recent accounts from India. They have spent about 20 lacs of rupees, but there have been no reports for a long time as to what has been actually done. Beyond some districts in Behar, and a few in Bengal, there is no account of the progress of the survey. I believe that for the last two or three years there have been no regular reports.

4218. Mr. Lowe.] Has not there been some Commission to resume la-khiraj land in Bengal?—Yes; there were certain officers, called special Commissioners, appointed for the trial of cases of resumption. That was done by a law which was passed in the year 1828.

4219. What has been the result of that?—The result of it has not been good; it has given a great deal of dissatisfaction, though the thing proceeded upon a sound principle, which was, an inquiry into the titles to hold land rent free, many of which were forged and many were false; and it had been held out to the people from the very commencement of Lord Cornwallis's system, in 1793, that all those titles were liable to inquiry; but I think the inquiry was postponed too long, and when once entered upon, it was entered upon too extensively, and the effect was a great deal of dissatisfaction.

4220. And alarm?—And alarm.

4221. You think it was not worth the alarm and dissatisfaction?—I do not think it was.

4222. The delay in executing decrees is very much complained of?—Yes.

4223. How does that arise?—You cannot take a man's property in attachment for a decree of court, but you may have a dozen people who rise up and claim the property, and there is a law-suit to be gone through with every individual.

4224. The remedy for that would be something that would make the ownership of property notorious?—Yes; and this code of procedure which you propose, which carries out the principle of personal examination from first to last, would be effective. The very circumstance of being able to call the man into court who sets up a claim, and to examine him upon that claim, would put an end to many false claims.

4225. A decree may stand over for 12 years without being executed?—Yes, it may.

4226. Do you think that that is a proper regulation?—No. I think that it should be enforced within a reasonable time; but it is a mercy to some people to allow

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allow the decree to stand over. But I may state, that the whole system of the law of limitation needs revision: 12 years is too long; it ought to be six years for all cases of contract, though not as to inheritance.

4227. Is that limitation established by regulation?—Yes; the time is calculated from the date of the cause of action.

4228. *Chairman.*] The law of title has no limitation, has it?—There is a prescriptive title of 60 years; but ordinarily if you have a claim for real property upon contract, or otherwise, you must bring it within 12 years.

4229. Do you think that a law of limitation is required generally in India?—Yes; a more stringent law than the present law.

4230. I refer generally to the limitation of actions?—The question has been considered over and over again, and it has generally been considered that a new law is advisable.

4231. *Mr. Lowe.*] What is the rate of interest recognised in Bengal?—None at all; it used to be 12 per cent. The Usury Act, which was passed last year or the year 1856, has done away with all rate of interest.

4232. Anything beyond 12 per cent. before was illegal?—Yes; it not only could not be recovered, but it vitiated the contract.

4233. With regard to the police; what is your opinion as to the state of the police in Bengal?—It is bad.

4234. What remedy have you to suggest for that?—I have been thinking of it for the last 20 years, and I can scarcely say how it should be done. One thing is, to improve the officers with whom you work by giving them a higher pay; that has been recently done.

4235. You refer to the native officers; the darogahs, for instance?—Yes; and there would be a great improvement in the police by your locating deputy magistrates in various parts of the districts now under the entire control of a zillah magistrate.

4236. The deputy magistrate is a European?—No, not necessarily; I would prefer more Europeans, but I do not think the financial considerations would allow of it. With regard, to the more subordinate officers of police, I would like to see a greater infusion of the European element, beginning at posts close to the magistrate's station. It will not do to send out Europeans at all distances from the magistrates' courts, who are unable to speak the language, and who may treat the natives in a way that would not be desirable. There is no man perhaps more sensitive than the native upon that point, and there is no man in the world who understands better what gentlemanly treatment of him is. Were you to infuse more of the European element, and begin under the eye of the magistrate, and extend it by degrees as you got good hands, you might greatly improve the whole of the police by so doing; but then comes the financial consideration. Both as to the extensive employment of European deputy magistrates, and the infusion of a larger European agency into the police, you have difficulties to contend with on the part of the Indian Chancellor of the Exchequer.

4237. You do not think that taking intelligent serjeants out of Her Majesty's regiments, and placing them in the police, would be a good thing?—Yes, commencing near to the eye of the magistrate. When he knows his men, and can trust them to go further from him, I would extend the place.

4238. With regard to the criminal law, by which a man is tried in Presidency towns, and in the Mofussil, is that of the same personal character?—In the Mofussil it is called the Mahomedan law, modified by the Regulations.

4239. Is there one criminal law for all India?—Yes, beyond the Presidency towns, and within the Regulation Provinces.

4240. And that is the Mahomedan law?—That is the Mahomedan law.

4241. And not the English law?—And not the English law. It is called the Mahomedan law, but there are very few remnants of the Mahomedan law.

4242. Englishmen are subject to the English law?—Yes, and in petty cases the magistrate has a special jurisdiction under an Act of Parliament.

4243. What does a Frenchman do?—He is tried by the English law in Calcutta.

4244. And in the Mofussil?—Then by the modified Mahomedan law. An Act was passed in the year 1832, which said that any person not a Mahomedan was at liberty to ask for a jury, and was to be tried by that jury without any intervention of a Mahomedan law officer.

4245. Were the jury to be of his own race?—He might be a Frenchman, and

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in that case we could not get a French jury; but if he was a Hindoo he might be tried by a jury of his countrymen.

4246. Mr. *Villiers*.] Without reference to race?—Yes.

4247. Mr. *Lowe*.] With regard to the law, suppose that a Frenchman committed murder in the Mofussil, under what law would he be tried?—The Mofussil law.

4248. That is the Mahomedan law?—Yes, that is the Mahomedan law as above explained. In all cases formerly, the Mahomedan law officer sat upon the bench; he is now dispensed with, and we may have a jury.

4249. Mr. *Villiers*.] If an Englishman commits a murder in the Mofussil, where is he tried?—He must be sent to Calcutta to be tried.

4250. Mr. *Lowe*.] Can you mention certain instances of the inconvenience of the practical working of that law?—It occurs wherever a European is guilty of any offence of that kind at a distance from Calcutta. I have just had two cases pass through my hands; one was the case of a man in Lahore for embezzling a trifling sum of money. That man was sent down to Calcutta to be tried by the Supreme Court, 1,300 to 1,500 miles away, at a very great expense to the Government. There was a case occurred the other day in which a man was sent from Ootakamund, in the hills at Madras, to be tried for opening a letter which passed through his hands. He was a European postmaster, and it cost the Government about 2,000 rupees to prosecute him for stealing 200 rupees; and of course, when a European commits any crime, he must be sent down, together with every witness, which is a great hardship upon the people, except in the case of petty assaults, which, under the Act of Parliament, the magistrate himself may punish.

4251. You stated that the magistrate has a discretion in referring a European to the criminal court over which the native judge presides; what does he do supposing he does not refer him?—If this code were passed he would try him himself, or commit him to the Session Court, but that is not the case now.

4252. It does not depend upon the reference of the magistrate now?—No; the magistrate cannot himself punish a European, except in petty cases.

4253. What was your plan if he did not refer him?—That he should try him himself, or commit him to the Session Court.

4254. Mr. *Willoughby*.] The magistrates have a very limited jurisdiction over Europeans, even in the Mofussil, in their capacity of justices of the peace under the old Act of Parliament?—They have no penal powers whatsoever, as justices of the peace under the Act of Parliament referred to.

4255. Have they not, under the Act of the 53 Geo. 3?—It is a mistake to suppose that they have that power as justices of the peace; it is as district magistrates. The clause of the Act which gives that power does not speak of a justice of the peace, but of a zillah magistrate. It has been referred to the Advocate-general at Calcutta as to whether the magistrate was required to sign the summons, or the warrant for the arrest of a European, as a magistrate or as a justice of the peace, and the answer has been that he acts as a magistrate, and not as a justice of the peace; he may be sworn in as a justice of the peace, and take informations against a European; but then he would send him down to Calcutta, and if he was not a zillah magistrate, and had not the powers of a magistrate, he could not punish him; he must do that as a magistrate.

4256. Mr. *Campbell*.] If I understand you rightly, Sir Arthur Buller's reading of the Black Act is incorrect as regards the exemption in favour of the Queen's or the Company's officers?—He is incorrect in so far as considering that the whole four classes exempted from the jurisdiction of the inferior courts include only Europeans, whereas the fourth class includes natives; that is to say, if I read Sir Arthur Buller's speech right.

4257. I understand you that if this Black Act had been put into operation, a junction of the Supreme and the Sudder Courts was to have taken place?—Yes, the amalgamation of the two courts was part of the scheme.

4258. Was not the Black Act attempted to be introduced recently, before that junction of the Supreme and the Sudder Courts had taken place?—I cannot say what the proceedings or the intentions of the Legislative Council might have been; it was thus prepared, and it was intended that the whole should have been one general scheme. No doubt it would be advisable that a great portion of that procedure should be passed independently of that amalgamation.

4259. Mr. *Lowe*.] Was not it an attempt to take out a portion of it, letting the question of the amalgamation of the Supreme and the Sudder Courts stand over for

for a time?—Yes; it was an attempt to take the codes of procedure made for the amalgamation, independently of the amalgamation.

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4260. Mr. *Campbell*.] You mentioned that the authority of a magistrate, or other officer of the service, would be materially damaged by subjecting him to trial by a native official?—Yes.

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4261. Does not it occur to you that an independent resident or planter might, in a pecuniary sense, in reference to his property, be equally damaged by being subjected to trial by a native?—I object to it altogether, criminally; and with reference to the subject generally, I would say that I would not subject a European to the magistrate, with regard to a summary jurisdiction, to the same extent that he has over a native. The European never having been subject to the Mofussil Courts, if I were to subject him to the Mofussil Courts, and to the jurisdiction of the magistrate, I would proceed with the same jurisdiction that the magistrate has in the Presidency towns. I think that it would be unnecessary to give him that same summary jurisdiction over the European that he has over the native, but rather he should have a smaller jurisdiction, and for a higher offence Europeans should be tried by the sessions judge, with a jury.

4262. You object to the introduction of the English language in the Mofussil Courts?—Yes, I do.

4263. You are aware that in Ceylon the English language is the general language of the Courts?—Yes.

4264. And that the people there are generally conversant with the English language?—Yes.

4265. Is there anything to prevent the people of India from acquiring the English language in the same way?—You have a vast population to deal with, old and diverse languages to which they are attached. As an abstract question, I should like to see the people of India in possession of an English education, and of the English language. You have, however, been carrying on the old system far too long to admit of a ready transition to another. Powerful influences would be arranged against you in the attachments and strong partialities of the people for their own languages, and the large body of Vakeels and Mookteers, who exercise considerable influence, and who would be displaced by the introduction of the English language, would do all in their power to increase and strengthen the opposition to any such attempt. My fear is that the introduction of the English language into the administration of justice, would be viewed by the natives throughout India more as a badge of conquest, and an act of injustice, than in any other light.

4266. Do you think that conducting the proceedings in a language with which the judge is only partially acquainted is beneficial to the people of India?—At all events, the people like it, better than doing so in a language with which they are not at all acquainted.

4267. Would it not be desirable to gradually attempt the introduction of the English language, seeing that the fruits flowing from it are so good in other places?—I do not see how you could do it gradually, except by English education.

4268. Would you make the experiment in any one district where it might be optional to the people which language they took?—I am opposed to that; I do not think you could do it without causing alarm to the people generally.

4269. On first appointments a system of competitive examination exists in this country?—Yes.

4270. Do you think that there is any objection to that system of competitive examination existing for posts in India, where great efficiency would be required in the officers; would it not be beneficial, as testing the efficiency of the officers for employment?—Yes; but you scarcely have a field large enough in India, except among the natives.

4271. A man having passed the competitive examination here is endorsed for life in his employment in India, and there is no encouragement to the efficient officer over the inefficient; do you think that any benefit would result from having competitive examinations for the situation of magistrate and collector, or any other situation?—I would go about improving the service in another way. I think that you cannot go about it in a worse way than you are doing at the present moment. The candidates for the present competitive examination are young men of 22 or 23, and it appears to me that this system of competitive examination at home has been framed much more for the benefit of the Universities in England than for the benefit of the people of India. To take a

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man at 23, and then allow him to stay in England till he is 25, and then send him out to India, is not the way to get a good officer for India. He is too old, and he will not pick up the language in the same way, and will not submit in the same way that we did as boys to the drudgery of inferior situations. The way is to take your men at 18, and then educate them for a period not exceeding four years, expressly for India, in jurisprudence, law, political economy, Indian languages, history and geography, and to insist upon their attending so many circuits, and attending the county courts. In that way you would raise up a body of men far more efficient than the present; and if they were trained properly at home you would want no competition in India. But to send out a man at 25, because he is a good literary man does not seem to me to be a good way of getting an efficient service.

4272. Mere scholastic qualification does not meet practically the wants of India?—Certainly.

4273. You are of opinion the superior and same judicious selection here would supersede the necessity of a competitive examination out there as vacancies arose?—Yes, that is the point; get efficient men here, and you would not want competition for particular appointments in India.

4274. You object to throwing the covenanted civil service open to the uncovenanted service, by reason of the jobbery that might be encouraged, and you gave as an example, that inasmuch as the first appointments emanated with the Court of Directors, and they had no further control over the civil servant in India, the service was free from jobbery?—Yes, but now competition is substituted for nomination by the Court of Directors.

4275. Do you not think that emulation in the service should be encouraged, and that a deserving uncovenanted officer should have advancement, the same as a deserving non-commissioned officer is open to having a commission given him?—I would give encouragement by the prospect of promotion, but the officers should rise in their respective services.

4276. Is not the service of India one service; is not the uncovenanted magistrate performing duties which are nearly analogous to those performed by the covenanted magistrate?—Then you open the question, can you do it for the European uncovenanted magistrate without doing it for the native in the same position. Now I do not think that the time has come when you can put the natives into the higher offices.

4277. What is there to prevent your excluding them if they are not qualified. Because they are not qualified, is that any reason why the uncovenanted European officer should be excluded?—I do not see how you could admit one without the other; and I do not see how you can bring the natives in. It is not a mere question of personal qualification for the duties of a particular office.

4278. With reference to the jobbery; you must be aware that it is competent for an influential Director here to write to his friend the Governor-General, or his other influential friends in India, to exercise a little fatherly care over his protégée?—There is not the slightest doubt of it. But I would take the opinion of any man who knows the civil service in India whether it is not particularly free from jobbery.

4279. Would not interest do more for a man than his acquirements?—I do not think that it would in India.

4280. From the extension of our territory, you say that India is under-supplied with civil and judicial officers?—Yes; the civil service at large is, I think, undermanned.

4281. Do you not think that that might be remedied to a great extent by a further efficient police, with a larger European organization, and might not the duties of the civil service be materially abridged by a more efficient police?—Unquestionably; a great deal of the work done by assistants would be done then by other officers.

4282. So that if you increase the police, and had it made efficient, there might not exist the same necessity for an increase in the civil service?—No, I do not think that it would do away with the necessity altogether; but it would abridge it.

4283. You are aware of the existence of an asylum in the hills called the Lawrence Asylum?—Yes.

4284. Do you not think that young men educated at that asylum might be very profitably infused into the police of India?—Yes. My only fear is, whether they would last in regard to health.

4285. Have

4285. Have you ever been in the hills yourself?—Very little; but I have been there. I have no doubt that Europeans would keep their health there pretty well; but I should doubt whether those born and bred and brought up there would stand the plains very well.

4286. It has never been finally satisfactorily proved what is the duration of life in the hills with respect to the generations, whether it is one, or two, or three?—No, there has not been time for that.

4287. You have just mentioned the great inconvenience of bringing Europeans from remote parts of India for trial by the Supreme Court for criminal offences: would you recommend an extension to Allahabad, Delhi, or Lahore, of the Supreme Courts which are now held at the Presidency towns, with a view of saving the cost and trouble of bringing criminals long distances for trial?—No, I would not.

4288. What would be your objection to that?—I do not believe that the natives would like it. I speak of what I know of India; I believe that they dreaded the extension of the Supreme Court.

4289. You think that the occurrence of offences among Europeans would not be sufficient to warrant it?—No, it would not. The Committee may be aware that Lord Macaulay some years ago expressed a strong opinion of the dread of the natives of the extension of the Supreme Court; and he spoke from documents and petitions that were presented to the Council when the natives thought that the Supreme Court was about to be extended.

4290. Mr. Willoughby.] You have alluded to the inexperience of the judicial authorities in some respects; do you recollect that in Lord William Bentinck's time all civil jurisdiction was transferred from the European judicial authorities to the native?—Yes, nearly all original jurisdiction.

4291. Has not that been one of the great causes of the deterioration of the service, by destroying a school in which Europeans were trained?—Yes; unquestionably it has been a great evil that the office of register was abolished; that was upon the civil side.

4292. And the assistant register?—There were no assistant registers in Bengal.

4293. Those who are in favour of establishing courts of justice on the principle of the Supreme Courts in the Presidency towns have stated that they think that it is practicable, and would be even beneficial, to administer the English law through the medium of the English language, by means of interpreters; do you think that able and honest interpreters could be found?—If you could get the most honest interpreters in the world, you never would satisfy the natives, when the administration of justice was carried on through the medium of a language which the people did not understand.

4294. You have stated that if magistrates and deputy magistrates were placed in greater numbers in Bengal, there would be an improvement; you are aware that that is in force and works well in Bombay?—Yes; there has been an alteration in the Bombay police within the last three years, by giving a larger European agency, which has answered remarkably well.

4295. In Bombay assistant magistrates are placed in subordinate districts?—Yes.

4296. The resumption laws are not in force now?—No; the practical operation of them has ceased.

4297. You have alluded to the Mahomedan law being the criminal law in the Mofussil, with modifications; what do you mean?—The basis of the Cornwallis system was, that the Mahomedan law was to be administered; but it has been modified at various times, by various regulations of the East India Company, which have done away with the distinctions that the Mahomedan law draws as to the various kinds of crime, and have done away with the distinctions that it draws as to various kinds of evidence; all those distinctions have been done away with, and the laws we administered under those regulations, which are considered as modifications of the Mahomedan law.

4298. Have not they done away with some of their punishments and penalties?—Of course; mutilation was the first; you could not keep that.

4299. Then in fact the law administered is that of the Company's regulations, rather than the Mahomedan law?—Yes; it is called the Mahomedan law, modified by the Company's regulations.

4300. You alluded to the alterations in the system of preparing young men for India;

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India; is it not the fact that the second examination which, under the report of the Commission of which Lord Macaulay was president, was prescribed, has been discontinued?—Yes, it was omitted last year; but even if the examinations had been continued, it appears to me that the time given to the additional branches of study was not sufficiently long to qualify the candidates.

4301. It is to be feared, certainly, that under the present system the young men who proceed to the civil service of India are not likely to have the small degree of jurisprudence which was acquired by the tuition at Haileybury?—Certainly not; you take a man as you find him.

4302. In this important question the Court of Directors have no voice; it solely rests with the Board of Control?—Yes; that is, by Act of Parliament, and the Board of Control passes its own orders upon the subject.

4303. Mr. Gregson.] You stated that the civil service is under-manned; do you know the number of civil servants in India?—Altogether I think about 800 in the three Presidencies. I am not quite clear upon that subject.

4304. To what extent would you suggest that that number should be increased?—I should like to see them increased by one-half; that is, I would raise them to 1,200 at once.

4305. With regard to competition, would it not be desirable to have some competitive examination at the three Presidencies of Calcutta, Bombay, and Madras, amongst the civil servants themselves for the different appointments?—I would rather see the examination which now exists. At present a man cannot pass into a superior grade without going through an examination, and that is carried on for two or three steps at the commencement of his career; it is not so when he gets to the higher offices.

4306. Would you extend that to a system of competition?—You might extend it to a system of competition, but the ground of competition is too limited. There might be half a dozen men ready for examination; probably not more.

4307. You propose to increase the pay of the darogahs. It has been stated in evidence, that the higher pay they receive, the higher bribes they expect?—I do not think that is so; all this has been done since I was in India; but we have made better judges than we formerly had by giving them good pay, and I do not see why we should not make better darogahs by giving them good pay; and in the course of time I think you will get a better class of men.

4308. You propose that the civil servants should be appointed at the age of 18, and remain in this country, going round to the different courts. Do you propose that they should come into the receipt of any salaries from the age of 18?—No; they educate themselves now at their own expense up to the age of 22, and then offer themselves for examination.

4309. From 18 to 22 are they to be educating themselves further at their own expense?—Certainly.

4310. Mr. Knight.] What sort of position does the indigo planter hold in India; is it that of a gentleman; has he a large house and establishment?—Yes. There is a wide line, and I think it unfortunate, drawn between the service of the Government and the indigo planters. Perhaps it is pressed upon us more by circumstances than anything else. I have known a number of indigo planters who were perfect gentlemen, fit associates for anybody; but I recollect, on one occasion particularly, when I decided a case in favour of an indigo planter, where the man who lost went to my superior and said, "I cannot get justice from that officer; he dines with the indigo planter." I believe that the indigo planters and the civil servants do take a view of each other which is perhaps forced upon them from the positions which they occupy, which is very unfortunate. The indigo planter very often lives at a distance from the station, and is never heard of except he appears in court for doing something contrary to law; and the judge gets the idea that every indigo planter is an obstreperous gentleman. The indigo planter hears of the judge, not as the judge actually is, but as his agent reports him to the indigo planter, and he very often imposes upon both; he imposes upon the indigo planter, and gives as his reason for the dismissal of a case in court that the judge has acted unjustly, or that the judge did so and so, or that he wanted so and so; they are both represented to each other in false lights. But this kind of thing is forced upon us by the difficulties of our position. We cannot get the native to understand that we are unbiased, and impartial, and not acting unfairly in favour of our own countrymen, if we associate with them as we might otherwise do.

4311. Does

4311. Does an indigo planter generally go to India with the view of becoming a planter?—I cannot speak very decidedly upon that question; but I fancy that many of them do go out to factories that belong to their relatives and friends.

4312. Taking capital with them?—Some of them a good deal.

4313. Are there others who go out in some lower capacity, and who rise?—I do not know that they rise; they have generally European or Eurasian assistants in their factories; that applies to very many of them.

4314. Do you think that 5,000*l.* would be sufficient to enable a man to go out to India as an indigo planter?—I am not acquainted with these things; but I should think that he might begin with that.

4315. Do the indigo planters carry on other businesses in India; are they merchants of any sort?—Some of them are.

4316. Do they deal in English goods?—No; they deal more in native produce; sending home native produce, sugar, and so forth.

4317. Do they frequently come back to England, having made money?—Yes, they do.

4318. Is it a competency that they make, or is it a tolerably large fortune?—That I cannot tell you. I have heard of some making large fortunes.

4319. Do you not think it is curious that there are not more men who go out to India; is it because it is not so well known?—Some have objections to the system under which they are obliged to live; and in some districts, perhaps, there is not room for more. Indigo requires a very large extent of land; it is not every kind of soil that will grow indigo; and then again I believe many of them have objections, indeed they have stated them, to the system under which they are obliged to live.

4320. You think that some improvements might be made which would enable a much larger number of English to go out?—I cannot say a much larger number. I think that improvements might be made which would induce some persons to look upon the administration in a more favourable light than they do at present.

4321. Is there room for a great extension in the cultivation of cotton or sugar?—Yes, no doubt, both with regard to cotton and sugar.

4322. And tea?—Yes, I believe so.

4323. And that would be much facilitated by an alteration in the administration?—I cannot say that. I believe that a great many would be willing to go, and do go; whether the cultivation would be largely increased or not, I cannot say. I do not think it would.

4324. Do you think that a man with 3,000*l.* or 5,000*l.* would have a better chance of making a fortune in India than by staying in England?—That I cannot say; I am not competent to speak on those points.

4325. Mr. *De Vere*.] Can you state whether, in your experience, there is any obstruction thrown in the way of the settlement of Europeans on the part of the East India Company?—Not since the restriction debarring them from holding lands was taken off; to my knowledge there has been none.

4326. Now that those restrictions have been removed, are you aware whether there is any indirect discouragement on the part of the East India Company as tending against colonisation in India?—I am not aware of that. There is this impression, I have no doubt, on the minds of many officers in India, that they would rather see the lands in the hands of the natives than see them dispossessed to any great extent. There is nothing that you now have to contend with in the North Western Provinces of a more difficult character, not to speak in stronger terms, than the fact of the dispossession of the old landed proprietors by the natives themselves, capitalists and merchants; in the settlement of the country that will probably be found one of the greatest difficulties to contend with. Now, were the natives to be ousted to any large extent by European landed proprietors, I believe that politically the thing would be difficult, if not something worse, to the Government. If they once got the notion that people were coming out from England; not simply for the purposes of settlement or for the purposes of Government, but to oust them from their lands, to which they cleave as to their life-blood, it would be a very unfortunate state of things.

4327. Are you of opinion that any prejudice exists on the part of the Company as against European colonists?—I am not aware of any at all.

4328. And, *à fortiori*, you are not aware of that prejudice operating in any way upon the conduct of the officers of the Company with respect to colonists?—I am not.

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4329. Do you know of any now existing obstacles operating against European colonization in India?—The chief is the police system, and the system of judicial administration, to which the settlers say that they object; I know of nothing as a question of administration beyond that. As far as I have been able to gather from the views which they have expressed, the system of administration has been stated by them as an objection, and I give them credit for what they say.

4330. *Chairman.*] You stated that there was a great objection to the introduction of European police, in consequence of the financial difficulties of the question?—Yes.

4331. Do not you think that the introduction of capital into India is one of the greatest objects of those persons who had the improvement of India at heart?—No doubt of it.

4332. Is not it worth while paying a large sum of money for the security of personal property, and thereby encouraging the introduction of capital?—Yes.

4333. Do you not think that a good system of police, which would tend to give security to person and property, and which would encourage the introduction of capital, would be highly desirable?—Yes; but the introduction of capital into a country like India, where the land for the most part is private property, is very different from introducing capital into such colonies as Australia and Canada, where there is a quantity of spare land.

4334. Is not it worth paying to have a well-conducted police, which would bring repose to the country, and thereby encourage the introduction of capital?—Yes.

4335. Therefore, though it might be costly, might not it be desirable to have it?—Yes, no doubt of it; and also upon the ground of giving the people better justice.

4336. I think you stated, with regard to the exemptions which are mentioned as existing in the speech of Sir Arthur Buller, that it was only officials who were exempted?—Yes.

4337. Would not those exemptions of officials give an advantage to the European official over the European non-official?—Unquestionably, with regard to the amenability to certain courts; but that is the very distinction which I hold to be essential to the mind of the native, you must give a certain position to office.

4338. You stated that the introduction of the English language into the courts of law would be objectionable; supposing it were introduced, and notwithstanding that the natives found from a long experience that justice was well and admirably administered; would they or would they not be likely to be reconciled to it?—I believe that nothing that you can do, will reconcile the native to the loss of his own language in the administration of justice.

4339. If you heard that persons very conversant with the natives, had said that the English language could be introduced in certain parts of India, would you attach any value to their experience?—No, I could not; I should believe them to be wrong. In a case of this kind I must take my own knowledge and experience of the natives, and form my judgment upon them.

4340. You hold notwithstanding that abstractedly, if it could be effected it would be desirable?—Yes.

4341. But you consider it impossible to introduce it even in the most gradual manner?—I think it impracticable to introduce it as the language of official administration among the natives.

4342. I understand you to speak very much in favour of the system of appointments, which has hitherto prevailed in consequence of the appointments being made at home, and the promotions being made in India?—Yes.

4343. Do not you think that a system of fair examination might be substituted for the system of appointments which has hitherto prevailed?—Yes, it has been introduced at home.

4344. Contrasting the system of competition with the system which has hitherto existed of appointment here, and nomination here, which do you think is the better system?—Unquestionably *cæteris paribus*, the system of competition is the better; but when you come to the details, you will find a number of difficulties in the way of competition for particular offices in India.

4345. With regard to the Mahomedan and Hindoo laws, did you state that in cases decided under the Mahomedan and Hindoo laws, the parties are satisfied with

with a simple establishment of the fact?—No. What I say is, that when you have these Hindoo and Mahomedan cases brought into your courts, you will generally find them turn upon questions of fact, the law being undisputed when the fact is ascertained, which leads me to the conclusion that had they a code of laws for all other purposes, there would be less of litigation than there is now. The people show a willingness to abide by a written law.

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4346. The Hindoo and Mahomedan law is certain?—The Hindoo and Mahomedan law is at the present time almost certain, except upon a very few points.

4347. So certain that the instant the fact is decided, the law steps in and decides the point?—In 99 cases out of 100. In fact out of the vast population of India almost all their cases of succession under the Hindoo law, and other legal points, are decided out of court.

4348. Therefore the Hindoo and Mahomedan law would contrast strongly with the present vagueness and uncertainty of the law, when administered by a judge who relies entirely upon his own opinion?—There is no law in the one case, except what the judge considers to be justice.

4349. There can be no uniformity of law?—There is a want of uniformity of law, and the consequence is increased litigation.

4350. You mentioned the importance of having Europeans who come into contact in their official capacity with the natives, brought up in such a manner as to make them fit to act properly towards the natives?—Yes.

4351. Have you ever heard of a plan which has been suggested, whenever India is again restored to order, of having the children of the soldiers of the English army brought up in the hill districts, in such a manner as to prepare them for taking situations under the Government?—No; I do not know that any plan has been thought of, with the intention of educating them for appointments.

4352. Supposing it were so, do you think that it would at all coincide with your views as to the propriety of especially educating persons who are to come into contact with the natives?—I think that you might make use of them, and thereby obtain an improved body of persons for parts of the administration of India.

4353. Would not they have the advantage of being habitually brought up from their early youth in contact with the natives—It depends entirely upon the system. You might be up there in the hills almost as much separated from the natives as in England.

4354. Suppose you educate them specially?—Yes, but you might educate them specially in certain points at home.

4355. Would that give you any advantage over the persons who are casually introduced into India?—Yes, but the grand experiment has to be tried with regard to their health, which has not been settled yet.

4356. *Mr. Willoughby.*] You alluded to the police being an obstruction to the colonization of Europeans; is not the climate also an obstruction to the colonization of Europeans?—Unquestionably. Temporary settlers may repair to India, but the climate is an insuperable barrier to colonization.

4357-8. And also the fact that the best parts of India are now densely populated and occupied?—Yes.

Chairman.] My question applied exclusively to the hill districts.

4359. *Mr. Lowe.*] Would you wish to retain competition, or not, in England?—My own view is that of a mixed competition and nomination; I mean to say that I wish the plan of nominating four to every vacancy had been tried; that would have given you nearly as large a number of candidates for the service as you now get by competition, but you would have had the selection of the nominees.

4360. Who should nominate the four?—When the place was first proposed, the patronage was, as it is now, in the hands of the directors.

4361. Are you aware that in a recent case three gentlemen were nominated by one of the Secretaries of State, and that they were all three plucked?—No; but it is of importance that your men should be well selected; much of the management of a district in India depends upon the deportment of the man at the head of the district. Treat the people as a gentleman should treat them, and have respect for their feelings, and you will manage the district with an ease no man can understand in comparison with the difficulties the man has to encounter who is rough to the natives, and treats them unkindly.

4362. You would have them to enter at 18?—Yes; I would give them an education up to 22.

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4363. And give them a judicial training?—Yes, to all, because the collectors are *quasi* judicial officers.

4364. Mr. Villiers.] Have not all the persons who are appointed judges a judicial training now?—No; they enter upon the discharge of their duties without any special training; the step of the register, which preceded that of the judge, has been done away with for the last 30 years, and a man gets upon the bench of the civil court without any training but that which he has gone through on the criminal side.

4365. At what age could he get upon the bench of the civil court?—It may be after 15 or 16 years' service.

4366. He could not be appointed before that time?—Not ordinarily; the office of civil and sessions judge is held by the same officer; he is a criminal judge, and also a judge upon the civil side, but he exercises criminal powers as a magistrate long before he comes to the civil bench.

4367. And a magistrate may be appointed after he has been there five or six years?—Yes.

4368. He might be then only 23 years of age?—Under the old system he might be 24 or 25, but under the present system, 30.

4369. Did you refer, in the reports which you made to the Law Commission, to the incompetency of the judges?—Nothing of that kind was done; it was not the duty of the Commission; their duty was to prepare a code of procedure and rules for the amalgamation of the courts.

4370. Did not you consider yourself very much fettered by that direction on the part of the President of the Board of Control?—The Commission had precise instructions to follow, and to those they adhered.

4371. Mr. Lowe.]—Was not that unavoidable by the Act of Parliament, which only gave us the power to inquire into such things as the President of the Board of Control pointed out?—Yes.

4372. Mr. Villiers.] I think you stated that Sir Arthur Buller was wrong in reference to the exceptions that were made, he having not taken that distinction that you do of its being official?—He did not take the distinction to its full extent; evidently his idea was that all the four classes excepted were Europeans; had he gone into the code more particularly, he would have seen that the last class, judges, included others than Europeans.

4373. Was he wrong in stating that; is he not right actually that the native judge is an official?—I do not know that he mentions that.

4374. The native judge is an official?—Yes, clearly.

4375. Did not he complain that European settlers were not exempted?—Yes.

4376. He did not dispute the fact that all officials were exempted?—No, he did not actually dispute it.

4377. All officials are exempted, whether they be natives or Europeans, holding offices?—Yes, of certain classes.

4378. But what he pointed out was, that Europeans and persons of great importance were not exempted also?—He pointed out that Europeans, generally, are not exempted, while persons of importance are.

4379. And he was quite right in that?—Yes.

4380. You agree with him in your view?—Yes, as to certain courts.

4381. Mr. Gregson.] Is not the competition for the civil service of India now open to an unlimited number of candidates?—It is.

4382. You propose to limit the number of candidates to four?—I do not propose it; I would rather it had been done originally.

4383. Mr. Lowe.] You have been asked with regard to the competition existing in India; would not the competition existing in India very much destroy the power of the Governor-general over the civil service, and make it independent of him?—Clearly, if you compel him to take an individual for a particular office.

4384. Is not it found necessary to give the Governor-general the patronage, in order to give him the authority?—Yes, and you must let the Governor-general select his own men for particular appointments.

4385. Has a man who gets on the Sudder bench ever had any instruction in the law of evidence?—No, except what his own experience has given him.

