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J A V A ;

OR,

HOW TO MANAGE A COLONY,

SHOWING

A PRACTICAL SOLUTION OF THE QUESTIONS  
NOW AFFECTING BRITISH INDIA.

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BY

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BARRISTER-AT-LAW.

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## CHAPTER I.

### CRIMINAL JUSTICE AND POLICE.

RAFFLES' JUDICIAL AND POLICE SYSTEMS—CONSIDERATION FOR PERSONAL DIGNITY OF HIGH NATIVES IN JAVA—EVIL EFFECTS OF THE ANGLO-INDIAN DISREGARD OF NATIVE RANK—CLASSIFICATION OF OFFENCES, OFFENDERS, AND TRIBUNALS—LOCAL INVESTIGATION—DISTRICT COURTS—REGENCY COURTS—THE RESIDENT AS COMMITTING MAGISTRATE—THE RESIDENT'S POLICE ROLL—RESIDENCY COURTS—SMALL CORRECTIONAL POWERS OF THESE POLICE COURTS—EASY JUSTICE BY SMALL AREAS AND BY READY ACCESS—PENAL COURTS—THE LANDRAAD—ANALOGY OF THE OLD ENGLISH LAW OF DEFENCE WITH THAT OF JAVA—COURSE OF CRIMINAL TRIAL—INGENIOUS GUARANTEE OF ORAL TESTIMONY—APPLICATION OF LOCAL KNOWLEDGE TO ELUCIDATE THE TRUTH—JUDGMENT MUST BE REVISED BY SUPREME COURT BEFORE IT CAN BE CARRIED OUT—PECULIAR APPEAL PROCEDURE—CIRCUIT COURTS—THE COURTS OF JUSTICE—CRIMINAL JURISDICTION OVER EUROPEANS—CRIMINAL JURISDICTION OVER NATIVES OF RANK—THE SUPREME COURT OF NETHERLANDS INDIA—GENERAL PUBLICATION OF LAWS—CONTRAST WITH CRIMINAL JUSTICE IN THE INTERIOR OF INDIA—PRINCIPLES OF CRIMINAL JUSTICE IN JAVA—JAVA POLICE—VILLAGE WATCHMEN—GARDOS OR WATCH-HOUSES—GARDO SIGNALS—GARDO REGISTRY OF PASSERS-BY AT NIGHT—HAPPY RESULTS OF THE GARDO SYSTEM.

THE preceding chapters have described the culture system and its results in the present prosperity of Java. But many other branches of the administration have also tended to the promotion of the general welfare.

First among these, are the present systems of justice and police.

*Raffles' Judicial and Police Systems.*—The most enduring claim of Sir Stamford Raffles to the recollection and affection of the Javanese arises from the judicial and police systems introduced by him, which, as modified by the Dutch, have taken a shape affording universal satisfaction to both rich and poor. On his arrival in Java he found that the Dutch had established no courts of law except in and near Batavia, leaving the Natives in the interior to be dealt with by the Native chiefs pretty much as they pleased. He established justice and police throughout the island, by the regulation which will be found in the appendix to his "History of Java," p. 56, and which contains a system so much better suited to the Native mind than our Indian law and procedure, that I cannot help calling the attention of all legal reformers in the East to the consideration of its provisions. That regulation still forms the basis of the judicial organization among the Natives in Java. A comparison of its criminal enactments with the following account of criminal justice and police, as at present there administered, will show in what respects the Dutch have altered it.

*Consideration for Personal Dignity of High Natives in Java.*—I must premise, however, by explaining the Java mode of dealing, in the administration of justice, with the question of personal dignity, to which Natives are most sensitive, and which is utterly ignored by our officials, as apparently opposed to our English principle of equality before the law.

It will be remembered that in that most unsuspecting document, the appeal from the rebels in Lucknow to their fellow-countrymen, published in the *Times* of the 20th of April, 1858, certain propositions were stated, which gave rise to much discussion amongst thinking men in India. As an appeal from the rebels in arms against us to our other subjects to join in that rebellion, it must have been a true expression of Native feeling, and a faithful *exposé* of what they considered were their chief grievances against us. Yet some of the assertions contained in that paper were so opposed to the ordinary Anglo-Indian belief about the Natives, that, by many, its statements were denied, and its genuineness impugned.

As translated in Mr. Russell's letter to the *Times* contained in that paper of the 20th of April, 1858, the document says:—"All the Hindoos and Mahomedans know that man loves four things most: 1st, his religion and caste; 2nd, his honour; 3rd, his own and his kinsmen's lives; 4th, his property. All

these four are well protected under Native rulers; no one interferes with any one's religion; *every one enjoys his respectability according to his caste and wealth.* All the respectable people—Syad, Shaikh, Mogul, and Puthan, among Mahomedans; and Brahmins, Chatrees, Bys, and Kaeths, among the Hindoos—are respected according to their castes. *No low-caste people, like Chumars, Dhanook, and Passees, can be equal to and address them disrespectfully.* No one's life or property is taken unless for some heinous crime.

“The British are quite against these four things. They want to spoil every one's caste, and wish both the Mahomedans and Hindoos to become Christians. Thousands have turned renegades, and many will become so yet. *Both the nobles and low caste are equal in their eyes; they disgrace the nobles in the presence of the ignobles; they arrest or summon to their courts the gentry, Nawabs, and Rajahs, at the instance of a Chumar, and disgrace them*” (*i. e.*, by arresting or summoning them at the instance of a low-caste man).

The Dutch, who have been long aware of the excessive regard for personal dignity which is paramount with all Native races, instead of allowing their officials to pooh-pooh or ignore it, have strict regulations to reconcile attention to this feeling with the due administration of justice.

In the first place, as has been previously explained,

every Native of position in the country is an official, in constant intercourse with the Dutch officials, and entitled, according to his rank, or to his relationship with other Natives of rank,<sup>1</sup> to strictly defined courtesies and marks of respect. In the next place, no regent, wedana, or other Native chief of distinction, nor any member of their respective families, can be either sued civilly or prosecuted criminally, except when the previous sanction of the Governor-General has been obtained to the particular suit or prosecution. Article 4 of the "General Resolutions on the Judicial Organization" is express on this point. Lastly, all the above Natives of family have even more exclusive judicial privileges than the Europeans. Like them, these Native grandees are not subject, either civilly or criminally, to the Provincial Native Courts, but only to the Dutch Lawyer Courts at the Capitals. Any civil suit or criminal prosecution, allowed by the Governor-General to be brought against such Native grandee, must be conducted with closed doors, and judgment is only pronounced by the Dutch judges, after hearing the opinion of the Native priest and of the two Native chiefs who are expressly appointed by the Governor-General in each separate instance to attend the trial.

By these means, the Native nobles are kept from local degradation, and their authority over their own countrymen is upheld, while yet they can be made

answerable both civilly and criminally. The extra trouble and inconvenience of prosecuting or of suing Natives of rank prevent their ostentation and extravagance being pandered to by men covetous either of their possessions or power. They are also thus practically protected against the most common form of a Native inferior's revenge—bringing a criminal charge—which, if well supported by subornation of perjury, will at least put the superior to the indignity of having to appear and answer it, whatever be the ultimate result. The Native community of rank thus find their personal dignity secured, and the Native peasant or small trader feels no injustice in seeing his superior treated with more consideration than himself.

Natives of rank are not allowed to be summoned as witnesses in Java, unless their evidence is material, and cannot be obtained from witnesses of ordinary degree. If the Native gentleman's evidence is indispensable, application must be first made to the Governor-General for his sanction, which is then forwarded to the Native noble with a courteous request, by private letter, to be present on the occasion of the trial. When attending the Court he is treated with respect, has a seat assigned him near the Bench, and gives his evidence apart from the common herd.

By these means the Dutch reconcile with the essential requirements of justice the regard to



dignity, and the personal privileges, which all Natives consider due to rank and family. The peasant or small trader can obtain remedy for his wrong, but the Java tribunals do not, like the English courts in India, afford him the opportunity of indulging his revenge by putting his superior to disgrace, or by making the threat of so doing a means of extortion.

These legal provisions, for the considerate and respectful treatment of high Natives by the Dutch officials, would soon cease, however, to be considerably carried out, unless those Natives held positions of real power and utility, and were somewhat independent of the Europeans; the Dutch, like ourselves, really respecting such Natives only as take a share in the government of their fellow-countrymen.

*Evil Effects of the Anglo-Indian Disregard of Native Rank.*—In India, on the contrary, Native noble and Native peasant are equally subject to the lowest provincial court, are equally liable to be arrested by the dirtiest and meanest thief-catcher, are equally stuck up at the same bar, if only for the purpose of hearing a judgment of acquittal recorded, and are equally liable to the same punishments adjudged and administered in the same degrading fashion. Yet the reverential ideas of the Native for rank, for power, and for riches cause such equal treatment of different classes to be con-

sidered as very unequal justice, or rather turn what would be thought justice in one case into admitted injustice in the other. The very equality of criminal trial, which we deal out to high and low, to rich and poor, is therefore felt by both the richer and the better born classes of Natives as an insult, even when followed by an acquittal, and is considered by the low born, and by those in humble positions, as a degradation of their superiors.

Our Indian judicial reformers forget that the envious hatred of distinctions, and the thirst for equality, which have more or less pervaded most European countries since the great French Revolution, are utterly non-existent in the East. Our present ideas of justice imply equality, and are, therefore, so distasteful to a people whose whole lives are based on distinctions, and whose ideas of justice require distinctive treatment for different classes, and only wish for equality among the members of each class. The well-born Hindoo valet looks down on, and shuns all contact with, the low-born cook or sweeper. If the valet has to pay money to either of the others, the latter holds out his hand, into which the former throws the coin from a distance, and, in every respect, the former treats the latter with contempt and abhorrence. Yet the cook always receives higher wages than the valet, and sometimes the sweeper does so likewise. It never occurs, however, to the cook, or to the

sweeper, to resent this treatment by the valet, or to aspire to an equality with him. They are low-born men, to whom such treatment from the better born is the natural condition of life, which they no more think unjust or unkind than a European of small stature does the being looked down upon by one six feet high. This same train of thought pervades all the relations of life among Natives, and extends to the distinctions of fortune as well as of birth. They keep the distinctions of birth and of fortune separate, however, in a manner incomprehensible to us, and see nothing strange or unbecoming in a low-born man with wealth having high-born or even Brahmin menials, each of whom he alternately worships as a Deity, and then scolds as a servant. It is this mixture, and to us this seeming perversion, of ranks, that sometimes leads Englishmen to overlook the real distinctive character which underlies this apparent equality, and which has led our legislators to deal with such a people on general principles, equally unsuited to their character and hateful to their ideas. Equality before the law, and particularly before the criminal law, is an axiom of very modern growth in Europe, to which, even there, such exceptions as English peers and continental officials are yet maintained. In India its truth is denied, and its application abhorred, equally by European and Native. No man, not even Anglo-Indian officials and legislators, will submit

to it in his own person, though so strong is the force of theory, that this conventional axiom has been unsparingly applied to all ranks of Natives, and is constantly sought to be imposed on all Europeans, except on those whose legislative and official powers enable them to secure the exemption of their own class.

With these remarks, I proceed to describe the ordinary course of criminal justice in Java.

As mentioned in a previous chapter, the assistant-resident has exactly the same powers, in the regency to which he is attached, as the resident possesses in the regency under his peculiar charge, and the following remarks therefore apply equally to residents and to assistant-residents.