4386. There is no provision whatever for his acquiring that?—No; he has grown up with what he has seen, but nothing more.

4387. With no legal knowledge of evidence?—No, except what he gets by reading English law books.

4388. Would

4388. Would not it be most invaluable if every civil servant of the East India Company were instructed in the principles of the law of evidence?—No doubt. J. A. F. Hawkins,
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4389. So as to teach him the distinction between hearsay and written evidence, primary and secondary evidence, and so on?—Yes, no doubt of it. 20 May 1858.

4390. Mr. *De Vere*.] Does not a man's experience as a collector give him considerable knowledge of the law in the revenue cases which he has to administer when he becomes a civil judge?—Yes, and my opinion has been for a long time that it is extremely difficult for a man to exercise the office of a judge except he has been in the office of a collector. I have known men on the Sudder bench having never passed through a collector's training, who found it difficult to deal with intricate cases of land tenures.

4391. You said that justice being administered in the English language would produce a fear in the mind of the natives that justice was not being done?—Yes.

4392. Is not there a feeling that the attempt to administer justice in English would be an insult to their national pride?—There would be some feeling of that kind; I will not give it that term; it would create an immense deal of dissatisfaction.

4393. Upon political as well as economical grounds?—Yes, they would think that we were forcing it upon them as their rulers.

4394. *Chairman*.] You think that the magistrates should have an education in jurisprudence generally?—Yes, I do. I would prepare them all for the judicial office.

4395. You have also mentioned that from the peculiar susceptibility of the Indian mind, great tact is required in dealing with the natives?—Yes.

4396. If there were places for the education of the children of the soldiers, all those nice points might be attended to, so that the persons brought up there might be brought up with a special view of directing and managing the people of India?—I believe that education of that kind generally would be very beneficial for people intended for offices in India; they would become familiarised almost imperceptibly with what was necessary and right.

4397. Being in India itself, if their studies were properly directed, they would have practical means of acquiring a knowledge of the natives?—Yes; no doubt of it.

4398. Mr. *Villiers*.] Is not there a very different mode of dealing with the natives from that which you think proper; is there not a sort of contemptuous and harsh way of dealing with them?—Since I left India I have heard of that growing up, but when I entered the service, and to the close of my service, I believe the general desire on the part of the European officers of the Government was to treat the natives with kindness and consideration. In some offices in India, the young civilian has only natives to speak to. I once held an office of that kind myself. I believe there was, and is, many a civil servant who fully comes up to the proper level of his duty in his treatment of the natives, and in respect for their feelings. I hear, however, that that kind of thing does not prevail so extensively as it once did, and the expressions which one sometimes hears applied to the natives are painful; it looks as if there was a deterioration in that respect compared to what it used to be.

4399. *Chairman*.] Do not you think it very desirable that persons specially educated for Indian objects should be brought up with that considerate regard?—Everything should be done to impress upon them that their lives are to be spent for the benefit of the people among whom they are to live.

4400. Mr. *Villiers*.] Is not it the result of so many people going out with the intention of coming back that they do not feel that interest in the country, or the people, which other colonists do in other countries?—There is something in that; there is much more prospect of returning to England than there used to be, when people made up their minds to live there for a number of years, or to die there.

4401. People go out with a view of making a fortune and coming home?—Yes.

4402. *Chairman*.] If it be the case that people are less likely to reside in India, is not it the more desirable that counteracting attempts should be made to give them proper and refined feelings towards the natives?—Yes.

4403. Mr. *Gregson*.] In what part of the district were you surrounded by natives?—In one of the Bengal districts.

4404. Is that the case now?—Sometimes, where there are joint magistracies; At the station to which I refer there was not even a medical man.

Martis, 1^o die Junii, 1858.

MEMBERS PRESENT.

Mr. Campbell.
Mr. William Ewart.
Mr. De Vere.
Mr. Gregson.
Mr. Kinnaird.
Mr. Lowe.

Sir Erskine Perry.
Mr. J. B. Smith.
Mr. William Vansittart.
Mr. Villiers.
Mr. Willoughby.

WILLIAM EWART, Esq., IN THE CHAIR.

John Abraham Francis Hawkins, Esq., called in; and further Examined.

*J. A. F. Hawkins,
Esq.*

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4405. *Chairman.*] I BELIEVE you wish to correct some observation you made at the last meeting of the Committee?—Yes; I wish to offer an explanation with reference to Question 4259. The question is, “Was it not an attempt” (that is the question brought forward with reference to what is called the Black Act) “to take out a portion of it, letting the question of the amalgamation of the supreme and the sudder courts stand over for a time?” The answer is, “Yes; it was an attempt to take the codes of procedure made for the amalgamation, independently of the amalgamation.” Now, that will bear a construction as if there was an attempt upon the part of the Legislative Council to smuggle through this Black Act without bringing in the whole code as prepared by the Law Commissioners in England. Now, there was no attempt on the part of the Legislative Council to smuggle anything in, or to do anything that was not perfectly right and proper; and the best explanation will be a sentence from the speech of Mr. Peacock, in putting the code upon the table of the Legislative Council. Mr. Peacock laid upon the table of the Legislative Council the whole of the report, as prepared by the Law Commission at home, with the exception of that part referring to the amalgamation of the supreme and sudder courts, and therefore it was an introduction into the Legislative Council of part of what was prepared by the Law Commission at home, but not the whole of it. With regard to the civil procedure, Mr. Peacock says, “It was unnecessary to point out the details of the procedure which the Commissioners recommended in the second chapter of their code, from the commencement of a suit to the final decree. It appeared to him that, on the whole, it would very much simplify the procedure which now obtained. He did not mean to say that he coincided with the recommendations of the Commissioners in every particular; but he had thought it best, considering the care which had been bestowed on this code, to publish it to the world in the form in which it had been proposed. He thought it would be better for the Council to let the code go forth to the public in the form in which it had been proposed by the Commissioners at home, in order that it might elicit the opinions and suggestions of all persons competent to advise upon the subject; and, consequently, he had made no substantial alteration in it.” That was with regard to the civil code, as prepared by the Law Commission. With regard to the criminal code, he says, “The code had been prepared with great care, and in his judgment would very much simplify the procedure of the courts of criminal judicature; but there were certain articles which might give rise to difference of opinion. He had thought it right to insert them, as framed by Her Majesty’s Commissioners, and to leave every Honourable Member to adopt any amendments which it might appear expedient to make after considering the communications which the publication of the code might elicit, and the Report of the Select Committee to whom the code would be referred.” It appears, therefore, that it was rather out of deference and respect to the Law Commission that it was put in the form in which it was upon the table of the Legislative Council, it being put there complete, with the exception of the part referring to the amalgamation of the courts, and then left to the members of the council to suggest such alterations as they thought proper.

4406. Sir

4406. Sir *Erskine Perry*.] You were a judge in the *Sudder Adawlut*?—Yes, for two years, and I was registrar for about 10 years. J. A. F. Hawkins,
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4407. I think *Bengalee* is not the language of the *Sudder Adawlut*?—The *Hindoostanee* is the language of record. All the documents from the *Zillah* courts of the *Bengal* districts come up in the *Bengalee* language. June 1858.

4408. And so also throughout the *Mofussil*. In *Bengal*, latterly, the judges are becoming conversant with *Bengalee*, but *Hindoostanee* is the language of business in the court?—Certainly not, as far as I recollect; that may have been the case within the last 10 years. When I was there, every document was in *Bengalee*.

4409. In what language does the judge speak when addressing the *vakeels*?—Generally in *Hindoostanee*, when speaking to the *vakeels*.

4410. *Hindoostanee* is not intelligible generally to the *Bengalee*?—I should say that to a great extent it is intelligible, but I fancy that the judges can make themselves understood through the officers of the court so as to be perfectly understood.

4411. Do you think that judges, dealing with a language of that kind, with which they are imperfectly acquainted, are able to carry on argumentation properly with *vakeels* speaking their own language?—There is not a *vakeel* in the court that does not understand the *Hindoostanee* language.

4412. Going through *Bengal*, the bulk of the people do not understand *Hindoostanee*?—I do not think that any man speaking *Hindoostanee* well will find himself in difficulty in *Bengal*.

4413. I am talking of the arguments that take place in the court?—He could not carry on an argument.

4414. That being so, how is *English* more foreign to the uses of the system than *Hindoostanee*. *Persian*, which was the language of the courts before, and *Hindoostanee* now, are both of them not the language of the people?—They are not the language of the people, strictly speaking; but whether the proceedings be conducted in *Hindoostanee* or *Bengalee*, what I say is, that the language can be understood, and the whole of the proceedings of the court can be understood; if you substitute *English*, the thing is unintelligible to everybody.

4415. The records of the court are in *Bengalee*?—They are.

4416. But the proceedings are in *Hindoostanee*?—Yes, generally, the oral proceedings of our civil courts.

4417. You admit that the bulk of the population do not understand *Hindoostanee*?—Not at all; but what is going on in court, if carried on in *Hindoostanee*, it is my belief is understood by the greater part of the audience in court.

4418. Is not that inconsistent with your admission that the bulk of the population do not understand *Hindoostanee*?—I believe that everything that is carried on in *Hindoostanee* is intelligible to a great portion of those in court. I cannot say that it is so to the very lowest orders of the people.

4419. Is it the case that a man coming up and speaking *Bengalee* has his evidence interpreted into *Hindoostanee*?—Yes; I should think that that would be the case sometimes, but not always.

4420. And therefore a *Bengalee* witness would have to give his evidence in *Bengalee*, which would be interpreted into *Hindoostanee* to come up to the judge?—The judge, for the most part, would perfectly understand him.

4421. What would be the difference between the evidence being given in *Bengalee* in the court, and being translated to the judge sitting on the bench into *English*; the *Bengalee* answer would be made known to the whole court. You said that if the proceedings were conducted in *English*, it would create an impression that there was injustice?—Yes. *Hindoostanee* is not the language of the people, but it is intelligible to the people.

4422. There is an affinity between *Hindoostanee* and *Bengalee*?—Yes.

4423. Is it greater than between *Spanish* and *French*?—I am not prepared to say that it is not.

4424. And therefore if a judge does not understand *Bengalee*, a witness speaking in *Bengalee* would have to have his evidence translated into *Hindoostanee*?—Yes; but that is arguing from premises that do not exist. It appears to me that the judges do understand *Bengalee*.

4425. Are you able to say that of the whole number of functionaries?—Yes, of the greater number when I was there, and now I should say the whole; because they pass an examination in *Bengalee*.

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4426. If that is so, why do they conduct the business in Hindoostanee?—Because the vakeels, especially those of them who are Mahomedans, prefer it, and the majority of the judges themselves speak it more fluently. I have no doubt that if you carried on the proceedings entirely in Bengalee, in the course of a twelvemonth the judges themselves would speak it.

4427. In those parts of India where the languages are different, such as the Mahratta, Canalese, Teloogoo, and so on, the Hindoostanee is more remote?—Yes.

4428. I do not understand, if a foreigner is administering justice in a country, why it should be more unpalatable to the natives to have the evidence given in the native language and translated into the language of the judge sitting on the bench?—You might, and you would have, in very many of the Mofussil courts, under those circumstances, the judge alone in court understanding the English language besides the interpreter; you would have the great majority, in fact all of your audience, understanding the native language only; you would have one individual understanding both languages; and the natives would at once come to the conclusion that the whole of the administration of justice is in the hands of the interpreter; and your administration of justice would be considered, in the course of a twelvemonth, a mockery and a sham.

4429. Is not there a desire on the part of the young natives to learn English, in order to promote themselves in the service; and would not the vakeels make themselves masters of English?—Certainly not in the interior, for a very long time.

4430. Not if it was the door to employment?—It is the door to employment now, and you do not find a single vakeel speaking English.

4431. Why should they do so?—It might be an inducement to them to do so if you introduced the English language into the courts.

4432. If the system which I speak of would be considered a gross injustice upon the native, how do you reconcile that opinion with the fact that in all the Presidency towns the natives have petitioned over and over again in favour of the Supreme Court system?—I was not aware that they had done so.

4433. That has been the case within the last few years; there have been numerous petitions to the House of Commons, expressing great satisfaction with the Supreme Court system?—I would not argue from the Presidency towns to the Mofussil; I think nothing can be more dangerous. The appeal should be made to the natives of the Mofussil themselves. Twenty years ago it was distinctly stated by Lord Macaulay, that nothing was more dreaded by the natives than the extension of the jurisdiction of the Supreme Court.

4434. Is not that opinion of Lord Macaulay's very much contradicted by the fact, that for the last few years petitions have come up over and over again in favour of the extension of the jurisdiction of the Supreme Court?—Unquestionably, if such be the case.

4435. Were not also the evils which Lord Macaulay spoke of very much founded upon the expensiveness of the Supreme Court?—Yes.

4436. Those expenses have been very much diminished of late years?—Yes.

4437. And it lies with Government to diminish them still further?—Yes.

4438. You say that you contrast the opinions of the Presidency towns with the Mofussil, and you think that the opinions of the Mofussil should be preferred upon the subject?—I do.

4439. In the Presidency towns, have not the natives the two systems to contrast one with the other, the Sudder Adawlut, or Company's system, and the Queen's system?—They have.

4440. And they have not such powers of comparison in the Mofussil?—No.

4441. If the natives in the Presidency towns prefer the Supreme Court system, having the two systems to compare together, and the Mofussil has only one, surely the opinion of the natives in the Presidency towns is most to be relied upon?—They get ideas in the Presidency towns, of which the natives in the Mofussil know nothing, and with those means of forming a judgment in the Presidency towns, it would be still unacceptable to the Mofussil, the inhabitants of which must be the best judges as to the language they prefer. With regard to the number of petitions, I should look upon that in some qualified degree, as to the opinions of the natives in the Presidency towns; my own opinion is, that there would be a large body of natives who would be adverse to the extension of the jurisdiction of the Supreme Court in those towns.

4442. The

4442. The jurisdiction of the Supreme Court cannot be extended in the Presidency towns, because it is universal?—There are a large number of natives who would be adverse to the extension of the jurisdiction of the Supreme Court over the Mofussil.

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4443. How do you account for the expression of opinion of the natives in favour of a fuller foreign system of English law and English lawyers?—If those petitions have come up, I cannot say anything against them; but my own opinion is, that there are a large number of natives in the Presidency towns who would be adverse to the extension of the jurisdiction of the Supreme Court over the Mofussil.

4444. *Mr. J. B. Smith.*] Why do you think so?—I believe they prefer the present system, which they consider to be the administration of their own law more in accordance with their own notions.

4445. *Sir Erskine Perry.*] Why should a trained English judge, administering law in the Mofussil, having passed in the native language, find it more difficult to administer the native law according to the habits and customs of the natives, than it is to a Company's judge to administer it in the European language?—I never said it would not be so easy.

4446. You said you thought it would be more agreeable to the natives to have the law administered according to their own laws and customs?—The Mofussil does not know the Supreme Court; they do not understand it, but they do understand the Mofussil system, and have no desire to change it for that of the Supreme Court.

4447. Do you not think that a trained judge, who is seen to be deciding entirely from his own experience and the evidence, and who gives his decisions according to justice, would be palatable to the natives?—Certainly, speaking their own language.

4448. With regard to the Small Cause Court, in Calcutta, that was established before you left India, was not it?—No, not under its present system; it was a court of requests when I was there; the law was passed in 1850, when I was not in India.

4449. You are aware that the cases in that court are chiefly those in which natives are concerned, to the extent of perhaps 95 per cent. of the entire cases?—I am not aware.

4450. At Bombay 95 per cent. would be the proportion?—Perhaps so.

4451. And there is an exclusively native audience?—That I cannot say.

4452. If the proceedings there conducted by an English judge, in the English language, by means of interpretation, give satisfaction, does not that lead you to say that the same system would succeed in the Mofussil?—I think not. I do not think that you can argue from the Presidency to the Mofussil; you have had it in the Presidency towns for a vast number of years, but there is nothing of that kind in the Mofussil. There is a sufficiently large audience in every court in the Presidency towns to convey to the natives a knowledge of what is going on in the court. Those who attend the courts know something of English; that is picked up at the Presidency towns; but there is nothing of that sort in the Mofussil; and if you were to introduce English into the vast majority of our courts in the Mofussil, there would not be a man who would know what was going on.

4453. If vakeels obtained employment by being conversant with English, they would spring up at once?—Yes, but you must still carry with you the great body of the people. I may state, that I do not think that the people prefer it in Calcutta; they get on with it; but if you were to poll the natives in Calcutta, I suspect you would find that they would rather have their own language than the English; they cannot help it.

4454. Ought not an experienced judge to have his own instrument, namely, the English language, as the instrument for conducting his business?—I would say infinitely rather let the judge going into the interior of the country have the native language as his instrument.

4455. And then he becomes subject to the corruption and venality of his omlah?—If proper precaution were taken that would not be the case, I believe.

4456. Is it not the case that the system is so much deprecated that the non-regulation system is much preferred by modern legislators?—That is because the procedure is bad. The proceedings have been carried from the equity courts in England to a people to which they are not suited. I believe that that was the origin

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origin of the Cornwallis code. In the non-regulation districts the proceedings are conducted in the native languages.

4457. Is it not the case that a good English judge does not make justice yield to forms, but makes forms yield to justice?—Yes, I should think so.

4458. You knew Sir Lawrence Peel, and several of his eminent brethren on the Bench, did you not?—Yes.

4459. Do you not think that acquaintance with the science of law enables a good judge to frame the forms of his court so as to make them coincide with justice?—Unquestionably; I think that the training for the judicial office is deficient.

4460. Is it not the case that gentlemen who are not acquainted with law are apt to give forms an undue preponderance?—Certainly.

4461. Do not all those reasons lead to the conclusion, that in order to administer justice in the Mofussil it is far better to have trained judges than to have gentlemen taken from the collectorates?—Unquestionably I think so. When I was examined by the Committee on the last occasion I advocated a system of training for the civil service.

4462. Are you acquainted with French?—I knew it as a boy tolerably well, but 30 years in India have pretty well rubbed out the French.

4463. Do you think that any gentleman on the Bench would be competent to hold an argument with a French lawyer at the Bar?—That I cannot say. I am not prepared to answer that question.

4464. If you think that he could not, will you state what is the distinction between French and Bengalee or Hindbostanee; in every case is not the judge at an immense inferiority?—I think that is exaggerating the want of information upon the part of the Mofussil judges. I have been to many of our courts, and I can state that the judges carry on their conversations very easily indeed with the vakeels.

4465. I have heard from very able men in your service, Sir George Anderson, for instance, and others, that any European judge attempting to give a charge to the natives in the native language would make himself ridiculous?—There are a great many judges who could not give a charge at any length to a jury; but at the same time, I believe by the way in which they speak the language, they make themselves perfectly understood by the jury as to what is their opinion and view of the evidence, though they may not speak in classical language.

4466. Has not that rather a bad effect upon the public?—Certainly it might have; but I think that those are assumptions that experience would scarcely carry out.

4467. Do you know Sir William Sleeman's works?—Yes.

4468. Do you recollect that he states in his works that the European officials are really so little acquainted with the foundations of the language, that they cannot hold an argument upon the grave topics of morality and philosophy?—Very likely.

4469. Surely legal reasoning requires at least as much knowledge of the language as those other subjects?—I think not, for the judges are familiar with legal terms.

4470. Mr. Villiers.] Do not we administer justice in Wales in the English language, and is that thought to be a hardship?—No, it is not; but you must consult the wishes of the vast body of the population of India, who love their language, and who would think it an infringement upon what they conceive to be their rights, if you were to administer justice to them in a foreign language. You have 180,000,000 of people to deal with, scattered over the whole country, speaking divers dialects, and who are wedded to their language.

4471. You are satisfied that they would be discontented with such a mode of administering justice?—I believe that if you were to launch this subject in India, you would touch a chord that would vibrate from north to south and from east to west.

4472. Sir Erskine Perry.] With regard to Ceylon, although English is the language of the courts there, and appears to give satisfaction, you say that the Cingalese language is not so ancient as that of India?—In that I may have been mistaken, for the language of the Buddhists of Ceylon comes down from a very ancient time. But you may make an impression upon Ceylon long before you can make anything like the same impression upon India. And in Ceylon there is but one language to deal with.

4473. One

4473. One district has not much communication with another; in the north of Ceylon they have the Tamil language?—I am not speaking from personal knowledge of Ceylon. J. A. F. Hawkins,
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4474. They have a Hindoo population in the north of Ceylon and a Cingalese in the south, and there are two different languages, and yet the English language is administered freely in all the courts?—Yes, but I do not think that you can argue from so small a place as Ceylon to India. 1 June 1858.

4475. Do you think that the Mabrattas of Bombay care a bit about what is going on amongst the Bengalese, 1,200 miles off?—No; but if you touched the point of language they would all equally feel it. In Calcutta the record of every order being drawn up originally in the judge's handwriting, in his own language, is conveyed to the people in Hindoostanee in the Sudder Court.

4476. Mr. Villiers.] With regard to the Sudder Courts, the proceedings are in Hindoostanee, and in the Supreme Courts the proceedings are in English?—Yes.

4477. Mr. Vansittart.] Do not two distinct languages exist in our courts in what is called the Bengal Presidency, namely, the Bengalee language in Lower Bengal, and Hindoostanee in Behar and the Upper Provinces?—In the Bengal Presidency there are two distinct languages. The Bengalee is used in the Lower Provinces, and what is called the Hindee is used in the provinces of Behar and the North West Provinces.

4478. Bengalee is entirely and solely used in Bengal Proper, but from Behar up to the Punjaub it is the Hindoostanee?—Yes; the Hindee is the language of the country, and Hindoostanee is frequently spoken. With regard to Orissa, Oorea is used.

4479. Civilians appointed to Lower Bengal are obliged to pass an examination in the Bengalee language before they are eligible for an appointment?—They are.

4480. Do you not think that the natives consider that the Supreme Court is a much more expensive court than our Mofussil courts?—They do.

4481. Do not you think that the amalgamation of the Supreme Court and Nizamut Adawlut would be popular among the natives; for instance, two-thirds of the judges to consist of men of the covenanted service, and one-third of the Queen's or English lawyers?—The amalgamation does not necessarily follow from that; that is the mere putting one or two European barristers as judges into the Sudder Court. The amalgamation would be the doing away with the different proceedings of all the courts, and the making but one court for India. I am not prepared to say that it would be popular, but I see no objection to having one or two barristers appointed judges in the Sudder Courts.

4482. From your evidence I gather that you are not in favour of introducing the Punjaub or non-regulation system into Bengal, Behar, and the North Western Provinces?—Then that would be a wrong inference from my evidence. What I am in favour of is, introducing a far more summary procedure than that which now exists; and I would advocate the introduction of that code which was prepared by the Law Commission in England, which would give just as expeditious a code of procedure as the Punjaub code; but I infinitely prefer the non-regulation code to the system which now exists in the regulation provinces.

4483. You think that the system of appeals in the Mofussil courts is too tedious?—A great deal.

4484. Mr. Willoughby.] You have alluded to the test which a civilian is obliged to undergo before he is first of all introduced into the public service, and afterwards, upon promotion; can you give the Committee any information on that subject?—I have here the rules for the examination, which I will hand in to the Committee. (*The same were delivered in.*) Vide Appendix.

4485. The Canalese, the Teloogo, and other dialects have been alluded to; is it not a fact that all the civil servants who are appointed to serve in those districts are obliged to pass in those languages?—Yes; so far as I am aware, there are rules for examination in all the Presidencies.

4486. The fact is, that the object of the Government is to qualify their servants in the vernacular languages of the different parts of India?—Certainly.

4487. Under the belief that the administration of justice must be more efficiently conducted in the vernacular than in a foreign language?—I do not believe that the Government ever entertained the idea of introducing the English language.

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4488. Mr. *Campbell*.] You are aware that there are annual grants made by Government for the education of the natives of India in the English language?—
Yes.

4489. To what do those grants amount?—I do not know.

4490. Do not you think that the introduction of the English language into the courts would practically make it the interest of the entire population to know the English language, and would it not economically and efficiently aid the labours of the Education Commission?—Unquestionably it would; but, at the same time, it would be a very unpopular means of doing it.

4491. Then you are of opinion that advantage has been derived by the people of India by the introduction hitherto of the English language among them?—Certainly it has raised them, and I should trust that the more you introduce English literature among them the higher you will raise them; but I believe that it would be taking the thing by the forelock to insist upon the introduction of the English language into the courts of justice.

4492. You think that the ends of justice would not be so well subserved by the knowledge of English which the judge possesses as by the imperfect knowledge which he possesses of the native language, and his consequent subjection to the native omlah?—I believe that the ends of justice would not be so well subserved; I do not mean that justice would not be so well administered, but you could not convey the idea that it was so to the native mind.

4493. *Chairman*.] You do not object to the gradual introduction of the English language?—No; I do not object to the gradual introduction of the English language among the people.

4494. And there might come a time when you would not object to the introduction of it into the courts of law?—As an abstract question, I am in favour of the administration of the law in English, but at present I believe you could not do it.

4495. Was not there a time when even in the Supreme Court English was comparatively unknown to the natives frequenting that court?—Certainly.

4496. And now, since they know the language more or less, they do not object to it?—I hear no objections to it. The people have grown up with it.

4497. Might not the same removal of objection take place in the Mofussil courts?—It might in time, but it is a very long way off.

4498. Sir *Erskine Perry*.] Are you aware that the Romans introduced the Roman language into their conquered provinces?—Yes, wherever they went they introduced it as the language of business.

4499. *Chairman*.] You are aware that the Norman law was at one time the law of this country?—Yes.

4500. And all the statutes were in French?—Yes.

4501. Mr. *Gregson*.] You say that you do not object to the gradual introduction of the English language; how do you propose to introduce it gradually?—By extended education.

4502. Mr. *Campbell*.] Do not you think that the natives of India respect us in proportion as we uphold and respect our own institutions, our own language, and our own religion?—Yes, I do.

4503. Do not you think that, acting upon that principle, we ought not to appear to be ashamed of our language?—I do not think that you are ashamed of your language by not introducing it into the law courts. With regard to the introduction of our language merely, I do not think that if we did not introduce it the natives would consider that we had a want of respect for ourselves, but rather that we were acting from a motive of consideration for them. But when the very general question is put to me whether as Europeans we should stand upon the broad platform of European institutions with regard to our religion and our institutions generally as respects ourselves, then I answer the question unhesitatingly in the affirmative.

4504. Mr. *Kinnaird*.] And, if anything, you think that we have rather failed than otherwise in that respect?—It is a hard question for a man who has served the Government of India for many years, and is still in their service, to answer; but if you want an answer, I say that we have.

Mr. Neil Benjamin Edmonstone Baillie, called in; and Examined.

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4505. *Chairman.*] HOW long have you been in India?—From 1823 to 1844; about 21 years. During the whole of that time I was in India I never came home.

4506. You have not been there since?—No.

4507. To what part of India are your observations confined?—My residence was exclusively in Calcutta.

4508. Have you ever considered the subject of the obstacles to the settlement of Europeans in India?—I have; chiefly in connexion with the judicial system. I ought to mention to the Committee that I was an attorney of the Supreme Court for almost the whole of the time that I was in India. I commenced with serving articles three or four years; I then was admitted an attorney of the Supreme Court, and I continued so to the end of my career in India. I was also for about 12 years a vakeel of the Sudder Dewanny Adawlut; and for six of those 12 years I held the office of Government pleader in the Sudder Dewanny Adawlut. I had therefore considerable opportunities of knowing generally the judicial system, and matters connected with it, including the system of land revenue, which is also connected with the judicial system.

4509. Do you consider the state of the police in Bengal to be an obstacle to the settlement of Europeans in India?—The native police is very defective, and I think it admits of very great improvement; a Company's magistrate is at the head of the police, and of course what I say does not apply to him; but to the native police, which is very bad. I believe there has been no evidence given with reference to the police which does not concur in stating them to be nearly as bad as they can well be; and I concur generally in that view of the native police. I think it may be considered an obstruction to the settlement of Europeans; not in particular to the settlement of Europeans, because it is, probably, less an obstruction to the settlement of Europeans than to the settlement of the natives themselves; that is, the faults of the native police press more heavily upon the native than upon the European population; and therefore in that point of view the police cannot well be said to be an obstacle to the settlement of Europeans; at the same time I consider the native police very defective.

4510. Is it defective as a protective force?—Yes, it is defective as a protective force, and as a preventive force; but I allude more particularly to its defects as a detective force, which I ascribe in a great degree to ignorance; I do not think they have the same notions of evidence, the same ideas of tracing out and detecting crime from all the surrounding circumstances, that you find in the detectives in England. I think that the natives generally have very imperfect ideas of circumstantial evidence. The common belief seems to be, that a fact can be proved only by the testimony of witnesses speaking directly to it, or by the confession or acknowledgment of the parties. That was the impression made on my mind from a consideration of the evidence in civil suits particularly; I found that it was almost all of a direct character; many witnesses swearing positively to the same fact, with slight variations to account for their own knowledge of it; and I came to the conclusion, chiefly from my experience in the civil courts, and also from some knowledge of the original sources, from which the notions of the natives on jurisprudence have been derived, that they have but a very imperfect idea of detecting a crime from its surrounding circumstances, and scarcely any of proving it in any other way but that of direct testimony to the fact, or the confession of the parties. In this way I account for one of the worst practices of the police, that of endeavouring to extort confessions from suspected parties, or evidence against them from witnesses who really sometimes know very little about the matter.

4511. Their want of comprehension of the means of tracing circumstantial evidence drives them upon the more direct and often more cruel system of extorting it?—Yes; but I do not adduce this by any means with the view of extenuating their conduct. I believe that they are guilty of almost everything that has been said against them, but I think that in the particular instance alluded to their conduct arises in a great measure from ignorance, and I think that the true way to meet that is by instruction, and therefore I agree with Mr. Hawkins as to the employment of European serjeants, and would go farther, and say that European detectives might be employed with advantage to show the natives how to practice

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an art in which they seem to me to be just as ignorant as of the guidance of a locomotive engine till they are instructed. Those are faults of the system, as a detective system; and the amendment seems to me to be necessary to complete the system which we ourselves introduced without a sufficient instrumentality; we trusted entirely to the instrumentality which we should get on the spot, and I think that we have been deceived. In order to introduce the detective system of England, it is not enough to have magistrates; but there must be those subordinate agents, without whom the system cannot work.

4512. With regard to the state of the civil procedure do you consider that that is an obstacle to the settlement of Europeans in India?—I would make the same remark with regard to the civil procedure that I did with regard to the police, I do not think it presents any peculiar obstacle to the settlement of Europeans. I have been acquainted with a great many Europeans who were settled in the Mofussil, and particularly with the most respectable class, in whom I had many friends, that is, the indigo planters; I have heard their evidence, and I may state that I never knew a single indigo planter deterred from settling in the Mofussil, or who thought of inquiring as to the state of the police before he went there, and I never heard of any man who was driven out in consequence of it. Therefore I do not think the defects, great as they are, and I believe they are very great of the civil system, fall with any peculiar pressure upon the European population.

4513. Are they such as might deter a person at a distance from settling in Bengal who thought of settling there?—I do not think they are.

4514. What are the objections you yourself admit as existing in the system of civil procedure?—It is bad in many respects; chiefly that it has become, for it was not so originally, a heap of technicalities, and therefore the sooner it is done away with the better. It was a procedure adopted very much in accordance with English ideas; it was carried to India by Englishmen, and was very different from the existing procedure of the country; and one of the great evils of the procedure is, that we carried a system there, and fancied that we did everything when we carried the system and the judges (for we took English judges also), without recollecting that a subordinate agency also was required. Barristers and attorneys form a most important part of all English procedure, and we expected to find a substitute for those in the country, but were deceived. I think the natives had little idea of professional advocacy; and one of the chief evils of the system was this want of subordinate instrumentality to carry it out.

4515. Does the same defect in principle pervade several of our institutions in India?—I believe so. Instead of fighting and quarrelling with the men placed at the head of those systems, the civilians I mean, and fancying you can make the systems better by substituting other men, you will find the fault lies very mainly in the want of that subordinate agency which you have not in India, but an abundance of which you have in this country.

4516. You say that it is European agency which you consider desirable in this case as in the previous case?—Yes. The Committee will observe that I am speaking of an English system transported into a foreign country. I am talking of the faults of that system arising from its being transplanted incompletely; the system may be essentially bad. I think it is not a good system. But I say that it was essential for that system that you should have carried it out with an adequate agency. And the great defect is that it is an English system without a machinery for carrying it out. Now, I may mention the way in which the want of that instrumentality operates. All the cases brought into courts of justice in this country are got up by attorneys well acquainted with the rules of evidence, and acting generally under the superintendence of counsel. On the other hand, in the Company's courts the cases are got up by vakeels necessarily at the bottom of their profession, from their practising in the inferior courts, and native mookhtars, who have, I believe, only the same limited ideas of evidence that I have alluded to, and which belong to the state of society. In consequence, every suit is loaded with the statements of many witnesses repeating the same thing over and over again, and speaking generally, as of their own knowledge, direct to the fact at issue. There must be many cases in which actual witnesses to the fact cannot be obtained; but our system has afforded the utmost facilities for supplying their place, and the testimony is almost invariably false. This I conceive to be the *rationale*, to a great extent, of the failure of the civil system of procedure in India.

4517. You

4517. You think, therefore, that the remedy would be an infusion of European knowledge to lead the native in the conduct of evidence, as before in the conduct of the police?—Yes, in the preparation of it.

4518. And even if we introduce a more simple and unobjectionable course of procedure in India, would you still think that the introduction of European agency would be necessary?—The opinion that I have now given has reference to the existing system. I conceive that it is necessary, if you wish to carry out this English system, that you should have an English instrumentality, and the true way to get it would be to improve your vakeels as much as you can; but I think there is a better system than the English system. I think the English procedure was not adapted to India, where there was nothing like our procedure existing before; they had nothing but the simplest procedure, and it is a return to that simple state of procedure that I think is far better than attempting to perfect the English system; and that simple system is just the system recommended by the late Law Commission, to which I had the honour to be Assistant Secretary. Now, I think that in this simple system you have the means of getting over what I consider the great and radical defect of our civil procedure in India, which is the want of reliable evidence, a want arising very much from the ignorance of the natives as to the true nature of evidence. The only way is by an examination of the parties themselves; that is the keystone of the recommendation of the Law Commission.