*Classification of Offences, Offenders, and Tribunals.*—In the administration of criminal justice, offences are divided into “misdragven” or misdeeds, equivalent to *malum in se*, and into “overtredingen,” which the English in Java translate as contraventions, and which are equivalent to *malum prohibitum*. Both are again subdivided into penal and correctional offences. The tribunals are in like manner classed as penal and as correctional courts, the latter of which wield powers analogous to the ordinary police functions exercised in England and in India by magistrates.

*Local Investigation.*—As soon as a crime is committed, or any minor offence occurs, such as a

slight assault, a quarrel, or a petty theft, the village chief reports it to the local mantrie and to the wedana, who, in case of crime, at once goes himself with some of his mantries to the spot, and makes a local investigation.

*District Courts.*—In the case of such petty offences as come within his own jurisdiction, the wedana summons the parties to appear at the next weekly sitting of his district court. These offences include acts of omission, such as failure to pay the proper marks of respect, as well as acts of commission, like abusive language and personal insults in general, from and towards Natives properly so called. The district court, composed of the wedana and of two or three lesser Native chiefs, appointed by the resident in concert with the regent, then tries the offence, deciding by a majority of voices, and either acquits or punishes, without appeal, by fine not exceeding three florins, to which the correctional powers of the district court are limited. Wherever a delinquent fails to pay the fine imposed by the district court, notice is given to the regent, who may substitute for the fine imprisonment not exceeding three days.

Notes must be kept of the proceedings and sentence in all criminal cases in the district court, and every fourteen days a copy of the register notes of the criminal business, transacted at the two previous weekly sittings, must be sent to the regent,

who forwards it with his remarks to the resident or assistant-resident. Thus the European authorities exercise, even over the district court, an indirect but wholesome and effectual control, while it is a benefit to the Native to have a tribunal almost at his own door for small offences.

*Regency Courts.*—All such offences as are above the jurisdiction of the district court are reported by the wedana to the regent, whose jacksa or minister of justice examines such reports, and himself makes a precis of each case. Such of the cases as come within the cognizance of the next lowest tribunal, the regency court, are selected, and the parties and witnesses are ordered to be in attendance for the trial of the case at the next weekly sitting.

The regency court is composed of the Native regent, and of as many lesser Native chiefs as the resident may appoint, and its decisions are also taken by a majority of votes. It has correctional powers in small offences, both misdeeds and contraventions, to the extent of a fine not exceeding ten florins, or imprisonment for not more than six days, and such sentence is appealable to the landraad. Every sentence of fine by the regency court specifies the number of days' imprisonment, not exceeding six, which the delinquent is to suffer, if he refuses or is unable to pay the fine. The criminal jurisdiction of the regency court, as well as of the district court, is limited to Natives properly so called.

*The Resident as Committing Magistrate.*—The other cases, above the jurisdiction of the district and regency courts, are referred with the jacksa's report to the resident, as committing magistrate. The resident decides summarily thereupon, either dismissing the charge, or ordering the prisoner to be apprehended, and with the depositions to be brought up on a particular day. In the latter case, the prisoner's defence is intermediately taken, and the depositions below read by the jacksa, who makes a condensed summary of both defence and evidence, called a "*procès verbal*." When the prisoner is brought before the resident, at the appointed time, the *procès verbal* is read, the resident hears anything more the prisoner has to urge, examines any of the depositions he thinks necessary, and hears any witnesses who may be present. He then either orders further investigation below, or, if he thinks the existing evidence sufficient to elucidate the truth, decides at once as committing magistrate. In this capacity he either dismisses the charge and releases the prisoner, or commits the case to the particular court which has cognizance of the special offence, including among such courts the police roll, which he himself adjudicates on once a week.

*The Resident's Police Roll.*—The correctional offences, above those cognizable by the district and regency courts, committed by Natives against each other, and the whole of the correctional offences

committed against each other by those assimilated with Natives, a class which includes Arabs, Moors, Chinese, and all other Orientals who are either Mussulmans or heathens, come before the resident on the police roll, and are weekly disposed of by him alone at his magisterial sitting.

The resident's police powers, in disposing of the police roll, are limited to twenty blows with a rattan, eight days' imprisonment, three days' stocks, and three months' hard labour on the roads.

Of these the only two which can be given together are the rattan, and imprisonment, and if the resident allows it, which he generally does, the prisoner may buy himself off his imprisonment at the rate of three florins a day. From these sentences of the resident there is no appeal, but if his judgment is wrong in law, that is, if he joins two or three punishments, or exceeds the amount in his power to inflict, the person aggrieved may complain either to the supreme court of justice at Batavia, which has a supervisory power over all inferior provincial jurisdictions, or to the next circuit judge who comes round to try life cases, whereupon the excess will be remitted or returned and compensation made.

*The Residency Court.*—The petty offences committed against Europeans by Natives, or by those assimilated with them, and a few minor transgressions by Europeans, or by those assimilated with Euro-



peans, are cognizable by the residency court, which sits once a fortnight, and is composed of the resident and the secretary, or of such other European official as may be appointed by the Government for that purpose.

The residency court can only sentence to eight days' imprisonment, or to a fine not exceeding one hundred florins, with or without confiscation of particular objects. These sentences are appealable to the Dutch courts of justice at the capitals when the fine is twenty-five florins or upwards, or when imprisonment or confiscation is directed.

*Small correctional Powers of these Police Courts.—*

The district court, the regency court, the resident's police roll, and the residency court, are thus the provincial tribunals that administer correctional punishment for petty offences in the interior. They are all courts the judges of which are either Natives alone or Europeans alone, and the correctional powers of which are therefore wisely made very small.

In Batavia and its neighbourhood, where there is no regency or district court, the correctional powers exercised by, and the offences within the jurisdiction of, those courts in the interior, are added to the powers and authority of the resident when disposing of the police roll.

*Easy Justice by small areas and by ready access.*

—With the exception of the Preanger, the area of a regency is seldom more than from twenty to thirty

miles square, so that the district divisions of the regency will probably only cover some four to five miles square. The police regulations require each village chief to wait upon the wedana of his district once a week, to report the state of his village, and to give notice of any new occurrence not directly reported since his last weekly visit. Each district chief is in like manner required to wait on his regent every fortnight for similar purposes. As the wedana's residence and the district court are generally as near the centre of the district as possible, the peasant almost always has the means of complaint within three or four miles of his own home, and once a month he sees at his door the European *contrôleur*, accompanied by the wedana and by the petty Native chiefs. Every official, European or Native, is also bound to be of ready and easy access to all, at a certain fixed hour every day, without the intervention of petition, stamp paper, menial's fees, or other impediment; and once a day every official is bound to receive personally all who wish to see him or have any complaint to make. By these means, and by the speedy action of the correctional courts above-mentioned, the people of Java get their minor wrongs roughly righted, without being exposed to the further injury of incurring great loss of time, and much extortion and oppression in search of a remedy.

*Penal Courts.*—Any offence, whether misdeed or contravention, requiring a heavier punishment than

the small correctional powers of the above-mentioned police courts can inflict, comes within the penal jurisdiction of the superior courts.

*The Landraad.*—The first of these is the landraad, which is the chief provincial court in the judicial organization among the Natives. Landraad courts are held at the chief place of the residency, and at such chief places in the component regencies as the area and population make necessary. Some of the regencies are very small, and sometimes two or three of these are joined together; but as Java and Madura are divided into twenty-five residencies, composed of seventy-eight regencies, and as there are now sixty-seven landraads in the two islands, there are only eleven regencies that have not got their separate landraad. The landraad has penal jurisdiction over Natives, and over those assimilated with them; Europeans, and those assimilated with them, being only criminally amenable to the Dutch courts at the capitals.

The offences within the competence of the landraad, in the first instance, include all contraventions committed by Natives, or by those assimilated with them, and not cognizable by the inferior courts, and most Native misdeeds cognizable by the municipal law, and above the jurisdiction of the lower courts. Only murder, manslaughter, man-stealing, fire-raising, offences connected with the public coin or state paper currency, treason, sedition, dacoity or theft in united

and armed bands with violence, and some few other misdeeds punishable by death, or by the sentence mentioned below as next to death, are beyond the jurisdiction of this court.

The penal powers of the landraad include—

1st. Death by hanging on the gallows.

2nd. Transportation, with forced labour in the chain, which consists of an iron ring round the neck, for not less than ten, nor more than twenty years, preceded by exposure under the gallows.

3rd. The same for ten years at most, preceded by exposure, but not under the gallows.

4th. Forced labour in the chain for not more than ten years, with ordinary exposure, but without transportation.

5th. The same with transportation, but without chain or exposure.

6th. The same without transportation, chain, or exposure.

7th. Imprisonment for not more than five years.

8th. Fines as regulated by law.

9th. Corporal punishment (only for men), not exceeding forty blows with a rattan.

The first two of the preceding sentences are, however, very seldom applied by the landraad, most of the crimes so punishable being in the sole jurisdiction of the circuit court.

The landraad court, with these large powers, is

composed of the persons whose powers, when sitting in separate nationalities, are so restricted, viz., the resident, the regent, and three other Native judges, who are generally retired regents or wcdanas. There are always four Natives of high rank, including the regent of the regency, appointed by Government as members of the landraad, half as ordinary and half as extraordinary members, of whom at least two besides the European president must be present to constitute a legal sitting of the court. The non-judicial assistants are the Native jacksa who has made a *procès verbal* of the evidence and who prosecutes the criminal, the Mussulman priest who enunciates the punishment affixed by the Koran to the crime, and the European secretary who makes the official record of the trial. The sittings are open to the public, but no Native law clerks are allowed to be officially present, or to have anything to do with the proceedings.

*Analogy of the old English Law of Defence with that of Java.*—Raffles forbade the employment of advocates or attorneys in the provincial courts of Java.\* The policy of a similar prohibition, in the Punjaub Code, has been much discussed in our Indian territories, but the low character and mischievous propensities of the Native lawyers have

\* Clause 135 of the "Regulation for the Administration of Justice in the Provincial Courts of Java," at page 71 of the Appendix to Raffles' History of Java.

secured their exclusion from the courts of most of our non-regulation provinces. The prohibition has been removed in Java, so far as to allow a criminal to be assisted before the Native courts by an adviser, but no criminal's adviser is allowed to have anything to do with the case, further than to advise his principal, who has to defend himself. The Java law of defence for misdeeds, in the Native courts, is exactly analogous to the English law of defence, in cases of felony, before the passing of the Prisoners' Counsel Act in 1836. In contraventions the Java law allows the accused to be represented and defended by another, without requiring his own presence at the trial, just as in England the defendant in misdemeanour could always be defended and tried without being personally present. A great many of Sir Samuel Romilly's arguments, in favour of extending the right to be defended to persons accused of felony, are no doubt of general application, but the experience of our Indian courts on the point shows that, in a low stage of society, serious crimes are encouraged by the chances of escaping punishment through the help of an advocate. The Native lawyer's tendency to encourage subornation of perjury, as a means of securing impunity to his client, perhaps also more than counterbalances, to the community the personal advantage to the accused.

*Course of Criminal Trial.*—In Java the trial

begins by the identification of the prisoner, and by the reading of the evidence taken on the previous inquiry and on the local investigation, with the reports thereupon, and the other proceedings preliminary to the trial. The *jacksa's procès verbal*, or summary of the case against the prisoner, is also read, which is equivalent to our opening address to the jury by the counsel for the prosecution. The witnesses are then removed, kept from communication with each other, and called up *seriatim*, those for the prosecution first, and afterwards those for the defence.