4519. Would the simplification of the legal procedure which you recommend be favourable to an extension of European settlement in India?—It has this moderate bearing upon the question: that every improvement of legal procedure is a removal of difficulties; when a European comes to enforce a contract he is in the position of requiring a reference to the law, and of course simplicity of procedure is a matter of great importance.

4520. I understand you to recommend the simple course of procedure sanctioned by the Law Commission?—Yes; all simple systems are the same; they are merely bringing the parties together to inquire what is the dispute between them, and then you find what is the real matter in dispute, and examine them as to that matter.

4521. *Sir Erskine Perry.*] In fact, in one word, you mean the county court system?—Yes, the county court system; I speak of it as the best means I know for rectifying what I conceive to be the great defects of the existing system.

4522. *Chairman.*] What is your opinion of the propriety of continuing the use of the native languages in judicial proceedings?—In the court of the zillah judge and the Sudder Dewanny Adawlut, where the judges are always Englishmen?

4523. How far do you think the use of the native languages might be relaxed in those courts?—Those courts are practically courts of appeal. The judge, under the new system, may have some original jurisdiction; he may take some original jurisdiction to himself; but practically at present they are courts of appeal; and the record comes up to them from the native courts, where everything is in the native language; and I think, particularly as the system has existed for some time, and is in force, and is giving satisfaction, and I am very averse to great changes at this moment in particular, I should much prefer that the system of record in the native language remained as it is in the court of the zillah judge, and also in the Sudder Dewanny Adawlut. I think if the record were made in English, and the whole proceedings were in English, you would drive out of the zillah courts all the regular practitioners, and you would have, probably, none to carry on the current business; and you would drive away the omlah, and give very great dissatisfaction in the zillah, by taking away the few creditable situations now left to the natives. For these, and some other obvious reasons, I think that the record should remain as it is, in the native language; I see no sufficient reason for changing it; but more particularly with reference to that part of the new system of procedure recommended by the Commission in England, I think, as so much of it depends upon the examination of the parties, that in all cases where an Englishman is a party, he ought to have the means of using his own language, and the judge should speak to him or examine him, either in the first instance or as a witness, always in his own language. To that extent I think the English language should be introduced into the zillah courts. I think it might have another beneficial effect, of giving the judge exclusive jurisdiction in all English cases, as he will have the power of calling up any case from the lower courts; and I think that would be a very great advantage, because an English judge is the only person who can thoroughly understand an English case;

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case; and it would give every one the benefit of being thoroughly understood, and that is the only way in which the European can have that benefit. To that extent I would let the English language be used in the zillah courts. That does not at all apply to the use of it by the advocates; I see no good reason whatever why the proceedings should not be conducted in the same way as now, in the native languages.

4524. You would not carry it so far as it is carried in the Supreme Court?—No, I would not, for the reasons I assign, and those which were assigned by Mr. Hawkins, that the body of the natives would not have the same confidence in the administration of justice; and the only object I know for the introduction of the English language at all is, that the party should be thoroughly understood, that justice should be adequately and properly done to the parties before the judge; and if that object is satisfied, that is all that is required.

4525. Do you approve or otherwise of the proposed subjection of Europeans to native criminal judges?—No, I do not; I think, more particularly in present circumstances, that it would be very impolitic, and I should be very sorry to see it indeed.

4526. The Committee have heard a good deal of the inefficiency of the English judges; could they be safely selected in the same manner as the native judges?—The native judges are selected from the great body of the people; they are examined and are introduced in the first instance, I believe, into the minor grades of moonsiffs, and from that they are advanced to the higher grades. I do not think that would do for European judges; I do not think you could recruit for the higher offices in that way; but the question remains whether you might not recruit them in a different way from that in which they are now recruited; that is, from the exclusive service. We know that the zillah judges are entirely appointed from the covenanted service, and though it would not do to select them in the same manner as the natives, it does not follow that they might not be selected in some other way. The most obvious way is to take them from the bar, as in England; and a most natural question is, whether a zillah judge might be appointed in that way from gentlemen practising at the bar of the Sudder Dewanny Adawlut or of the Supreme Court.

4527. Do you or not think it is highly desirable that a judge should have gone through a previous training in jurisprudence?—I think it is highly desirable at the present moment that the judge should have a training in jurisprudence, because there is nothing else for his guidance; but if there was a substantive law and a proper code of procedure for the country, I should not give much for a general training in jurisprudence; it is a training that a native cannot have, nor the country in general.

4528. Should the judge have a previous legal education?—Under the present system it is desirable that he should have a previous legal education.

4529. Do you consider that there is a want of substantive law?—In the first place, I consider the great cause of the inefficiency of all our systems to be the carrying of an English system there without complete agency to work it out; and, in the second place, the want of a good system of procedure; and, in the third place, the want of a system of substantive law. I think all those three things operate. And as you have a good procedure in the system recommended by the Law Commission in England, all you want is a substantive law; and if you had a substantive law with the new system of procedure there would not be much necessity for instructing your judges in any other system of jurisprudence.

4530. Did the Law Commission consider that point?—Shortly, but just at the close of its proceedings, it recommended a substantive law for India.

4531. What do you consider to be the great legal distinction between the Mofussil and the Presidency towns?—In respect of substantive law, the great distinction is that they have, properly speaking, no substantive law in the Mofussil, except for particular classes of cases, and in the Presidency towns they have the English law in all its different branches; they have the common law, and the statute law, and the equity law, and the ecclesiastical law, and the admiralty law, and the whole of the English law. There is thus a great difference between the Presidency towns and the Mofussil. I look upon the Mofussil and Calcutta as being just as distinct in matters of law and practice as two foreign countries.

4532. Do you think that a supplementary law is required to fill up the void beyond the personal law existing among the Mahomedans and Hindoos?—I do, certainly.

4533. That

4533. That is what you mean by a substantive law?—Yes; the term substantive law is used to mean all law that is not what Mr. Bentham terms adjective law. The sense in which I use it, is, that it is that which embraces everything except procedure. There is some doubt with regard to the law of evidence forming part of one or the other; but when I talk of a substantive law, I do not refer to the law of evidence as being a part of it.

4534. Do you consider it desirable, both for the European settler as well as the native, that there should be a smaller number of appeals?—I do; I think that one appeal is quite enough. I think particularly that one of the greatest defects of the existing system is not only the frequent appeals, but the special appeal of which the natives are particularly fond.

4535. What is a special appeal?—A special appeal is a second appeal founded upon some point of law or regulation. A general appeal is founded upon evidence. The special appeal may be founded upon everything else but evidence.

4536. A special appeal is upon law points?—Upon law points; it is usually founded upon something that is opposed to the regulations, or opposed to the Hindoo or the Mahomedan law. The special appeal has most commonly gone upon technical points, and has served more than anything else to build up that mass of technicalities which I conceive the procedure now is; and no part of the new system is better than that which abolishes all special appeals, except in reserved cases.

4537. Do the special appeals stand in the way of judgment being passed on the merits of the case?—Yes; they almost always turn upon technicalities.

4538. The Committee have heard something of the want of capital in India; have you ever turned your attention to that large subject?—I have; I think that one of the greatest wants of India, is the want of capital; I do not know that there is anything in the law, or in the present state of India, that prevents the flow of capital into the country; I do not know of anything in particular.

4539. Do you coincide with those, who state that the high rate of interest is one of the great evils in India?—I think so. It aggravates very much the want of capital, particularly in Calcutta. It is one of the greatest evils in India; it is occasioned in a great measure by the mode in which the Government goes into the money market, to supply its necessities; I think that the pressure of the Government, and the financial operations of the Government upon the Calcutta market has more than anything else, tended to derange it, and to raise the rate of interest to a great height.

4540. Do you mean, when you say a want of capital, a want of the development of capital?—No; I mean the want of substantial capital; I believe, in opposition to a great many people who have a fancy that India is enormously rich, that it is very poor; I hear people talking of the natives hoarding and burying money, but I have never seen any great evidence of that; we never read of any great discoveries of buried coin. In my opinion there is very little to justify that notion.

4541. You think that there are resources in India, and that those resources require development?—Yes; and what we want is to tempt English capital there.

4542. Do you think that any inconvenience arises from the use of silver as the sole circulating medium?—Yes, very great. I may state one reason in connexion with the notion of money being buried largely in India, which is that silver does disappear very rapidly in India. It is sent out in large quantities, and it goes and cannot be traced. My idea is that it is absorbed to a great extent in the country itself which is very much owing to the changes which have been introduced by us in the mode of paying rent and revenue since the extension of our dominion in that country. Originally, I believe, almost all rent and revenue, or at least to a very great extent, was received in kind; and the introduction of our system, which we recommended as far back as Lord Cornwallis's time, to the zemindars, namely, to take their rent in money, sufficiently accounts for a large absorption and waste of silver; and there is no necessity to revert to the other theory of its being buried.

4543. Have you ever turned your attention to the desirableness of substituting a gold currency for the present silver currency?—I may mention the very great inconvenience of a silver currency. I recollect a case in which a lac of rupees, which is 100,000, was to be tendered; it was to be sent in hackeries or carts by cross-roads across the country. A lac of rupees is a very considerable weight; there are about 2½ rupees to an ounce of silver. This had to be sent for the purpose

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pose of making a tender. It was in connexion with a case in the Sudder Dewanny Adawlut, where the party was to get possession on tendering a lac of rupees. By the time he arrived with his hackeries, having been exposed to the danger of robbery, he was met by an order of the Sudder Dewanny Adawlut, suspending the decree; so that he had his labour for nothing. If, instead of its being silver, there had been a gold coinage, both the expense and the danger would have been reduced; but it would have been better still if there were a paper currency.

4544. This extreme predominance of silver coinage is an inconvenience to the Europeans as well as to the natives; and you consider that it would be an advantage to both parties to have a simpler and more comprehensive system of currency?—Yes; but it is difficult in some respects to alter it. In the mode in which indigo is cultivated it would be difficult to do without a large silver currency; for I believe that in indigo planting there is an immense number of small contracts with the ryots, and the payments which they receive are so small, that probably they would require to be paid in silver.

4545. You have stated your opinion with respect to the scarcity of capital, and the high rate of interest for money; what is your opinion of their effect upon the agreements with the ryots?—I think it probable that the terms of these agreements might be more liberal to the ryot if capital were more abundant and interest lower.

4546. What is your opinion of the necessity of coercive legislation with regard to the agreements with the ryots?—The agreements are of a very peculiar character; I do not think that legislation has interfered in any way with them, except in respect of indigo and opium, and some continuance of coercive legislation with respect to these seems to be necessary.

4547. What has been the progress of that legislation?—The ryot who receives an advance has very little inducement to keep his engagement; he receives a small advance, and he is to receive a certain price for his indigo at the end of the season. I should think that inducement was hardly sufficient; however, I cannot very well speak upon that point; but he requires to be frequently compelled to perform his agreement, and I should suppose that the inducement is not sufficient to protect him against the temptations to break his agreement. Coercive legislation, therefore, has been found necessary; and under Regulation 6 of 1823 the ryot who does not cultivate the land may be compelled to do so by a suit at the instance of the indigo planter. The indigo planter usually takes a penalty in his agreement; he therefore can sue for the penalty if the ryot does not perform his agreement, that is, does not cultivate the land in the terms of the agreement. He has two remedies: he may apply summarily, or he may proceed by a regular suit. In the summary remedy he can only get a return of his advances; in the regular suit he may obtain the whole of his penalty, in case of fraud or dishonesty on the part of the ryot. The only thing, therefore, that it seems to me he can reasonably object to is, that he cannot recover his penalty, and therefore has not sufficient means to compel the ryot to perform his agreement, except by a regular suit. By a summary suit he can obtain the return of his advances; but I believe that that is not sufficient to compel the ryot to perform his agreement, and therefore the planter has some right to complain; but under the new system the distinction between summary and regular suits does not exist. Under the new system everything would be summary; and therefore I think, if the new system were adopted the indigo planters would have the utmost that the law ought to do for them in enabling them to compel the ryots to perform their agreements; and I would not go further.

4548. The indigo planter has not the same summary remedy as the Government have under the opium system?—The difference now is, that the opium agent can impose a penalty of three times the money advanced upon the opium cultivator, if he fails to perform his agreement. He can do it summarily, whereas the indigo planter has not the same summary means of enforcing his penalty against the ryot who refuses to cultivate; but that distinction will be abolished by the new procedure; and as soon as the new procedure is in operation, there will be no distinction between the coercive power given to the opium agent over the opium cultivator, and the power given to the indigo planter over the indigo cultivator.

4549. And you approve of the adoption of the summary proceeding?—Yes; I think it would be better; I think that the indigo planter is entitled to have the same summary means, because, unless he can do it summarily, he loses season, and his loss may be very great.

4550. The

4550. The Committee have heard of the effect upon putnees of a sale of the zemindary by the Government for arrears of revenue; what is your opinion upon the propriety of sustaining the putnee notwithstanding such sale?—The putnee is a very convenient means, to the indigo planter, of getting command of the soil; and therefore if the putnee could be sustained in any way without disadvantage to the state, and without objections in other respects, I would be for sustaining the putnee: but I think that it ought not to be sustained as against the purchaser for arrears of revenue, I think it would lead to very great inconvenience, and to an ultimate separation between the Government and the land, if those putnees, which are perpetual leases, were sustained against a purchaser of an estate sold for arrears of Government revenue. It would have the effect of converting the Government revenue into a mere rent-charge, which it is not at present. A putnee is a perpetual lease which, after a man has got, he is very much inclined to create a sub-putnee out of; and in Bengal there are a great many sub-putnees, and not only sub-putnees, but sub-sub-putnees. These are called dur-putnees and se-putnees. Now, if you sustain the original putnee against the purchaser of an estate sold for arrears of revenue, I do not see how you can stop short of maintaining the dur-putnee and the se-putnee; and I believe that, ultimately, if you were to sustain putnees in the manner proposed, you would probably be doubling the whole ryot population of the country; you would have the ryot as a putnee holder, or a dur-putnee holder, or se-putnee holder, and the actual cultivator under him; and therefore I think it is impossible to sustain a putnee against a purchaser for arrears of revenue. The complication of title would be perfectly enormous; because if the title is complicated in the first instance by the putnee, the putnee must be complicated by the dur-putnee, and you would lose all benefit of the system of registration which is to some extent in operation.

4551. Are not leases for terms not exceeding 20 years protected?—Yes, under the new Act of 1845; and that appears to me to be the utmost extent to which you can safely go.

4552. It would seem more natural to protect putnees in perpetuity?—Yes; but if you protect anything in perpetuity you cut off ultimately the connexion between the Government and the soil.

4553. Do you consider that coercive legislation, to which you have alluded, has succeeded or failed?—There is a great deal of difference of opinion upon that point. I have long been watching the effect of the progress of indigo cultivation in India, and have seen a great deal of its ups and downs, and the conclusion which I come to (it may be erroneous) is that upon the whole, considering the tremendous losses which have been sustained upon the one hand, and the few fortunes that have been made upon the other, indigo has been productive of a loss instead of a gain to the community. I have scarcely known any person connected with indigo in Calcutta who was not ruined by it. I was a witness of the ruin of the ancient agency houses; and there was an unfortunate institution, the Union Bank, with which I was connected; they all got, one after another, into indigo; and no agency house that has ever become connected with indigo, and continued so for a sufficient time, has come out unscathed. Therefore my opinion is, that that coercive system, that that system of applying capital by advances to the cultivators, is not an advantageous way of applying capital to the country; and I ground that upon what I conceive to be a fact, that there has been, upon the average, a loss upon indigo.

4554. What do you consider to be the proper mode of applying capital?—The simple honest mode is to give the ryot a fair price for his produce.

4555. In fact, you would recommend the abolition of advances?—No, you could not do that. I consider it an unfortunate system, demoralising and oppressive to the ryot, and I consider that an extension of it to anything else would not be beneficial, and that if it cannot be done without more coercive means being used against the ryot, it ought not to be done at all.

4556. Do you consider the encouragement of the importation of English capital into India of great importance?—Yes; everything that can tempt English capital to India is of great importance.

4557. You have complained of the Government interfering with the money market?—Yes, the Government is driven by its necessities into the money market, and that has the most evil consequences upon the money market in Calcutta. You may get money to-day at five or six per cent.; to-morrow a new loan is opened

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opened at a higher rate of interest than the Government has been paying hitherto, and money will rise up four or five per cent. The fact is, that there is no reliance to be placed upon the money market, and I ascribe a good deal of that high rate of interest to the speculative indigo contracts, which have raised the rate of interest very high upon indigo. I have known many men advance money upon indigo, and get 12 per cent., or more by commissions upon it, and that and the fact that the Government is forced to be in the money market, is one of the causes that render it so difficult to obtain money on reasonable terms in India.

4558. Some evidence has been given to the Committee as to the desirableness of allowing the zemindar the power of redeeming the land-tax, and giving the occupier the chance of buying from the zemindar the fee-simple of the land; what is your opinion upon that subject?—As to the fee-simple, first let me disabuse the minds of Englishmen upon that subject. You never can get the fee-simple of the land by the mere redemption of the land-tax. The fee-simple of the land supposes you to have the land to do with it as you do with your own in this country. Now you cannot have that in India, because the land is all in the possession of the ryot cultivators, and anything which you can do with the Government can never get you the fee-simple of the land, and it is merely a question whether it is an advantage, upon the whole, for you to get land without its being charged with the Government revenue, or to get land which is so charged. Now, as to the question of applying capital to land, it appears to me that it is more advantageous on the whole to get land charged with revenue, than land without it, because if your sole object is to get command of the productive energies of the soil, you get them much more readily by purchasing land charged with revenue, than if you bought the land free of revenue; what is it that makes a man desire to get a putnee instead of buying a zemindary out and out? a putnee is a thing charged with a much larger annual payment than a zemindary; but the man gets a putnee at a much less expenditure of capital than a zemindary, and for the same reason he would get the land now at a much less expenditure of capital, than if there were no revenue charged upon it. Therefore I do not see that it is a matter of any great consequence whether the man has the means of redeeming the land tax or not.

4559. It has been stated to the Committee, that the zemindar having redeemed the land tax, the land might then be sold to the ryot, who would then have the fee-simple of the land?—In theory, I do not see that there is any impossibility in it, but in practice I cannot conceive that a poor creature who has only a few rupees a month, and a few begahs to cultivate, should ever be able to acquire zemindary rights over a great extent of country.

4560. The evidence that has been given, has had reference to the ryot obtaining zemindary rights over his own allotment?—His allotment is of really very little value; it is a mere fragment, and of little value unless combined with many other similar fragments, which could not be done without what I conceive does not exist in the country at present; that is, a power on the part of the ryot to sell his right.

4561. *Mr. Willoughby.*] I presume that your remarks apply to those parts of India where the permanent settlement is in force?—Yes.

4562. *Chairman.*] You think that you could not introduce the system of small cultivation, by which the ryot would be the proprietor of his own small portion of land?—Yes; but my idea is that it has little direct bearing upon the point of your inquiry; as there appear to be the same facilities in dealing with the ryot now as there would be if he had the zemindary right in addition to his own.

4563. *Mr. De Vere.*] You have spoken of the use of the English language in the zillah courts; do you believe that the use of the native language in those courts tends to the denial or perversion of justice at present?—The mere use of the native languages I cannot say, in my opinion, tends to the perversion of justice; I do not think it does. I am speaking of my own time, which is a time considerably back, and of the men that I knew; and certainly those men seemed to me to be fully acquainted with the native languages, to such an extent as to enable them to do justice in them.

4564. But you suggest that in some cases in those courts an examination of the Europeans might be profitably made in the English language?—Yes, I think so, because it is necessary to have an examination of the parties under that system, which I think ought to be adopted with as little delay as possible; and wherever there

there is an examination of the parties, it is necessary, not so much for the instruction of the judge as the convenience of the party himself, that he should be examined in his own language. I think that justice should generally be administered through the medium of the native languages.

4565. Would you translate the English examination which you have suggested into the native language, for the purpose of making it intelligible to those conducting the native pleading?—I think in that particular case it would be necessary that the other party should know what is going on, and the judge probably would be able to do it; it is of great importance that the other party should know, for the object of the examination would be entirely lost otherwise; unless each party knows what the other is saying there would be no means of obtaining the object of bringing them face to face.

4566. You suggest the examination of a European in the English language on the principle of examining a witness in the language in which he can best bring his evidence, and with a view to the subsequent translation of his evidence into the language recognised by the court?—Precisely for that reason, and with a view of stating it to the other party, if the judge could not do it himself upon the spot, which I think he probably could.

4567. You have said that you think the high rate of interest upon money injurious to the progress of India; what is a high rate of interest but a means of making capital productive in the hands of those who hold it?—One would suppose that it ought to have that result; but suppose there is a high rate of interest upon a speculative contract, it has not that result, for it results perhaps in the loss of the principal as well as the interest, and that is very much my idea of the nature of the contracts I allude to, and I told you that upon the whole my belief was that there was a loss upon them.

4568. Does not a high rate of interest tend rather to discourage than to encourage improvident speculation?—Not always; the man who is speculating highly gives the temptation of a high rate of interest, without which he cannot get the means of carrying on his speculation.

4569. Will not a man give more for money in proportion to the security and advantage with which he can invest it?—He may do so, but we know that a man will give more for money for a speculative necessity than he will with reference to the good way that he has of investing it.

4570. In other words, is not the high rate of interest upon money a proof that there are now existing means in India of rendering capital, even when borrowed at a high rate, profitable in the hands of the borrower?—It is a large question. In the particular case to which I allude I do not think that it is; I think that the high rates of interest upon money, which have been familiar to us in India, have been almost all connected with speculations that have been unproductive, and have turned out losses. A high rate of interest is sometimes procured with safety to the capital, but very frequently capital as well as interest all goes, Calcutta was a highly speculative place in my time, and the rate of interest was generally high.

4571. If the rate of interest were lower, that is, if money were more easily procured, would not it lead to more wasteful expenditure and speculation?—It might, or it might be laid out in legitimate investments; I do not know that I can enter into the question minutely.

4572. Why should the high rate of interest upon money operate more against the employment of money in safe and industrial investments, than it operates in speculative and gambling investments?—Because there is a high rate given in speculative and gambling investments; it raises the rate of interest for legitimate purposes just as much. I believe the rate of interest is artificial in Calcutta, and therefore being artificially high, it is high for good investments as well as bad.

4573. Is the soil which forms the sites of large cities and towns held by freehold tenure?—I cannot speak of the soil of any town except the town of Calcutta, and the soil of Calcutta is held in a very peculiar manner; I think it is very likely that the soil of other towns may be held in something of the same fashion. The Government attained what was called the zemindary of Calcutta before it became possessed of the dewanny right to the revenue. Being the zemindar of Calcutta, it had ryots under it, the cultivators of the soil, just as any other zemindar has in any other zemindary. But the Government treated its ryots as if they were the real proprietors of the soil, and therefore it gave them, in fact (though not that I am aware of in theory) a fee-simple in the soil, subject only

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to the payment of a certain annual rent per begah, generally speaking, of about two rupees; and all our tenures in Calcutta are of that character. They are founded on what are called pottahs. It is difficult to say what right a pottah did convey in the native idea, but all Calcutta is built upon ryots' tenures, those ryots' tenures having been treated by the Government, *qui zemindar* of Calcutta, as if the ryots' tenure were proprietary.

4574. What is the usual term of building leases in Calcutta and the other large cities of Bengal?—I am happy to say that the system of building leases has not been introduced into Calcutta. There was in my time no building lease in Calcutta, everything was bought out and out, what you would call the fee-simple of the land; in my time there was no such thing as a lease of years, except an ordinary lease for residence; sometimes the attorneys used, in creating a mortgage, to create it by a demise of 1,000 years, but there was no building lease that I am aware of granted in that way.

4575. What are the means by which a person wishing to settle in India, and to invest his capital in the country adjacent to the towns, could acquire a fixity of residence in the towns themselves?—I believe that the zemindars of the villages which afterwards became comprehended in towns (for towns are in some instances creations of our own) gave a pottah, which was leave to build on; it was a question, and I believe is still a question, what right really was conveyed in a pottah, which did not define anything; for they did not define by time or by life. I think the impression is generally, that when given for building purposes, they did convey a right to the soil; and I rather think that the Act I. of 1845, which protects farms up to 20 years, specially mentions pottahs granted for building purposes.

4576. Does not the indefinite nature of this right conveyed by pottahs form a considerable impediment to the investment of capital in India?—It has not, in my opinion, in point of fact, done so; all the indigo factories that I have ever been acquainted with were built on those pottahs, and except in instances where the pottah was given either for a time, or a life, I have never known any attempt to oust an indigo planter on the part of the zemindar; and therefore, in point of fact, they have, although not in theory, yet in practice, been treated as though they conveyed the fee-simple of the land.

4577. How far do you conceive that encouragement could be afforded to persons intending to invest capital in the cultivation of the soil by increasing the facilities for acquiring freehold tenures in towns?—An Act might be passed declaring those freehold tenures. In Calcutta we do not want it; when we buy and sell land commonly in Calcutta, the attorneys who are the means of conveying it never inquire into the origin of the title, and therefore, practically, it is no impediment whatever to the settlement of Europeans; it might be so theoretically.

4578. Mr. W. Vansittart.] I think you have not been in the receipt of any salaried appointment from the Government during your stay in India?—At the first commencement of my office as Government pleader I had a salary of 40 rupees a month, and in addition to that the regular fees of all the suits with which I was connected; that salary was afterwards raised to 500 rupees a month, but was reduced by the authorities in England from 500 to 300.

4579. You have not been generally a salaried officer of the Company?—Not otherwise than I have mentioned.

4580. What is your opinion of the civilians generally as regards their knowledge of the language and the administration of justice?—All my knowledge of them refers to a period anterior to 1844, and then, I must say, speaking chiefly of those in the Sudder Dewanny Adawlut with whom I was intimately acquainted, I can scarcely recollect a single instance of any man who did not seem to me to be fully competent to the conduct of business in the native languages.

4581. With regard to those residing in the Mofussil, what is your opinion?—I had not the same means of judging as to them. I had only their decisions, which came up to me for the purpose of appeal to the Sudder Court, and then I could only judge of the merits of the decree; therefore I cannot speak as to their qualifications further than this, that I ascribe the great cause of what I must admit to be many defects in the decrees that have come in my way to the want of any certain rule upon the part of the unfortunate judge, who had nothing whatever for his guidance, and therefore was frequently lost.

4582. What is the state of feeling that appeared to you to exist between civilians

civilians and indigo planters?—I cannot speak from personal knowledge upon that subject.

4583. Have you heard the evidence of Messrs. Theobald, Freeman, and other witnesses?—No; I did not hear Mr. Theobald's evidence at all; I heard Mr. Freeman's.

4584. Upon what grounds and data do you suppose those gentlemen formed their very unfavourable opinion of the abilities and qualifications of the civilians?—I cannot say.

4585. You have stated that, notwithstanding the defects of our Mofussil courts, you do not think that indigo planters and others have ever been deterred from settling in India?—That is my belief. I never heard in conversation any man talk of it as a great grievance; it is always talked of as an annoyance. A man will tell you that he is obliged to pay so much to bribe the omlahs. I never knew a case where a man was influenced to prolong or shorten his stay by the state of the law, bad as it is.

4586. You object to Englishmen being subjected to the native functionaries?—Yes, I do, to native magistrates.

4587. Do you object to natives being appointed to high official situations?—Yes, I do; my reasons in both cases are political. I would say that with regard to the appointment of natives to higher situations, that I was asked the question when examined before the Committee of the House of Commons in 1853. I then said that I thought that they were improving very much, and that, intellectually, I thought they might be considered qualified for higher situations. I thought there was still some moral deficiency on their part, and if they had been promoted to the highest situations at the time that I was acquainted with the native judges, I did not think that the natives themselves generally would be satisfied with their decisions, or would be entirely free from suspicions as to their honesty. I then gave my opinion entirely as a judicial question. I was talking of the qualifications of the men morally and intellectually for judicial functions. Now it is given upon political grounds. I think, politically, the natives should not be appointed to those high situations.

4588. In addition to your previous opinion, subsequent events have confirmed your opinion of the unfitness of the natives generally to be employed in those offices?—They have opened my mind to another view of the subject. I had considered the subject only judicially, and I discarded every other consideration from my mind in applying it directly to the question whether they were morally and intellectually qualified for higher judicial offices. Now, I do not discard other considerations; in fact, the judicial considerations are entirely subordinate to the others in my mind.

4589. Do not you think that we could get young men of very good family and education from this country to fill the situations of sudder ameens and moonsiffs with the present salary?—I doubt it very much; I think a man must have been some time in India before he is efficient; and by the time he has lived long enough in India to acquire all the knowledge to render him efficient, he has become a more valuable machine than you could purchase at that rate.

4590. How would you improve the system of sudder ameens?—I think you cannot do better than retain the natives; I wish to retain the natives; I think it is of great importance to retain the natives; and I think that politically it would be a mischief of the most enormous kind to withdraw the natives from the situations which they now hold, and I should not be surprised if it led to an insurrection of the people.

4591. Is not Khan Bahadoor Khan, who was our sudder ameen of Bareilly, now the ruler of Rohilcund; and is not that the only province we have to reconquer?—I believe he was sudder ameen; I do not know.

4592. Have not several of the other sudder ameens behaved very badly during the late revolt?—That may be, but still I would not put a ban upon every native of the country.

4593. You do not think it would be advisable to substitute European agency for native agency?—No; I think it desirable to reserve as much as you can for the natives.

4594. *Chairman.*] You want to intermingle Europeans with the natives, to guide the natives?—Yes, to guide the natives.

4595. *Mr. W. Vansittart.*] Do you not think the natives consider that the Supreme Court is a much more expensive court than our Mofussil courts?—

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I have no doubt they do, for the fact is so; the regular course of proceedings is more expensive in the Supreme Court, but by the knavery of many of their own agents, the mookhtars, the expense is sometimes really greater in the Mofussil than in the Supreme Court. The advantage of the Supreme Court is, that the practitioners are all men of character, more or less, and therefore there is no irregular expenditure in the Supreme Court; there is a vast irregular expenditure in the native courts, an expenditure for which the courts are in no way responsible, but an expenditure connected with the employment of inferior native agency.

4596. There is a higher class of agents in the Supreme Court than in the Mofussil?—Yes.

4597. Do you think that the amalgamation of the Supreme Court and Nizamut Adawlut would be popular among the natives; for instance, say the judges to consist two-thirds of men of the covenanted service, and one-third of the Queen's or English lawyers?—I think generally, upon the question of amalgamation, that the elements will not do well to combine together; I think practically, that it is a question exceedingly difficult.

4598. You are in favour of keeping them separate?—Yes; I would give them first something in common; I would introduce the new system of procedure into the Mofussil courts; if it worked well, it might be introduced into the Supreme Courts, and then if they had the same common system of procedure the course would be prepared for an amalgamation in other respects.

4599. You say that what we want in India is a new substantive law; without our present system of procedure how could that be brought about?—A substantive law is one of the great wants of Mofussil India. I believe that the Law Commission was of opinion that all India might be brought under the same substantive law. I rather think that they intended that the substantive law should apply to the Presidency towns as well; but, if I may venture to express an opinion in opposition to men for whom I have the greatest possible respect, I think that it would be better, as the Presidency towns have had English law so long, to retain English law in the Presidency towns. The fact is, that there is a great deal of English law which is quite inapplicable to the Mofussil. I would take the case, for instance, of mercantile law. There is a good deal of mercantile law applicable to inland transactions, but there is much of it connected with the sea, and I think it is of great importance that the mercantile law of the whole Empire should be, as far as possible, the same; indeed, if you could go further, and make the mercantile law of the whole world the same, it would be a great advantage; that is one reason why I would not change the law of the Presidency towns; the two systems of the Presidency towns and the Mofussil are just as much separate as those of France and England, and I see no reason for forcing them unnaturally together; at this moment, particularly, I think it highly undesirable.

4600. Mr. Gregson.] You say there is a want of capital and a high rate of interest in India; what, in your opinion, are the obstacles which prevent the transmission of capital from this country to India?—I do not know that there is anything to prevent it. I believe there are great means of employment, and I believe capital does go largely from this country to purchase produce. I do not think it is advisable to lay it out in that particular manner the Committee have been talking of; but if you send out money to purchase goods in the marts of India, I do not see any objection.

4601. Mr. Willoughby.] Does not the system of indigo advances exclude the general European capitalist?—I think that when a man comes to Calcutta with money, he might be tempted to lay it out in this speculative manner that I mentioned, in indigo, and, in fact, a great deal of the professional capital made in Calcutta is embarked to a very considerable extent in that way.

4602. The fact is, that the crop has been forestalled by the settlers on the spot by the system of advances?—Yes, of course, the crop is always advanced for, and is restricted to the indigo factor, who makes the advance.

4603. Did you hear Mr. Hawkins's evidence?—Yes, I did.

4604. I gather from your evidence that you concur generally with that gentleman, except upon the particular points you have mentioned?—There is hardly any judicial point upon which I differ with him; we long worked together upon the Law Commission, and therefore it is natural that we should think together upon those subjects.

4605. You

4605. You have alluded to the defective state of the police up to 1844, when you left India; you are aware that many attempts have been made since, and especially recently, to improve it?—Yes, I believe so; but I do not know that any attempts have been made in the way of instruction where it is most wanted; I believe there are attempts in the way of a preventive police; there is some talk of a military police as a preventive police.

4606. Are you acquainted with the system introduced in the Bombay Presidency?—No, I am not.

4607. From what class would you select the European subordinates?—The military serjeants, if they are competent, and I believe they generally are competent. We had an excellent deputy superintendent of police in Calcutta, taken from that class; Serjeant M'Cann was his name.

4608. As a general rule, do you think they would be trustworthy?—I should hope they would.

4609. I allude more particularly to that bane of the soldier, drink?—The conductors of artillery are selected very much in that way, and are very highly respectable men; and I do not see why, on a good salary, European serjeants might not be exceedingly useful in connexion with the police.

4610. I conclude you are not aware that what you recommend was the practice in the Island of Bombay, and that the whole body were discovered to be corrupt, and were discharged?—I am not. What I wish to impress on the Committee is that there is a fault in the native mind which requires to be removed; that there is ignorance which requires instruction. I have only suggested a remedy, but still the fault is there; and to improve the system that particular fault must somehow be rectified.

4611. You have stated some very strong objections against the judicial system introduced by Lord Cornwallis, and you made sundry suggestions for its improvement: is not the system which you advocate in reality the native system, that is, the system which prevails to this day under the just native Governments?—I cannot speak with regard to the system that prevails under any native Government; but that simple system was the Mahomedan system; and I think it highly probable that the Mahomedan system was generally adopted in India.

4612. You have alluded to the courts of law, presided over by European judges, being more courts of appeal than of original jurisdiction; that change was introduced by Lord William Bentinck?—Yes.

4613. And is not that in your opinion one of the reasons why the judicial administration of India may have deteriorated by abolishing the school in which the Company's judges were trained?—I think there is no doubt of that; one of the greatest faults in the modern system, so far as a European is concerned, is, that he has no means of instruction; the judges with whom I was acquainted were men of the old school, trained in the regular way of the old service; that is, they ascended gradually through the revenue, and were judges before they became judges of the sudder, but now they have not sufficient means of experience in the lower grades of the service, which is a great evil.

4614. You have stated that you would allow Europeans to plead in their own language in the courts of law in the Mofussil; is that if the case was between European and European, or if the defendant was a native?—What I said was not so much applicable to the advocate, as to the party himself.

4615. Supposing the defendant is a native, is it your opinion that English should be used as far as the plaintiff is concerned?—I think as under the new system it is necessary to examine the parties, if a European plaintiff should come to be examined, it is of great importance that he should, in all cases, be examined in his own language.

4616. You confine the English procedure to the examination of the plaintiff or defendant?—Yes; I would give a man, from the necessity of the case, the use of his own tongue.

4617. *Sir Erskine Perry.*] That is inevitable is it not, that if an Englishman comes up, he must give evidence in his own language?—Yes, he does so now when examined as a witness; under the new system he might be subjected to a double examination, first for eliciting the points in dispute, and secondly as a witness.

4618. *Mr. Willoughby.*] Then you confine your recommendation to his own evidence?—Yes, I think that there should be a language of the court; that that language should be the native language, and that the advocates of the court should be obliged to use that language.

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4619. Sir *Erskine Perry*.] You would make no change at all, in fact?—Very little.

4620. What change would you make?—Under the new system the parties are required to appear in person; which they are not much under the present system, and I would give an English party the free use of his own language. At the same time I may say that I see no objection to the use of English if the pleaders on both sides understand English, as is now the practice in the sudder; I think the present practice, which gives an option, better than the old practice, which required Hindostanee in all cases.

4621. Mr. *Villiers*.] You do not attach any importance to the public not understanding it?—I think in general the parties, if they happen to be present, and their agents would prefer that the proceedings were conducted in the language they understood; but if they had much confidence in their pleaders it would not be a matter of much importance. I found, in my own practice, that when my clients had learned to confide in me, they did not care in what language I spoke, but before I had made some way in the court they told me that they preferred to hear me speak in Hindostanee.

4622. Sir *Erskine Perry*.] Have not you seen this occur in the Sudder Dewanny Adawlut, when the rule was to have the Hindostanee language, that an English advocate would begin in the Hindostanee language, and would break out into a little English; and the judge, in the same way, would commence a sentence in Hindostanee, and also break out into English?—No, I do not think that occurred in my own practice. I do not mean to say that I was very fluent in the language, but I have no recollection of breaking out in that way; but I was no doubt obliged to shorten my speeches, which was perhaps rather an advantage to the judge; perhaps an advantage of the native language, that is, that speeches are not a tenth part of the same length that they are in English.

4623. Mr. *Willoughby*.] In case a native is wronged by a European settler, what means has he of obtaining redress?—In the Mofussil, at present, the English magistrate has no jurisdiction whatever over a European, except in a certain class of cases, cases of assault, I think, chiefly; and for those cases he may punish to the extent of a fine of 500 rupees. I think that is a great defect in the present system. I think it has the effect of giving practical impunity to a European settler for every offence except the graver kinds of crimes. Now I conceive that it is necessary that the English Mofussil magistrate, not the native magistrate, ought to have a jurisdiction over a European to the same extent as in Calcutta.

4624. In the event of any extensive settlement of European settlers being practicable, how would you propose to protect the ryots, seeing that at the present moment there is this defect?—I would subject the Europeans to the ordinary criminal judicatories of the country, with the exception of the native judges and magistrates.

4625. Sir *Erskine Perry*.] You would increase the jurisdiction?—I would give the same jurisdiction as in Calcutta; upon the whole I would not extend the jurisdiction over men more than is absolutely necessary; I think the less change you make at present the better.

4626. What power of imprisonment has the magistrate in the Mofussil?—Only a 500 rupee fine I think.

4627. Are you sure that he has not a power of two years' imprisonment?—I do not know. I speak of his jurisdiction over Englishmen.

4628. Mr. *Willoughby*.] It has been stated that the process against defaulting cultivators is more stringent under the opium regulation than the indigo regulation; is that the case?—I do not think that it is so in reality if you consider that the Opium Act has two purposes, one with regard to the cultivation of the poppy, and the other as to the dealing with the manufactured opium; the manufactured opium is contraband; there are a great many provisions in the Act that refer to that which are more stringent, but in the matter of a contract with the ryot to cultivate opium and a contract for indigo, I do not see any great difference in the stringency of the opium regulation over the other, excepting this, that the one is summary to the extent of a penalty of three times the advances, and the other is by regular suit. I think that a great objection, but I think that would be remedied by the new code of procedure.

4629. Did you state that all indigo planters are ruined men?—I did not say that, I believe. I believe there are some instances to the contrary; I did not mean

mean to say that. Probably there is a loss, on the average; but it is not to indigo planters alone. I mean, taking into account all the capital that is advanced upon it from Calcutta (the great source from whence it issues), and taking everybody who has been connected with indigo from the beginning to this time, my conviction is, that there has been a loss upon it, and that it arises, in some degree, from that peculiarly speculative and bad mode in which it is cultivated, a mode that was barely tolerated by the old law of the country.

4630. You have alluded to the agency houses who failed; was not the cause of that failure that they had made advances at high rates of interest on the indigo factories, and that when the money pressure came they could not realise their capital?—I believe that has always been partly the cause of the great failures in Calcutta. I cannot say, as to the original agency houses which failed in 1833, that that was all, because I think there was a vicious system in other respects that contributed to their losses; but, taking all the parties connected with indigo in every way, there has been, I think, rather a loss than a gain, which I ascribe to this peculiarly pernicious mode of advancing money.

4631. Their advances were made, and they could not realise when they wanted the money?—No doubt that was a great cause of the failures of the original agency houses.

4632. Did you state that by the sale law of 1845 a putnee tenure is recognised for 20 years?—No; I consider that a farm held for 20 years is not a putnee; that is an ijarah.

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Jovis, 3^o die Junii, 1858.

MEMBERS PRESENT.

Mr. Baillie.
Mr. Campbell.
Mr. De Vere.
Mr. William Ewart.
Mr. Gregson.
Mr. Kinnaird.

Mr. Knight.
Sir Erskine Perry.
Mr. J. B. Smith.
Mr. Villiers.
Mr. Willoughby.

WILLIAM EWART, Esq., IN THE CHAIR.

Mr. Neil Benjamin Edm^o stone Baillie, called in; and further Examined.

4633. Sir Erskine Perry.] I UNDERSTAND from you that you do not think the mal-administration of justice in the interior has deterred British capital from finding a location there?—That is my impression; I do not think it has; that is, it has not deterred Englishmen from settling there.

4634. At the same time we learn that there has been no increase of British settlers in the interior for the last 25 or 30 years?—I have heard that stated, and believe it may be so; I have no knowledge of the fact.

4635. Is it not the fact that the parts of India in which British capital and settlement have most flourished have been the Presidency towns, Calcutta, Madras, and Bombay?—No doubt of it.

4636. In point of fact, the British settler and capitalist feels just as much protection at Calcutta, Bombay, and Madras, as he would in Liverpool or Bristol; is not that the case?—Yes, I should say so; I do not see why it should be otherwise.

4637. Would not that lead to the conclusion rather that the protection by the laws in Calcutta, Bombay, and Madras has had great influence in those results which I point out?—It does not follow, I think, necessarily. It appears to me that the settlement of Europeans at those places is more to be ascribed to the peculiar character of the places; that it so happens that those are the great channels of communication. We know, in point of fact, that Calcutta is the principal navigable mouth of the Ganges, and the Ganges is the canal of all the Upper Provinces of Bengal, and all the trade of the country comes down in that direction, and therefore people would naturally settle there.

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4638. That argument would not apply to Bombay or Madras, where no navigable rivers find an exit?—No, it does not; but there must have been some considerable trade direct to those ports, or else Europeans would not settle there. I do not suppose they went to settle because they would have the protection of the Supreme Court. I do not think that was the inducement to settle there. I think the inducement must have been of a different character quite; that it was for the purposes of their trade, and having gone there they were glad to have the protection of their own laws.

4639. Is it not the fact, that when Bombay came into our possession it was a barren island, with 4,000 or 5,000 poor people upon it, with no trade at all?—I believe so.

4640. Do not you think, therefore, that the administration of justice in Bombay must have had a great operation in attracting that great commercial industry that exists there?—I think they must have been attracted by other causes. Europeans settling largely there of course are desirous to have justice properly administered; but I do not think that merely the prospect of having justice properly administered is the moving cause to induce a European to settle there.

4641. If no trade were to be obtained by the operation of capital, a proper administration of justice would have no effect in attracting people there; but if there are attractions for the employment of capital, do not you think that the proper administration of justice would have a great effect in inducing settlers to go there?—I place very great importance upon the proper administration of justice certainly. Having been always connected with it myself, in some way or other, I am perhaps inclined to exaggerate its importance; but I do not believe it is a moving and inducing cause for people to settle in a certain place; it would not induce them to settle in Sierra Leone, for instance, merely because justice may be well administered there.

4642. I do not put to you the case of a Lord Chief Justice Coke being put down upon a barren island in the Pacific attracting settlers there; that would be an absurdity. But in a place where there is capital, does not the administration of justice attract settlers and capital to that locality?—It may be so; but I do not think that people think much beforehand of the administration of justice.

4643. How do you reconcile with that opinion the clause which is contained in contracts, that parties shall be suable and have the right to sue in the Supreme Court?—The contracts must be made always with British subjects, and that sufficiently accounts for there being engagements for submitting the other party to the jurisdiction of the Supreme Court. Two natives cannot enter into an engagement with each other that a matter between them shall be determined by the Supreme Court; the contract must be between a native on the one hand and a British subject on the other.

4644. Are you sure that you are right in that statement?—I think so. According to my impression, when I was practising the law in both places, I think we used to introduce a British subject for the very purpose of making the jurisdiction.

4645. If the administration of justice was as satisfactory in the Mofussil court, would there be anything to prevent Europeans in Calcutta from trying their cases in a court within two or three miles, at Hooghly, or the neighbourhood?—The Mofussil court is a *terra incognita* to a European; he would not like, of course, to have his matters decided in those courts, because he knows nothing about them.

4646. If a court is within a mile or two of a jurisdiction, he would have an opportunity of finding out how justice was administered in that court?—I do not think he would have confidence in it, and perhaps justice is not so well administered. It would be absurd to say that justice is so well administered by the Company's courts as on the common-law side of the Supreme Court. I would not for an instant compare the administration of justice upon the common-law side of the Supreme Court of any of the Presidencies with the administration of justice in any of the Company's courts; but I would compare with it (and perhaps with advantage to the native courts) the administration of justice on the equity side of the Supreme Court.

4647. You admit fully that the administration of justice upon the common law side of the Supreme Court is much superior to the administration of justice in the Mofussil courts?—Unquestionably it is much superior in every possible way, greatly in respect of the rapidity of decision.

4648. You left India in 1844, did you not?—Yes.

4649. You

4649. You are not, therefore, aware of the reforms that have been made on the equity side of the court since that period?—I believe that the proceedings in equity courts here have been shortened, and I suppose that is now the case in Calcutta; but my remark with regard to the equity proceedings in the Supreme Court does not apply so much to the procedure of courts of equity as to the inapplicability of that particular kind of procedure to the country. I believe, according to my recollection of it, that a great deal of its value formerly rested upon the fact that it afforded the means of examining the parties upon oath, the defendant always, and by means of a cross bill the plaintiff in like manner. The inapplicability, therefore, of equity proceeding to the natives was this, that no dependence could be placed upon the native oath, and that the answer brought out nothing, and the cross bill brought out just as little, and the suits went on interminably.

4650. You speak of your experience of 14 years ago?—Yes.

4651. You are not aware of the reforms that have been made in the Supreme Court upon the equity side?—I have only a general idea of them.

4652. Do you know that the judges take *vivá voce* evidence in equity?—No; in that case the whole equity procedure seems to be changed, and I do not see why it should not be made the same as in the common law courts.

4653. Do you know that the judges take the references themselves, instead of referring them to the masters?—That is a great improvement; the reference to the masters is what I chiefly allude to, as prolonging indefinitely the suit.

4654. The administration of justice on the common law side is much superior to the administration of justice in the Mofussil courts generally?—I should say so, without any doubt.

4655. And the reform which you chiefly advocate is an improvement of the procedure in the Mofussil courts?—Yes, with the addition of a substantive law.

4656. The system at present existing is to do a great deal in writing, is it not?—It is entirely in writing.

4657. The evidence of the witnesses is taken by deposition?—Yes; but under a recent Act the witnesses ought to be examined by the judge himself, and I believe they are.

4658. The first evidence is taken in writing by the omlah of the court, is it not?—It was formerly the practice, and a very bad practice, but has, I hope, been discontinued.

4659. If the procedure which the Commissioners in England have advocated be adopted, the evidence and nearly all the proceedings would be *vivá voce*, would they not?—Yes, they would be *vivá voce*.

4660. You have recommended the abolition of written pleadings?—Yes.

4661. And you recommend the judge taking the evidence himself from the witnesses as they come up?—Yes; as to written pleadings I should say that with some qualification.

4662. That being so, if an English judge is administering justice in the Mofussil, would it not be much simpler that he should take down the evidence that he hears in his own language; and would not such taking down of the evidence be an ample record of the case for the courts above?—He might, if he was an English judge, take it down in his own language, and I suppose he would do it for his own guidance, and so far it might be an assistance to the judge; but if the witness were a native, he would require to examine him in the native language, and then translate his evidence for himself upon his notes.

4663. Suppose the course were to hear the evidence, as in the Supreme Court, through the medium of interpreters, would an establishment of two interpreters to each court cost as much as the large body of omlahs now employed?—I should say with regard to the large body of omlahs, that the only officer that I am aware of at present is what is called a sheristadar in the Mofussil courts; and in Calcutta, in the Sudder Dewanny Adawlut, each judge had a peskar and a misselkhan, or reader; in the Mofussil he has only one in attendance upon him; in Calcutta he would have two; and therefore the expense in the Mofussil would certainly be less under the present system than that of interpreters. Some officer, too, would be required to take down the evidence from the interpreter, as in the Supreme Court.

4664. Is it not the case that in the Supreme Court there is a much larger establishment, and is not the sheristadar's office full of four or five reporters?—The evidence cannot be taken down by them.

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4665. Does the establishment of a native judge only consist of a sheristadar —I mean that part of the establishment between which only and the system of interpreters there can be any parallel; there is a large part of the establishment which is entirely out of the court. In the sheristadar's office there is a good deal of business connected with the records of the court. But the establishment that the judge has for his assistance in the proceedings before him is, in the Mofussil, I believe, confined to one officer, the sheristadar, and in Calcutta there used to be two.

4666. And the sheristadar has nobody under him?—I think not in court; he must have a good many people in his office. The exact number I do not know; but with the judge himself, as his assistant in court, I believe there is only one officer, the sheristadar. I cannot speak with certainty, but that is my impression, and I know in Calcutta there were only two officers, a peshkar and a misselkhan.

4667. As to the substantive law which you recommend for the Mofussil, I suppose you have heard the scheme of deluging India with English law and English lawyers derided?—I cannot say derided, but I have heard it a good deal discussed.

4668. Do you know what the rule is as to introducing English law into a colony, and into India?—There is no rule for introducing English law into India. I believe that in such colonies as New South Wales, composed entirely of English settlers, English law is carried by the English judges, and they have an entire English establishment, but that would not be the case at the Cape, I suppose.

4669. Do you know what the rule is in the English law, as to the English law being carried to the colonies?—I do not know the particular rule.

4670. Is it the rule that they only carry so much of the English law as is applicable to their own situation?—I suppose it is so.

4671. And that all the municipal law and police regulations, and everything affecting local customs, is not imported into a country or colony where English law is carried?—I should think so.

4672. Is that the rule by which the Supreme Court of Calcutta have been guided in their application of English law to the litigation of people who come before them?—I can hardly say that it is.

4673. Then you do not recollect the decision of Lord Brougham, in the great case of the "Mary Lyons"?—Yes, I do, generally.

4674. In which the Privy Council in this country held that those portions of the common law that really did not apply to a country like India, were not applicable?—I forget the particular ruling in the case.

4675. If that should be the case, and the rule of law, if the English law was introduced as a substantive law in the Mofussil, would it not afford a good rule, founded upon jurisprudence, for all controversies that arise between man and man?—I do not think it would, with regard, in particular, to the sale of land. I do not think that there is anything in the law of England that could regulate the sale of land in India.

4676. Surely if the English law were introduced, full effect would be given, as in this country, to all local customs respecting law, would it not?—I think that it has not been the case, and may therefore infer that it would not be done.

4677. Of which court do you speak?—The Supreme Court. I am talking of the universal practice in Calcutta, and of my own practice for a great many years as a conveyancer. We have introduced the feudal conveyance of England, the same as in this country; and I believe it to be utterly inapplicable to that country.

4678. That class of decisions has been overruled by the Privy Council?—With great deference to your judgment, I should not say that the simple decision of Lord Brougham in that case could be said to overrule this great mass of practice which I allude to. I am telling you the manner in which land is commonly conveyed between parties in Calcutta; it is done by lease and release; mortgages are made in the same way by lease and release, or demise of 1,000 years; and I think all this inapplicable to the country.

4679. *Chairman.*] You only speak of the system of conveyance as practised in Calcutta up to the year 1844?—Yes.

4680. You cannot say whether any reforms adopted in England since that time have been likewise adopted in Calcutta?—No.

4681. *Sir Erskine Perry.*] Is not the law administered in the Mofussil this, that first

first of all the judges must be governed by Acts of Parliament and regulations?—Yes.

4682. Secondly, in the absence of such Acts, by the usage of the country?—Hardly.

4683. Are you sure that I am not quoting from the regulations?—It may be so. I am speaking from recollection. The probability is, we mean the same thing; I speak with reference to the phraseology of the Bengal regulations.

4684. The third rule is, that if no such usage appears, they are to go by the law of the defendant?—That was the law; but that law was altered, I think, in 1831. That was the law in theory, but I do not think it was ever the law in practice.

4685. Is not this the governing rule which prevails all over India, that in the absence of specific law and usage, justice, equity, and good conscience alone are to govern the judge?—Yes.

4686. That is really the substantive law which the judge is to administer?—Just so; where there is neither regulation nor Act of Parliament, nor Hindoo nor Mahomedan law applicable according to the regulations to the particular case, the judge is to determine by justice, equity, and good conscience.

4687. Would it not be an immense improvement if the judges, instead of this rule, were able to refer to the jurisprudence of any civilised nation, whether the civil law or the English law, to find a rule applicable to the case?—I think it would be decidedly better to have almost any law of any civilised nation rather than to leave things to the vague ideas of different men as to what is justice, equity, and good conscience.

4688. Without drawing any contrast between the civil or Roman law, and the English law, you admit that the jurisprudence of either country would, in most transactions of life, afford a rule for the guidance of the judge?—That is stating it, perhaps, a little too largely. I do not think it would. I am speaking with reference to a vast variety of subjects which it is hardly possible for a man to keep in his mind's eye. But, generally, I should say that there are many cases occurring in India to which I do not think any rule of English law would be justly applicable.

4689. Without drawing any contrast between the excellencies of the civil law, or of the English law, would not a judge, being able to refer to the jurisprudence of either, have great advantages in administering justice, instead of being governed by the general rule of equity and good conscience?—I do admit most unqualifiedly that the power of referring to any rule of any civilised nation is much better than having no rule at all.

4690. And in any application of the English law to the Mofussil, full stability will be given to all local customs, and also to the rules of inheritance and marriage, which are personal laws?—That is now the course adopted in India with regard to matters of inheritance, marriage, caste, and religion, because such is the positive law of the country, and the judge would probably follow a similar course in the case supposed.

4691. Is not that wise legislation?—Clearly; so far it is wise.

4692. And if English law were introduced into India with those qualifications, do not you think that it would supply the defect which you point out of the want of a substantive law?—I have endeavoured to explain how I think it would not be sufficient; and I believe that practically it would be introduced in many cases without the qualifications, as in the case of the feudal conveyance alluded to.

4693. And I suppose you do not think that English settlers settling in the Mofussil would be gratified to find that the rules of jurisprudence to which they were accustomed also prevailed with the judge in the controversies before them?—I have no doubt they would.

4694. Would that be advantageous to the country generally or not?—To the individual, but not to the country generally.

4695. Are the rules such arbitrary rules that they are merely suited to Englishmen, and not to the world in general?—Many are arbitrary.

4696. If those arbitrary rules are not imported into India, if the law is administered soundly, would not it be advantageous to the country generally?—Take the case of a purchase of goods not delivered, and perishing in the hands of the seller; how should that be regulated? By English law, the peril is said to be on the purchaser.

4697. Does it signify much which way the rule is fixed in those cases where third parties are concerned; is not the object to have a fixed rule?—General rule

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is required, and would be quite enough when once determined; but in the first or second application, and perhaps in many subsequent applications, before the rule is understood to be the rule, the application of it might, I think, be unjust.

4698. Do you admit that in that case it would be better to have that arbitrary rule that you speak of, than to have 50 decisions from one judge in equity one way, and 50 a different way?—Yes.

4699. And that might happen under the existing law?—Yes, and that is a great evil.

4700. Would it not therefore be much better, both for the natives and the English settlers, to have one system of rules laid down, which a judge with common industry may make himself master of?—It would certainly be better.

4701. And would it not be easy also if that were the system, to have little simple hand-books of jurisprudence to be handed about, and made subjects of study?—It might be, I think.

4702. Would it not be easy for the Government, if the English law were made the substantive law in the interior, to publish themselves small hand-books on the principal subjects of jurisprudence, contracts, dealings with persons, and so on?—It might be so; but the preparation of hand-books would not, I think, exclude the rest of English law, into which it might be necessary, as it were, to make excursions, in order to explain what might be obscure in the hand-books. It would be hardly possible to avoid a reference to English decisions, which would be a great evil with native judges. I admit that a great deal might be taken out of the law of England, but it ought to be permanently cut off from the great body of English law by an Act of the Legislature, and made with suitable additions the law of India.

4703. That is the rule of the English law, is not it?—It may be the rule of the English law in theory, but it has not, I think, been the rule of English law in practice.

4704. And that system has been applied to Calcutta and the Presidency towns in the mode I suggest; namely, that the judges have decided on each occasion how much of English law is imported into India?—In practice I believe not; my impression is, that in all cases to which the Hindoo and Mahomedan law does not apply the judges have applied English law. By Act of Parliament the judges are required to apply, in matters of contract and dealings between parties, the law of the defendant; but in practice, when I was in the Supreme Court, I cannot charge my memory with any case in which there was an application of the Mahomedan law of contract to a Mahomedan, or an application of the Hindoo law of contract to a Hindoo. There is very little of any Hindoo law of contract; and much of the Mahomedan law of contract is utterly inapplicable to the present times (the law of sale in particular being complicated with their peculiar notions on the subject of usury); and therefore it was scarcely possible that the court could have applied the Hindoo and Mahomedan law to cases where it was required according to Act of Parliament. Therefore English law has been applied generally, except to cases of marriage, inheritance, and so on.

4705. Is not the law of contract in all cases much the same; that the parties are bound to perform the contract?—Parties are generally obliged to perform their contracts; but I allude to cases where there is no evidence of any contract sufficient to regulate the matter in dispute between the parties, and then it is that the judge must have reference to some other standard; that is, to the law of the country. I beg to observe, too, that much of English law might be introduced in practice by professional men (as in the case of conveyance), and the judge might have rather to follow than lead in determining whether a particular part of English law is applicable to the country or not; and until determined by a judicial decree, there would be doubt.

4706. Are you aware of the mode in which the inhabitants of the Presidency towns have shown their satisfaction or dissatisfaction with the application of the English law to their contracts?—No, I cannot say that I have seen any particular evidence of their satisfaction or dissatisfaction.

4707. You are not aware that they have petitioned this House over and over again in favour of the continuance of the Queen's courts, and expressed great dissatisfaction at their removal?—Very likely they may have done so; they know very little of anything else but English law. The natives of the great English towns reflect very much the opinions of the English about them; and therefore their opinions are not of so much importance as they would otherwise be.

4708. You

4708. You think they are led by the nose?—I would not go so far as that; I think it is rather a harsh expression to say that they are led by the nose; but I think they reflect English opinion, and have very little opinion of their own. In the little correspondence I have now with natives I find very much a repetition of English opinions.

4709. Do you think the English settlers in Calcutta, if they were dissatisfied with the working of the Queen's court, would express opinions in its favour?—Certainly not. I remember they were very much dissatisfied with the working of the Queen's court at one time in Calcutta, and expressed very strong opinions against it, and in the matters to which I refer there were very great alterations made, in consequence of those complaints of the English settlers; I allude particularly to the fees of the officers of court.

4710. Therefore if the natives are reflecting the opinion of the English settlers, probably the opinion of the natives is a sound one?—In matters of that sort I think the opinion is likely to be sound, and I have told you that I highly approve of much of the proceedings in the Supreme Court. I think that the common law proceedings and the criminal proceedings are generally very good.

4711. Do you think that the appointment of trained judges in the interior, to those situations where the emoluments are sufficient, say 3,000 *l.* a year, would be an advantage to the administration of justice?—It is a very large question; it depends a good deal upon the meaning of the word training; speaking very generally, there is no doubt that a man trained to any profession is better than a man who is not trained to it; but if you will allow me to observe, if training to the legal profession implies training to the legal profession of England, I am not at all satisfied that the introduction of judges so trained into the Mofussil would be a benefit to the people generally.

4712. But have English administrators any opportunity of being trained in any other jurisprudential system than that of England?—I believe at Haileybury they used to have lectures on civil law.

4713. Do you think that Englishmen appointed to administer judicial offices in India, have an opportunity of being trained in any other system of jurisprudence but the English system?—I believe not.

4714. Therefore, if you are of opinion that it would be an advantage to have men trained professionally, they must be trained in the English system?—Yes; but I am not sure that a mere training in the English system would be a great improvement of the present administration of justice in India.

4715. You would rather put men upon the bench who have not been trained?—For the present state of things, if you could have a judicial training without bringing with it the peculiar knowledge and prepossessions which the English lawyer acquires in his training; if you could have the training abstracted from all that, I think it would be of use, but I think that if the training is not abstracted from that, you are introducing an element essentially foreign to the country, and therefore I do not think it would be attended with very great benefit to the people.

4716. And you think that English capitalists settling in the interior would feel no more satisfaction under a trained judge than at present?—I have no doubt they would.

4717. A satisfaction founded upon just causes?—The cause would be perfectly just, as far as they are concerned; the man who comes with a legal training and a legal knowledge from England, comes with a knowledge exactly applicable to their condition, and therefore his decisions would, in their opinions, be just, and give them great satisfaction.

4718. And do you think that, under the present system, they would be unjust in the opinion of the natives?—They might be, from this circumstance, that the judge brings with him a body of notions that are essentially foreign to the country to which they are to be applied; the decisions may or may not be just or unjust, according to circumstances.

4719. Is that opinion of yours founded upon experience in Calcutta, where there are English judges, and the natives are suitors?—It is not; but what I allude to can only exist in the first stages of the application of a new law to a country; in the course of time the injustice disappears, because the people accommodate themselves to the new notions, and understand them, and they become law to them; their own dealings are regulated by them; they are therefore no longer opposed to each other, that is, the dealings and the law; that is precisely the case with Calcutta and the other Presidency towns. English law has

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been their law for nearly a century; if there was any injustice in the first instance, it has long gone by; we know nothing about it.

4720. Is it not the fact that the natives in Calcutta are just as well satisfied with a decision when they get it in their favour, and as much dissatisfied when it is against them, as Europeans in similar situations?—Unquestionably, and in the Mofussil also.

4721. Then an English judge in Calcutta has no advantage in knowing the country and the language, as he might have if such a judge were placed down in the Mofussil?—I cannot say that. An English judge has two duties to perform: the most important duties of an English judge in the Supreme Court are not the duties comprehended in the application of the law; the most important duties are, in fact, the duties of a jury, that of determining the verdict on matters of fact. I think it is of the greatest importance that the English judges should be acquainted as much as possible with the manners of the people and the language.

4722. With all those disadvantages that the judges in the Supreme Court labour under from not knowing the language, their decisions on the whole give satisfaction to the community?—Yes, I believe it is so.

4723. Mr. *Villiers*.] What you mean is that a judge ought to be fit for his situation?—Unquestionably.

4724. And therefore he should have some knowledge of law, and of the language in which the proceedings of the court are conducted?—Certainly.

4725. And you think that that training may be obtained by practice in India?—I cannot speak with confidence upon that subject now; I believe that, in consequence of the great extension of the uncovenanted service, there are much fewer opportunities (and I regret it very much) for English judges to get that legal training which they had formerly.

4726. You mean by practice?—By practice.

4727. Are any of the judges appointed in the Company's courts who have not had practice?—I cannot answer that question now. Before 1844 they must have had all very large practice before they came into the courts, but I do not know what the practice is now. I know that they have an opportunity of acquiring a very considerable judicial experience in revenue matters; for the revenue is very much judicial in its character in India, and a good revenue officer frequently makes a good judge. I may mention one instance of a gentleman who was judge in the Sudder Dewanny Adawlut: he had been a collector and commissioner, but my impression is that he was never in a judicial situation; he became one of the best judges in the court; there was no man before whom I pleaded with greater confidence in his decision, though he may have made some mistakes at first.

4728. Are the Company's judges in any respect inferior or incompetent for their situations?—My impression was very strong when I was in the country, that the men with whom I had to do, the judges of the Sudder Dewanny Adawlut, were highly competent in the language, and competent generally. I knew some men whose decision I would have preferred upon matters of fact in India to the decision of English lawyers.

4729. According to your opinion, then, European settlers have no reason to complain of the judges?—At that time I should say that they had no reason to complain of the judges whom I knew.

4730. According to your experience the administration of justice was perfect up to 1844; you never knew an incompetent man, or a man who was not learned enough, and did not understand the language?—Amongst those men; I cannot say that I concurred in all their decisions; I am speaking of the Sudder judges.

4731. Had you any experience of the other judges?—I had no personal experience of them; but their judgments came by appeal into the higher court, and then I had experience of their judgments; I do not mean at all to say that they were perfect, very far from it; I think they were many of them very imperfect; but perhaps on the average they were just as good decisions as circumstances admitted.

4732. You never were out of Calcutta?—Very little.

4733. And you are very imperfectly acquainted with the circumstances in this respect under which European settlers would be placed in going into the Mofussil?—I do not think that follows of necessity. A man in Calcutta, placed as I was, has very large opportunities of knowing at second hand a great deal of what is done in the Mofussil; he may be intimately acquainted, as I was, with the indigo planters, a very respectable and excellent body of men generally; he has also

also other means of acquiring very considerable acquaintance with the provinces beyond Calcutta.

4734. From what experience you had, and from your personal communication with persons resident in the Mofussil, do you state that the police are as bad as they can be?—I believe the native police is very bad.

4735. And that the procedure of the civil courts is as defective as it can be?—I think at present it is very defective; I believe I characterised it fairly when I said that it was a mass of technicalities.

4736. You stated also that there were defects in the mode of recovering the advances which the planter made to the ryot?—I do not think that there is any defect in the law, except this, that the planter might have a summary remedy when he has only the remedy of what is called a regular suit.

4737. The system is so far defective, and the person making advances constantly loses his money?—I believe there has been a very great loss of advances, inasmuch as one witness told you that the outstanding balances of the concerns with which he was connected were a crore of rupees. I know that they are enormous in the case of most indigo factories; that is, the advances which are made and not worked off by the indigo produced.

4738. You say also, that it would be extremely objectionable to make Europeans subject to the native judges?—To the native criminal judges I would not make them subject; my reason is entirely political.

4739. But you know that it is contemplated; you referred to the Black Act?—It was part of the recommendations of the Commissioners here that there should be no distinction, but as part of a system which would have brought the whole under the superintendence of English judges, some of whom must be English lawyers.

4740. I believe the capitalist also experiences, according to your account, great inconvenience from having to make his payments in silver?—Sometimes. There is no doubt that whenever there are large payments to be made in the Mofussil it must be inconvenient.

4741. Looking to what you admit to be the case, that the police is as bad as it can be, that the civil procedure is extremely defective, that the present law of contract is defective, and that there is difficulty in making payments, owing to the currency being exclusively silver, are you astonished that when indigo planters or settlers who have been to India return here, that they do not encourage other people to go out, and allege that there is much to discourage the employment of capital there?—I never heard it stated that they, when they did come home, did discourage people going out to India. If it has been stated here, of course I am ready to believe it; but the whole of my experience has been the other way; I have never known a person deterred from going from this country with a view to be employed in an indigo factory, or a person in Calcutta being deterred from taking a situation when offered to him. I have recommended young men for employment in indigo factories, but never thought of warning them against these difficulties.

4742. *Chairman.*] With such a state of things as that described by Mr. Villiers, would you be surprised if they deterred?—It might be.

4743. *Mr. Villiers.*] Do you admit also the insecurity derived from the uncertainty of his title; that if the property which he holds under lease, or that he has hired for use, is subject to the Government for arrears of revenue, he may have that property taken from him, or rather that his rights in the land may be totally disregarded?—His rights in the land, if he has what is called a putnee or a zemindary in the land, of course he must take, subject to that great inconvenience that attaches to all land, of its having to pay Government revenue.

4744. The inconvenience I allude to is of another kind, where the land is made subject to arrears, his rights having been derived from engagement with the zemindar are disregarded, and the estate is sold; do you admit that that is the case?—Yes, in the case of putnees.