As soon as the examination of witnesses has begun, the trial of the case must be continued without interruption, except in the contingency hereafter mentioned. With that exception, the president can only suspend the sitting for the necessary purposes of food and of sleep at night. This provision for the speedy disposal of cases is more specially incumbent in a country like Java, where the custom obtains of transacting business early in the morning, and of devoting the afternoon to a siesta.

The relatives and connexions of the accused can only be examined on oath with their own consent, and with that of the accused, and of the *jacksa* as public prosecutor. Any statements of what occurred within their own knowledge, volunteered by such persons, may, however, be received by the court

without oath, for the purpose of giving information, notwithstanding the dissent of either the prisoner or the jacksa. Other competent persons may be examined either on oath or without oath, at the discretion of the court, but the judgment can only be founded on, and must be justified by, the sworn evidence.

The witnesses are personally examined in chief by the president in the vernacular, and the *vis à voce* evidence is contemporaneously taken down, by the secretary in Dutch, and by the jacksa in the original. The witness is not allowed to give a long rambling story, full of hearsay and irrelevant matter, but is kept to the point and to his own personal knowledge. The prisoner is not allowed to cross-question the witness, but he may suggest cross-questions to the president, who, having had a legal education, is aware of the value of cross-examination as a test of truth. Either at the prisoner's suggestion, or of his own accord, the president of the landraad generally cross-examines each witness, as far as the continental ideas of jurisprudence require, though not of course to the extent that is usual in English courts on cross-examination by the opponent's advocate. The other judges and the jacksa may also put questions to the witness either in chief or in cross-examination.

The accused is heard anew at the close of each witness's evidence.



*Ingenious Guarantee of Oral Testimony.*—The chief means relied on, for weighing the evidence *pro* and *con*, is the peculiar plan of causing each witness to be attended by his immediate superior, who vouches his identity, and speaks to his general character and credibility. This seems an excellent contrivance, and its non-existence in India excited great surprise among the Dutch. The question of course arises, *quis custodiat custodes?* But practically it is found to be a great assistance, in the judicial investigation of questions depending on Native evidence. The superior who brings up the witness is in most cases the village chief, whose reputation among his villagers, and whose chance of re-election, would be much injured by his allowing of personation, or by his accrediting notoriously false testimony. In the absence of Native lawyers, paid to get up a false case, this practical corroboration is a tolerable guarantee of truth.

After the evidence on both sides has been heard, the president expressly calls the attention of the accused, point by point, to those parts of the case which bear most strongly against him, and he is required to give his explanation on each point, after which he makes his general defence. The other judges and the jacksa can also put questions to the accused, who is thus cross-examined according to the continental mode of making a prisoner criminate himself, which is so opposed to our feelings of fair

play. It must, however, be admitted that Native ideas are more in accordance with the continental system than with our mode of urging the prisoner to plead not guilty, and refusing to sift his defence. Such cross-examination, they say, only tends to clear a really innocent man, and never acts to the detriment of any but the really guilty.

*Application of Local Knowledge to elucidate the Truth.*—The local knowledge possessed by the judges of the court, both as to persons and things in their regency, is avowedly used in Java to weigh the evidence, and to estimate the probabilities of the case. Whether rightly or wrongly, they allege that such local knowledge is indispensable, in Eastern countries, to a proper discrimination between witnesses, and to a correct perception of where the truth lies between conflicting statements. The same principle seems to have been recognised in England, in an analogous stage of society, by leaving the decision of guilt or innocence to a jury of the prisoner's peers *de vicineto*, who would of course have local knowledge both of the credibility of the witnesses and of the probabilities of the case.

After the defence is concluded, the priest states the Mussulman law of the Koran, as to the punishment for the crime, and the president sums up in the vernacular, informing the court where the Mussulman punishment for the particular crime has been altered by express enactment.

The court is then closed, only the European and Native judges, the secretary, the jacksa, and the priest remaining, neither of which three last has a vote. The members vote in turns, deciding by a majority, but, in case of the court consisting of four members, the president has a casting vote. The secretary records in Dutch the vote of each member, and the reasons given for that vote, together with any expression of the estimate formed by each member of the weight of evidence and of the credibility of the witnesses.

*Judgment must be revised by Supreme Court before it can be carried out.*—The landraad's judgment in cases of misdeed is not appealable to any court, but their convictions for misdeed must be revised by the supreme court and confirmed before they can be carried into execution. In such cases the Dutch record of the proceedings, signed by the president and by the secretary, and the sentence signed by all the members of the court, must, within three weeks from the trial, be sent up to the supreme court of justice for Netherlands India, composed exclusively of Dutch lawyers, and the highest court of the Dutch East Indies. The record is returned in a few days with the order of the supreme court on revision, either confirming the sentence, or ordering the omission of formalities to be redressed, or amending the sentence in certain respects, or quashing the conviction, and ordering the release of the prisoner.

The penal powers of the landraad in cases of contravention or *malum prohibitum*, are limited to fine and imprisonment, of such amount and for the period respectively annexed to each contravention by law, but none of which are heavy. The proceedings at the trial are the same as in cases of misdeeds, except that the accused need not be present in person, but may be represented by a properly delegated attorney. The record in cases of contravention, however, is not sent to the supreme court for revision, but the heavier sentences are appealable to the court of justice at the capital of that part of the Dutch territories, and the conviction for contraventions which are below the appealable sentences, may be questioned "*en cassation*" before the supreme court at Batavia, on technical grounds involving the nullity of the proceedings.

*Peculiar Appeal Procedure.*—In highest resort the landraad judges the appeals to it from the regency courts. The appellate proceedings in criminal cases are peculiar, in that the appellate court does not merely judge by the record of the proceedings below, but re-hears the evidence as if it were a trial in the first instance. This applies equally to the appeals from the correctional sentences of the regency courts to the landraad, and from the penal sentences of the landraad, in cases of contravention, to the courts of justice. In both these cases the evidence is re-heard, or fresh evidence

may be adduced, and the accused is thus only liable to be punished, if the evidence is sufficient to satisfy two successive tribunals. The judgment of the appellate court is final on the merits, but is still open to review by the supreme court "*en cassation*," or on grounds for quashing the conviction independent of the merits.

*Circuit Courts.*—The trial of the before-mentioned heavier Native misdceds, above the competence of the landraad, belongs to the circuit court. Java and Madura are partitioned into five divisions, in each of which a circuit judge is appointed to preside, at all the circuit courts in that division, and a greffier to officiate as recording officer and secretary at all the sittings. Both the circuit judge and his greffier must be doctors of law, that is, what we should call barristers. The circuit judge, is generally chosen from among the judges of the court of justice for that part of the island in which his circuit is placed, but, as soon as he is appointed circuit judge, he ceases to be a member of the court of justice, and his place is filled up. The circuit greffier is always a barrister of some repute, generally selected from the legal officials of the supreme court or of the courts of justice, the Dutch wisely estimating the importance of his duties, in the administration of justice, as little below those of the president of the court. These legal functionaries must hold a circuit court in each resi-

dency in their division, at least once in every two months.

In each residency eight of the principal and most able Native chiefs are selected as members of the circuit court, half as ordinary, and half as extraordinary members. Of these, four besides the European president must be present as judges to constitute a legal sitting of the circuit court, which also requires the presence of the greffier as secretary, of the jacksa as public prosecutor, and of the Mussulman priest as expounder of the law of the Koran.

The circuit court has no appellate jurisdiction, nor any authority in cases of contravention. Its only office is to try Natives or those assimilated with them for misdeeds above the competence of the landraad. The proceedings are the same as those incumbent on the landraad in cases of misdeeds, and the judgment of the circuit court is, in the same manner, given by a majority of the voices of the Dutch lawyer president and of the four Native judges. The penal powers of the circuit court are unlimited, but all their judgments must be sent to the supreme court for revisal and confirmation, including the verdicts of acquittal, in opposition to what is prescribed for the landraads, whose sentences of conviction only are open to revision. The heavier character of the crimes tried by the circuit court is the reason for this distinction, as an extra provision against a heinous criminal escaping punishment.

On this account also, cases of misdoeds, tried before the circuit court, may be ordered by the supreme court to be re-tried by the court of justice. This occurs when the supreme court is dissatisfied with the course which the trial by the circuit court has taken, and sees that the error arises from some cause not likely to be rectified by the unaided powers of the circuit court on a new trial. The court of justice for that part of the island then calls up the parties and the witnesses before itself, and re-tries the case *ab initio*.

Where the circuit court has passed a sentence of capital punishment, the supreme court, after examining the papers, sends them up to the Governor-General, with a recommendation as to the sentence being carried out or otherwise, and the "*Fiat Executio*," in life cases, must be endorsed by the Governor-General himself on the record. The record is then sent to the resident, who has personally to announce to the prisoner, in confinement, the capital sentence and its confirmation.

The resident is then bound to inform the prisoner that he has still fourteen days' respite, during which to petition the Governor-General for mercy. The resident is further required personally to assist the prisoner under sentence of death in preparing such petition, setting out for the prisoner any grounds he can suggest for a commutation of his sentence, and the resident is bound to forward such petition by special messenger to the Governor-General. The

execution is only carried out on the return of such petition refused, with a fresh "*Fiat Executio*" signed by the Governor-General's own hand.

*The Courts of Justice.*—The above conclude the list of so-called Native courts, instituted for the administration of criminal justice to the Native community, and for the infliction of punishment on ordinary Native criminals. For Natives of rank, as well as for Europeans, and for those assimilated with them, whether in the Dutch parts of Java, or in the Native states, the sole penal jurisdiction is reposed in the Dutch courts at the capital, which alone are designated as "the courts of justice."

There are eight of these courts in different parts of Netherlands India, all composed exclusively of Dutch barristers. Three are in different islands of the Molucca group, one in the island of Celebes, one on the west coast of Sumatra, and three at the three capitals of Java, viz., Batavia, Samarang, and Soerabaya. Each of these courts is composed of a president, and of either three or four members as judges, and of two or three greffiers as official recorders and assistants. These latter hold much the same position as the masters of the courts at Westminster, and, in case of the illness or absence of the president or members, replace them as acting judges.

*Criminal Jurisdiction over Europeans.*—When a European in Java commits any offence or crime, beyond the resident's police power, he is



arrested by the local Dutch officials personally, and is forwarded under European custody, in a respectable conveyance with Government post horses, to the nearest capital, Batavia, Samarang, or Soerabaya, for trial by the court of justice there.

The same criminal liability of European British subjects in India, only to the English crown courts at the capitals, has long been a standing grievance with equality-mongers. Where learning and professional training are the only distinctions between the English judges of the Queen's and of the company's courts, such objections are at least plausible, however impolitic would be the subjection of Englishmen to such tribunals, and to such a system, as obtain in the Indian provinces. In Java, on the contrary, the same practical result is attained, without liability to the same theoretical objection of inequality. The distinction of European and Native applies to the tribunals, to the same extent only as to the inhabitants, and either forum is equally open to all members of the community. If any born denizen of the country (of whatever parentage) prefers the religions and usages of the East to those of Europe, he ranks as a Native, and receives justice, according to those religions and usages, from the highest of his fellow-countrymen and brethren in the faith. On the other hand, those residents in Java, whether born denizens or immigrants and of whatever parentage, who adopt

the religion and civilization of Europe, rank as Europeans, and receive justice according to European laws, from such trained lawyers as, in Holland, are alone considered fit to be entrusted with the lives, liberties, and properties of their fellow-countrymen.