4745. Do you also admit that it is an inconvenience to settlers taking land to be subject to be dispossessed in that way?—Yes; it is more than inconvenience; of course it is of the greatest advantage to him that he should have the putnee secure. I do not wish to take from the indigo planter anything he has, or the power of getting anything he can get, consistently with what is due to the revenue of the country.

4746. What did you mean by saying that it was rather an advantage to a man to buy

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buy land subject to the Government charge, because he paid less for it; he has a liability attached to it, and therefore he only pays less in proportion?—He hopes to meet his liability of course; it is just the same thing as a man buying a house in London; a man having a certain sum of money to lay out in the purchase of a house; if he purchases a house, subject to an improved ground rent, he gets his house for less, and has enough over of his capital to furnish his house, as it may be.

4747. You said that he paid less because there was a charge for which he was liable, and it was with reference to redeeming that charge that we asked you whether it would not be an advantage to have the charge of the Government redeemed, and you said that it would not be an advantage, because while he was liable he paid less for it?—It requires a less investiture of capital to acquire a power over the productive energies of the soil when you can get those productive energies charged with the Government revenue, because you get them for less.

4748. But your liability to the Government continues?—That does not matter. I meet my liabilities out of my annual proceeds.

4749. We are talking of the advantage of redeeming the tax, and you seemed to think that it was an advantage to a purchaser to take the land subject to the tax?—With reference to the application of capital to the land. I see no advantage in a man getting the land free from the Government revenue; for if he purchased land free from the charge, if he purchased Lakhiraj land, he must pay so much more for it; and it is more for his advantage to pay less and to have the remainder of his capital which would have necessarily been invested in his purchase, if it was not so charged, free for the purposes of his business.

4750. And to be subject to a liability from which he might otherwise be free?—Yes, I illustrated this by the putnee, which an indigo planter prefers to a zemindary, though more heavily charged, because he gets it with less expenditure of capital.

4751. *Chairman.*] You think it would be a better bargain for him to continue to pay it annually?—Yes.

4752. *Mr. Villiers.*] You have a peculiar view about the absorption of silver that I did not quite understand; you seem to think that though silver appeared to be scarce, it was not because it left the country, but from going into absorption?—I mean that there are larger quantities of silver now necessary under our rule in India for the payment of rent in the first instance from the ryot to the zemindar, and in the second instance for the payment of revenue from the zemindar to the Government; that there is by that means a very large absorption and waste of silver, which has been rendered necessary by the change introduced by our rule. A larger amount of coin is required.

4753. That is not recent?—It has been going on increasing. I believe that in the Western provinces the change is recent.

4754. It was recommended in Lord Cornwallis's time?—Yes.

4755. You know that there is a constant remittance of silver from Europe to India?—Yes.

4756. Is there that constant increase in demand for silver?—It may go into the countries beyond India for anything we know; but I believe it makes a great waste of silver.

4757. You have no other reason for the opinion you expressed that the people do not hoard?—I never hear of any great discoveries of hoarded treasures. There is not much treasure trove, I believe, in India. It is also inconsistent with my ideas of their poverty and their habits, their love of suits in court, investment in Government loans, &c.

4758. Have you ever heard of extreme measures of severity, torture for instance, being resorted to to make people pay?—Not to pay their revenue; there is no such thing, of course, because the revenue is paid in large payments by the zemindars.

4759. You have no particular reason for supposing that the natives do not hoard money, but that you have never heard of a case?—I have no reason the other way; I see them very generally a poor people, and I see no reason for supposing that they hoard. The ryot gets a little coin, which he must retain for some time, until the time arrives for paying his rent; but I do not call that hoarding.

4760. You hold to the opinion that the resources of India could be developed to a much greater extent than they are at present?—I believe they could.

4761. And you believe, if English capital were introduced further into the country, that would be the result?—I should hope so.

4762. If English capital were brought out there and could be employed securely, the resources could be much more extensively developed?—Yes.

4763. And if in exchange for the products of India we could send manufactured goods, we should cease to export so much silver as now?—The truth is, that these are subjects which are a little out of my beat. There is a balance always; I believe such is our connexion with India as always to make a balance of trade necessary.

4764. You have formed the opinion that there is some defect in the mind of the native that prevents his becoming a useful witness; that he has no idea of testimony that does not bear directly upon the fact in issue, or that is not in the nature of a confession; those are the only two classes of testimony that he understands giving?—Yes, that appears to me to be the case, from a consideration of the evidence in a great many cases, and reflection on what I believe to be the source from which his ideas of evidence are derived.

4765. You seem to think that if those who collected the evidence knew more how to establish proofs by circumstance, the evidence would be more trustworthy?—I think so.

4766. But is it not untrustworthy now, owing to some defect in the moral character of the witnesses, because you say owing to the mode in which they give evidence, you have so much that is the result of extortion, or that is perhaps fabricated or forged; if you instruct them in giving evidence as to circumstances from which you are to infer proofs, why should not this be just as false, and why should not there be just as much forgery and perjury as now, since you can invent one thing as well as another?—You may have in all countries a sufficient quantity of bad and depraved witnesses; there is no difficulty in this country, I believe, and certainly none in India, in getting witnesses to any extent to swear anything you like.

4767. Is it some fault in the intelligence of the collector of evidence, or a fault in his moral character, because you speak of the present system as producing forgery and perjury?—I think it is both; the evidence is very different in the Supreme Court from what it is in the Mofussil courts; the evidence in the Supreme Court is got up by a man of principle and knowledge; that is, an attorney, with the aid of counsel sometimes; he therefore knows how to prove facts, and proves them in the proper way, and has scruples of conscience, which would prevent him from proving them in an improper way. The case is quite different from that of a man who does not know how to prove a case from circumstances; the only way he knows is to prove by witnesses to the actual fact, and when he has not such evidence, he gets it by bribing witnesses. I may observe, that there is also a great difference between criminal and civil cases in the Mofussil. In the former, tried before the sessions judge, I have always understood that the evidence against the accused is more trustworthy, which I ascribe to the fact that it is got up under the superintendence of the magistrate.

4768. You think the great defect is in the want of a good subordinate agency to get up cases?—Yes; I think clearly the great defect in the existing system is the want of a good subordinate agency, that being essential to the existing system; not that I approve of the existing system, nor therefore do I think it necessary that there should be that subordinate agency.

4769. You would not think it a blessing to a country to have more attorneys than were actually necessary?—It may be a misfortune to a country, but it may be a necessary evil; and unless you change your mode of procedure it is a necessary evil perhaps. But I want to do away with that mode of procedure, and introduce a much simpler one; and under that system you will get over that great difficulty, because you produce the parties face to face, and there is no necessity, to the same extent, for the use of witnesses.

4770. You think it would be satisfactory if you had a more simple system?—Yes.

4771. If the judges had a more equitable jurisdiction, and had the power of calling the parties before them, you think it would be satisfactory?—Yes; and I think that affords the best remedy for what everybody knows to be the fact, that the testimony of the witnesses in the Mofussil courts cannot be relied upon at all. It appears to me that the only remedy is this. At first I thought you should introduce a proper professional agency, but I think it is far better to go to a simple system.

4772. If you got to the simple system, you would admit that it makes the

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character of the judge of the highest importance?—Under the simple system, he is of more importance than under the present system; he is *dominus litis*.

4773. Could you trust any judge, not a European, to administer the laws with the powers which you propose?—Yes.

4774. Natives?—Natives. The whole procedure in the first instance is now before natives. If you cannot trust them you may shut up your courts of justice entirely, for you have no other means.

4775. If a judge was a European, it would make it essential that he should have a perfect knowledge of the language?—Essential; that I conceive is a matter of the greatest importance in all cases. I have suggested that in some cases the judge might allow the employment of English with reference to English parties, but that he himself in all cases should have a perfect command of the native language and I think any other system would be pernicious.

4776. Are there any native advocates of any ability?—There were some very clever men in the *Sudder Adawlut* when I was in it; I had to compete with them.

4777. Learned men, well acquainted with the law?—You cannot call them learned. There is no jurisprudence to which they can have the least access, except the Mahomedan. The Mahomedans were some of them learned in their own law. I knew very few *vakeels* who knew much of Mahomedan law.

4778. But are they clever in their advocacy or in the examination of witnesses?—The examination of witnesses I think, from what I have seen of the record, for I have never seen it *vitá voce*, was always very imperfect.

4779. Do you think they are capable of improvement if they were submitted to a proper training?—I believe so, but if they had a good system of law and procedure, training in these would be sufficient, in my opinion.

4780. In speaking of the competency of a judge, you would say that a knowledge of, and a perfect acquaintance with the customs and manners of the people, was almost equal to a knowledge of their language?—He is a judge of fact, and a great deal of that must depend upon a knowledge of their customs and manners.

4781. Did you ever see much of the working of the jury system with natives on the jury?—No, I have heard a good deal of it, but always as a failure; I believe the natives were utterly incompetent for the office of jurymen, perhaps from some such imperfect ideas of evidence as I have alluded to; if they disbelieve the direct testimony, and have imperfect notions of the circumstantial, how are they to judge?

4782. A European would not like to submit himself to a court where natives were on the jury?—I should say certainly not; and in all the accounts I have heard of native juries, they seem to me to have been always ready to take the opinion of the judge; to reflect the opinion of the person who is presiding over them.

4783. Mr. *Willoughby*.] Does that remark apply to the Presidency towns as well as to the *Mofussil*?—No, I was referring to the juries in the *Mofussil*.

4784. Sir *Erskine Perry*.] The jury system has been much more fully carried out in *Calcutta*?—Yes.

4785. And it has succeeded, has it not?—I believe it has succeeded.

4786. Mr. *Villiers*.] When did the people first settle India without leave of the Company; was not it in 1834?—Yes, at the extension of the charter in 1834.

4787. Sir *Erskine Perry*.] Was not it the case that any settler in the interior might be removed by an order of the authorities if he went into countries acquired since 1801?—Up to that time.

4788. It is only the other day that that law has been held to be repealed by implication?—I cannot speak to that.

4789. Mr. *Villiers*.] Your reference to settlers has only reference to persons who have come out since that law was altered, till 1844?—Yes.

4790. Sir *Erskine Perry*.] A European was not allowed to reside in the territories except by license, was he?—No.

4791. And all that the Act of 1833 did, was to allow settlers to go into the interior of such settlements as had been acquired up to 1801?—I am not aware of any cases in which there was any practical distinction.

4792. Mr. *Campbell*.] Your experience is exclusively confined to *Calcutta*?—Yes, my personal experience is; I qualified that to some extent, by saying that I had knowledge from other sources.

4793. A vast

4793. A vast deal of the evidence that you have given has borne upon other parts of India than Calcutta; but you have no personal knowledge of the other parts of India beyond Calcutta?—No, I have not direct personal knowledge of anything else.

4794. Would not you suppose, from your legal knowledge of Calcutta and of the native character generally, that the uniformity of evidence deduced from the native upon oath is more to be attributed to bribery, and the corruption that the low native is so open to, than to any system that prevails because; where such uniformity exists suspicion must arise that they have compared notes before they give evidence?—There is no question of it; that is my belief, that the evidence is got up, as it were, and that of course they all speak as they are instructed; and it is very likely they are swayed by the motives which you allude to. But corruption is not a sufficient reason for persisting in a course that they must have long seen to be useless, as no judge seems ever to believe the witnesses; and their conduct appears to me to be inexplicable, except on the supposition of ignorance, or prepossession in favour of a particular course.

4795. Are you of opinion that no system that did not embrace a substitution of the European element in the Mofussil for the omlah would be effective in doing away with this uniformity of evidence obtained by bribery?—The corruption of the omlah might, I think, be got rid of without the introduction of the European element.

4796. You suggested, as an improvement of the present system, that personal examination before the judge of the parties concerned would be a great improvement upon the present system?—A very great improvement upon the present system.

4797. You are possibly aware of the great antipathy that respectable natives have of coming to court at all?—I am aware of that.

4798. Under the new system do you think that difficulty would be got rid of?—The Commissioners tried to get rid of the difficulty by allowing a party, when he did not choose to appear in person, to appear by another person qualified to speak from his knowledge, and to answer every question that could be put to him in the same way as the party could do himself.

4799. Then how do you account for the present feeling of animosity in a respectable native, or the present degradation that a native would consider imposed upon him, in coming to the existing courts?—I cannot account for it in any way connected with the courts themselves. It may be from some peculiarity of the native manners; it may be from something that is not peculiar to the natives at all, but from a general feeling common to all men in a respectable position of life. I believe we have it to some extent in this country; I do not think there is any essential difference between the feeling in India and that of any English gentleman who would rather avoid than otherwise being brought personally into a court of justice.

4800. Then you do not think that the circumstance of a respectable native going to the court and being foiled by false evidence has anything to do with the disinclination of the native to submit his case or to appear in court, as the courts are at present constituted?—I cannot say that I do.

4801. I believe you have stated that you do not think that the law, as at present administered, although bribery is open and common, affects in any way the interests of the settler or planter, or even the respectable native who has property at stake?—I never said that it did not affect them in any way.

4802. In the event of a planter having a false action brought against him for murder, and his presence being required in court, and that presence in court entailing upon him the entire loss of his indigo season, in your opinion would not such an inconvenience, and such a loss resulting from that presence in court, be considered by that planter discouraging to settlement in India; or would it not be destructive of his property?—Of course it would be discouraging, and would be destructive of his property; it might be destructive of his person if he were falsely accused of murder; he might be hanged for it.

4803. Have you never heard of such cases occurring?—I cannot say that I can recollect at this moment any case of the kind; false charges are brought against people. Mr. Dalrymple, in whose statements I have implicit confidence, mentioned a case of the kind.

4804. You talked of the unremunerative nature of indigo planting; your experience does not extend beyond 1847, does it?—Yes.

4805. Your experience of indigo planting was when the Union Bank carried

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on the factories, instead of the legitimate agents, or indigo growers themselves?—My experience goes much further back than that; to the old agency houses, and down to the time that I left India; and upon that my conviction was formed, that on the whole, taking into consideration all the parties interested in the production of indigo, there was no profit, but it seemed to me an actual loss.

4806. Are you aware that the custom of the agencies advancing for indigo is to make advances upon estimates, without making any personal examination of the properties?—They trust, I believe, to the indigo planter, or the man they make their advances to.

4807. They have no personal knowledge themselves of the details of indigo planting, and they exercise no personal surveillance?—Not in general, I believe.

4808. Since the failure of the Union Bank, perhaps you are aware that there is a closer identity with the planter and the soil than existed before 1847, and you are perhaps aware that the position of the planters at present is very different from what it was when indigo planting was merely conducted as an agency speculation?—I have not heard anything particular on the subject, but I am ready to suppose that very considerable changes have been introduced; I have no knowledge of the present system.

4809. Perhaps you have a knowledge of the price of the staple commodities produced in India, and the cost of those commodities compared with the sale in Calcutta?—No, I have not; I never had any transactions of the kind myself.

4810. You are not aware that in the last four years the price of rice, jute, hemp, and many other such commodities, grown by the natives, has doubled?—I do not know the fact, but I am ready to believe it.

4811. In your legal capacity have you ever been employed by planters in the Mofussil to defend them in suits, when their interest may have been compromised by the existing state of the law?—I had a good many indigo planters clients in the Sudder Adawlut as well as the Supreme Court.

4812. What was your general conclusion as to those cases which came under your own observation as to the working of the law with reference to their properties?—I am happy to say I very generally succeeded in their cases, and therefore the working of the law so far was good; I do not ascribe by any means their success to my advocacy; I believe they were very generally just; in the cases I had for them I had no reason to suppose they were anything but what they ought to be.

4813. I referred to the bearings of the law upon those planters and their properties; does the law exercise a prejudicial influence upon the planters and their properties in the cases that came under your personal observation?—There is no question that the law does exercise a prejudicial effect upon everybody, for there is no sufficient law.

4814. The Hindostanee language is the language that is used in the Sudder Courts?—When I was in the Sudder the whole language latterly became the Hindostanee; that is, the spoken and the written language was Hindostanee; but when I first went into the court the spoken language was Hindostanee, and the written language was Persian.

4815. How did you manage in a case where a Bengalee was the plaintiff?—I had very little to do with the plaintiff personally; I was in the Court of Appeal.

4816. How did the Sudder Court act when a Bengalee was the plaintiff who was as ignorant of Hindostanee as he may have been of English?—He was always represented by a vakeel; a man very seldom attempted to sustain his own cause.

4817. Do you not think that an English vakeel representing him in the English language would be likely to do him as much justice, and would he not have as much confidence in that English vakeel and the English language as he would have in the Hindostanee, which to a Bengalee is unknown?—I cannot speak with regard to a man who knows nothing but Bengalee; I seldom came across a suitor or his representative who did not know Hindostanee; and I have reason to believe there was hardly ever a person in the Sudder Court who did not understand Hindostanee.

4818. Your experience was confined to a very respectable class of constituents; not the million?—Exactly.

4819. The million in Bengal only understand the Bengalee language?—Exactly.

4820. You say that it would be a great improvement upon the old system to have solicitors getting up the cases; do not you think a Bengalee would have equal

equal confidence in having his suit heard and determined in English as in the Hindostanee, of which he knows nothing?—If he knew the vakeel to be an honest man he would.

4821. *Sir Erskine Perry.*] And, in point of fact, is not that the case now in the Sudder Adawlut?—I mentioned that, in my own practice, I found that at first my native clients preferred my speaking in Hindostanee, but that afterwards, when I had acquired their confidence, they did not much care, provided they succeeded, whether the proceedings were in English or in Hindostanee; but, in point of fact, the proceedings were very seldom in English in those days.

4822. *Mr. Campbell.*] On the subject of bullion, you have no reason to believe that hoarding goes on to any extent?—No.

4823. You gave evidence in reference to the cause of the gigantic failures of 1833; are you aware that the largest and most fruitful source of those failures was the indiscreet loans made to the civil and military servants of the East India Company by those agency houses?—I am perfectly aware of that, and I qualified my statement by saying “in part.”

4824. *Chairman.*] You said that within your recollection the magistrates decided satisfactorily in the part of Bengal with which you are acquainted?—I believe that very generally the magistrate is an efficient officer, so far as I could judge.

4825. If evidence has been given to the Committee that of late years the magistrates have been young and inexperienced, you, having left India in 1844, cannot speak for or against that testimony with regard to recent appointments?—No, I cannot.

4826. *Mr. Willoughby.*] With regard to Calcutta, Madras, and Bombay being the chief resort of European settlers, may not that be accounted for by those places being the seats of Government?—Very likely.

4827. And also being the grand entrepôt of the trade with the interior in each case?—In the case of Calcutta particularly.

4828. With regard to the disinclination of natives of rank to appearing in court, does not that reluctance arise from the feelings among natives of high rank, more especially females, that doing so would degrade them?—I think they may have that feeling.

4829. In fact it is difficult to make the people of India understand that maxim of the English law, that all are equal in the eye of the law?—Yes.

Joseph Gabriel Waller, Esq., called in; and Examined.

4830. *Chairman.*] HOW long did you reside in India, and in what part?—I resided 20 years continuously in India, and I may say that Calcutta was my place of residence; but I have travelled over a great part of India, along the trunk road up to Delhi, and westward through Rajpootana into the native city of Jeypore. I have frequently been into the Mofussil amongst the planters and other settlers there, and I have been in the principal native towns, and have occasionally resided in them for a short period.

4831. Is that the whole of India that you have seen?—Yes, that is the Bengal Presidency and the North Western Provinces. I have also been in the Hill station of Darjeeling.

4832. What was your occupation or profession while in India?—Originally, I was a solicitor of the Supreme Court; subsequently, I was admitted an advocate at the bar of the Sudder Dewanny Adawlut, upon a diploma, and not under the general licence subsequently granted to professional men, barristers and solicitors, to practise by legal right in that court.

4833. When did you return to this country?—In the year 1855.

4834. Have you since you left India kept up your connexion with the Sudder Courts as well as with any of your native friends?—I have done so, and I do so up to this period by practising as a law agent at the Privy Council, which keeps me in constant communication with the pleaders and the advocates of the Sudder Court, and the rajahs and zemindars.

4835. Have you come much in contact with indigo planters, merchants, and landholders, who are Europeans?—Yes, very much so, both in business and in the relations of social and private life, and with all classes of Europeans and Christians generally.

4836. Do you think that India offers inducements and fair prospects of gain and

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and advantages for Englishmen to settle in it?—Most certainly it does. India has soils rich, fertile, and so varied as to be suited to every kind of produce; its resources are great, and but partially developed and explored; its people, generally speaking, are patient, enduring, laborious, and evincing both the desire and capacity for improvement. These remarks are no less true now than they were 25 years ago, when used by the then President of the Board, to show that India, under improved circumstances, promised a sure and steady increase of the public revenue. If the condition of the peasantry and labouring classes be improved, India, while yielding a superabundance of all kinds of raw produce and materials, will require tenfold the amount of manufactured goods from this country to what it now consumes. The natives, however, if left to themselves, are not an improving or progressing people; and therefore the Englishman has all the inducement that a rich and fertile country, with an abundance of cheap labour, can offer to skill and capital for settlement, and to enterprise and activity for the application of his talent and his energies.

4837. Is not the climate a serious obstacle to the settlement of Europeans?—I think that the climate offers no serious impediment whatever; and this is reduced to a demonstration from the fact that numbers of gentlemen in the civil and military services of the Honourable Company reside from 20 to 40 years in that country, and return home to enjoy their pensions for a long time. And it is quite notorious that the indigo planters, silk producers, and commercial men residing in the interior parts of the Bengal Presidency, are the most healthy portion of the European community in India. Their numbers are small; but still I have seen those who have been examined before this Committee, and I am personally acquainted with nearly the whole body of planters; and I can state that those who have appeared before you are but fair specimens of what the rest are.

4838. Do you think that the natives would regard with disfavour and jealousy any great increase of European settlers?—The upper classes of the natives, I think, do look with considerable jealousy upon European settlers, regarding them as much superior to themselves, not only in skill, but in energy, perseverance, and steady attention to business. The natives, generally speaking, are dilatory and procrastinating, and greatly deficient in method and regularity in their business habits. Their ceremonial observances, and what is known as family worship, keep the zemindars and the wealthy in the grasp of the brahmin, and prevent their giving much personal attention to business. The great masses, however, of the people, all in fact below the landed and monied gentry, are most favourably disposed to the European community; certainly in Bengal, the inhabitants of which have, I think, more sympathies with and a greater liking for the English than the natives of the Upper Provinces. I ascribe this to the circumstance of their having come much more in contact with them. The Bengalee is not so muscular and athletic as the up-countryman, but he is generally amiable and gentle, clever, quick, and eager to learn and to work under the European master and employer. I have heard remarks made, having been present throughout this inquiry, very disparaging to the Bengalee as contrasted with the up-countryman. I do not wish to draw comparisons between one and the other to their prejudice, but all the experience which I have had of the Bengalee character makes me think that, though his bodily frame is weaker, yet he is, mentally and morally, in no way inferior to the up-countryman.

4839. Do you consider that the settlement of Europeans in India is likely to prove of much advantage to the natives themselves?—I think the greatest blessing to India will be a large accession of independent Englishmen, labouring with and amongst the people of the country in spreading knowledge and civilization, in developing the many and varied resources of the country, and in bringing into full play the talents and capabilities of the people themselves. What is really required in India is the master-mind and the skill, the guiding and directing spirit of the educated, trained, and energetic European; not merely as a Government and salaried official who retires on a handsome pension after his years of service, but of such as will take root in the country, and have heavy interests at stake, and who will furnish work and impart instruction to the labouring and industrial classes. I believe that private enterprise, if not checked, discouraged, and driven from the country by the opposition of Government, will do infinitely more towards the advancement and good, the civilization and enlightenment, of the people of India, than countless despatches, reports and counter-reports, or any number of legislative enactments. The European in India will

will always be helpless without the aid and co-operation of the natives, on whom he must depend for labour and a supply of the very necessaries of life; it is therefore essentially his own interest to assist, advance, protect, and be kind to them. The zemindars and landholders, as a general rule, do little or nothing to improve the condition of the peasantry and working classes; they regard their ryots to be as much their property as the very soil itself, and claim to deal with them as they choose: these, on the other hand, are too poor and powerless, and too ignorant to resist; and hence submit to almost any amount of oppression. Yet their sympathies are naturally with their own countrymen and co-religionists; and were it not that the adventurous Englishman not only treats them more considerately and liberally, but acts as their protector, as well against Government officials as oppressive landlords, he could never obtain their services nor secure their labour.

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4840. Under the circumstances which you have mentioned, how do you account for the small number of Englishmen, not in the service of the East India Company, residing in the several provinces and districts of India which are under the British Government?—It is my own firm conviction, from all the experience I have had in India, that the real serious impediment to the settlement of Englishmen in India is to be found in the policy of the system under which our Indian possessions have been hitherto, and unfortunately up to the present day, are still governed. That policy which, giving certain extensive and exclusive privileges to a corporation established for trading purposes, and gradually formed into a governing power, originally shut out the spirit of private enterprise by excluding from the country Englishmen not servants of the Company. Although the extreme severity of this original policy has been somewhat modified and gradually relaxed, its spirit has remained but little changed, and its effects have been to keep the people of this country very ignorant of the resources and great value of India and of the character, condition, and wants of the natives. Hence it is, in my opinion, that the different classes of England do not feel any direct and immediate interest in our Indian possessions. Moreover, it is a matter of notoriety that there has been, and is at the present time, a constant antagonism between the official and non-official Anglo-Indian communities, and that exactly as the adventuresome Englishman, who is called an interloper, with difficulty obtained his admission in the country, so even now he maintains his position in a continuous but unequal struggle with the local Government, which he in turn regards as an obstacle between himself and the Crown and constitution, to which he owes allegiance and looks for protection in his own country. Then again, the departments of administration, police, the judicial system, both civil and criminal, are notoriously so wretchedly inefficient, oppressive and corrupt that they deter the peaceful and industrious from living within their influence or risking their lives and property under their operations. I believe that even the comparatively few gentlemen settled in the interior of the country would willingly withdraw if they could do so without a ruinous sacrifice of property, for little or no heed has been given to their complaints, nor indeed of the natives, while the evils which have been pointed out for many years past are greatly on the increase; the present constitution of the Legislative Council also has made matters worse than they were before, and that body certainly has not the confidence either of Europeans or natives. With the exception of two judges taken from the Supreme Court of Calcutta, it is composed entirely of salaried and Government officials who have been such from the age of 20, who have really nothing at stake in the country, and who are not likely to live under the operation and influence of the laws which they pass, while those who are directly interested in the well-being of the country, both Europeans and natives, are entirely excluded from any voice in the laws by which they are to be ruled and governed. I am equally convinced that the constitution of what is called the Covenanted Civil Service is the very root and origin of the main evils arising out of a deplorably defective magistracy and most inefficient judicial administration both civil and criminal. Under the present system, gentlemen are appointed magistrates and judges without any regard whatever to their qualifications and aptitude in those respects, but merely as a matter of right, by virtue of their being members of a privileged service. These gentlemen are brought up and trained to no particular business or profession, and yet, from early youth, they are placed in authority and power, and entitled to pass from one appointment to another, the duties of which are wholly dissimilar, but the emoluments of which become

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become their rights by seniority usually, and sometimes by interest. A collector of revenue, ignorant of all law generally, as well as of the civil portion of the regulations, is usually promoted to a civil and sessions judgeship, having not only original jurisdiction but also appellate authority over those who have been in the judicial department, such as it is, probably for a period of 12 or 15 years. He is ignorant of the ordinary routine of business, and of the very rules of practice in force in the civil courts. It cannot well be otherwise, for he has never studied or practised the profession of law. He has certainly never drawn a plaint, nor an answer, and therefore it is that the power of the omlah or native officials is very great; in fact, such a judge does and must depend upon them, as they (I mean the omlah) possess much of the knowledge regarding at least the current duties of his office and the forms to be observed, to which he is a stranger. I fully and deliberately confirm all that I have heard stated before this Committee by Messrs. Freeman, Macnair and Wise, regarding the wretchedly corrupt state of the Company's courts, and also of the difficulty experienced by English magistrates and judges in having to work in a language which is foreign to them and which they but imperfectly understand. I have no doubt also that the exclusive system of the covenanted civil service deters many well educated and generally most professional men from going to India, from the knowledge that even under their own Government they are hopelessly shut out from all those posts of honour and profit in the service of the State to which they are eligible, not only in their own country, but in all the colonies under the Crown. Finally, there can be no doubt that the most neglected condition of the country, in the absence of roads and the means of communication between the principal towns and the producing and manufacturing districts, to the markets for consumption and export, together with the great difficulty experienced in and the tardy methods of travelling, has very materially prevented the settlement of Englishmen in India. There are no roads connecting the principal towns, such as Moorshedabad, Guya, and Patna, with Calcutta itself; and Calcutta is unconnected with the only road that exists in the country for want of a bridge. You cannot go more than 16 miles by road beyond Calcutta; if you want to go further, you must cross by a ferry to the main road; there is no other means of getting to it. Such are some of the reasons which, from 20 years experience, I think deter Englishmen and Europeans generally from going to India for the purpose of settlement and colonization.

4841. What would you enumerate among the principal objections to the settlement of Europeans in India?—I think I have enumerated several; but there is one other which is of such importance that I cannot with justice to the subject omit it. I think that the transfer of the authority of the Government from the corporation which now represents the Crown, by virtue of a trusteeship, is absolutely necessary. If it be the real intention of the English Government to encourage the settlement of Englishmen in India, and to give full scope to private enterprise for the accomplishment of those objects connected with India, which Government alone can never effect, I mean the general education and improvement of the people, and the development of the great resources of that country, Englishmen, I am persuaded, and the history of the past proves it, will not accept the intervening authority of any corporation, as a government, in lieu of the direct authority and power of the Crown, and the fundamental principles and laws of their own constitution. At present you have, in India, a series of antagonisms which works most injuriously for all classes, and completely prevents that union amongst the governing people, which appears to me to be essential for the well being, not only of themselves, but of the millions of people, our subjects, taken under our care and protection, avowedly for their own good and enlightenment, and advancement in civilization. At present, there is an antagonism in the army by the distinction of two services, and a worse antagonism between the Queen's courts and the Company's courts, between the laws administered in the Presidency towns and in the interior; between the covenanted service, who have a monopoly of the well paid appointments, and the upper or educated portion of the uncovenanted service, who think themselves most unjustly excluded from advancement; and finally, between almost every Englishman (I speak of these as facts, not as matters of opinion), not in the service of the Company, and the local government and covenanted service, who not only represent, but carry out the policy of the East India Company, so as to shut out the direct authority of the Crown, the intervention of Parliament, and the salutary and most necessary influence of public opinion in England. I think that the substitution of the authority

authority and name of the Crown is essentially requisite to prepare the way for those sweeping changes in the Government of India which must follow almost immediately, not only to induce and encourage colonization, but to keep our hold over that immense extent of country. Perhaps it would not be unconnected with the subject for me to state, that I think that this would operate most favourably upon the native mind as bringing the natives in contact with Europeans settling in India.

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4842. Why do you think that it would operate favourably upon the natives?—I have lived among the natives, and have had great experience of them in villages and towns, and I think that they have no particular attachment certainly for the Government or the name of the Company, nor have they any confidence in the professions of the local government, with regard to their non-interference with their prejudices and religion. The resumption proceedings, and the confiscations under those proceedings will I am convinced ever be remembered by them with indignation and bitter feelings, while the laws altering the course of inheritance, and the re-marriage of Hindoo widows are not only regarded by them as a state interference with their religion, but have destroyed every remnant of faith on the part of the natives in the assurances and professions of their present rulers; I believe the change would be very popular with the natives, who will be glad to become the direct subjects of a powerful Sovereign, but then this formal change must be immediately followed by a very extensive improvement in the working of the local Government.

4843. Are there any changes in the local form of Government and administration which appear necessary for the purpose of encouraging English colonization in India?—It appears to me that India is much too large, and its people of too many races and varied habits and usages to be placed under the authority of a single Governor-general residing at Calcutta, and under one Legislative Council, the members of which represent only the official class, and are for the most part ignorant of the feelings, wishes, wants, and prejudices of the different races spread over such an immense extent of territory. Each Presidency ought I think to have its independent governor, secretaries, and staff, as also its own Legislative Council, the authority of the Governor-general extending over the army, to making war and peace, and settling the terms of treaties, and so forth.

4844. How do you show that this would be conducive to the settlement of Europeans?—I think you cannot disconnect the Europeans and natives. If you legislate simply with the idea of what is suitable to the English, without referring to the native and redressing the grievances of the native, there will be that unhappy antagonism between them that will effectually bar Europeans from going out to India. The Supreme and other local councils are, in my opinion, wholly useless and enormously expensive. The chief secretaries and heads of departments may well supply their place, by being made, as it were, cabinet ministers to aid and assist the Government by their advice and knowledge. The present constitution of the Legislative Council must be wholly changed; there ought, no doubt, to be a certain number of *ex officio* members receiving no other salary than that of their respective substantive appointments; there should also be as many non-official as official members, composed equally of Englishmen and Christians, and of natives who are not Christians. None of those members should be in the service of the Government. The Government of each Presidency should have the power of putting a veto to or suspending the operation of any law passed by the Council pending a reference to the home Government, but not to have the power of making any law whatever without the sanction of the local Legislature.

4845. You suggest the infusion of some representation of European settlers into the Supreme Legislative Council?—It is absolutely necessary, without which Europeans will never be satisfied in India. It will be one perpetual system of warfare with the Government. But I think it equally important that natives as well as non-official Europeans should be introduced into the Council.

4846. You think that the introduction of natives as well as Europeans would be conducive, ultimately, to the settlement of Europeans by bringing about a harmony between the two?—Yes, and unless you have natives in the Legislative Council you will always be ignorant of the wants of the natives, and of their objections to certain laws, or of the proper time for promulgating certain laws affecting them, such as the law to which I have referred, and the law affecting widows. So far as they affect our own interests, we speak favourably of them,

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4847. *Mr. Fillicrs.*] How would you determine the selection of non-officials and natives for appointment to the Legislative Council?—I am not quite prepared to say. My idea is that I should leave it to the Governor of the Presidency in the first instance in both cases.

4848. *Mr. Willoughby.*] Do you recommend that they should be paid or unpaid?—Unpaid; the official members merely to receive the pay of their substantive appointment, and the non-official members to receive nothing.