Besides the theoretical objection of inequality, the criminal liability of Englishmen, in India, only to the English supreme courts at the capital of each presidency, causes great practical inconvenience on account of the distance to which the prisoner, the prosecutor, and the witnesses have to be sent. This is obviated in Java by the creation of fresh courts of Dutch lawyers with the extension of Dutch dominion in the East. England has only supplied her 130 millions of Native subjects, and her 120 thousand Anglo-Indian subjects, including the English soldiery, with three courts of professional trained judges; whereas Holland has supplied the seventeen millions of her Eastern subjects, and her Dutch and European colonists and soldiers, amounting at the end of 1857 to 38,513 souls, with nine such courts. The provincial judicature is thus kept in check, and the distinctive European privileges are thus maintained, without any great inconvenience to the Native population, and without thereby causing practical exemption from punishment to be often secured to European criminals.

Besides the original criminal jurisdiction of the

courts of justice, in trying the offences of Europeans and of Natives of rank, they have sole penal jurisdiction in cases of piracy by whomsoever committed, and also in cases of prize, of booty, and generally of all offences not ordinarily cognizable by municipal courts, but regulated by the law of nations. The courts of justice also take appeals on sentences for contraventions, passed by the landraad and by the residency courts. Both the original and appellate penal jurisdiction of the courts of justice are guided by the rules of procedure applicable to Europeans, except that, when Natives of rank are tried, the sittings of the court must be held with closed doors, and that the chief priest and two Native chiefs, appointed in each separate instance by the Governor-General, attend the trial and give their opinion, but without having a voice in the decision.

*Criminal Jurisdiction over Natives of Rank.*— This mode of trying the Native nobles is not only useful in preserving their authority over the people, but is highly valued by themselves, as the most distinctive mark of their position. With few exceptions, it is the privilege of only the high Native officials and of their nearest relatives, and the Dutch thus hold a great engine of control over their powerful Native subordinates. A regent, who had been degraded from his position, would probably still retain this right, by virtue of his near relationship to such member of his family as might be selected by

the Dutch to succeed him, but a wedana removed from office would probably lose this most valued privilege of his rank. Those only who know the full force of izzut, or distinctive personal consequence, as the mainspring of Native action, will be able to appreciate the strong motive thus supplied to the Native nobles, not only to take on them the cares and fatigues of office, but to hold their conduct above even a shadow of suspicion.

*The Supreme Court of Netherlands India.*—The only remaining criminal tribunal is the Supreme Court of Netherlands India, whose revising functions in sentences for misdeeds, and whose jurisdiction as a “*cour de cassation*” on sentences in cases of contravention, have been already alluded to, and both of which also extend to the decisions of the courts of justice.

This court, which is technically termed a college, is the highest tribunal in Netherlands India, and the whole machinery of justice is so constructed that this college has the superintendence of all judicial sentences throughout every part of the Dutch East Indies. It is composed of a president, a vice-president, and seven members as judges, besides one attorney-general, two advocates-general, and three greffiers, all of whom must be “*doctores juris utriusque*.” This college is divided into two chambers, one of which revises speedily all landraad decisions in cases of misdeeds, and the other tries all other cases.

The penal jurisdiction of this court includes the general supervision of all other courts, the revision of all sentences in cases of misdeeds tried either by the courts of justice or by the landraad, the appeal on the merits in cases of contraventions originating in the courts of justice, and *cassation* or quashing for nullity in the non-appealable cases of contravention either in the courts of justice or in the landraad. Its only original criminal jurisdiction is over such of the highest Dutch officials as, on account of their rank and the importance of their office, are exempted from the ordinary European liability to the courts of justice.

The general supervision of this court over all inferior jurisdictions is usefully applied in many strange ways, much appreciated by the Native population. Of these useful provisions, unknown to our Indian jurisprudence, I can only allude to a practical remedy for delay in the lower courts, to the comparison and assimilation of different punishments for the same offence, to the reversal of sentences passed on evidence subsequently proved to be false, and to the public clearing of the memory of those who are found to have died unjustly condemned.

*General Publication of Laws.*—It only remains to be remarked that the codes of criminal justice and of police, as well as all other regulations affecting the interests of the Native population, are of no

local efficacy until they have been duly published. Such publication consists in a Malay translation printed alongside of either a Javanese or a Sunda-  
nese translation, according to the district, being distributed to every Native chief in the regency, including the village chiefs, with directions to cause the same to be publicly read out to the people under their control. Every European and Native official is further required always to keep such printed translations of the existing laws for the inspection of any of their people, and to give all inquirers every practicable information on the subject.

*Contrast with Criminal Justice in the Interior of India.*—In the broad outlines, the criminal jurisprudence of British and of Netherlands India is not very dissimilar, and this is certainly the least unsatisfactory portion of our Indian provincial judicature. The chief contrast lies in the Anglo-Indian want of respect for Native dignity, and in the absence of those safeguards against Native mendacity which the Dutch have so happily applied in Java. Oral testimony must, from the nature of things, be the chief means of proof in most criminal cases. In the provincial courts of India the evidence of witnesses in civil cases is, notwithstanding the direct provisions of the law, seldom taken by the judge himself, but in criminal cases of any magnitude this is done, and oral testimony is therefore better sifted in criminal cases, though still far from

satisfactorily. But the art of combining and pre-arranging false evidence has been carried by the provincial Native lawyers in India to such perfection as to be proof against much keener sifting and cross-examination than the untrained faculties of the unprofessional Anglo-Indian judges can apply. The absence of local knowledge, in the English judge or magistrate, also prevents his having even the same power as the Java landraad, of discriminating properly between the true and the false evidence, where the testimony on both sides is equally well prepared, and apparently equally consistent and probable. The one set of witnesses may be really what they purport to be, and the other set may be mere strangers, either pretending to have been present or personating those who really were so, without the Anglo-Indian judge having any means of ascertaining the fact.

But the same absence of local knowledge in the criminal court works great injury, and gives rise to serious complaint in India, when it is an enemy who brings a perfectly unfounded criminal charge, as a mere engine to the attainment of other ends. This is not only constantly done, but the Natives say that these are the criminal cases which are most frequently successful, from the difficulty of suddenly meeting them with any other than the usually suspicious defence of an alibi, and the impossibility of inducing, and as they think the impro-

priety of asking, Natives of sufficient position to carry credit with the English judge to testify even in such cases. There are Natives in Bengal, and men of position too, who will undertake to convict any passing individual you like to point out in the road, of any crime you choose to mention except murder, before any English provincial judge you please to name. Such offers have been made to high English officials, by way of showing them the inapplicability of our present system, but even the officials who rejected such offers did not dare to doubt the power of fulfilling them.

The exception of murder shows a curious phase in Native morality. In all other cases perjury is to be bought, in the greatest refinement of the lie with circumstance pre-arranged, at prices varying, not according to the crime or perjury, but according to the social status of the perjurer, and generally averaging not above eight annas or one shilling per head. In murder cases, on the contrary, perjury is both expensive and difficult to be obtained. I am told that only compulsion will induce the same witness, who will forswear himself in any other case for a shilling, to do so for the prosecution on a false charge of murder; while even for the prisoner, in a case of real murder, perjury costs about 1000 rupees, or £100. On the other hand, if it is a false charge of murder, where the danger to the prisoner of course is the same, perjury on his behalf is neither



more difficult to get nor more expensive than in other cases.

Bringing criminal charges, on both sides, is the usual close to a protracted and acrimonious civil litigation in India, and though the accused may have been miles away, and with one of the few high Natives whose word would carry conviction to the English judge, neither will such Native testify, nor will the prisoner even attempt to make him. He answers his counsel's expostulations on the subject by saying that no persuasion would induce the high Native to come forward and testify in his favour; that he would resist every attempt to force him to do so, even to the loss of his property, and that the only result of such attempts would be to add to the judge's sentence the general disapprobation of his countrymen and the hatred of his former friend. Instead, therefore, of resorting to this straightforward but hopeless course, he meets a false charge by as false a defence, and brings forward a host of ordinary false witnesses to support the most probable alibi he can invent.

The misfortune in India is that, speaking broadly, the Native whose word may be implicitly trusted considers it degradation to come into court, and impiety to testify or affirm at all; while the man who does come into court as a witness, and who also holds that the very fact of so doing is both a degradation and an impiety, is less scrupulous or

totally regardless as to his evidence being true or false. Nothing is easier than to abuse this state of feeling, or to pass laws enforcing the appearance of high Natives as witnesses by the seizure and sale of their property ; but such laws do not change the Native idea of the degradation and impiety of the act, and only irritate by forcing high-minded men into the alternative of either losing their property or lowering their dignity and sullyng their consciences.

- We have ourselves to blame for much of this feeling. The Mussulman courts were held with pomp in the precincts of the temple, on holy ground, by cazecs of family, personal friends to the neighbouring gentry, who, if called into court, were treated with respect, and often gave their evidence without oath, or other assurance than their mere statement as gentlemen. We introduced courts equally devoid of pomp and of religious associations, presided over by an English stranger without any community of feeling, and often without even any knowledge of the neighbouring Native gentry, in which all witnesses are treated with the same disregard, stuck up in the same witness box, or examined by the same low clerk, and made to swear the same oath. Because we found the Native nobles object to attending our courts under these circumstances, instead of altering the arrangements and constitution of our courts, we were so ill-judged as to enact that respectable men need not attend in person.

Refusal to attend at once became an additional proof of respectability, while attendance became a degradation, and an admission of want of respectability. The provincial judges also often allow witnesses to be treated before them on that assumption, as shown by the common question allowed to be put by the Native pleader for the purpose of discrediting a hostile witness; not, as in England, whether he had given evidence in a particular case on the losing side, and therefore been disbelieved by the jury, but whether he ever before gave evidence at all in any case.

*Principles of Criminal Justice in Java.*—The principles involved in the previous description of criminal justice in Java may be thus summaried:—

1st. Justice at the people's own door for small offences, and for larger offences, cognizable by the local authorities, never so distant as to be beyond easy reach.

2nd. Native or European judges alone, in cases of small correctional offences. Native judges presided over by a European, in all other criminal cases committed by ordinary Natives. Only European lawyers as judges, on the trial of Europeans and of Natives of rank.

3rd. No formalities required from the accuser or the accused, but observance of forms made incumbent on the court.

4th. Easy and ready access to every official.

5th. Quick and simple trial on vouched evidence, and with guarantees against conviction on insufficient grounds.

6th. No appeal in cases of crimes, but necessary revision of each sentence by a superior court.

7th. Appeal, both on the merits and on technical grounds, in penal cases of minor importance.

8th. Ulterior remedies in all penal cases for proved injustice by error of law.

Criminal justice is thus administered in Java, under European supervision, by the criminal's own fellow-countrymen, who are best able to weigh his motives, with local knowledge tending to elucidate the truth, and on evidence vouched by responsible guarantees. These institutions work at the present day as happily in Java, and as much to the satisfaction of the people, as the analogous institution of trial by a jury of the prisoner's peers, chosen from among his own neighbours, formerly worked in a similar stage of English society. The result to Government is equally satisfactory. There is very little crime of any kind, and what little there is consists mostly of the effects of passions, such as jealousy and revenge, which no human means can prevent.

*Java Police.*—Connected with the system of criminal justice is that of police. The police in Java is perhaps one of the happiest and most successful institutions in the island. The germ of it is shown

in Raffles' regulation for the administration of justice in Java, before mentioned, but my knowledge of its present operation was obtained from a translation of the first seventy-nine articles of the so-called Native regulations. These constitute not only a very complete ordinance for the police, but M. der Kinderen, in sending them to me as the law on the subject, adds that an account from himself of the actual working of the system would be little more than a copy of the articles of the law. Those who are cognizant of the various modes of police, now under trial in different parts of India, will find much interesting and curious matter in this Java police ordinance. Such persons will of course judge from Anglo-Indian ideas, and from the experience of Natives in India, and when told that the Java police system is perfectly efficient and commands universal satisfaction, will probably say that, for such large power in Native hands to be both efficient and satisfactory, the Natives in Java must be a very different class from ours in India. This difference and its reasons will be further discussed in a subsequent chapter, but meanwhile I can but assure my readers that the satisfactory state of the Java police is one of the few points on which there is no difference of opinion in the island. I was universally told by all classes with whom I could communicate, that crime was almost always brought to notice, speedily inquired into, and the criminal generally detected; while the machinery that effected

these purposes so efficiently was neither oppressive to the people nor costly to the Government.

There is no class of the community specially devoted to civil police duties, except in the capitals, for in the interior every official, European as well as Native, is charged with police functions, and every inhabitant is required to perform any police duty that may arise, and is punishable for any neglect or delay in its performance.

There is in each residency a local corps of Native police, commanded by retired non-commissioned officers. But these, except in the rare contingencies of their being called upon to assist the civil functionaries, are totally unconnected with the discovery or investigation of crime. These local police corps are kept up chiefly for purposes of official state and pomp, and also to perform the duties involving long journeys, and the guardianship of the treasure, the records, and the prisoners. The latter guardianship is however so slight, that I heard, to my astonishment, that two women, who had been for some days lazily weeding the road in front of the hotel at Bandung, were, though apparently alone, convict prisoners under sentence of hard labour.

The real and only instruments of local police, in the interior, are the Native officials, the village watchmen, and the gardos or village watch-houses. The former include all those previously described, from the regent down to the village chief, and their

functions in the investigation of crime are not unlike what, in Bengal, is so badly and oppressively performed by the darogah or police sergeant, and so inefficiently and unsatisfactorily followed up by the European magistrate's local inquiry. The village watchmen and the village watch-houses are, in Java, the chief means of discovering crime and of ascertaining the criminal.

*Village Watchmen.*—The village watchmen are not, as in India, either hereditary or salaried watchmen specially charged with those duties, but every head of family in the village has to take his turn of the watch, either personally or by a competent substitute. Each man's turn of watch is counted to him in the one-seventh of gratuitous labour which he has to furnish to his landlord. Three village watchmen thus keep their twelve hours' watch, both day and night, in each gardo or village watch-house; lines of which are so placed along the roads and paths, and at the corners of the villages, as to communicate with each other in every direction, over all the inhabited parts of the island.

*Gardos or Watch-Houses.*—The watch-house is always of one form, about eight feet square, having low walls about three feet high, with a post at each corner, on which rests a tiled roof some ten feet from the ground, sloping up to a point in the middle. Thus from about three feet high to the roof the watch-house or gardo is open all round. Inside the

watch-house, from the pointed centre of the roof, is hung a large billet of wood, some five feet long, and hollowed out like a log canoe, but with plenty of solid timber left at each end of the log. This, when struck by a wooden mallet, gives out a curious mournful sound, unmistakeably different from any ordinary noise, and which is heard to a great distance, particularly at night. The spaces are so regulated between the different gardos, that every signal given by any watch-house can be heard and repeated by three or four other watch-houses on different sides.

The watchmen strike the hours, both by day and night, beginning with the gardo near the station clock. At night or towards early morn, one first hears the station clock strike, then the nearest gardo gives out its deep mournful repetition of the number, then the next, and the next, till the sound goes groaning past, and down the road fainter and fainter, until lost in the distance, or till it meets the same hour coming along the gardos from the next station. The Dutch wits say that this is an invention for telling the hour in the far interior some thirty minutes late, but however that may be, its value as an instrument of police is unquestionable.

*Gardo Signals.*—Both by day and night notice can be sent through the country rapidly. Should a fire, a robbery, a murder, a Malay running a muck, or any such event occur, it is notified all round as soon as ascertained. Each of these occurrences is



denoted by a particular signal, well known to the whole community. The different signals consist of blows by the mallet on the log, varying in number, and in the quickness of recurrence, and the series of such well-known signals is considerable. The signal is at once repeated by all the other watch-houses within hearing, and, by making the signal quicker or slower, each gardo indicates the direction the danger is taking, and the whole country side is aroused to protect itself, or to aid in securing the offender. When a robbery or other crime occurs, if the alarm can be given to the nearest gardo soon after the occurrence of the event, the sound soon overtakes the criminal, and not only informs him that his crime is known, but that all the country side is on the look-out for his arrest.

*Gardo Registry of Passers-by at Night.*—Every Native moving about at night, after eight o'clock, is obliged to carry with him a burning torch, and to show himself, and the pass of his immediate superior, at every watch-house along his road. The watchmen enter his name, with the hour and the direction he is going, and, in case of alarm or suspicion, detain him till next morning. In case of crime, therefore, the first inquiry is at the surrounding watch-houses, to ascertain the passers-by during the night, and as every man's character is known, a clue is thus generally obtained to the criminal.

*Happy Result of the Gardo System.*—On the

occurrence of any crime, the first duty, both of the village chiefs and of the local Native officials, is to make inquiry and pursuit, for which purpose every villager is at the command of the village chief and of the local salaried mantrie, whose reputation depend upon the result. The general apathy of the Oriental, for what does not concern himself, is thus roused by his chief's personal interest in the capture, and the exertions of the whole community are secured for the prevention of crime, and for the detection of the criminal.

In this manner the police of the whole country is carried out by the people themselves, under their own chiefs, without the existence of a single professional watchman or policeman, except in the capital towns, and at a very slight expense to Government. This police, unlike that of India, works admirably. The sufferers, instead of concealing their losses for fear of extortion or oppression by the regular police thief-catchers, as in India, at once appeal to their fellows, and common cause is made against the offender.

The introduction of the gardo system into India would either prevent the continuance of the present systematic burglaries, or, at least, would much aid in their detection and suppression. The number of villagers in each gardo, with the uncertainty as to who will be there at any particular time, prevents combination between the watchmen and the

criminals, while the number of gardos which marauders have to pass render their escape, in case of alarm, almost impossible.

These are the present systems of criminal justice and police, which, combined with the general welfare caused by the culture system, have succeeded in much reducing crime among the people of Java. It is a proud feeling for a countryman of Sir Stamford Raffles to find the relics of our English rule, and the measures of his large mind, still maintained by our foreign successors, and their results shown in the peace and security of eleven millions of the human race.

## CHAPTER II.

## CIVIL JUSTICE.

IMPORTANCE OF ADAPTING CIVIL JUSTICE TO THE IDEAS AND USAGES OF NATIVES—DIFFERENT SYSTEM PURSUED IN OUDE—DISSIMILARITY OF ENGLISH AND NATIVE IDEAS ON THE SUBJECT—EVIL EFFECTS OF REVENUE AND DECREE SALE LAWS IN INDIA—COURSE OF CIVIL JUSTICE IN JAVA—DISTRICT COURTS—REGENCY COURTS—OPTIONAL WITHDRAWAL OF SOME CIVIL CASES FROM NATIVE TRIBUNALS—THE RESIDENCY COURTS—THE LANDRAAD—DECISION OF RELIGIOUS QUESTIONS—PROCEDURE BEFORE TRIAL—NO NATIVE LAWYERS—PROCEDURE AT TRIAL—EVIDENCE—JUDGMENT—EXECUTION—APPEAL—LAW OF THE NATIVE COURTS—CIVIL JUDICATURE IN NATIVE STATES—THE COURTS OF JUSTICE—THE SUPREME COURT—HAPPY WORKING OF THE CIVIL JUDICATURE—SMALL NUMBER OF CIVIL CASES—RULES FOR PREVENTING LITIGATION BY SECURING CERTAINTY OF RIGHTS—REGISTRATION BOTH OF PROPERTY AND POSSESSION IN LAND—REGISTRATION AND ADMINISTRATION OF SUCCESSIONS—REGISTRATION AND SPECIFIC ENFORCEMENT OF CONTRACTS—COMPARISON WITH CIVIL JUSTICE IN THE PROVINCIAL COURTS OF INDIA—FALSIFICATION OF EVIDENCE—INDIAN PROVINCIAL SUITS MERE TRIAL OF SKILL—PREJUDICIAL ACTION OF NATIVE LAWYERS IN THE PROVINCIAL COURTS—MAIN DEFECTS IN THE PROVINCIAL CIVIL JUDICATURE OF INDIA—CUSTOM THE ONLY LAW OF THE JAVA PROVINCES—ADVANTAGES OF CUSTOM

LAW TO NATIVES—INAPPLICABILITY OF EUROPEAN LAW CODES TO NATIVES—THE INDIAN CODE OF PROCEDURE—POSSIBLE RESULT OF EXTENDING THE JAVA SYSTEM TO INDIA.

*Importance of adapting Civil Justice to the Ideas and Usages of Natives.*—The questions involved in the administration of civil justice are, among Natives, even more important than those connected with criminal jurisprudence. Criminal justice, of course, mostly affects Natives in the lower ranks of life, while civil justice deals chiefly with the interests of large landed proprietors and moneyed men. Causes of complaint, arising from civil regulations, thus arouse the more powerful, who, in a low state of society, and particularly under foreign rule, are the really dangerous classes.

In this respect our civil judicature in India has been most unhappy, and forms a lamentable contrast with the working and effects of civil justice in Java. The system there is based on the principles laid down by Sir Stamford Raffles, but his civil procedure has been much altered, and now works to the general satisfaction of the people.

Sir Stamford Raffles proposed, by introducing the ryotwarree land settlement, to give the people for the first time separate rights, which, as he remarks, made it necessary to give them also security for those rights, and remedies for their infringement. His civil procedure will be found, mixed up with

the criminal enactments, in the regulation mentioned in the previous chapter, and published in the appendix to his "History of Java," page 56. His object is shown by the preamble, which states that that regulation, "by assuming as its basis rather the ancient usages and institutions of the Javans, than any new innovations founded on European systems of internal government, may confidently be expected to be at once the most pleasing to them, and the best adapted to the existing state of society."

*Different System pursued in Oude.*—Lord Dalhousie, when annexing Oude, had before him General Sleeman's "Tour through Oude," with its revelations of the dislike entertained, by both high and low, for our Indian system of land sales and for our jurisprudence. It is a pity that his attention was not then called to the principles on which Sir Stamford Raffles established English rule and justice in Java, under analogous circumstances, with the subsequent modifications by the Dutch, and the working of the present system.

It seems to be generally admitted that few of the Oude nobles have evinced any real patriotism or loyalty to the deposed king or to his family, though their feelings, both of justice and security, were certainly outraged by his deprivation of what they looked on as his estate of Oude, for so incomprehensible an offence in Eastern eyes as bad

administration. Nearly the entire aristocracy joined the rebellion, but it was to preserve their estates, their dignities, and their feudal power, and to escape our inevitable if not heavy taxation, our revenue and civil decree land sales, and our hated courts of justice.