4849. Do you think that respectable persons of that class would be found to devote their entire time and attention to their legislative duties?—I think the question covers more than is necessary. The members of the Legislative Council do not devote all their entire time and attention, indeed I think they at present devote more than is necessary. They make too many laws; they are too rapid.

4850. You think that people would be found to devote all the time that is necessary?—Yes, superabundantly.

4851. *Mr. Kimbird.*] Well qualified persons?—Yes, well qualified; I think that the best class of Europeans and natives in India would be found to take the appointment. I can simply say, if it is not presumptuous, that were I in the country, and the appointment were offered to me, I should most willingly become a Member of the Legislative Council, with the desire of doing what is needful and requisite.

4852. *Chairman.*] You have heard a good deal in this room with reference to the introduction of the English language into the courts of law; do you consider that that would be an improvement or otherwise?—I think that it would be a very great improvement. I am able to speak practically, from my experience, and from the knowledge which I have of the condition of the courts with regard to the languages; but I wish distinctly to guard myself by stating that while I make the remark that the gentlemen of the civil service are unable efficiently to discharge their duties by reason of their having to use a foreign language, I do not make that observation in the remotest degree in the sense of a reproach to the gentlemen of that service, but I make it as a reproach to the system; I believe that the gentlemen of the civil service know the native languages better than the Europeans who are not in the service, and that they know the native languages quite as well as any body of men are ever likely to know a foreign language. The native languages are never used by Europeans, except upon absolute compulsion under the law, and in social life, from the necessity of giving orders to your servants. We never think in the native language; we do not read and write in the native language. And here I may speak of those gentlemen of the civil service who have passed their examinations very creditably; some of them are able to read the native languages, when they pass, tolerably well; but if they were examined a year afterwards, you would find that very few of them could read, for the simple reason that they never do read the native language in business. Every man has a reader, as he finds it much easier to have the papers read to him than to wade through them himself. Then the present system of using the native language is very modern; it has been introduced within the last 20 years. There was a regulation passed in 1836, intimating that the language which was then used in the Company's courts would cease to be the official language; and that in 1838, I think it was, the vernacular would be introduced. I have heard civilians admit to me that they found an immense benefit in using one uniform language, that was the Persian language, to that of having a mixture of languages. It is quite as bad as if you expected the best of our Greek, Latin, French, German, or Italian scholars, after they had passed a scholastic examination, and written a theme and some hexameter verses, to transact business in Greek, Latin, French, German, or Italian; and yet there is no doubt that their examination papers would show that they had passed a creditable examination. You have simply to apply the same test to the use of languages which people study in order to pass an examination, so as to have the portals of the service opened to them, and have thereafter the enjoyment of all the offices in that service. Then, looking at the question practically, I was admitted as an advocate in the sudder court, in the year 1843. At that period the sudder court, compared with what it now is, might well be said to have been almost benighted; not from any fault

fault of the gentlemen who presided over it, but from the error of the system. At that period I was not permitted so much as to use the words "yes" or "no" in English. I had studied the native languages, but when I entered that court to practice, I found that I was as a perfect novice in the use of those languages; that I was constantly confounded; and I had to make translations of my cases before I could appear in the presence of the judges to argue them. The same difficulty I found after 10 years; and the same difficulty I saw was felt by judges who had been 30 and 40 years in the service, to that extent, that when the late Mr. John Colvin was appointed to the sudder court, seeing the difficulties which beset the system of Englishmen having to administer laws and work in a foreign language, he proposed to the Government that they should have a sufficient number of translators allowed the court to enable the pleadings to be translated for the judges, so as to save their time in wading through the pleadings, and translating and listening to disputes about the meaning of passages; the Government sanctioned the measure; and up to the period when I left India the pleadings were translated for the judges. The result of that was, that it opened the way to the use of the English language to a great extent. When I went to that court in 1843, oral pleadings, such as we know at the bar of our courts, were really nominal. The pleaders used to be called upon by the judge after reading through a heap of papers from beginning to end; but so soon as oral pleadings became the rule, that habit ceased, and the work was performed by the gentlemen at the bar, natives, Christians, and such Europeans as were there, and the papers were no longer waded through as formerly. The result was also this, that bribery and corruption were afterwards unknown in the sudder court; but when I went into it, I can speak from my own positive knowledge, that bribery and corruption were the order of the day.

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4853. This happy change you attribute partly to the introduction of the English language?—I attribute it to the introduction of the English language in a very great measure, and to the introduction of improved and professional assistance.

4854. You refer to European agency?—Yes, but natives are admitted to be solicitors in the Supreme Court. A native can qualify himself by serving his articles exactly as a European can; and I should be very sorry to advocate anything in the way of professional work for Europeans which I would not do for the natives; if anything, I would help the natives, as they are the weaker of the two.

4855. Mr. Campbell.] Within what period has this change occurred?—I commenced to practice in the court as Mr. Baillie left it. It was not till 1844 that I held a brief. I think I once heard Mr. Baillie in court; but I can testify this, that oral pleadings nominally existed.

4856. You heard Mr. Baillie's evidence?—Yes, and Mr. Hawkins'; and I think, nearly every other gentleman who has given evidence before the Committee.

4857. Do you concur with Mr. Baillie on this point?—No. I think his convictions have been directly the opposite of my own. I have no doubt that the expression of his opinion is equally based upon his convictions.

4858. You saw the fruits resulting from the change, and Mr. Baillie did not?—Yes. I have discussed these subjects with gentlemen in the civil service; my own tendencies were, in the first instance, rather to advocate the maintenance and preservation of the native languages based upon those ideas which I have heard advocated by Mr. Hawkins and Mr. Baillie; but I have been converted to the opinion which I have now submitted to the Committee by a gentleman in the civil service.

4859. How do the natives regard the English language, as compared with their own?—Very much as they regard the English rule; they would, in the first instance, be disposed to oppose it. But all my remarks are made upon the assumption that the English rule is to be the rule for India; that it is to be maintained. I do not for a moment desire to enter into abstract theories; but taking facts as we have them (we now have an English Government in India), we never shall do justice until we use the language of the governing power. The Mahomedans did so; and I ought to have explained that the language which prevailed before was the language of the Mahomedans, namely, the Persian.

4860. Chairman.] Do you think that the national tendency of the people of India generally would be to accept the language with the rule of the governing power?—Most assuredly. I think that if a three years' notice were given, all those imaginary difficulties would vanish. I heard it stated that the interpreter would

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would have it in his power to explain as he liked, so as to be more powerful than the judge. The thing is as impossible in the mofussil as in the sudder courts. The judge at present does not and cannot speak consecutively. There may be rare exceptions, and I am bound to say that Mr. Hawkins was an extraordinary exception; he was a great adept at reading an oriental manuscript; I never met anybody equal to him, yet I have known a great number of gentlemen in the civil service. But I put the question to him the other day whether, if he had a Bengalee manuscript before him now, he could use it familiarly; and he said that he thought he could not. No other judge (and I think there were some 15 or 18 judges at various times presiding over the sudder court when I was at the bar) was able to handle a manuscript in the way that Mr. Hawkins could do.

4861. Have you turned your attention to the expediency of introducing as much as possible the Roman character into India, while preserving the language?—That question was very much discussed between some very benevolent gentlemen of the civil service, who saw the necessity of making a change in the system, and wished to make a compromise of it evidently. When I first went out to India in 1835 it was much discussed by Sir Charles Trevelyan, and I rather think that he was one of the advocates for making that sort of compromise, by keeping the native language but using the Roman character.

4862. Sir *Erskine Perry*.] That controversy would not at all apply to written documents, but only to printing?—Just so; but it would be a death-blow to the language; it is an admission that we encounter some extraordinary difficulties, which we propose to get rid of by compelling the natives to sacrifice the facility and expedition with which the native languages can be written in their proper characters. For facility of writing, the Persian character has a vast advantage over the Roman character; so that we should really, if we did an injustice in the matter at all, be doing the natives a most grievous injustice, by compelling them to adopt the Roman character, which has no letters to express a great number of the sounds which would convey an idea of their words at all, and yet agreeing to retain the language for which the Roman character is not at all adapted.

4863. You think that it would be better to introduce the English language?—Entirely; I am firmly convinced of it.

4864. You are not of opinion that it would conduce ultimately to the introduction of the English language, to introduce more of the Roman character, for instance in the printed works in India?—I look upon the question in a much larger view than as it affects the use of the language in the courts of law. You could have no better means of diffusing the use of the English language through the whole country, and thereby assimilating the natives and Europeans to one another. You will never open the literature and learning of the West to the native mind, to produce its humanising and harmonising effects, unless you familiarise them with the English language.

4865. Do not you think that the introduction of the English language is in harmony with the general character of the progress of the ascendancy of this country over another nation?—Yes, most essentially so; and the natives of Bengal have a wonderful aptitude for picking up our language.

4866. Mr. *Villiers*.] Does any case occur to you in history where conquerors have forced their language upon the nations whom they have conquered?—I have given the instance of the Mahomedans, and I may mention likewise the Romans.

4867. It has not continued in either case?—It continued as long as their power continued; but I think that there is that power and vitality in the Roman character, and in the languages of Europe which have the Roman character, that they will necessarily displace those languages which are more complex than the languages that can be brought into use for all purposes in the Roman character.

4868. Sir *Erskine Perry*.] You do not contemplate English ever becoming the language of the millions of Hindostan?—I have not entered into that question.

4869. *Chairman*.] Does the present system of competitive examination secure the best and most able men for the public service in India?—Very far from it, in my opinion, because I think that the competitive examination leaves things exactly as they were, with this difference, that it has taken away the patronage from the East India House of nominating to the civil service; but the service with all its inherent evils is left exactly the same. No man after the age of 23 can aspire to serve the State in India. You do not require a man to be put upon the bench till he is 40, or say 35; but at present, if a youth does not pass a scholastic examination,

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examination, covering learning in seven languages, only one of which is useful to him in India, he is shut out, and the country is burdened with the expense of maintaining the civilian till the age of 40, and then he is put on the bench without any previous training. There are seven languages in the scheme for examination, yet not one of the Indian languages; there are the Sanscrit and Arabic, which are dead languages; then there is German, French, Italian, Latin, and Greek. For a vast number of offices filled by the civil servants these languages are useless. It should be understood that the Government of India, in India, is the civil service of India; and if what is stated by those who live under that Government, but are not members of it, be correct, it is clear that what must be radically changed is that system. Either such of us as are opposed to that system, and who are not gentlemen of the service, are stating that which is the fact, or we are wholly mistaken about it. Then it seems to me that what is to be eradicated is the entire system, and not merely to change the door by which people shall be admitted into that same objectionable system; yet nothing beyond this is effected by the present competitive system.

4870. You arrive at the same place by a different gateway?—Yes. The patronage has been taken away from the East India Company, and given to certain examiners; and I think that the gentlemen who framed the rules for examination were never in India; it is obvious that the examination does not meet the evil complained of. The only way of meeting it is by the abolition of an exclusive service altogether, and by allowing men to aspire to serve the State in every post in India just as in this country. The one argument that I have ever heard used against the abolition of the exclusive service is this, that if you do not maintain it you will not get fit men to serve the Government. Where the salaries are, for a zillah judge 3,000*l.*, a sudder judge 5,000*l.*, members of the Councils from 5,000*l.* to 8,000*l.*, of a collector 2,300*l.*, I do not see how there can be any difficulty in getting fit persons to fill those situations. Why not put the thing to the test? Why protect the service by rules? I am convinced that educated lawyers, who are fully equal to the discharge of all the duties of a judge, would willingly go out to India to take the situations of zillah judges at 1,500*l.* a year, and yet the present judges are paid 3,000*l.* a year.

4871. Mr. Villiers.] Would they qualify themselves by acquiring a knowledge of the language?—The only knowledge of the language necessary is for colloquial purposes. I think that the English language should be introduced; and I think that all those presiding in the courts should be previously examined colloquially.

4872. You would not appoint the men without some examination?—No other examination beyond their position at the bar is necessary. At present, in this country you do not examine gentlemen for judgeships, but they give you the best test you can have, that is, their position at the bar. It is impossible for a man to be a judge who has never studied the law. I believe that jurisprudence is quite as much a science as engineering; and all men are not born with the gift of discriminating, reasoning, and judging, so as to be fit to preside over their fellow creatures. If a poet is born, I believe we may with equal truth say that a man who is fit for a judge is born with a peculiar idiosyncrasy which must be developed and cultivated.

4873. Chairman.] You think that education in jurisprudence is essential, and you think, further, that that education is sufficiently given by the position which persons attain at the English bar?—Yes, I think it indispensably necessary; and I wish to put it upon record that I have had the admissions of numbers of gentlemen in the civil service that the attempt to dispense justice in India is a total failure; and I believe that if those gentlemen were free to give their testimony before this Committee, nine out of ten connected with the judicial department would acknowledge that it is a total failure. I was astonished by the observation of Mr. Bailey, that the judges are competent to give satisfaction, and do give satisfaction. The cry is universal that it is not any fault of individuals, not anything approaching to corruption or dishonesty on the part of the judges; but it is the positive want of knowledge on their part of the laws and the duties of a judge that gives such universal dissatisfaction. You may occasionally get a man of a greater grasp of mind and greater powers, who may do more than another; but the system is wrong. I have known a political officer who had never been in a civil court perhaps for 24 hours, who was utterly ignorant of the civil system of India, nominated to a judgeship in the sudder court.

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4874. You heard the evidence with regard to the desirableness of the great increase of European magistrates, police inspectors, and superintendents and other professional men for the judicial department. Would not that entail a considerable increase of expenditure if the alteration was carried into effect, as has been proposed?—As regards the police I should observe that it is impossible to exaggerate in becoming language the miserable condition of the police and of the magistracy in the Lower Provinces of Bengal, and I believe it is no better in the rest of India. I believe that the whole thing is most perfectly rotten to its very core.

4875. With reference to the expense, what is your opinion upon that point?—I think that the present outlay would really meet the necessary expense by making those reductions which are necessary in the present enormous pay given to the civil service. I have been told by more than one collector, that from half-an-hour to two hours in the day was amply sufficient for any collector to discharge his duties, and yet they are paid from 19,000 rupees to 23,000 rupees a year, having the advantage of receiving their pay monthly. Now there can be no doubt that to discharge those duties you would get a most efficient and honest man for 600*l.* a year, or 6,000 rupees. It will be observed by any one who will have the interest and curiosity to look back to the different deductions that have been made on a large scale, that it has been followed by a declaration that the reduced appointment shall no longer be held by a covenanted civilian. I observe that Mr. Ricketts, of the civil service, has suggested certain deductions, and the abolition of certain offices as no longer to be the right of the covenanted servants, with a recommendation to reduce the pay of those offices enormously. Yet there will be no difficulty in finding gentlemen to take them; the Government knew this well, and so did Mr. Ricketts; therefore, I say, if there is any truth in the observation that you will not get men to accept those appointments without enormous salaries, why protect the present incumbents of those offices by laws and rules which prevent the matter being put to the test?

Martis, 8^o die Junii, 1858.

MEMBERS PRESENT.

Sir Erskine Perry.
Mr. Willoughby.
Mr. Danby Seymour.
Mr. Lowe.
Mr. Kinnaird.
Mr. J. B. Smith.

Mr. Campbell.
Mr. Gregson.
Mr. W. Vansittart.
Mr. De Vere.
Mr. Villiers.

WILLIAM EWART, Esq., IN THE CHAIR.

Joseph Gabriel Waller, Esq., called in; and further Examined.

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4876. Mr. Campbell.] IS not business much better and more satisfactorily conducted in the sudder than in the zillah and district courts?—Unquestionably it is so; but I ascribe that not to the circumstance of there being judges on the bench in the sudder court who are more familiar with the administration of the law, but to the circumstance of the sudder court being in the metropolis of India, where professional assistance can be had, where the court is under the influence of public opinion, and is very much assisted by the guidance of the public press; the improvements in the sudder court have been progressive; and there is no doubt that court, working in the metropolis, is immeasurably superior to the mofussil courts.

4877. Is it an easy or simple matter, after obtaining a decree in any of the Company's courts, to enforce its execution?—Quite the contrary; the trouble of a litigant may really be said to commence from the day on which he gets his decree.

4878. Do

4878. Do you think that there are any good and valid objections to subjecting Europeans, or Christians generally, to the authority of the Hindoo and Mahomedan in civil and criminal matters?—I think so; we know as a fact that Christians do object to being placed under the authority of Hindoos and Mahomedans; I think that their objections are really well founded; it is not likely, in my opinion, that they will ever willingly submit to be placed under their authority; and I believe that the effect of any attempt to place them under their authority will be to continue the unhappy conflict, which has existed in India as long as I can remember it.

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4879. Would you then propose to exclude all natives who are not Christians from civil employment, or from the magisterial and judicial department?—Very far from it; I think that too much cannot be done to encourage the natives by education and example to qualify themselves for every civil department; and I think it is the bounden duty of the English Government to employ them to the utmost possible extent, having a due regard to our position as a conquering people, and having regard also to political causes which may make it necessary to exclude them from high appointments; they may be appointed even judges, but not to have authority over Christians.

4880. Do you not think that the introduction of the English language would be a great advantage?—Very great indeed. I do not look upon the introduction of the English language into the courts and offices of Government with simply the narrow idea that it will be a convenience, and that it will lead to a more satisfactory mode of dispensing justice, but I think it will open western literature and western learning to the people of the East, and lead to an elevation of their moral and social position.

4881. Do you think that Europeans ought to be made subject to the jurisdiction of the Company's courts, presided over by gentlemen of the civil service, or by Christians of the uncovenanted service?—In the present condition of India I think not, but I would let the courts be improved, and then I think that all classes should be made subject to the local jurisdiction; but until a very extensive reform is made in the Company's courts, it would certainly be monstrously unjust to subject Englishmen or Christians to their jurisdiction, and to deprive them of the blessings they enjoy, and which they are capable of giving to themselves by the introduction or establishment of good and proper courts. The Supreme Court was introduced as a protection to them, and as a means of their being able to do justice to Europeans; and I think that there is now no reason why they should be deprived of that benefit, and why they should be subjected to the inefficient tribunals of the Company.

4882. Are the present revenue sale laws such as to deter Englishmen from investing their capital in landed property?—Most certainly; if we bear in mind that a revenue sale destroys all engagements and incumbrances on an estate, it clearly follows that a man in business would be very chary in vesting his capital in the purchase of what are called putnees and talooks in India. I am quite sure that it does so operate on Europeans, and that it does prevent them from purchasing what may be called large farms.

4883. *Chairman.*] What is the difference between a talook and a putnee?—A putnee is never separated from an estate, but a talook may be; talooks sometimes pay the revenue direct to Government.

4884. Are they a sort of manorial right?—No; they have been created, time out of mind, by grants from the zemindars themselves and otherwise.

4885. *Mr. Campbell.*] Would it be, in your opinion, advantageous to allow zemindars and proprietors to redeem the land-tax?—I think it would be a very great advantage; it would be a vast advantage as regards the great landowners and rajahs, for it would ensure to us their fidelity; and that being the case, we should have a sense of security in the country which would enable us as colonizers and settlers to work with a degree of confidence which at present we are unable to feel.

4886. Would doing that to a limited extent extinguish existing debts of the East India Company, do you think?—Yes, no doubt; the debt is not large, and that debt could easily be extinguished; it is a small debt, compared to the wealth of the nation.

4887. Do indigo planters maintain what are called clubmen, for the defence of their property?—Not so; throughout India, taking Calcutta itself, and it is much

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the same in Madras and Bombay, I believe every man who has anything valuable to guard maintains a body of up-country police; all the merchants in Calcutta guard merchandise by these sort of clubmen; it is a necessity in Bengal, for the Government yields them no protection; the police of the Government are actually tyrants; instead of being a blessing, they are a curse wherever they are introduced; indigo planters do no more than the rest.

4888. Is there anything in the native character presenting serious difficulties in the way of Englishmen desiring to settle in India?—No; on the contrary, I think that their character is such, that it is rather an invitation to Englishmen than otherwise; I think, that notwithstanding the terrible events which have lately convulsed India and shocked the world, the natives are a mild, docile, and gentle people, capable of being trained to everything that is good. I think that all that is bad in their nature has been developed in them. This, I believe, has arisen from neglect and oppression. I believe that they possess everything good in human nature in common with the rest of mankind, and that all we have to do is to check the evil, and to cultivate and encourage, as far as we can, all their good qualities. I speak from my own experience, and from my knowledge of their character.

4889. Do you think it desirable to introduce in India generally the non-regulation system, and to deal out justice summarily?—By no means; understanding the regulation system and the non-regulation system as I do, I do not look with any horror at what is called the regulation system, as some gentlemen are accustomed to do; I believe that if you attempted to introduce the non-regulation system you would cause a complete revolution. I can well understand a great man of genius like Sir John Lawrence, and others of like experience, knowledge, and will, moulding into order a country newly acquired by conquest; but if you were to attempt to introduce the same system in parts of the country that have not only been conquered a hundred years ago, but have had the blessings of peace, and those advantages which a peaceful period generally brings with it, you would spread very great discontent, and cause a very great amount of mischief.

4890. Is it not of great advantage before a man is elevated to the bench as a civil or sessions judge, to make him pass through a gradation of various offices and duties?—I think it is obvious that it cannot be so; it is not a system which we adopt in any country but India. It is a correct saying that the law is jealous, and requires all a man's time and attention if he wishes to devote himself to it. To make a man a good judge it is of no advantage that you should make him first a political ambassador, then a superintendent of a railway, then an opium and salt agent, and from that elevate him to the bench; that is something like making a man do work as a shoemaker, and then as a tailor, in order to make him a good watchmaker.

4891. Does any antagonism exist between the civil servants and settlers in India?—I think very great.

4892. How do you account for that antagonism?—In this way: that Englishmen cannot forget that they were originally excluded from India, while all the servants of the Company had it handed to them as a monopoly; and although they are now admitted, still what are called the good things in the service are reserved exclusively for those gentlemen who are the fortunate members of a most princely service, who, whether they have work or not, are entitled to receive handsome pay.

4893. Do you not think that in an isolated district, containing, perhaps, a million of native inhabitants, with a single Resident there, subjecting a civil servant to the influence of public opinion, has something to do with that antagonism?—Very much so. I think, without meaning it at all in any offensive sense, that the civilians very much dislike being under the influence of public opinion or of the public press; that is my conviction arising from knowledge and observation.

4894. Have you had considerable experience of indigo planters, and of indigo growing?—Yes; I have been indirectly connected with the indigo business for many years.

4895. Have you heard the evidence of Mr. Baillie on the subject?—Yes.

4896. Do you concur with his evidence as to the unremunerative results of indigo growing?—No; although I think that Mr. Baillie was very correct in representing the mischief that has been caused by people undertaking the business of manufacturing indigo, and of making advances on indigo, without studying

ing and understanding what was requisite; but certainly, at the present time, it is well understood and is remunerative in itself, if we put aside those influences and those evil causes connected with the police and the maladministration of justice which really make the manufacture of indigo much more expensive than it ought to be.

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4897. Then you consider that the state of the law, and the state of the police, have operated against the profitable settlement of Europeans in India?—Unquestionably.

4898. What suggestions can you make of a practical nature to remedy the evils you have enumerated?—I think it is absolutely necessary, in the first instance, to put an end to that unhappy and mischievous conflict which has always existed between the official and non-official English community. This can only be done by Parliament giving a defined constitution for securing to all Englishmen those fundamental laws and rights, including the liberty of the English press, which are so much valued in this country. Englishmen will not go out to India and consent to live under the authority of their own Government in a worse condition, as regards liberty, freedom, and laws, than they are accustomed to in this country. You must therefore introduce the body of English law, with such modifications as are necessary to suit the religious habits and social conditions of the natives. The close and exclusive system of the present civil service must be abolished, or there will never be any improvement in the administration. All Englishmen ought to be eligible to every post and appointment, which for present political purposes should be filled by Englishmen only; and there should be no such distinction as that of a covenanted and uncovenanted service. The police must be very greatly remodelled and reformed by the introduction of an extensive European element, such as constables, inspectors, and superintendents, in its constitution, and by a large mixture of the Christian population in its ranks. The magistracy must be unconnected with the police, and left to the performance of those obvious duties which belong to it in this country. Magistrates should be selected from experienced and well-tryed professional men of mature years; they should be well paid and increased in numbers, so as to have much smaller jurisdictions. I fully confirm the very worst that has been stated before this Committee, supported by the testimony of Mr. Halliday, Governor of Bengal, regarding the most wretched, cruel and oppressive character of the police, as well as of the utter inefficiency of the magistrates. Then, as regards the judicial system, it would be scarcely possible to devise a scheme better calculated than that which now prevails, not only to give insecurity to life, liberty, character, and property, but to encourage corruption, bribery, perjury, and forgery. Speaking of the sad results of this system, the Marquis of Hastings observed, in a despatch from the Directors to the Bengal Government, dated February 1819, "The present state of landed property in Bengal may be brought under review as connected with the judicial administration, since it appears to have originated more from the practical operations of legal decisions than from the fiscal regulations of this Government. The powers which have been assumed by the auction purchasers have completely destroyed every shadow of a right in the tenants, and reduced a happy and comparatively rich peasantry to the lowest stage of penury and indigence. We seem to have accomplished a revolution in the state of society, which has, by some unexpected fatality, proved detrimental to general morals, and by no means conducive to the convenience of our Government; since the first establishment of the Zillah Courts in 1780, and from the regular organisation of them in 1793, a new progeny has grown up under our hands; the principal features which show themselves in a generation so formed, beneath the shade of our regulations, are the spirit of litigation which our judicial establishment cannot meet, and a morality certainly much deteriorated. If in the system or the practical execution of it we should be found to have relaxed many ties of moral or religious restraint on the conduct of individuals, to have destroyed the influence of former institutions without substituting any check in their place, to have given loose to the most froward passions of human nature and dissolved the wholesome control of public opinion and private censure, we shall be found to acknowledge that our regulations have been productive of a state of things which imperiously calls upon us to provide an immediate remedy for so serious a mischief."

4899. Has that remedy been since provided?—On the contrary, the evils have increased

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increased under the system which was then complained of. I think that one point, which is very material with regard to the judicial system, is not to make litigation a source of revenue to the Government. I think that the stamp law has operated most detrimentally; the Government looks to litigation as a source of revenue; I think that the abolition of that, and the introduction of professional judges independent of the Government (for the present judges are anything but independent of the Government), are matters which are absolutely necessary to make the administration of justice what it ought to be.

4900. Mr. Smith.] You have stated that the police are very inefficient for the protection of life and property; and that in consequence of that it becomes necessary for persons to keep watchmen to protect themselves?—Yes.

4901. Are you of opinion that if a proper system of police were established, the people would willingly pay for it?—I certainly think so.

4902. And do you think it would be to their advantage to do so?—Most assuredly; I think it would not be difficult to convince them of it, and to show them that it would be a gain to them in a money point of view; for they are at a great expense at present in maintaining this private police.

4903. Have you paid any attention to the tenure of land?—Yes.

4904. Would you suggest that there should be any change in the existing tenure?—Certainly; as regards the sale law, I think that a change is absolutely necessary.

4905. What are the changes that you would suggest, with reference, for instance, to Bengal?—I do not know that the ordinary tenures there are objectionable; I have not thought them so myself, nor have I understood that the system has been found to work disadvantageously.

4906. Do you think that if the Government were disposed to allow the land tax to be redeemed, that would be an advantage to the natives?—Very much so.

4907. What are the advantages which you would anticipate from such a redemption?—It would make them more earnest, I think, in the improvement of their property; and what, connected with this question I think all-important, is, that it would make them favourably disposed towards the English Government, as they would be quite conscious that on a change of Government they would lose the benefit thus acquired.

4908. You think that in that case they would be interested in upholding the English institutions?—They would.

4909. But any change of that nature should be accompanied by a registration, should it not?—Most assuredly.

4910. And a remeasurement of the land?—Yes, on a different principle from that which is pursued at present, because there is so much conflict now in the civil courts; they change their opinions so constantly as to the legal value of a survey, as to make it difficult to determine the boundaries.

4911. Have you ever paid any attention to the debtor laws of Bengal as applied to ryots?—I think that the whole of the laws there are in a very unsatisfactory state on those points generally.

4912. Is it not usual for a son to take upon himself the debts of his father?—That is the law of their religion; but that is not enforced in the civil courts, though really it might be enforced next year. The civil courts vary most wonderfully in their decisions; there is no fixity of purpose with them.

4913. Is it not a very cruel law, and does it not operate very injuriously upon the people?—Not practically, for the law is really a dead letter; that is their religion; their law and their religion go together. By the Hindoo religion a son is bound to pay the debts of his father, but as yet no one has found the means of compelling him to do so; the civil courts have held it to be a religious obligation which the courts are not bound to enforce.

4914. If the son receives no property from his father, is he, notwithstanding that, bound to pay his father's debts?—Yes, out of his own earnings.

4915. Does not that keep him in a constant state of poverty?—No; the fact is that a man never pays a debt; if you get a decree for 10,000*l.* against a man, he never pays you.

4916. But the liability to pay is held in suspense over his head, is it not?—Yes, but he generally finds the means of defeating it; the courts themselves are so incompetent to enforce their own decrees, and so ignorant of the very principles which should operate in giving effect to their decrees, that the law, it is found, is very easily evaded. I could show instances in which a decree has been for

for 20 years under execution, and has never been enforced, or only partially enforced; and at the end of that time it has been ruled by the highest authorities that the decree ought never to have been passed; that it was illegal, and incapable of execution.

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4917. Do you not think, with a view to the benefit of the ryots, that some change in the law is necessary?—So long as you do not touch the law of their religion; wherever their civil position is mixed up with their religious institutions, I think you cannot interfere; you must leave it to the operation of time and the effect of education.

4918. Do you think it would be inexpedient to make any change in that respect?—I think it would be inexpedient to make any change by legislation, as in the case of the remarriage of Hindoo widows, and the alteration of the law of inheritance; I know that those two alterations in the law prevented the very good that was contemplated; it struck at the very root of their religion, and if there had been Hindoos in the Legislative Council who could have pointed out what would be the probable operation of such laws, the probability is that they would never have been passed.

4919. Do I understand you to say that you, being an advocate, could hold no office of any sort in India, however capable you may be of holding it, in consequence of you not being a covenanted servant?—I could hold none but a subordinate office; such an office as would be beneath my social position and fair expectations.

4920. What is the highest office that you could hold?—In the judicial department the highest office that I could hold would be that of an uncovenanted judge, having as much or more work to do than the judge himself; having unlimited jurisdiction, but not receiving anything like the pay, or occupying anything like the position of the covenanted judge, and being incapable of elevation.

4921. What does a covenanted judge receive?—Two thousand five hundred rupees a month, and the uncovenanted only 700 rupees.

4922. When as a barrister you come home to your own country, is there anything to prevent you from taking any office there for which you are capable?—Nothing whatever; I may keep my terms here, and be called to the bar, and then I should be legally as much qualified as any man, so far as my rights are concerned, to be elevated to the bench.

4923. There is nothing here to prevent you, if you are fit for the office, from being Lord Chancellor, while in India you can only occupy a menial appointment?—Yes; a menial appointment for a gentleman of education and position.

4924. That does not offer any great encouragement, then for people to go out to India?—No; I only speak from my own experience as to what I should do, if I were training my own family for India.

4925. You have stated that in your opinion a free English press is a necessary security for the good government of the settlers who go out to India; is it your opinion that it is equally beneficial to the natives?—Most assuredly; the English press has always protected the natives; every measure that the Government has introduced which has been unpopular with the natives, and which has been thought to prejudice them, or to work to their injury, has met with the most decided opposition from the press; and the press, I am bound to say, has advocated the rights of the natives quite as fully as the rights of Englishmen.

4926. Do you think that the Government have anything to apprehend from the discussions incident to a free press in India?—Not in the remotest degree whatever; it is either a fiction or there is a desire to get rid of it.

4927. Do you think that the natives are able to discriminate, when our free press discusses a question affecting them, whether it is doing so for their benefit or not?—Such natives as can and do read the papers, most certainly can do so.

4928. What is your opinion as to a free native press?—I think that the time has not arrived for the introduction of it; we must regard the natives, to a certain extent, as children, and take the position of parents with regard to them, raising and elevating their minds, and preparing them for future liberty.

4929. Would you prohibit the native press altogether?—No; but I would put it under certain restrictions. I speak with hesitation upon this point, certainly; but such are my convictions, and I have thought a good deal upon the subject.

4930. Do you think that, so long as Englishmen going out to India are shut out from offices of honour and profit, it is likely that they will take root in the country?—Not at all; I think they will not take root there; and, more than

J. G. Waller, Esq. that; I think they will not go out in large numbers if they know that they are to be shut out from all appointments.

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4931. But is it your opinion that if Englishmen were eligible to every office of the State for which they may be fit, as is the case in all our colonies, that would operate as an inducement to them to go and settle there?—It would be a very great inducement indeed; I can hardly exaggerate the extent of the inducement.

4932. Is it not a part of the nature of an Englishman to expect, wherever he goes, to have some share in the government of the country?—Most assuredly, and it is in consequence of the want of that, that you have a political antagonism in India between the governors and the governed.

4933. And are you of opinion that the admission of Englishmen into the Legislature would not only do away with that antagonism, but would eventuate in great benefit to the country?—Yes, that would be one means; but I think that that is a *sine quâ non*.

4934. Would not the Legislature in that case have the benefit of a much larger amount of experience and information than it has at present?—I think it would be quite as beneficial to the Government as to the governed, but you can hardly do so so long as you have but one Legislative Council; how are you to introduce people resident at Madras into the Legislative Council located in Calcutta?

4935. You would consider it desirable that there should be a Legislative Council for each Presidency?—Yes.

4936. And that Englishmen who are fitted for the appointments should not be excluded from them?—Englishmen and native Christians; I would not limit it to Englishmen.

4937. Are you aware that in the Island of Ceylon the experiment of introducing natives into the Legislative Council has been tried and found to be very beneficial?—No, I was not aware of that.

4938. If it has been found beneficial there, do you think that there would be any danger in trying the experiment in India, with regard to some of the most intelligent natives?—So far from there being any danger in it, it would be, I think, one of the best measures that could be taken for insuring the safety of India.

4939. Do you know as a fact that there are many natives quite sufficiently intelligent to justify their appointment to such an office?—Most assuredly that is the case; there are many of them who are fully qualified in every respect.

4940. Are natives allowed to be pleaders in the courts of law?—They are more than allowed to be pleaders; they have had a monopoly of pleading hitherto in their own hands. The class of people who are pleaders in the courts generally are most incompetent, and unfit for their position.

4941. Are they untrained?—Yes, they are untrained. In the Mofussil courts they are no help to the judge; but, on the contrary, they are great hinderances.

4942. Would it not be an advantage, therefore, not to allow people to be pleaders without undergoing some sort of examination, or going through some test of their qualification to undertake the duty?—Their qualifications should be such as are peculiarly required for performing the duties of a pleader, but no general rules for examination by book would, I think, suffice; their preparation should be similar to that which is necessary in this country for the exercise of any profession or business. They should undergo a sort of apprenticeship, doing practical work; book-learning will never enable them to discharge their duties, any more than a man would know how to make a watch from reading in a book, a description of the manner in which it is made.

4943. Are natives allowed to plead in the superior courts?—There is no law excluding them; but they are subject to this hardship, which is as bad as a law: a man must come to England and keep his terms here, and be called to the English bar, and then he may go back and practice in the Supreme Court. They may be admitted as attorneys, and there are natives who are attorneys.

4944. Do you think that there would be any objection to admitting them as pleaders in the Supreme Court?—None, considering how much Mahomedan and Hindoo law is administered in the Supreme Court. It is a hardship that they should be required to be called to the English bar in order to qualify them to practise in India. I think that in Australia a gentleman may be called to the bar and practise in the local courts without first coming to England; and I do not

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see why the same (I will not say privilege, but right) should not be conferred upon parties in India. *J. G. Waller, Esq.*

4045. Would it not be a means of qualifying them for filling judicial situations?—It is the only preparation which you can give them; in fact, the remedies that are required are all of the most simple nature.

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4946. *Mr. Kinnaird.*] You have spoken of the antagonism which exists between the governors and the governed; do you refer there chiefly to Calcutta?—No, throughout India; the government of the Company all over India; that government is not willingly accepted in India, and as the direct government of the Crown is denied to India, that antagonism, I am convinced, will ever continue to exist between the Government and the governed.

4947. Do you think that arises practically from the exclusion of any but the covenanted servants?—I think that has a very great influence upon it; and I think, moreover, that the Company have worked as you might expect a corporation to work, not with large and liberal ideas, but, generally speaking, with small ideas, with a view to the maintenance of their privileges and rights. They have acted wisely as regards themselves, but they have acted injudiciously and illiberally towards the country in all respects, as well with regard to the natives as with regard to Europeans.

4948. In your opinion, has the want of competition for public offices a deteriorating effect upon the service itself?—I think so; because if you have an incompetent person in the service, you are bound to maintain him, whether you give him work or no work, and you shut out the possibility of admitting people of merit; your selection is confined to 400 or 500 gentlemen who have passed a scholastic examination at the age of 18 or 20, but you are debarred from selecting from gentlemen who, without expense to the State, have qualified themselves. We, out of the service, should be glad to qualify ourselves at our own expense, with a view to our admission into such offices as we find ourselves best adapted for.

4949. What is the meaning of what is called a bad bargain in the service?—I think that the question almost gives its own answer, when I state that the rules of the service are such as they are. In fact, there is a covenant between the Company and the civilian; and I think it would be important that the form of the bond signed by civilians should be put upon record. By that bond there is a mutual obligation.

4950. *Sir E. Perry.*] A man cannot be turned off?—No, unless he has been guilty of corruption or the like. When once a man has signed the bond, the State is burdened with him, although he may be of no use. You may find that, although he has a good deal of book-learning, although he may write a Latin theme or hexameter verses, yet when he is put to work he may be fit for very little, and yet you must provide for him.

4951. However incompetent he may have proved, he is still eligible for a judgeship, is he not?—He is not only eligible for a judgeship, but the more incompetent he is the more certain is he to be elevated to the judgeship. That is explained by a very zealous partisan of the East India Company, *Mr. Campbell*; he states in a work which he has published that when a man has been found fit for nothing else, it is determined to shove him on the bench, and make a judge of him. That really is the fact. I am myself able to corroborate *Mr. Campbell's* testimony in that respect.

4952. Have you known instances of such appointments being made as would corroborate the opinion expressed by *Mr. Campbell* to which you refer?—I have known too many instances of that kind, but I hope I shall not be required by the Committee to mention them.

4953. *Mr. Campbell.*] In the Sudder?—Yes. I have known men who have never been judges or decided a case at all nominated to the Sudder Bench.

4954. *Mr. Kinnaird.*] And have you ever had brought under your notice any decisions made by the judges which have been remarkable for their absurdity?—A great many. If the Committee will only take the trouble to read the decisions of the Privy Council, they will see that the decisions of the highest court in India are often reversed; and when you introduce professional assistance the judges are embarrassed.

4955. Suppose the experiment were made in every Presidency of associating some of the natives of the upper class in the Legislative Council, would there be any difficulty, in your opinion, in finding natives competent to the post, and still well

J. G. Waller, Esq. well affected to English rule?—I think there would be no difficulty; we have many natives who are very popular with the European community, and I think we should be very happy to see them put into the Legislative Council.

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4956. Would not such a course tend, in your opinion, to conciliate the natives, and make them favourable to our government?—Very much so, if you carried it out fully; it would not be enough to put into the Legislative Council a native who merely follows the observances of the Hindoo religion in order to avoid being out-casted; but you should act with good faith and admit into the Legislative Council natives from all parts of the country, who are able men, and respected among their own community.

4957. Are there among the natives many superior men who are scattered about in the Mofussil?—Among the gentry and old families I have come in contact, most assuredly, with natives who are really gentlemen in manners and habits.

4858. And who are not disaffected to our rule?—Certainly not; I am speaking of Bengal. I think those are measures which would go a wonderful way to conciliate and make them well affected towards us.

4959. Should you not think that the present time would be very suitable for the introduction of measures, such as those of which we have been speaking?—As soon as you can put an end to the military insurrection. I think that any measure of the kind, if introduced while the Sepoy army is in force against us, would have a bad rather than a good effect; the moment we have destroyed that army it would be necessary to follow it up by the immediate introduction of reforms; delay, I think, would be fatal.

4960. Do you think that the employment of Christians, either separately as a body or collectively, would have a prejudicial effect on the native mind, so as to endanger the peace of the country?—Quite the contrary; I think that the moment we take the position which as Christian rulers we are entitled, and justly entitled, to take, the natives would not only respect us, but would have greater confidence in us than they have at present, when our professions and our conduct differ from each other as they do. The more pains we take to make professions to the natives that we shall exclude Christianity, the greater is their suspicion that our intention is by underhand means to supplant Hindooism, and to introduce Christianity.

4961. Do you know anything in the native character which, in your opinion, is calculated to deter and discourage the settlement of Englishmen in India?—Very far from it. I know, and I do not say this out of opposition to gentlemen who have spoken to the contrary, that the natives have most admirable qualities about them.

4962. Would the extension of missionary labour operate prejudicially in your opinion, so as to cause apprehension to the Government, or so as to deter commercial and agricultural gentlemen from settling in the country?—By no means; the natives have not the slightest objection to independent and non-official people working according to their convictions, but what they have the greatest objection to is, the interference of those who are connected with the State or the interference of the Legislature with their religious habits, usages, and feelings. I think you are not likely to do much in the way of European settlement or colonization if any effort is made to exclude a body of useful men, such as the missionaries are found to be, under the idea that the natives do not like them.

4963. Have you ever heard of instances of missionaries asking for the assistance of Government on their behalf?—Not at all. I never heard of any violence or opposition offered to missionaries, or of missionaries being unpopular with the natives more than any other class of Europeans.

4964. You would say that they are rather respected than otherwise by the natives?—Yes, and for this reason, that they believe them to be virtuous and good in private life, and that they are honest in their convictions. As a body of men they have rather elevated the English character in India, and as such they are respected.

4965. You are of opinion that if the Government had taken an open and plain course as regards Christianity, it would have had a better effect upon the native mind than the course that has been taken?—Yes; because in that case Government would have been believed; but it never will be believed, when being a Christian Government it professes to discourage Christianity.

4966. There are many Christians, are there not, in the Bengal Presidency who are

are not Europeans?—A great many; there would be no difficulty in either supplying a police force or in getting up militia regiments for the protection of the principal towns in which there are many Christians.

4967. What is their condition generally?—Very degraded and lamentable. The coloured Christians are a class generally looked on with great contempt, and very little is done to help them.

4968. What do you mean by coloured Christians?—Those who are usually described as Eurasians.

4969. Why are they looked upon with such contempt?—They have been condemned without cause; they are supposed to have all the vices of the Christian as well as of the Hindoo; but such is not the case. I think they are capable of all the good that others are; they are the most useful body of men to the Government in filling subordinate offices. We shall never get the natives to entertain a favourable idea of Christianity if they find that Christians who are not white are degraded amongst Christians who are white.

4970. What has tended to cast this slur upon them?—I suppose it originated in the first instance in the stigma that attached to their birth. The word half-caste is used to imply that they are not generally legitimately born; and that has extended to the whole body of coloured Christians. If a Hindoo, becoming a Christian, adopts European habits and manners, he immediately falls into their position.

4971. Mr. *Lowe*.] Then is it his change of religion that makes him degraded in the eyes of Englishmen?—No, because the Eurasians are born Christians.

4972. What is thought of a Hindoo of full Hindoo blood turning Christian?—Generally speaking, he is not looked on as a very trustworthy person; as to the lower order of natives who become Christians, we do not trust them much.

4973. Mr. *Kimmaid*.] Hitherto the Government have entirely abstained, have they not, from giving any employment to converted natives?—Yes.

4974. Have any grounds been stated for not treating them in the same manner as any other portion of the population?—I do not know; the impression on my mind has always been that the Government are not anxious for the spread of Christianity, but that on the contrary, they would rather prefer that things should remain as they are, because their own existence is thereby apparently secured; most certainly if you introduce a large number of Christians, by bringing a body of settlers from Europe, or if you so educate the natives that they become Christians, the present constitution that prevails in India could not exist for any time; I think that the East India Company are perfectly conscious of that, and it has been with that view, in my opinion, that they have never encouraged Christianity.

4975. Mr. *Lowe*.] Do the Mahomedans and Hindoos agree generally in their views of Christians and Christianity?—No, the Mahomedans, as a class in India, are very bitter against Christians; they have all the vices and all the evil conditions of the Hindoo with those of their own peculiar creed, but they are most hostile and most antagonistic to the English. The Hindoo religion does not admit of increase by proselytism, the Mahomedans work zealously, making as many converts from Hindooism to their own religion as they can, while Christians almost sleep over it.

4976. With regard to those who are Christians, do you consider that they ought to be subjected to the jurisdiction of the native and Company's courts, while Englishmen alone are exempt?—I do not; what I have said as to Englishmen applies to all Christians. I can hardly conceive it possible, that while Englishmen in India claim these as rights to themselves, on account of their being Christians, and appreciating free institutions, they should seek to deprive, not only all other Europeans, but all their fellow Christians in India, of those blessings which they themselves so much value.

4977. Do you think that they have equally strong objections to be subject to the Hindoos and Mahomedans?—I do.

4978. Do you consider the Bengalese inferior to the people of Upper India?—Only physically; in all other respects they are equal if not superior.

4979. You seem to think that there should be some censorship over the native press?—Yes.

4980. You think that under proper restrictions the native press should not be entirely suppressed?—I think not.

4981. The tendency of the freedom at present enjoyed has been rather to elevate the natives than otherwise, has it not?—Very much so; I think that the

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press is a most powerful instrument for doing good in India. The observations which I have heard made against the English press are, I think, very unmerited; I think that the press in England is far more severe and satirical with regard to those in authority than the free press in India has ever been.

4982. Do you think that the press in India never deals in personal attacks on individuals?—I will not say it never does.

4983. Are not actions for libel frequent in India?—I have not found them so; I cannot call to mind many instances of the kind.

4984. Is not the tone of the English press in India what we should call in opposition to the Government?—Not only the press, but the whole community in India, is so, and the press represents that feeling very strongly.

4985. That is, there is an opposition by parties who have no hope of getting into office, and therefore no responsibility?—It is not only from that cause, but because Englishmen in India are deprived of those institutions and laws which they so much value in England, and because the Government of India is always hostile to the non-official population of India.

4986. Has the Government of India any means of defending itself?—Yes, the press.

4987. How would it defend itself?—In the same way as it would in this country; a defence, as a measure of justice, will always be allowed to an attack made in the press; the press of India was as much in the service of the Government as against it, that is, you had a portion of the free press devoted to the maintenance of the state of things existing in India, and to a justification of Government measures, although at the same time another portion of the free press of India satirised and criticised the measures of the Government.

4988. Does it pay, as a mercantile speculation, to set up a newspaper to defend the Government in India?—I can state that the proprietor of a paper which defended the Government has retired with a handsome fortune, while those who have taken the course of opposing the Government are still struggling; the "Friend of India" was notoriously, when I was in India, supporting the Government measures.

4989. Do you think that the Government of India would do wisely to allow any paper to be understood to be its official organ?—I think so, just to the same extent that is done in this country.

4990. Do you think it advisable that the Government should be so connected with a newspaper, that what is said in that paper should be taken as an admission by Government that it has so said?—I should think not.

4991. I understand you to say that you are against any greater control of the English press than there is in England?—Yes; having lived under the influence of a free press, and having seen the effects of its suppression.

4992. Will you state, if you please, what has been the effect of the suppression of the freedom of the press in India?—I think it has left the Government blinded as to the real state of the country; I think, also, it has led the Government to go on in its errors by not having the truth laid before it.

4993. Do you think that the press of India was doing any harm to the native mind?—Not at all; on the contrary, I think it was doing a great deal of good; it was enlightening and elevating the native mind.

4994. Do you think that the articles which have appeared in the India press with reference to the natives, and the tone which has been taken with regard to them in those articles, is calculated to bring the present disturbances to an end?—Some of those articles, I think, were injudicious. They are partly to be ascribed, I think, to an irascibility at having been deprived of their liberty, and partly to the antagonism, the existence of which is found between Europeans and natives of India. The natives have never asked to have Europeans subject to the Hindoos and Mahomedans; it is only the East India Company that has been perpetually originating that question, and thereby creating strife and contention between Europeans and natives; but if any one conversant with India for the last 25 years will look at the whole course of conduct and policy in India on all subjects in which the interests of the natives have been supposed to be hurt, or prejudicially affected by the acts of the Government, he will find that the free press has ever advocated their interests and taken their part.

4995. Do you consider that the course which was taken by the press before the recent disturbances in India was judicious?—Very much so; and if the Government had acted on the hints which were given them by the press, and had taken warning

warning in time, the storm, I am convinced, would not have burst as it has done, *J. G. Waller, Esq.*
or, at all events, it might have been controlled.

4996. Do you not think that articles appeared in the press calculated to excite the apprehensions and to irritate the resentment of the natives?—Quite the contrary, with the reservation before made.

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4997. With regard to Christianity, you have said that the Government was afraid of introducing it; I want to know whether you think it the duty of Government to introduce Christianity?—No; but it ought not to oppose it.

4998. You do not think that the Government ought to be an active agent in introducing Christianity?—No; I think that the Government should be perfectly neutral.

4999. You think that now it is hostile to the introduction of Christianity?—Yes, or it professes to be hostile, though it is not believed by the natives to be hostile; I think that if all classes of coloured Christians were allowed to enlist, and if you were to form police battalions, and militia regiments, they would not be in that degraded position in which they now are.

5000. *Chairman.*] I understand you to say that the natives suspect the Government of not being sincere in the conduct pursued by it, with regard to the introduction of Christianity?—Yes.

5001. And that that suspicion of insincerity introduces a want of respect?—Not only a want of respect, but a perpetual apprehension that the Government means, by underhand agency, to deprive them of their religion; and they look upon the law enabling the Hindoo widows to marry, and the law altering the course of inheritance, to have directly negatived the professions of the Government with regard to their non-interference.

5002. *Mr. Lowe.*] You say that men who can write Latin verses, and who are good scholars, make bad civil servants?—Pardon me; I am very sorry if I have been so misunderstood; I think that a good classical and literary scholar may be, and is, indeed, perhaps the best person to be put upon the bench; but you have a variety of posts in the civil service for which book-learning, in that sense, is not necessary. I find that the course of examination prescribed, and which it is necessary to go through before a man can be admitted into the civil service, makes it desirable that he shall know seven languages; it is very possible that a man having but little aptitude for government or for the bench may pass a creditable examination in German, French, Italian, and other languages; and yet another who knows nothing of them may still be better qualified than he to fill the office of judge, as well as any other under the Government.

5003. Is a knowledge of those seven languages compulsory?—No, not exactly so, but it enables a candidate to get a greater number of marks.

5004. It is not compulsory upon him to take them up?—No; but if he does take them up, and passes, he gets a greater number of marks.

5005. By what test would you ascertain the fitness of civil servants?—No one common test can be applicable to every case; the test which would be good for an accountant, or for a man in the finance department, would not be a test for a man in the judicial department; and the two together may be no tests for the political department or for the post-office. At present the whole world are excluded unless previous to the age of 23 they have been able to pass a scholastic examination, which is one test for everything; but they are never required in after-life to qualify for anything. They never become a part of the people; they are officials from first to last, and as such are entitled to hold every appointment.

5006. Do I understand you to say that a person who has passed a competitive examination is never qualified in after-life for any business whatever?—Not so. What I say is, he never is tested. I said it is no test; you can have no one common test applicable to every case. I would have no exclusive civil service.

5007. But you must have civil servants, must you not?—Yes, but not monopolists, nor with the right of being maintained whether they are fit for their work or not.

5008. If the Government wants a collector for such a place, how would you propose to find him, or by whom would you say he should be appointed?—By the governor of the country, or wherever you put the patronage.

5009. Who is to have the patronage, according to your scheme?—I should take up a great deal of the time of the Committee if I were to go into the scheme fully. There would be an amount of patronage in the hands of the Governor of each Presidency, who should always have a right to remove any person from an

office

J. G. Waller, Esq. office for which the Governor might consider him not qualified; but he cannot enter into the details of every appointment; the heads of the departments therefore should have the right to nominate to all posts subordinate to their own; in fact, I would follow very nearly the system which is followed in this country. I would have no exclusive civil service. I would allow the heads of every department to make the appointments, leaving it to the Governor-general to interpose his authority by veto.

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5010. The patronage then would be in the Governor-general, and in the Governors of the different Presidencies?—Yes, that is my view of it at present.

5011. Suppose the Secretary of State for India, or whatever the minister is called, has a friend who wants to get rid of an incompetent relation, and sends him out to the Governor-general of India, with a recommendation to him to put him into some situation, is there not a risk that he, although incompetent, will be placed in office in India?—I think there is a chance of that, but there is a risk in everything that is human. I think that the check of public opinion and of a free press are the best remedies that can be suggested with a view to the prevention of such an abuse of power. It would be an abandonment of his obvious duty; and I think that if the Governor should be shown to have acted under such a recommendation, with a knowledge of the unfitness of the party, he should be visited with the consequences. In fact, I think that our policy ought to be to govern India in India, and to prepare India for it as rapidly as possible. I would also suggest that the Governor-general should not have the nomination to offices, except as regards the heads of departments; and I think that if we sent out a responsible Governor-general, he would hardly venture to appoint to the head of a department an incompetent person, merely because the Minister of State for India recommended him. I should certainly myself have no apprehension that there would be any extensive abuse of that kind.

5012. Are you aware whether such has ever been the case in the colonies?—I cannot point out any special case of the kind, but I am satisfied that there have been such cases. To suppose that such cases have not occurred would be to ascribe to those who are in power a degree of perfection which we cannot expect to find in anything human. I believe that most men, when they are in power, would be glad to be free from the control of public opinion, and from a free press.

5013. Do you think that there is great risk of the service being jobbed?—I think not. I think the class of gentlemen contemplated as likely to go out to India, with such recommendations, will never go there. They are the branches of the aristocracy, and they will not expatriate themselves; by preserving the monopoly of the civil service you do, to a certain extent, check such an abuse as that, but you exclude all merit; the merit of the world is not at your command. I think that if you had small-cause courts established, and if men who had efficiently discharged their duty at the bar were, on passing a colloquial examination in the native languages, held qualified for the bench, numbers of gentlemen would go out to India.

5014. *Mr. Seymour.*] Do you think it would be possible to introduce some kind of check, such as that of a residence of so many years in India, in order to qualify persons for holding a civil appointment?—It may be so; but I should be very loath to introduce anything in the sense of a protective or exclusive measure. I speak with hesitation upon the subject, because these are questions which go so much into detail. I can point out, and speak of the evils, and state the broad remedies, but as to matters of detail, I speak with hesitation.

5015. You remember the story of Warren Hastings saying that he had 500 young gentlemen sent out from England for him to provide for?—Yes, but what was possible then would not be possible now, so long as you have public opinion. The Marquis of Hastings observed in that very passage which I read just now, that the absence of public opinion was a serious loss.

5016. Do you think that the civil service could be separated and divided from the judicial service?—As long as you did not protect the service by exclusive laws; as long as you did not give them the right, whether competent or incompetent, to remain in the service, drawing their pay; as long as you open it to the whole community who choose to compete, it would be a wise subdivision.

5017. Would you have all judges trained lawyers?—Unquestionably I would; I would keep them solely to their work.

5018. You would select them entirely from the legal profession?—Certainly I would.

5019. And

5019. And probably you would require that they should have practised a certain number of years as barristers?—Yes, as barristers in practice, because you have gentlemen here who take a sort of honorary degree in order to gain a position in society. If persons of that class only were appointed, that would be an abuse which would very soon remedy itself. If a Governor-general were found to abuse the power given to him he would soon be taken to task by a free press.

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5020. In order to fill the office of judge properly, ought not a man to have been first an advocate?—I think so; unless he has studied and worked and has acquired knowledge of pleadings and examinations of witnesses by practice, he is never fit for the bench.

5021. And it is only in that way that a man can acquire that knowledge which is necessary for a judge?—It is only in that way. You may apply the same principle to the humblest or to the highest departments of learning.

5022. Have you ever heard any instances of persons who are highly connected going out from this country and receiving high appointments on their arrival in India, over the heads of others?—Such cases must have occurred.

5023. Might not that take place if you did away with the civil service?—It might, occasionally and rarely.

5024. If there were an important and lucrative office open in India, the work of which was easy, would not the son of a gentleman, highly connected in this country, have a better chance of obtaining it than other persons there?—I should strike at the root of the evil at once by having no such appointments. I would have no lucrative appointments with no work.

5025. Is it not the case that where a man has charge of large sums of money you must pay him well to insure his honesty?—I think not; I think he should give security; I would not put temptation in his way.

5026. When you speak of a native press, what do you mean?—A press published in the native language.

5027. Are you not aware that there are many papers published in the English language, the proprietors of which are natives?—Yes; but what I mean in speaking of the native press is a press in the native language; not English papers edited by natives.

5028. Then any English paper edited by a native would be considered an English newspaper?—The proprietors may be natives. I do not think that we ought to do anything to prejudice the natives in that respect.

5029. If any Mussulman or Hindoo turned Christian, you would take him out of the civil jurisdiction of the Mussulmen or Hindoos, and put him under English law and English judges?—Not English judges, because you have plenty of Christian judges who are not English; they have the same jurisdiction and authority, except that the uncovenanted judge, having unlimited original jurisdiction, has only appellate authority over those below him, but a covenanted judge has authority over him also.

5030. You think that independent Europeans would not object to being placed under a native so long as he was a Christian?—I think not; I think that a Christian would not like being placed under a Hindoo or Mahomedan judge.

5031. Would not a Mahomedan have the same objection to be under a Christian judge?—Yes.

5032. Then he would object very much to the doctrines which you lay down?—He would object to a Christian Government *in toto*; he hates Christian Governments.

5033. Is that the case with all Mahomedans?—Yes.

5034. Do you not think that rich Mahomedans who are engaged in commerce look to Government for the security of their property?—That is the case no doubt with many of them; but I speak of them as a class. There are individually many Mahomedans who have appreciated the blessings of our institutions, and who are not so hostile to our rule.

5035. And the more our subjects generally are engaged in commerce, and have the possession of land, the greater in your opinion would be the security of our rule there?—Most assuredly.

5036. From all you have observed, do you not think that self-interest has as much influence in India, and other eastern countries, as it has in England?—Most assuredly.

5037. As a practical fact, where self-interest is concerned, do you think that

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caste interferes very largely?—No, I know that the Hindoos would be very glad to be relieved from the tyranny of their caste system; they have admitted, over and over again, that if Brahminism could be removed from them they would be very glad, but no man single-handed can fight against it.

5038. Is it not one of those institutions that should be left, in your opinion, gradually to disappear?—Yes; I think it would be cruel, unjust, and impolitic to attempt to wage war against it.

5039. Do you not think that would be the surest way in the end of getting rid of it?—Yes; I think it would be the only way.

5040. Would not any attempt to get rid of it attract great attention, and be likely to excite great antagonism?—That is quite my idea.

5041. You think that by degrees, if left alone, it will disappear?—I do; I am perfectly convinced of it; I have conversed a good deal with Hindoos upon that subject, and it is my firm conviction that it will die out, if left alone; whereas, by direct opposition, you would feed and encourage it.

5042. Have you heard natives say that if we remain quiet, as far as our religion is concerned, its silent progress will be great?—Yes. The Hindoos believe the Christian religion to be a true religion.

5043. Do you think that the Church should be separated from the State in India?—Yes, I do.

5044. Do you think it has been a wise thing to give military honours and salutes to bishops there?—I do not.

5045. Is it a subject of discontent with the people of India that so large a sum as half a million of money is annually spent on our Christian ecclesiastical establishments there?—I really do not think they know it.

5046. But you would not go on extending that?—No, I would not; that is, as a Government I would not do it. I think it is a very unjust application of the public revenues, and it is directly at variance with the assurances and professions of Government.

5047. If the inhabitants of India generally knew that large sums were expended on Christian establishments, would they not have a strong objection to it?—Yes, and they would regard our actions as being perfectly at variance with our professions and promises.

5048. How large do you think our legislative council ought to be?—If you subdivided it in the mode I have suggested, leaving one for each Presidency, I should say there might be 20 members.

5049. Would you have 20 or 100?—I would start with 20.

5050. Do you think you could get the most important men among the English communities to serve without a salary?—Yes, just as easily as you get the most important men in England to serve in Parliament.

5051. Do you think you would get commercial men to serve?—Yes, if you followed the same reasonable course as regards the conduct of business that is pursued in this country. It would not do for them to be meeting in business hours; you must act with good faith in the matter.

5052. You have stated that the collectors received a salary of 2,300*l.* a year, and that you have been informed by collectors that they are not occupied more than two hours a day?—Yes, collectors have assured me that from half-an-hour to two hours a day has sufficed for the performance of all the duties of a collector.

5053. Can you tell me where that is?—That is in the Bengal Presidency; and yet in that province they are paying from 19,000 rupees to 20,000 rupees a year.

5054. In what way has the Government discouraged the propagation of Christianity in India?—By discouraging Christians; they are not allowed to enlist in the native army, and they are excluded from the police.

5055. Do you mean that there are no Christians in our civil service in India, filling Government offices?—Yes; all half-castes are employed, but only in subordinate places.

5056. You seemed to think that there had been a deep-laid scheme to discourage Christianity; do you remember a clause in the Charter of 1833, in which it was said that no man should be prohibited from holding any office on account of his religion and his caste; do you not think that the Black Acts are rather in that spirit, putting them all under the same laws?—No; my argument is, that a native may be put into the highest civil appointments, but it is not necessary to subject Christians to his authority; a Christian, at present, is only one against ten

ten thousand, and it is galling and bitter to his feeling, which the Hindoos and Mahomedans know perfectly well, to be made subject to them. *J. G. Waller, Esq.*

5057. Do you say that you would class all Christians with Europeans, and put them under European law?—Yes; I hold that native Christians should have authority over Christians. *8 June 1858.*

5058. The Christians would be under English law?—I have not spoken much upon that subject; my proposition is, that you must extend the best courts all over India; you must improve your courts.

5059. But in a criminal case an Englishman now can only be tried in the Supreme Court?—I have never contended for the maintenance of the existing system.

5060. I have not seen anywhere what the system is which you would recommend?—I have not been asked any questions on the point.

5061. I should like to hear what your views are upon the subject?—I think you should have courts, the character of which should be very analogous to the Supreme Court, established all over India; I think that those who ought to be the judges should be, in point of character and attainments, similar to what the judges of the Supreme Court are; the idea of subjecting people to most wretched courts, simply because a good court is further off, seems to me to be most monstrous; you must improve local courts, and make them fit for the trial of Christians; in introducing the English law it would be necessary to do so guardedly. I think that the substance of the English law should be introduced all over India. I think that the general law of equity, which is the law of truth and justice, should be introduced into India, but you must strike out all admitted evils, from which we are trying to free ourselves.

5062. What do you mean by the law of equity?—There is a sense in India of equity according to every man's mind, but equity, as a science, is that state of perfection to which we have come in dealing with jurisprudence, and which is to be found in the decisions of our most eminent men. I would not have law and equity separated, as they are in this country.

5063. In these courts, which you are to establish over the whole of India, you would have none but Christians and Europeans as judges?—No; on the contrary, a great number of them should be Hindoos and Mahomedans.

5064. In that case, in one court a Christian could be tried, while in another he could not be tried?—You must have Christian judges; where the plaintiff or the defendant in a cause was a Christian, you would go before a tribunal where the judge was a Christian.

5065. But you would have this law of equity established all over India?—Yes.

5066. And you would have the judges indiscriminately taken from Mussulmen, Hindoos, Christians, and Europeans, if they were fitted for the post?—Most assuredly.

5067. But, at the same time, you state that Christians should not, in your opinion, be tried by Mussulmen or Hindoo judges?—I do.

5068. Where there are two neighbouring courts, a Christian or European could be tried in one court and not in another?—Just so; because there would be no district without a Christian judge.

5069. You would exclude from those posts Mussulmen and Hindoos?—I think that the sessions judge should always be a Christian, at all events, for a long time to come; he is so superior at present in education and morals that you cannot dispense with his services, and Englishmen and Christians are entitled to the benefit of them; you do not do an injury to the Hindoo and the Mahomedan, but you do an injury to the Christian, and deprive him of that blessing which he is capable of giving himself, by means of his own institutions.

5070. What did you mean by the expression which you used, that Government had a right to introduce Christianity by reason of being a conquering power?—I meant rather Christian institutions. I do not know to what question you are referring; it is very likely that I used the term in speaking rapidly, but my meaning is, that in whatever the Government does it must be neutral.

5071. With regard to the feeling against native Christians, do you not think that there is a feeling among Europeans against those who are of Asiatic blood, somewhat similar to that which is entertained by Americans towards those who are of African blood?—Probably; there is a great deal of unwarrantable prejudice, no doubt.

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5072. But that prejudice largely exists, does it not?—Yes; no man can have been in India for two months without being conscious that all coloured Christians are in a degraded position.

5073. Does not that feeling extend down even to the third and fourth generation, where there is known to be a mixture of Asiatic blood?—Yes.

5074. Mr. *Willoughby*.] I understand you to advocate the extension to Europeans of the jurisdiction of native judges?—Native judges who are Christians.

5075. But not native judges who are not Christians?—No; I say so with all that hesitation which one must feel in recommending a measure which is beset with some difficulty.

5076. In dealing with native Christians, would you subject them to the authority of a native tribunal only?—You must not make any distinction between black and white skins.

5077. Then, in fact, you would make the religion of the parties the ground of selecting the court before which they plead?—No doubt, as regards Christians, but not as regards Mahomedans and Hindoos.

5078. In your answer to Question No. 4839, you say this: "What is really required in India is the master-mind and the skill, the guiding and directing spirit of the educated, trained, and energetic European; not merely as a salaried official who retires on a handsome pension after his years of service, but of such as will take root in the country." What do you mean by the expression, "take root in the country"?—People who will buy property, who will invest their capital, have important interests at stake, and who would be glad to live there from generation to generation.

5079. Do you think, having regard to the wants of India, with which you are intimate, that Europeans can take root in that way and rear up children, so as to augment the European population of India?—Your question is twofold; first, I think and know that Europeans live there from generation to generation; even in the civil service you have them to the third generation. My meaning is that the civilian has nothing at stake beyond his appointment; he does not buy property; he takes no root in this way. The settler invests his money there, he buys property there, and he is determined to remain there, and that his family shall have property there. It does not involve the necessity of his living in India to the end of the chapter, or of educating his children in India. I should always deprecate any attempt in the case of those whose means permit them to educate their children in England, to deny them the blessing; that I regard as no difficulty, but as a great advantage.

5080. Therefore the colonization you speak of is not that kind of colonization which we mean when we talk of colonizing Canada or Australia?—No; but I think that even in Australia the education of the rising generation is largely carried on in this country; the time may come when we shall have institutions in the hills of such a magnitude, and of such fitness, that children may be educated there, and so remain in the country.

5081. To what do you particularly refer when you state that a European settler at Bengal is now obliged to maintain a continual but unequal struggle with the local Government?—First of all, he is dissatisfied with the form of government; that is one great element which in itself creates a perpetual antagonism; the feeling of hostility which they have towards one another creates sometimes an unwarrantable opposition; so also the Government have equally a hostile feeling I think towards the non-official population of India.

5082. In what way is this hostility that you suppose to exist on the part of the Government exhibited?—In their antipathy to the free press for one thing, and in their desire to pass Acts, which civilians, who have been examined before this Committee, have admitted to be unjust and impolitic.

5083. Do you not think, with reference to our position in India, that the policy or impolicy of allowing a free press is a very important and a very difficult question?—No; because it has been tried and found to answer admirably.

5084. Of course a great number of people were opposed to it at first?—And throughout; most gentlemen who are in the civil service do not like the freedom of the press.

5085. You state that under the present system gentlemen are appointed magistrates and judges without regard to their qualifications and aptitude; do you mean that no inquiry and no test of qualification is required in the case of the civil servants of the East India Company?—No; but being once admitted into

into the service, they are not selected to their particular offices on account of any aptitude they have shown for the particular employment to which they are put.