The English officials who took charge of Oude began by ripping up titles, and by putting the proud and powerful nobles of Oude on proof of the lawful acquisition of their enormous landed estates. This was carried out in the manner described in Lord Canning's answer to Lord Ellenborough's despatch, and on the English idea that, because the new or old baron had gradually absorbed the yeoman and peasant, and made them his vassals holding land only under him, we were bound to restore to them their former proprietary rights. But the mode of carrying this out was considered by the Natives as adding insult to injury. Either on complaint by the yeoman or peasant, or, if no one complained, wherever the official heard that estates had been added to, a summons was issued to the proud and powerful talookdar, or lord of the manor, to appear before the English official and show his title to the land. When the lord neglected this insulting message, whatever the yeoman or peasant chose to claim, and to bring one or two men to swear to, was given to him. In this way many of the Native nobles and landholders, both old and new, were

stripped of large portions of their properties. Not only what had been acquired by the strong right hand, in lawful private war against some neighbouring baron, or in reducing the yeoman and peasant to his proper condition of a vassal, according to their ideas, but many ancestral estates which had been held for generations, were thus insultingly taken from the proprietors by the irresistible force of English law, at the complaint of any vassal turned traitor to his lord.

His feudal pride was thus lowered, and the influence of his rank and power destroyed, as dangerous to our supremacy, inconvenient to our revenue system, and injurious to the pet of our legislation, the peasant. His hatred of our courts, whose first practical exemplification of justice is to treat Native noble and peasant as equally below any show of consideration or respect, was called ignorance and insolence. His disregard of any but his own and his retainers' rights we called misrule, to prevent which we destroyed his control even over his own vassals.

In thus acting we were guided by our genuine hatred of tyranny, and by our democratic principles equally strange and incomprehensible to the Native.

Regardless of this feudal state of society or of the feelings belonging to it, we proceeded at a step to bridge over six centuries, and to graft, by force, our English ideas of the nineteenth century on the



Native born, bred, and living in the feudal condition of the thirteenth century. According to our English nineteenth century notions, chivalrous justice, but certainly not political prudence, required the despoiling of the spoiler, and the restoration of the spoil to his humble victim. We never paused even to consider how far this nineteenth century conception of justice, as an abstract quality, regardless of persons, was justice according to the feudal and reverential regard of the Native for rank and power, however acquired.

Those who carried out the Oude settlement knew that in India the rank of the injured seems to the poor man an aggravation of the injustice, or even turns justice to injustice. Without respect to this knowledge, or to the Native ideas on the subject, justice, English justice, nineteenth century justice, was held to require restitution, often not even on complaint, but *mero motu*, as the duty of the state to redress the wrongs of the former Government.

The fiat went forth, the noble's land was given to the peasant, who was told that henceforth he had no superior but God and the beneficent English Government, and we trusted to the peasant's new interest to uphold our rule.

When the rebellion broke out, we found how unappreciated and how condemned our nineteenth century principles were, and how the feudal feelings of the thirteenth century carried back into the

baron's ranks the very vassals whom we had helped to despoil their lord. Let Englishmen just reflect on the condition of a people forcibly transferred in one year from one state of society to another naturally separated from it by six centuries of imperceptible change and gradual improvement, and then let them desist from the cruel attempt to drag a whole people across that abyss, and to hold them down in that unwonted state by the concentrated forces of civilization and of English energy and power.

English Government in Oude must have been the end of misrule and spoliation by its very existence. If we had let bygones be bygones, instead of taking land from the noble to give it to the peasant, instead of changing the mode and sometimes the amount of the assessment on the land, equally in the peasant's and the noble's hands, and instead of introducing our nineteenth century courts and laws, we might have followed the example of Sir Stamford Raffles and of the Dutch. By working on the existing Native ideas, and improving them ; by administering justice according to the custom of the district, and improving it ; by maintaining power and dignity in the Native nobles, and making them the means of carrying on a strong, peaceful, and acceptable Government ; and by limiting the Government tax on the landowner, and his claim on the peasant, to the old rates and proportions collected in

the old manner, we might perhaps have prevented the mutiny swelling to a rebellion, or Oude at least would hardly have been its chief focus and support.

We adopted a different course, and have paid the penalty. Some few rebel nobles have been deprived of their lands, but the far larger number have had their estates re-granted. Some have even lately been reinstated in a small part of their former territorial jurisdiction and power. The consequences of the rebellion will be chiefly rued by the peasant, for whose benefit we incurred the risk. The confiscation of all rights in the soil is urged, by the new grantees, as a destruction of the old customary peasant tenures, and the official injunction to respect the cottier tenant's rights will be far less efficient than the talookdar's former personal interest in the attachment of his vassals, as his only defence against powerful and unscrupulous enemies.

*Dissimilarity of English and Native Ideas on the subject.*—But it will probably be said that we do respect Native usages, that a great part of our civil judicature in India is based on Hindoo and Mahomedan laws, and that the rules of inheritance and of contract are, in many parts of India, directed to be carried out in accordance with Native customs. This is so, and no one imputes to the English rulers of India the insanity of universally and utterly ignoring the customs of their Native subjects. The Native complaint on this point is that, even in the

districts where Native usages influence the law, the total dissimilarity of thought, between the European rulers and the Native ruled, makes Native laws work in a manner opposed to Native feelings; and that, both in those districts and in every other part of India, English laws are introduced totally unsuited to Native ideas, and which work in a manner highly detrimental to the people. The most striking instance of this, as well as the source of wide-spread misery and discontent, is our plan of making the debtor's land liable to be sold to pay the creditor's claim. This is as abhorrent to Native prejudices, in the feudal parts of India, as it would have been to our own feudal ancestry at the time when they passed the statute "*De donis*," to prevent even the members of their own families diverting their landed possessions from their descendants. To realize the hatred felt for this provision of our law by the barons of Oude, one must imagine the feelings with which *Front de Bœuf* would have regarded a new Government that thus put his castles and manors at the mercy of Isaac of York.

In Java the same liability is only applied to the European and Chinese owners of private estates, and to such few Natives as our English Government of Java injudiciously made landed proprietors. Among the former, such a provision does no harm, but, as previously explained, among the latter its operation in Java has been the same as in India, and there

now remain but two or three Natives in possession of any remnant of the large properties we bestowed on their ancestors. In Java, however, these are but a few among the many, and even these have been maintained, by the other regulations of the country, in wealth and power as regents or as wedanas, and have had the loss of their private estates thus rendered less bitter. The great mass of the Native nobles have never been subjected to such losses by the operation of laws unsuited to their state of society, but, on the contrary, owe to the Dutch policy all the power and wealth they could possibly expect under Native rule, with far more security than would attend the changing phases of an Eastern monarch's favour.

*Evil Effects of Revenue and Decree Sale Laws in India.*—In our Indian territories, on the contrary, the revenue and decree sale laws have more or less ruined most of the old landed proprietors, to whom our other provisions have secured no compensatory power or wealth. Many of these men are now in the position of peasants on their ancestral lands. The old ties of association, between themselves and their former cottier tenants and retainers, are strengthened by familiar intercourse, and by sympathy with their reverses. The new proprietors, on the contrary, are mostly city men, and both from fear and from inclination constant absentees, collecting their rents by legal process, and relying solely

for maintenance of possession on the continuance of English rule.

It was often said, formerly, that this substitution, for the old proprietors, of new men who owed their estates to us and to our laws, was a security for the loyalty of these new landholders. But, though few of such new landholders turned actively against us in the late rebellion, it was then seen how useless was their passive loyalty, and how little help was to be looked for from them. They were the creatures of our system, without other hold on the country, and their influence collapsed like a burst bladder as soon as English power ceased to support their inflated pretensions. The common Native reproach of our Indian rule is that it is a Bunnya or Shopocracy Government, and traders, usurers, and pettifoggers are the men whom our system has long been, and still is, substituting as landowners, in the place of the old high-minded, high-bred, and courteous Native nobles. New landholders of these classes, mostly still carrying on their city trades, could of course have no following among the old adherents of their ruined predecessors. The peasantry to a man rallied round their old landlords, wherever these were forthcoming, and, in such cases, the new and hated intruder and his agents were universally ejected, as soon as the power of the English Government ceased to be felt in the district.

Since this state of things was disclosed by the

rebellion, and since the publication of General Sleeman's "Tour through Oude," and of Edwards' "Personal Narrative of Adventures in Bundelcund," has brought home to the Anglo-Indian mind the deep rankling hatred of the Native aristocracy to these unsuitable provisions of our law, the continuance of revenue and decree land sales is generally admitted to be opposed to good policy. So inveterate, however, is our habit of judging by our own nineteenth century ideas, that their maintenance is still thought by most officials to be rendered indispensable by a due regard to justice. It would be unjust, it is said, to the creditor, not to make the debtor's land, as well as his personalty, answerable to satisfy the creditor's claim. Even on nineteenth century principles the answer is easy, that there could be no injustice in publishing to the moneyed world that all future creditors must only look to their debtor's personalty, and cannot have the land as a security except it be directly mortgaged, and then leaving creditors to regulate their advances accordingly. But in reality, according to Native views, this sale of land for personal debt is not only not just, but is so grossly unjust, that when the Queen's proclamation announced her intention to confer even justice on all her subjects, the universal Native construction of this clause was that all the lands sold by the East India Company's

officials for private debt were to be at once restored to their old proprietors.

The prevailing belief of the injustice of such laws, and the deep hatred thereby engendered against our system, are well exemplified by the Oude landholders' simple statement to General Sleeman, that, during the fifty years which followed the division of Oude between the nawob and the company in 1801, four times more of the old landed nobles' families in the English half had sunk into ruin and disappeared, under our system of protection to life and property, than amid the turmoil, spoliation, and disgraceful violence of the Native half. General Sleeman says they gave the names of the noble families thus ruined in the English half, but that he had forgotten them. The fact, however, of their names being generally known to the landed aristocracy of Oude shows how deeply the warning had been taken to heart.

Though the revenue and decree land sales are the chief Native complaint against our civil judicature, there are many other incidental points on which the practical operation of our civil courts and laws, in one part of the country or another, excite much discontent. Among these may be mentioned the general insecurity of landed estates, from the absence of any fixed criterion either of property or possession; the existence and encouragement of conflicting rights in each portion of the soil; the



insufficient protection of the weak against the rapacity of the strong, and of the strong against the fraud and cunning of the weak; the gradual dis-severance of old ties; the separation of classes; and the destruction of orderly subordination on one side, and of interested friendly protection on the other.

Let us see what was done, in Java, with success, under analogous circumstances, and we may perhaps yet find the means of ruling India in peace, and to the benefit of both Native and European.

*Course of Civil Justice in Java.*—Civil justice is administered to the Natives in Java by the same courts as have been described in the previous chapter, in a manner suited to Native conceptions, and as little formal as possible.

The plaintiff has first to submit his civil grievance to his immediate superior, say the village chief, who tries to settle the quarrel amicably. If he fails, it is his duty to urge the parties to refer the matter to arbitration, whereupon the appointment of the arbitrators is registered, and their judgment enforced.

*District Courts.*—When the matter cannot be settled and the parties will not refer, if the claim is for less than twenty florins, and solely by and against Natives properly so called, both plaintiff and defendant go up on the next district court day, attended by their respective superiors and witnesses, when their oral statements are heard, their witnesses examined, and the matter decided by a majo-

riety of voices among the wedana and the lesser Native chiefs composing the district court. If the defendant or any of the plaintiff's witnesses will not attend without a summons, the plaintiff and his superior go up at the first weekly sitting of the district court, when the plaintiff tells his story, and then takes out a summons to the defendant's superior, to bring up the defendant and his witnesses at the next court day, when the case is gone into and decided.

It is at the discretion of the district court, in civil cases, to hear the evidence on oath, or on the simple assertion of the witnesses. The civil decisions of the district court are appealable to the regency court, and notes must be kept, in the civil register book of the district court, of the effect of the evidence, and of the decision in each civil case, for remission to the regent in case of appeal.

Civil appeals, from the judgment of the district court, must be made, before the regent, within eight days of the district court's verdict. The regent, thereupon, at once notifies such appeal to the district court, which must send up the record within eight days from the receipt of the notice. If no notice of appeal is received from the regent within eight days of the verdict, the judgment of the district court is at once enforced. Where an appeal is lodged the regent fixes the earliest day of sitting after the last of the eight days within which the record must

be sent up, for the hearing of the appeal; so that appeal is not allowed, in Java, to be an indirect mode of putting off for a long time the execution of an adverse judgment.

Either party to any civil suit, whether in the district or in any other court, which hears his case in the first instances, may have a certificate of the effect of the proceedings and sentence in his case, signed by the presiding member of the court. This certificate is the authenticated copy of the *procès verbal*, and is in excellent form. It is always on a large double sheet of foolscap, written small, and beginning quite at the top of the first page, so that the whole succinct summaried history of the suit may appear on the one sheet. It begins by stating that the plaintiff complained before such a court, on such a day, against the defendant for so and so; that the court fixed such a day for the trial, and summoned the necessary superiors to bring up the parties and their witnesses; that on such a day the witnesses and parties attended; that the defendant's defence was so and so; that such and such witnesses were heard, and deposed to such an effect; and that the court's judgment was so and so.

On appeal, or "*en cassation*," the further proceedings are also entered on the same paper, so that each party has a short record of his whole case, for submission to other authority.

*Regency Courts.*—The regency court hears civil

appeals from the district court, and tries in first instance all civil cases between Natives, properly so called, where the subject of claim is of a value between twenty and fifty florins. In original cases the plaintiff may make his claim, either in writing or orally, before the regent, in which latter case the regent takes a note of its purport. The regent then sends a copy of the claim or of his note to the defendant, who has a week to answer. At the expiration of this time, whether an answer has been put in or not, the regent summons the respective superiors of the parties to bring up the principals and their witnesses on a certain court day, when the parties are heard their witnesses examined, either with or without oath at the discretion of the court, and judgment given by a majority of voices.

Civil appeals from the district courts are heard in the regency court on a fixed day, of which both parties have due notice, but unlike criminal appeals, or civil appeals, in the higher courts, they are not re-hearings, but only a revision of the record, after argument on either side by the parties, or by their delegated representatives.

All the civil proceedings of each sitting of the regency court are contemporaneously noted down, in the civil register of that court, by either the djaksa or the priest, who officially attend all civil as well as criminal trials, and a copy of the record of the proceedings, at each sitting, is sent weekly

to the resident or assistant-resident in charge of that regency.

The regency court's judgment on civil appeals from the district court is final, but its judgment in original cases is appealable to the landraad, by written or oral application to the president within ten days. The president at once notifies the appeal to the regent, who has to send up the record within eight days more, at the expiry of which the parties receive notice to attend at the next court day to have the appeal decided. If ten days have elapsed after verdict without appeal, the judgment of the regency court is final and has force of law.

One excellent provision, however, exists in all appealable civil cases, in whatever court. The parties may, by agreement, avoid the proceedings and judgment in the lower court, and take the case at once to the appellate court, which then hears it like an original case, but decides it, like an appellate court, without further appeal.

In Batavia and its neighbourhood, where the land belongs almost entirely to European and Chinese private owners, there are neither district nor regency courts, but the civil cases between Natives, elsewhere cognizable by those courts, are there all heard in the first instance by the landraad.

*Optional Withdrawal of some Civil Cases from Native Tribunals.*—The above are the petty civil courts for Natives, which decide according to the

old Native laws and customs best suited to the great body of the people. But it is in the power of any Natives, when making a contract either with each other or with Europeans, to withdraw the questions dependent thereupon from the jurisdiction of Native courts altogether, by declaring, in the body of the contract, that all disputes arising thereon shall be decided according to the European civil judicature of the country. A similar provision exists in India, in contracts between Natives and European British subjects, but in Java this exception from the general law is more reasonably open to all Natives, in every special case where they beforehand select the European in preference to the Native tribunal.

*The Residency Courts.*—In all suits of this character, as well as in all civil cases against Europeans, or against persons assimilated with Europeans, or against petty Native officials, the residency court, which it will be remembered consists of the European resident and secretary, has sole jurisdiction where the value of the claim does not exceed two hundred florins. The civil procedure of the residency courts is the same as that of the landraad, which will be presently explained; but the law, according to which the civil decisions of the residency court are given, is the European civil code of Java, which is mostly based on the Code Napoleon, while the law that governs the decisions of the

landraad is the custom of the country. The landraad and the residency courts thus bear the same relation to each other as English manor courts do to the English county courts, the former deciding by the custom of the manor, and the latter by the law of Westminster Hall.

The civil decrees of the residency courts for less than fifty florins are not appealable, but those above that sum are appealable to the courts of justice for that part of the island, provided the appeal be preferred within ten days. This appeal, unlike those from the district and regency courts, is not made direct to the appellate court *in invitum* of the lower court, but the appellant himself notifies his appeal to the resident, who thereupon forwards the appeal, with the minute of the proceedings taken during the trial by the secretary, to the greffier of the proper court of justice.

*The Landraad.*—The landraad is the principal civil as well as criminal court in the judicial organization amongst the Natives. Its civil jurisdiction extends without limitation to all civil demands, whether by Natives or by Europeans, against Natives properly so called, except such Natives of rank as are personally subject, in civil as well as in criminal matters, only to the courts of justice at the capitals, and except in such cases as by agreement have been withdrawn from the decision of Native tribunals.\* The landraad also has civil juris-

diction in all cases brought against foreign Orientals, which affect their personal rights, or their rights of inheritance. In all other civil cases, foreign Orientals are assimilated with Europeans, and are consequently liable to be sued only in the residency court, or in the court of justice.

*Decision of Religious Questions.*—There are, however, among Natives many very important questions, connected with their religious, moral, and traditional relations to each other, which, though treated in India either as civil cases, or as not cognizable by any tribunal, depend on questions and considerations purely within priestly determination. These cases are, in Java, left to be decided extrajudicially by the Native priests and chiefs. Their declaration on these points generally commands assent, but, should their decision require to be enforced, judicial execution is awarded by the landraad, which is still however not entitled, on that account, to interfere in the dispute, or to challenge the decision. By leaving the investigation of such anomalous questions to the spiritual leaders of the people, the Dutch rulers are not brought into either positive support of, or positive opposition to, the superstitions or the hidden life of their Mussulman and heathen subjects.

*Procedure before Trial.*—The civil procedure of the Native courts is codified, and translations of it, in all the vernaculars of the island, are widely disse-



minated among the people, by sending copies to the different chiefs, including village chiefs, for general publication and reference. It is both very simple and well suited to Native ideas, while at the same time it much facilitates the equitable administration of justice. It is much less tied to forms than the procedure of the European courts of justice, and the law itself expressly orders that no other or more forms shall be used than those prescribed by the law.

A suit is instituted in the landraad, either by written petition or by oral complaint before the president, in which latter case the president either himself notes or personally superintends the noting of the purport of the claim. The resident then sends the plaintiff with his claim to the secretary, who enters the claim in the landraad civil register, and takes from the plaintiff the percentage tax of five per cent. on the value of the demand. This percentage tax, which finally comes to the charge of the loser of the suit, is paid into the Government treasury, M. der Kinderen says, to meet the costs of the judicial sentence, but I fancy this litigation percentage tax is, in fact, equivalent to the Indian stamp duties on all papers connected with civil judicial proceedings.

As soon as the claim is entered, and the percentage tax is paid, the resident forwards to the defendant a copy of the plaintiff's written claim, or of the official note of his oral complaint, with intima-

tion that the defendant must answer within a fixed short period, not less than eight days. At the expiry of this period, whether the defendant has answered or not, an early day is fixed for the trial, the parties are summoned for that day through their superiors, with injunctions to bring with them their documents and witnesses, and on the day fixed the case is taken up.

*No Native Lawyers.*—Parties in civil suits can always either be represented or assisted by their delegated attorneys, but, notwithstanding this provision, the existence of professional Native pleaders and legal agents is so discouraged as practically to leave the conduct of cases, in the Native provincial courts, to the parties and to their friends. This is a remnant of the provisions to that effect passed during the English rule of Java. Sir Stamford Raffles, in the regulation above mentioned, after forbidding the admittance of vakeels or Native lawyers, who are both advocates and attorneys, into the provincial courts of Java, adds :—“ It is trusted that litigation will be considerably reduced and discouraged by this measure, as the trouble of it will then fall heavily and entirely on the principals themselves ; that class of people not being allowed to exist, who, as deriving from litigation their sole subsistence, may fairly, and without invidiousness, be considered as having some interest in increasing the business of the courts.” If he had not been

restrained by a wish to avoid invidious remarks, where the public weal of the country for which he was legislating did not directly call for them, his Indian experience would probably have led him to add, "and who are unscrupulous as to the means used to win their cases, and equally without the power or the wish to assist the court in arriving at a proper conclusion."

It is patent to all acquainted with the Indian provincial courts that such are the evil results of admitting Native lawyers to the indiscriminate conduct of all criminal and civil cases. The Dutch, in Java, have avoided those evils, by still excluding professional Native lawyers, while, at the same time, they allow parties to support their cases by the help of such of their friends as they think more competent for that purpose than themselves. Of course if, as in India, the great majority of Native cases involved large interests, without any criterion of rights, clever Natives would soon become generally selected as representatives of the suitors in the local court, and would thus practically become professional legal advisers and advocates. But, as will be later explained, most large interests are there so guaranteed and secured as practically never to become subjects of suit; and civil cases before the Native courts in Java are consequently, except in the neighbourhood of the capitals, rarely between men of fortune or for any large stake. It is but

seldom, therefore, that any advantage, beyond helping a friend, is to be derived from advocating the poor suitor's interest, which, with the discouragement by the officials, has as yet prevented even the hardy race of Native lawyers from struggling into existence.

*Procedure at Trial.*—On the day of trial the landraad judges first attempt to effect a compromise between the parties or their representatives. When this succeeds, the compromise is noted on the minutes of the sitting, and an extract thereof serves for judgment, and, if necessary, is enforced judicially. If the parties cannot be brought to a compromise the case is gone into.

Parties can object to the jurisdiction, and can set up any defence either in fact or in law, much as in the English and Indian courts. They have the further benefit of challenging the judges, as parties in England can challenge the jury for cause, and they can also require judicial local investigation, and judicial reference to experts or to professional persons for information.

One of the most important and difficult points, in the administration of justice to Natives, is to secure that the burden of proof is imposed on the right party. Natives so constantly and so wilfully substitute assertion for evidence, and inference for fact, and are themselves so keenly alive to the advantage of throwing the burden of proof on the opposite side, that great care is necessary to guard against

being misled by mere plausible, unproved statement, so artfully turned as to seem to be a mere negative denial, but really involving a positive assertion. This difficulty is, of course, less in Java, where there are no Native lawyers, than in India, where their cunning in shifting the *onus probandi* throws great impediments in the way of justice. The Dutch regulations on this head are explicit, and the provincial judge's attention to them is secured by this being one of the points on which every case, whether appealable or not, is liable to be taken up to the Dutch lawyer courts *en cassation*.

*Evidence.*—Documentary evidence is divided into authentic and private.