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5086. But they are obliged to pass certain examinations, are they not?—Yes; but a civilian examines a civilian, and it is only to a civilian the appointment can be given.

5087. My question is whether a man can enter the civil service without undergoing a certain examination?—Without being required to show his qualification for any particular appointment; there is a test before entering the service; but I would have no exclusive service, because, under the existing system, you burthen yourself with the maintenance of a man before you have ascertained what he is fit for; if you want a collector, you should select a man of the age of 30 or 40, who is fit for the work.

5088. Are not the duties of a collector partly of a judicial character?—They are, and very objectionably so.

5089. Do you consider it a mistake, on the part of many great men who have served in India, that the revenue line is the best for acquiring a knowledge of the manners and customs of the natives of India?—No. I do not say that the revenue line does not give them a knowledge of the customs of the natives, but that knowledge is not what makes a man necessarily fit to be a judge. They are helps, no doubt; but a man may know all that, and yet be very unfit to be a judge.

5090. You observed, when you talked about transferring the Government of India from the East India Company, that it is essentially requisite to prepare the way for those sweeping changes which are to follow; to what did you then allude?—One is the complete abolition of the civil service, and the other the abolition of many offices, and an enormous reduction of the salaries attached to offices; the abolition of the Supreme Council, the protection of a constitution for India, under the guarantee of Parliament, and many others.

5091. Do you contemplate any change in regard to our treatment of the natives with reference to giving them employment, or being tender towards them?—I think we cannot do too much to conciliate them. I think that they ought to be eligible to the highest appointments short of political appointments. I think that our policy, under any form of government, should be to do the utmost we can for them, in order that they may be content to be governed by a people so alien and foreign to them.

5092. Are you correct in saying that the members who are now selected for the Legislative Council of India are ignorant of the wants, wishes, and feelings of the people?—I think they are; I do not mean that they are totally ignorant of them; it would be monstrous to say so of men who have been long in the country; but their official position has been such, that their knowledge is partial. I think that official gentlemen in India, generally, know very little of native feelings.

5093. Are not the members of the Legislative Council selected from among the most distinguished members of society in India?—I think not; I think it is as much a matter of interest as anything else; the pay is 5,000 £. a year, and that I think very much influences the appointment.

5094. Still it is a matter of selection?—Yes; I am not disposed to say much about its having been improperly exercised; the evil is in the system itself. I have not a word to say against the civil servants individually.

5095. Would you propose that in future the Legislative Council should consist of a certain number of civil servants, who should be members of the Council *ex officio*, receiving no salary, except such as they receive in respect of their substantive appointments?—At present two judges of the Supreme Court receive pay in respect of their substantive appointments, who are *ex officio* members of the Legislative Council, for which they receive nothing; but when a civilian is appointed he holds no substantive appointment but that, and he gets 5,000 £. a year for it.

5096. You mean he is to be a member of the Legislative Council, and to hold some other office; what particular class of office?—I think, as you have judges of the Supreme Court, you might have judges of the Sudder Court.

5097. A hundred and fifty years ago the Councils of India were formed in that manner, were they not?—I am not aware; but then you had no non-official members in it. I should not advocate *ex officio* members only.

5098. Are the duties and responsibilities of an uncovenanted judge the same as those

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those of a covenanted judge?—Very nearly; the civil judge has appellate authority over the uncovenanted judge, but the uncovenanted judge has unlimited original jurisdiction, and he tries most of the cases.

5099. He has also ministerial duties, has he not?—Yes, but the judge is the superior officer in the district; I would make the judge entirely independent in India.

5100. You have alluded to uncovenanted judges; are there not police magistracies and other law offices open to you?—Very few; I do not mean to say that there is no such thing, but they are so few in number as scarcely to be worth naming; but those are very poorly paid compared with what is paid to those who are appointed from the civil service.

5101. The advocate-general, for instance?—No; he is appointed as I might be appointed, as advocate to a plaintiff or a defendant in a cause. The head magistrate at Calcutta must be a civilian; those who are under him need not be civilians, but the head must be a civilian. You have professional under-magistrates, but you have a non-professional head magistrate.

5102. You are an advocate for the abolition of covenanted service in India, and you think there would be no difficulty in supplying their places by gentlemen who would repair to India for the express purpose?—I am quite convinced of it.

5103. What rule would you establish to insure competency on the part of the gentlemen who would be candidates for the numerous appointments that there are in India?—I would have no one rule which should be applicable to every appointment; I think you should state what are the requirements for each particular department; that is done in this country, and in every country.

5104. Do you think that the circumstances of this country and the circumstances of India can be compared?—Quite so; we err in supposing that we must ignore all those ordinary rules which guide us in human transactions, and that we must imagine something different from those rules which generally influence human actions, in dealing with India.

5105. What are the qualifications that you think would be necessary for a judge?—Just the same as those that are required in this country.

5106. You would have no other qualifications besides those which are required in England?—Yes; I think that in addition to that, he should pass through a colloquial examination in the native languages.

5107. Would you say that it is unnecessary for him to know anything about the natives?—You need not have any rule to examine him on that point; it might be a matter which would influence the party appointing him.

5108. How is the party appointing him to ascertain how far his knowledge extends?—If you have proper courts you will have proper men at the bar; how is it ascertained in this country?

5109. I have the misfortune to differ from you upon that point; I think that the cases are not parallel?—I think they are parallel.

5110. You advocate a Legislative Council for each Presidency?—Yes.

5111. That is, that each Presidency should enact its own laws?—Yes, and act as far as possible, subject to the Imperial authority of this country; I think that nothing should be submitted to the supreme authority at Calcutta; I think that the reference to this country should be direct from each Presidency.

5112. You do not think that the Government should take any direct part in the extension of Christianity in India?—That is my opinion.

5113. And yet you have said that the East India Company have adopted the non-interference system, because an increase of settlers who are Christians would be inimical to their rule?—I did not say the non-interference system, for I think it is rather the interference system; I think that they ought to be neutral.

5114. You have said that the Government, though ostensibly neutral, is believed to be insincere?—I never can believe that the members of the Supreme Government in India are indifferent to Christianity, but they, as members of the State, cannot interfere with it.

5115. You have alluded to the English language having been introduced into the Sudder Court in Calcutta?—I hope I have made myself understood; I do not mean that it has been introduced as the language of the court, but the use of the English language has very much increased there; in one province it has been introduced altogether, and found to work most admirably.

5116. Has not the use of the English language given a monopoly of business to

to English persons there?—No; the same men who had the lead there before the English language was introduced have the lead now. *J. G. Waller, Esq.*

5117. Does it not give them an opportunity of making their own terms with their clients?—No; they have no more influence than any man who rises to great eminence in his profession may be supposed to have here; to excuse a native gentleman of the bar from understanding English, would be, I think, an injustice; those who understand English know all that is going on on the bench, and the judges always speak in English to one another.

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5118. Are not the fees now payable considerably above the old standard?—Quite the contrary; they are much below the old standard as far as awarding costs to parties is concerned: a barrister may receive what he likes, but there is a limit as to the costs to be awarded to the successful party.

5119. If the system of introducing English were extended, do you not think that the number of native vakeels would be much diminished?—No; because they would be able to read and study the law, and the immense advantage that they would gain by that would be very soon experienced throughout the whole of the country, as well as by the judges on the bench.

5120. Would you recommend the introduction of the English into the Mofussil courts?—Yes. I put that question to Mr. Hawkins, because he was on the bench when I was at the bar; he does not object to the introduction of the English language, I think, but he deprecates its being introduced with hot haste, and I do the same; but unless you make a beginning you will never do it at all.

5121. How would you set about it?—I would issue a notice, in the same way as was done when the Persian language was abolished. You abolished the Persian language by giving a three years' notice; you might make the trial, in the first instance, in some one district, and then you would see how it worked.

5122. In the Sudder Court is not the business frequently delayed while they are making translations?—It may be delayed in this way, that a case may not be taken up when it ought to be; but business gains enormously, for the judge can decide a dozen cases where he could not decide six formerly.

5123. Are the translations generally rendered into good English?—No, not very good, because they are rather faithfully and not idiomatically translated; but they do not proceed on that translation only; the judges are able to understand the language, and gentlemen of the bar are able to correct any error that may be found in the translation.

5124. I believe that you practise before the Privy Council?—I do at present.

5125. Is it not found that the translations which come before the Privy Council on appeals from India are found to be very defective?—No. There are mistakes in spelling; a name is sometimes spelt one way in one passage and in another way in another.

5126. But they are correct in substance?—I do not remember to have heard of any complaint of their inaccuracy; they are often very voluminous, containing statements on subjects wholly unconnected with the matter in dispute.

5127. Have you never heard that agents practising in that court have complained of appeals being delayed from the cause to which I have alluded?—Yes, I have made that complaint myself; I have complained that there is a vast delay in the arrival of translations in this country; but that is the neglect of the local authorities, by whom appeals to the Privy Council are looked upon with great jealousy.

5128. Have you known them to be delayed for more than a year?—Yes; very often years expire from the time of the appeal being lodged before the translation arrives in this country.

5129. If the English language were universally introduced as the language to be used in the courts, it would become the language used in the Supreme Courts in the Presidencies?—Yes.

5130. Have you often heard of judges and barristers of these courts being acquainted with the native languages?—Yes; and causes are taken by the natives themselves at present into those courts. Since the law has thrown open to the profession the right of practising in the Company's courts, many gentlemen of the bar have taken to those courts; and though they speak the native language but poorly, they most of them understand it tolerably well. In fact, any one who has resided for three or four years in India will pretty well understand the substance of ordinary conversation, even if he has been indifferent to improve himself in the native language.

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5131. Would you recommend that English should be spoken before the magistrates, and in the collectors' courts also?—Yes. I should be quite indifferent about the collectors' courts; for I think that the collectors should do no more than the work of revenue officers.

5132. If the English language were made the language of our courts of justice, would the effect of that, in your opinion, be to discourage the acquisition of the native language?—Possibly that might be the case. I have not speculated upon that point.

5133. Politically, would that be advantageous with reference to our power in India?—I do not think it would do the slightest harm, except it should be the determination of the English Government never to give independence to India when India is fit to have it; but I hold the opinion that the day will arrive when India will be fit to govern itself.

5134. You state that the Company's judges now are not trained; what do you mean by training the judges; what is the particular deficiency to which you refer?—It is a total deficiency; I do not mean for a moment to cast any individual reproach upon them; my objection is to the system. If you were to select a merchant of repute, or a statesman of repute, and put him on the bench, you might as well ask me to point out what particular objections I have to him as a judge.

5135. Where is that training to be got, the absence of which you lament?—In the same way as training is got for any other profession. The only way in which training is to be got in any profession is by keeping a man to his work from early days, and by making him do the work of his craft or profession.

5136. [Sir *Erskine Perry*.] I gather from your evidence that, in your opinion, the best mode of encouraging British settlement in India will be by an improvement in the administration of justice?—That is my opinion.

5137. And you think also that the condition of the natives will be bettered by such improvements?—Most certainly; I entertain no doubt whatever upon that subject. I think you can do nothing to advance the interests of the English without materially advancing the interests of the natives.

5138. Have you heard some opinion cited as to the native judgment on the Queen's system of law as opposed to the Company's system?—Yes, I have.

5139. Have you heard it doubted whether the natives prefer the Queen's system of law to the Company's system of law?—Yes; I have heard it doubted; it is generally objected to by gentlemen in the service; they do not like the introduction of the English system of law.

5140. I am referring to Mr. Hawkins's opinion and Mr. Baillie's, that if the native inhabitants of Calcutta were polled, they would not be favourable to the Queen's system of law?—I feel so certain upon that subject that I have no hesitation in saying, that if in a district you were to have a Company's judge administering the law on the Company's system, and alongside a Queen's judge administering the law under the system prevailing in the Queen's courts, nine natives out of every ten would, within the first six months, go to the court having the Queen's judge administering the law according to the English system, and would totally abandon the Company's court.

5141. You do not, therefore, agree with Mr. Baillie and Mr. Hawkins?—Not at all.

5142. Do you recollect a petition which was presented by Mr. Gregson last year from the inhabitants of Calcutta, signed by Mr. M'Adam Stewart, Mr. Robinson, and others?—Yes; I do remember that.

5143. The petitioners profess to represent a population of half a million of souls, consisting of British subjects, East Indians, Americans, French, Germans, Greeks, Mahomedans, Hindoos, Armenians, Jews, and several other races and creeds?—Yes.

5144. I will read a passage in their petition, and then I will ask you to tell me whether you agree with what they state. They say, "Your petitioners affirm that the result of this system, proved by an experience of upwards of 80 years, has been in a high degree satisfactory; that by reason of the three judges of the said court being trained and experienced lawyers, conversant with the particular law which they have to administer, and of their sitting together to hear all civil cases, their decisions, both in law and in fact, carry with them that weight and authority which is requisite for procuring respect for the bench and the law, and finality in litigation for the suitors; and that in consequence, though the average of the cases brought

brought before them fully equal in importance and difficulty the average of those tried in Westminster Hall, the number of appeals from the decision of the said court carried home bears so small a proportion to the number of cases heard, as practically to admit of their decisions being considered final"; do you believe that that is an opinion generally entertained by the inhabitants of Calcutta?—Yes; and I believe that if you were to remove the power and authority of the Supreme Court from Calcutta and maintain the system of the East India Company, the bulk of European inhabitants would desert Calcutta.

5145. Do you know a society called the "British Indian Association of Calcutta"?—Quite well; I was their agent for a short time in this country; but there is no agent at present, I was the last recognised agent of that body.

5146. Does that association include all the most respectable and intelligent native inhabitants of Calcutta?—Not quite; it includes a very large section of them.

5147. Do you remember a petition which was presented also last year by them; with respect to the administration of justice?—Yes; I have seen most of their petitions.

5148. You are aware, are you not, that the argument used by the East India Company in favour of the Company's judges administering justice is that they are so well acquainted with the native language?—I am aware of that.

5149. I will read to you what this association say in their petition, and then I will ask you whether you think it a correct opinion: "Your petitioners consider it to be a fact long established, notorious and admitted by all (by all at least whose opinions merit attention) without reserve, that the training for office of the judges of the courts established by the East India Company is essentially defective. They, and the class from which they are taken (scarcely selected) are assumed by their masters, and by the advocates of the present system, to have special qualifications, namely, knowledge of the vernacular languages, and familiarity with the usages and habits of thought of the people. This, however, when applied to the whole body, or to any material portion of it, is but an assumption. As a rule, neither of those special (and undoubtedly valuable) qualifications exist in a competent or tolerable degree, much less to an extent to afford any apology for the absence of other most important and vital qualifications for the responsibilities of the judicial office." Do you believe that to be a true opinion, or that the natives of Calcutta are competent to form a judgment upon the matter?—I believe it to be true of the natives of Calcutta, and also of the natives throughout the Bengal Presidency.

5150. Therefore the natives who are best qualified to form an opinion upon the subject do not think that the Company's judges are so qualified?—No; but the error is in the system; I do not believe that any body of Europeans or gentlemen can ever do more with the native language than is now done by civilians; but I say that that is very far from what is wanted; if it were merely a matter of pronunciation, they pronounce it so badly that an interpreter is necessary to explain to the native what the judge has said.

5151. Have you heard a quotation from Lord Macaulay respecting the Supreme Court of Madras, that the court, by its expensive procedure, having ruined everybody, has nothing else to do because there are no natives to bring causes into court?—Yes.

5152. I will read you a sentence from the petition to Parliament of the Madras Native Association: "That your petitioners are able to appreciate the value of an independent Supreme Court from having long lived under its jurisdiction, and they are not prepared even to risk the diminution of the benefits it confers. They have for years, and latterly more especially, remarked the judicious reforms that have been effected in it, whereby proceedings have been simplified, costs lightened, and litigation rendered far more speedy; and those who are compelled to have recourse to law can calculate upon obtaining a decision within the space of a few months, as well as that the quality of the judgment, when delivered, will ensure satisfaction, because it is arrived at upon investigation conducted according to the settled rules of evidence, based upon well-understood principles of jurisprudence. Your petitioners are desirous of seeing the principles of such an administration of justice more and more widely extended, until it embraces all their countrymen in the provinces as well as at the Presidency." Do you think that that is more in accordance with what the natives in India think of that administration than Lord Macaulay's pointed sarcasms?—Most assuredly; I have

J. G. Walker, Esq. come in contact with too many natives not to be able to speak to that very affirmatively.

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5153. I will read you one more sentence only from the petition from Bombay. The native inhabitants of Bombay presented a petition last year, in which they say this: "Even supposing that an improved system of training and appointment should be introduced, and the civil servants of the Company no longer be transferred from political and fiscal employments to the highest judicial appointments, of which so many instances have been seen, still the objections to the appointment of civilians to the bench of the highest court are not removed, hardly lessened. These gentlemen have not that one advantage for which no other can be substituted, an education in the legal axioms and method, in the habit of thinking and reasoning which prevail in and about the superior courts of England, and of which your petitioners see the excellence in every judge who takes his seat on the bench of the Supreme Court, whose demeanor and decisions command respect, notwithstanding his ignorance of the habits and language of the people; while the judgments of even the most experienced and intelligent servants of the Company fail to carry the weight which should attach to the decisions of the higher courts of justice." Do you think that that accords with the opinions of the most intelligent natives of India more than it does with the opinion which has been expressed by Mr. Hawkins?—Yes; all educated natives would perfectly corroborate that.

5154. Do you think that the passages which I have read truly represent the opinions of intelligent natives?—All those who have any knowledge of the two systems.

5155. With respect to the local government, are you of opinion that the principle of centralization has been carried too far in India?—Decidedly.

5156. Are you aware that up to 1833 the local government had the power of making what were called regulations or laws?—Yes, I think they had.

5157. Have you heard that, in the opinion of many eminent Indian statesmen, that system was far better for the development of India than the centralization system, referring everything to Calcutta?—Yes, I have. All the attempts at reform have been complete failures; but they have been reforms with the maintenance of the old system.

5158. You think that matters would go on better in India if each Presidency were to govern itself, as it were, and held allegiance to the Home Government of this country?—I do, with those alterations which, in my opinion, are necessary in the constitution of the Legislative Council, and in other departments.

5159. You would leave it to the Supreme Government to check the expenditure of other Parliaments?—Scarcely so.

5160. Would not that course be equally pursued by carrying out the views of Sir James Graham and Sir Charles Wood, namely, making local governments send accounts of their expenditure to this country?—Yes; but even the other is not a remedy, for the Supreme Government has but very limited power as to expenditure.

5161. And now, by the application of steam, the means of communication between the local presidencies and London is as rapid, is it not, as it used to be formerly between the local government and Calcutta?—I should think so, and it might be much shorter by means of the electric wire.

5162. Have you also considered whether the large powers held by the Governor-general are not a great temptation to put those powers into exercise?—Yes; and I think that they ought to be checked and controlled.

5163. The power of entering into war, the annexation of provinces, and other acts which illustrate the nature of a government among the vulgar, are powers which, in your opinion, are very detrimental to good government, are they not?—Yes; I think those powers should be vested in a constitutional government only.

5164. With respect to the system which you have suggested, of throwing open the whole civil service of India, it has been objected that such throwing open of the service would open a great door to jobbing; you do not seem to be deterred by any such considerations?—No; the evil of jobbing would be nothing to the evil which now exists.

5165. I dare say you are aware that in the colonies this jobbing from home has been carried out to a great extent?—I cannot speak to it from my own knowledge. I have made India particularly my study, and have not paid much attention to our colonial possessions.

5166. Are

5166. Are you not aware that in the island of Ceylon a chief secretary has been several times sent out from this country without having any acquaintance whatever with colonial government?—I am not aware of it, but I am willing to assume it, if you state it to be the fact.

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5167. Supposing that to be the case in the colonies, would it not be very objectionable to send out a Member of Parliament, who had never attended to Eastern business, to be chief secretary at Calcutta, Madras, or Bombay?—That would not be the case. We require eminent statesmen in India. I would not make a prohibition. There is no doubt that the power might be abused; but an incompetent person should be no more sent than an incompetent person is now sent within the circle of the service.

5168. But if a power existed in the home Government to send out a chief secretary for Calcutta, Bombay, and Madras, would not that power be occasionally used?—I doubt whether it would be attempted a second time, if it was found to work ill.

5169. In order to serve political purposes, might not a minister at home send out a man as a governor or secretary?—I would suggest that there should be other checks to prevent that. The minister for India, I think, should not be a political officer; he should not come in and go out with the ministry; he should not belong to any party in politics at home. I see the fear is that the power will be abused in this way, that parties of particular political opinions at home might make India a great field of patronage. I think there is a very remote apprehension of that; and that it is no reason against removing abuses which at present exist, to say it is possible that other abuses may creep in.

5170. Do you not think that this evil would accrue, that the Governor-general and the different local governors would have numerous applications from dukes and duchesses, lords and ladies, recommending different gentlemen for their patronage?—I think not; it cannot be worse in the case of a single minister of state, than in the case of 24 gentlemen forming the Court of Directors; if you are afraid so much that one minister would do a vast amount of injustice to India, by yielding to the solicitations of his friends at home, the same thing would apply to the 24 gentlemen who are directors of the East India Company; they no doubt would be called upon to supply the wants of their friends in the same way; I cannot suppose that a gentleman in the Court of Directors would refuse to a powerful minister any appointment that he wanted.

5171. Are you not aware that the Court of Directors have no power to appoint to any offices in India?—I am speaking of the civil service.

5172. I was calling your attention to all the patronage in India?—Then I quite misunderstood you; I would not make those appointments dependent on the home Government at all.

5173. I understood you to say that you would entrust to the local Governors of India the appointment to offices throughout the whole service?—The heads of departments; and then I should put all appointments within those departments under that head, with a veto to the Governor-general; this is only a scheme, and therefore I speak of it with deference and hesitation; I do not think there would be any difficulty in framing a scheme that would effect the object in view; I think that to a mind that sees the difficulty, a remedy would soon suggest itself; I should state that I have answered all the previous questions under the supposition that each appointment was to be within the gift of the home Government.

5174. I am taking your own view; I am supposing that the patronage in India is to be distributed by local authorities, and that they are to have the power of taking whatever servants they think fit; and I then ask you whether, under those circumstances, there is not great danger of the Governors being beset by applications made to them by great people in this country to give such appointments to the scions of noble houses?—I do not think there would be any great danger of that; but there would be some danger of it, and I think that the proper check would be public opinion and a free press, and supervision by Parliament; I think we must have a very zealous and close supervision by Parliament for some time to come, whatever system is given to India.

5175. I dare say you are aware that the Court of Directors have no power of appointing to offices in India?—To some they have; that is to say, the Supreme Government are acted upon by influence in the appointments they make as much as a powerful minister is acted upon by his friends at home; it is human nature: they do no better and no worse than others would do.

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5176. Is it not the fact that the Governor-General and Governors are really the supreme arbiters of patronage in India?—No, I think not. I think that the secretary is the real man who has influence; he is the practical arbiter; I should be wrong in saying that he is not.

5177. In fact, the Court of Directors not only do not communicate, but have no power of communicating with the Governor-General as to how he shall exercise his patronage?—No legal power.

5178. Are you of opinion that the Court of Directors, either directly or indirectly, write to the Governor-General or Governor with a view to influence them?—I dare say that gentlemen who are in the Court of Directors are in private correspondence with the Governor-General. The Court of Directors as a body are, of course, in correspondence with him.

5179. But not with regard to appointments to offices?—No.

5180. Are you aware that the Act 33 Geo. 3, in fact, imposes a limit upon the abuses of patronage?—Yes.

5181. By the 33 Geo. 3, c. 52, the local governments are precluded from giving appointments exceeding 500*l.* a year in value to any one who shall not have resided for three years in the country?—Yes.

5182. Would there be any difficulty, supposing your system to be carried out?—I think not.

5183. And if these restrictions have had the effect of preventing jobbing to some extent in India, you see no difficulty in extending them?—No.

5184. Suppose the Governor to be appointed to Bombay, and that the year he goes out he receives a letter from some great personage in this country, asking him to appoint the Honourable Mr. ——— to a certain appointment, would not a clause in the Act, preventing his giving such an office to a man who had not resided three years in the country, prevent him from having the power to comply with the wish so expressed?—With a little addition; not merely that he had been resident in the country, but engaged in some business or profession.

5185. You could so word it as to prevent its evasion?—Yes.

5186. And if there were other restrictions, such as that the party should have passed an examination in the native language, that would operate, would it not, as another check?—Yes. I think that the scheme itself is perfectly sound, and that the details merely require consideration.

5187. Would not the restrictions I point out prevent jobbing?—Much more so than the present system.

5188. But the present system is very much lauded, is it not, as contra-distinguished from the colonial system in preventing jobbing; are you aware that these restrictions do not extend to colonial government, and that therefore jobbing is allowed to a great extent by law?—I am not aware of it; but if you state it to be the fact, I do not doubt it.

5189. Mr. Willoughby.] How does your opinion that the estimates might be sent home from India to this country, instead of from the subordinate Governments to the Government of India, tally with your previous opinion that India ought to be governed in India?—I think it would. I think that, with certain reservations for purposes of imperial policy, India must be governed in India as soon as you can qualify it for government, which is not the case at present.

5190. Would you oblige the Governor-General or the local Government to send over to this country estimates for public works?—No, I think that the Government of each Presidency should exercise its own discretion in regard to public works.

5191. Sir Erskine Perry.] You think they should do what they choose within the estimate?—Yes, I think that is very desirable.

5192. Mr. Willoughby.] When you speak of judicial training, do you mean training in English law and practice?—I refer to the general system of jurisprudence, which is recognised by the whole civilised world.

5193. You would not adopt the present English law with reference to the transfer of land?—No, I think it would be most objectionable to make an attempt to introduce that. I would say, strip the law of all those evils which are avowed and admitted as evils, and which we are trying to get rid of, and then introduce the principle.

5194. Would there not be some danger in the case of a judge who had been fully trained in the English law, bringing in that law in cases in which it was not strictly applicable?—I think not, generally speaking; every intelligent man is sensitive

sensitive of those evils which it is desirable to get rid of. The greatest reformers of the law have been those who have been trained to the law. *J. G. Waller, Esq.*

5195. But do you not think that they might be overburdened with law not required by the state of society in India?—No; at present there is no law that governs India, and it is a fearful state of society. The good of the people will never be insured unless you have a complete system of law for the country.

5196. Among such a multitude of judges what certainty would there be that they would all apply the same quantity of English law?—I would specify what should be included, and then they would all have to go upon the same basis. If there is any fear of disparity of judgments, or of the judgment of one court clashing with that of another, there should be an appeal court in each Presidency.

5197. With reference to the distinction between law and equity, where they differ, which would you select?—I would not separate law and equity; I think that the separation in England is a misfortune. I think they should be united, as they are in America.

5198. Would it be easy to do so?—Perfectly easy; I do not hesitate to state that that is my firm conviction.

5199. Do you concur in the evidence of Mr. Hawkins and Mr. Baillie, that with a good system of procedure and a system of substantive law, the training now would be sufficient?—No; you cannot train a man in a particular procedure only; you must have a man with a judicial turn of mind, as you must have a man with a musical ear to qualify him to execute music.

5200. Mr. Vansittart.] You have been in the Hill station of Darjeeling?—Yes.

5201. What are its capabilities for English colonists and settlers?—Its capabilities are very great, and it invites colonization to such an extent, that even the labouring classes may settle there. I think that the resources of the hills are boundless for the purposes of colonization. In the plains we can only have what I understand by the word "settlement."

5202. Would their children's children live and thrive in Darjeeling?—I think so; but that is rather a question for medical men than for me.

5203. You do not think that after a generation or two they would degenerate?—Not in the hills.

5204. In your answer to Question No. 4857, you say, "I think that the climate offers no serious impediment whatever to the settlement of Europeans;" are the Committee to understand from this that colonization is practicable in the plains of Bengal?—No; I used the word "settlement," that I intended to cover the whole of India; Europeans may settle there, although they may not colonize; that is, you cannot introduce labourers into the plains of India; but if you have 500 Europeans settled in Bengal now, as far as climate is concerned, there is no reason why you should not have 5,000.

5205. Do you not think that the climate of Australia, Canada, and our other colonies, offer far superior advantages and attractions to the English settler than the arid plains of India?—No doubt.

5206. Do you not think that an enterprising European would turn his money much quicker in Australia than in India?—It is my conviction that he would not.

5207. Could any investment, for instance, in pasture land for grazing and for the sale of sheep and oxen (as I believe is done very extensively in Australia) ever pay the European settled in the plains of Bengal?—Not that particular branch of business.

5208. In point of fact, there are no extensive and rich tracts of pasture ground to be found in India, are there?—I know of none.

5209. You say you have associated with all classes of Europeans, Christians, Greeks and Armenians?—Yes, I have come in contact with them.

5210. Did you hear Mr. Mackenzie's evidence?—Yes.

5211. Do you agree with him in opinion that if the new system of police is introduced, and native Christians are employed, it would be necessary to send out 200,000 European soldiers, as the natives would be so exasperated at that measure?—I heard that stated with extreme astonishment; my convictions are completely the other way. I believe that it is the surest way of making the natives not only respect us, but that it is the surest way of securing the stability of our rule.

5212. What is the amount, on a rough guess or calculation, of the native Christians in Lower Bengal?—I could not say. I should say that in Calcutta itself

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there are 12,000 or 14,000 Christians who are not Europeans. In some of the provinces you have villages where the whole of the natives are Christians.

5213. Mr. M'Kenzie says that there are scarcely any?—If you compare them with the millions of Hindoos, you might say that the number is very small; but to say that there are scarcely any is a grave error.

5214. You are favourable, are you not, to the employment of these native Christians as a rural police?—Very much so.

5215. And also in other offices and situations?—Yes.

5216. What is your opinion of the Greeks residing in Calcutta as regards the estimation in which they are held by the natives?—I heard Mr. M'Kenzie's statement on that point with more astonishment than I can express. I do not think that there are 20 Greeks in Calcutta. There are three or four Greek mercantile houses there; and he said that they succeeded better than the English, because they assimilated more to the native character. There must be some misapprehension in his mind. They have been there but a short time, and if they have succeeded, that has been in consequence of their employment of a large capital in buying up the produce of the country.

5217. With regard to the employment of natives in high situations, you are, I think, in favour of that measure?—Yes.

5218. Would you not prefer that these situations and offices should be given more to the native Christians, viz., to the converted Hindoos and Mahometans?—I should prefer it if it rested with me to use my own discretion and judgment, because I think that I should be likely to find more people fit for it in that class than in the other.

5219. The mere fact of their having embraced the tenets of Christianity would probably give them some knowledge of the English language, would it not?—Yes.

5220. That would be an advantage?—Yes, that would be an advantage.

5221. You are opposed, I think, to the present constitution of the Legislative Council of Calcutta?—Very much so; I know that that body has not the confidence either of the Europeans or of the natives. They are purely the Government men; they do not represent any interests, apparently, which are not Government interests. The real interests of the Government are the interests of the public; but they look to their own immediate advantage, rather than the entire good.

5222. What is the use of both a Legislative Council and a Supreme Council; are not their functions identical?—My idea is that the Supreme Council should be abolished; they are gentlemen who are drawing 8,000*l.* a year, and are doing nothing.

5223. What do you think of having one grand court of appeal at Calcutta, to consist of two-thirds of men of the covenanted service, and one-third of English lawyers?—I approve of having one grand appellate court in Calcutta, but not so constituted, because you only increase the evil. If the Company's covenanted judges are equal to the duty of discharging the functions of judges, why bring in Queen's judges at all? If you have two-thirds covenanted and one-third Queen's, the system, I think, would not work well. I advocate the abolition of the Company's system altogether, and the introduction of the Queen's system, with some modifications.

5224. That would bring the covenanted servants under the control of English lawyers in Calcutta?—I would have all lawyers in districts also English lawyers. I advocate the abolition of the present system of covenanted service altogether, not meaning to cast the remotest reflection upon the gentlemen employed in that service, of whom I cannot speak too highly. All that can be done by the system is done; but that is saying very little, because the system itself is so bad.

5225. Mr. Gregson.] You say that the climate of India is not an obstacle to the settlement of Europeans, and that many individuals return, after residing there for 20 or 30 years; do you know the proportions of civilians who return to Europe as compared with the number of deaths?—I can state it in this way, that I think the insurance offices in India do not reckon the average mortality among Europeans in India as exceeding the average mortality in England by more than one per cent.

5226. You speak of course of civilians?—Yes.

5227. You do not speak of persons engaged in military service?—I do not speak of life carried off by hazard, but of civil life.

5228. You

5228. You have said that it would be disagreeable to have Europeans labouring with natives; do you include mechanics and skilled labourers?—I think that even mechanics and skilled labourers, short of out-door labourers, would be of the greatest use to India. *J. G. Waller, Esq.* 8

5229. You complain that there is only a ferry over the river at Calcutta; do you suggest that there should be a bridge?—Most assuredly.

5230. What is the breadth there; do you know?—No, I do not.

5231. Engineers have reported upon that, have they not?—Yes; there is no engineering difficulty that prevents it.

5232. Do you know what the cost would be?—I think it was stated to be 600,000*l.*, if I recollect rightly; but the attempt has never been made, while the thing has never been pronounced impracticable.

5233. The terminus of the railway is on the other side, is it not?—Yes.

5234. How is the communication kept up?—They get across as they can; one man may choose to cross in a steamer, another goes in a dingy, and another takes his private boat.

5235. Is there any expectation that the Government are going to build a bridge?—None.

5236. You speak of Calcutta as unconnected by road with Moorshedabad; what is the distance from Calcutta?—A hundred miles.

5237. Will not the railway soon remedy that?—No; yet you cannot get to Moorshedabad by water, except by a most circuitous route; if you want to go there by a direct route, you must be carried on men's shoulders in a palkee.

5238. Generally speaking, are the roads good which go from Calcutta to the interior of the country?—There are no roads; there is but one road, which is called the Great Trunk Road; there is a want of bridges on that road, and you have to put your conveyance and yourself into a ferry boat, and get across in that way; that was the case even in 1854.

5239. The Great Trunk Road commences at Calcutta, and runs how far?—I have travelled along that road myself as far as Delhi.

SECOND
REPORT
FROM THE
SELECT COMMITTEE
ON
COLONIZATION AND SETTLEMENT
(INDIA);
WITH THE
MINUTES OF EVIDENCE
TAKEN BEFORE THEM.

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