An authentic document is one solemnly executed by the parties themselves, before a qualified European official with notarial powers, and then registered by such official as a judicial act. This, when officially produced from the judicial records, proves itself, and is conclusive proof of its own contents against all the world, until set aside. Under this head come all transfers of landed rights, all mortgages, bonds, and generally all such transactions as, in England, are usually effected by deed. The result is that, in all the more important dealings of life, such ready and conclusive proof is forthcoming as to prevent these questions being generally litigated.

Private documents consist of all negotiable paper and other ordinary commercial and informal trans-

actions. Whenever any of these are in the European language, or occur between Europeans and Natives, if signed by a Native, they must, to be admissible in evidence, bear a notarial declaration that the person who has signed the document is known to the notary, that the contents have been distinctly explained to the obligee, and that the signing has taken place in the notary's presence. That this provision, which prevents much litigation, is not practically any impediment to trade, is shown by the Java trade being, even exclusive of the Government produce, larger per head than that of India.

The mass of irrelevant or merely inferential documents, which, as will be presently explained, are so largely used by the Native pleaders in India, to mislead the provincial Anglo-Indian judges, are in Java, as in England, strictly excluded from being even seen by the court as *res inter alios acta*.

The oral evidence of Natives, in civil as well as in criminal cases, must be indirectly vouched by the witness's superior identifying him, and speaking as to his character. The law also specifies which witnesses may be rejected for relationship, for connexion, or for interest: and which also may be heard without oath for the purpose of giving information.

The oath of the party is supplementary or decisive. It is called supplementary when the judge requires it from either party in support of the

evidence produced on his behalf. It is decisive when one party puts the oath to the other, and when the judge considers the result decisive. The judge can call on either party to support his case on oath, and can direct such oath to be taken in a sacred place, and under such form of adjuration as he may believe the witness will consider most binding. This mode of proof, which prevailed universally in Europe during the Middle Ages, and of which the last remnant, by a defendant wagering his law, has only been abolished in England of late years, is of great practical utility in all low stages of society. Among Natives now, as among our ancestors formerly, the higher classes have no scruple against bringing false claims, or against setting up false defences, which yet they will not personally support on oath. The classes also, who will commit perjury on oath, are often still alive to superstitious and other feelings, which, when embodied in an appropriate form of adjuration, they will not outrage by untruth. I remember a case, in Calcutta, where a man, having been duly sworn according to his religion, asseverated and persisted in false evidence, till the judge, at the suggestion of the other party, adjured him by the head of his child, when he refused to repeat his former statement, and virtually admitted it to be a tissue of baseless falsehoods. The constant desire, in the Middle Ages, to discover the peculiar form of oath by which each man really

held himself bound, is amusingly shown with regard to Louis XI. in "Quentin Durward," and illustrates, in an analogous state of European society, some of the most striking qualities apparent in Native society to this day. The application of a little antiquarian knowledge might diminish the virtuous indignation of Anglo-Indians against Native vices, by showing the more discriminating among them that such vices are the product of a backward stage of civilization, rather than of any inherent baseness in a degraded and irreclaimable race.

*Judgment.*—When the evidence and arguments before the landraad are finished, the court is closed, or, as it is expressed in Java, the council chamber is held for the decision. The opinions of the djaksa and of the priest are then taken, and thereupon the European president and the Native judges of the landraad give their votes, deciding by a majority of voices. The whole of the proceedings, both in court and in the council chamber, are contemporaneously recorded, in Dutch by the secretary and in the vernacular by the djaksa, and the decision arrived at is noted. A day is fixed for delivering the judgment, which is intermediately prepared, with a short history of the claim and answer, and with the grounds on which the sentence is based; and on the day fixed, which is generally the next court day, the judgment is read out in open court, as signed by the president and the secretary.



*Execution.*—The mode of executing judgments is peculiar. The Dutch wisely consider this point, in the judicial organization for Natives, of scarcely less importance than the justice of the verdict. Instead of being entrusted, as in India, to a low Native and his myrmidons, whose estimation by their fellow-countrymen is like the former feeling in England against bum-bailiffs, execution of the sentence in the district court is carried out by the mantries; in the regency court by the wedana; and in the landraad execution is entrusted to, and personally superintended by, the European secretary, who is the second civil servant in the district. The manner in which he decides between the parties, as to the value of every article seized, has been explained in a previous chapter; as well as the peculiarly wise provisions, enabling the debtor to direct in what lots and what order his goods shall be sold, and saddling the creditor with them at the estimated value, if they fail to produce that amount at the sale.

*Appeal.*—The decision of the landraad, in original cases, is appealable to the court of justice for that part of the island, whenever the claim regards a value of more than 500 florins. In cases appealed to the landraad from the regency court, the trial is in fact a re-hearing, but without any preliminary objection or answer. As soon as the president has notice of the appeal, he at once fixes the day for

trial, and summons the parties to bring up their witnesses, calling for the record from the lower court to be produced at the same time. The trial of the appeal is in all respects like that of an original case, except that the landraad's judgment in appeal from the residency court is final on the merits. In these cases, however, as well as in original cases before the landraad below the appealable value, either party may take the judgment up to the supreme court *en cassation*, when the judgment will be confirmed, altered, or quashed, either with or without granting a new trial, on legal and technical considerations only.

*Law of the Native Courts.*—Though the procedure in the district court, in the regency court, and in the landraad, is codified, so as to keep the action of these courts within a certain groove, the Dutch have not attempted to codify the law of these Native courts, but have wisely left the civil rights of Natives to be regulated by the custom of the regency. This of course varies more or less in different parts of the island, but, being made by the people, it is well suited to their condition of society; and the variations of the custom, in different regencies, is of no more practical evil consequence than the different customs of English manors.

By these means, which, it will be seen, are very similar to the procedure of county courts in England,

and of the small cause courts in the capitals of our Indian territories, civil justice is cheaply, speedily, and satisfactorily administered to the great body of the Natives in Java.

*Civil Judicature in Native States.*—In the Native states of Soerakarta and Djokjokarta, as I was informed by M. der Kinderen, who communicated to me several particulars relating to their tribunals, the civil cases between the subjects of the Emperor, or of the Sultan, are left to the decision of purely Native courts, appointed by those sovereigns, and most of which are composed of priests and of the prime minister of the Native potentate. These courts also administer civil justice according to the custom.

*Courts of Justice.*—For all civil suits against Natives of rank, or against Europeans, and for such civil suits against foreign Orientals as do not relate to personal rights or to inheritance, the court of justice is the only tribunal. Any of the above classes must sue ordinary Natives in the inferior tribunals, having cognizance of the amount of suit, but no Native can sue them except in the court of justice. In all these cases the law and the procedure are those prescribed for Europeans, with the particulars of which I am unacquainted, but the procedure is more formal than the Native procedure, and the law is the Dutch law, based on the Code Napolcon. The court of justice has also jurisdic-

tion, according to European law of procedure, in all cases of contracts between Natives which have by agreement been withdrawn from the Native tribunals.

In appeals from the landraad, and in cases where the parties have by agreement brought their suits up at once into the appellate court, the court of justice judges by Native procedure and by the custom of the regency, which it is supposed to know, but which it practically obtains from the landraad. On this the court of justice decides, as the courts in Westminster Hall decide copyhold cases on the proved custom of the manor. Civil appeals from the landraad to the court of justice are not re-hearings, but a mere confirmation or reversal on inspection of the record sent up, and after hearing the Dutch advocates for the respective parties.

*Supreme Court.*—The judgment of the court of justice, in all original civil cases, is appealable to the supreme court at Batavia. The judicial procedure of the supreme court in these appeals is that appointed for Europeans. The only original civil cases, cognizable by the supreme court, are suits brought either against the Dutch Government of Java, or against the Governor-General. There are also quasi original cases in the supreme court, when parties, whose suit should have been commenced in the court of justice, have prorogated to

the supreme court, as the agreement to begin the case in first and in last resort in the appellate court is technically called.

The chief civil business of the supreme court, however, is deciding cases brought up *en cassation*. This may be done with cases from any of the inferior courts but the two lowest, and for any amount, this appeal being a mere reference to the general regulator of the whole judicial administration to rectify the erroneous proceedings of the lower court. To prevent frivolous appeals *en cassation*, the appellant has to deposit 200 florins, which are returned to him if his appeal is successful, but which are forfeited if his appeal is rejected. The grounds of *cassation*, within one of which every case must be brought, are :—

1st. That forms prescribed on penalty of nullity have been omitted.

2nd. That the requirements of the law have been violated or not applied.

It is under this head that the various questions as to the improper reception or rejection of evidence, and the incidence of the burden of proof, all come.

3rd. That the judge has exceeded his judicial power.

4th. That an incompetent judge has judged in the case.

The effect of this constant appeal *en cassation*, from the judgments of the unprofessional courts to

the highly trained Dutch lawyers in the supreme court, is very happy. It constantly checks the practical action of the provincial courts, keeping them in conformity with the law, and preventing their sinking into the irregular practices and careless administration of civil justice which are the reproach of the Indian provincial courts.

*Happy Working of the Civil Judicature.*—The above is a bare outline of the machinery for the administration of civil justice in Java. The ordinary disputes of fact are thus settled, and the decision of uncertain questions of law is thus attained, without too severe a tax either on the time or the purses of the community. This excellent organization, and the simple code of procedure enacted therewith, would not, however, alone have produced such a satisfactory result, unless the previous regulations of the country had tended to prevent the hopeless mass of confused and delayed litigation which is the chief curse of our Indian judicature. The system, above described, could never have been applied to courts where continuous sittings throughout the year are insufficient to keep down the fast increasing accumulations.

*Small Number of Civil Cases.*—In Java, on the contrary, the number of civil cases, except in the great emporiums of trade, is so small, that the weekly sittings of the provincial courts rarely extend beyond the day of meeting.

*Rules for preventing Litigation by securing Certainty of Rights.*—This is due to various causes, but, above all, to an admirable system of registration, under rules conferring such security on landed interests and on rights of succession, as practically to preclude these, the most frequent sources of dispute in a low state of society, from becoming subjects of suit. The same system of registration is also so applied to contracts as to secure certainty as to the fact, and to prevent dispute, except as to the construction and the breach. The natural sources of litigation are thus much curtailed, and the substitution of artificial grounds of quarrel is prevented by the absence of Native lawyers in the provincial courts, who, as our Indian experience shows, not only create much of the business of the courts, but delay rather than assist the judges in disposing of the cases before them.

The absence of professional advocates, in the provincial courts of Java, may be thought to prevent the full discussion of civil suits, but this evil is avoided, in cases of importance, by their being either appealable to, or primarily cognizable by, the Dutch courts at the capitals, where they receive full discussion and investigation by the Dutch lawyers, both on the Bench and at the Bar. In other cases, tried before the local Native courts, it should also be remembered that the law is the custom and part of the religion of the country, well known to all, and

that the proceedings of the local law courts are a matter of general interest to the people. Every Native, therefore, is more or less of a lawyer, and, except where questions beyond the custom or beside the Mussulman law arise, is generally as competent to conduct his case as a local Native advocate would be. Questions involving mercantile or abstruse legal points are generally withdrawn from the Native tribunals by agreement, and contested by trained advocates before the European courts. The rarity of false evidence, under the vouching system, and the local knowledge of the Native courts, generally enable them to ascertain the real rights of the more simple and more usual cases depending on the custom, while the time of the local officials is not absorbed by the numerous petty and false claims which, in India, owe their origin entirely to the mischievous suggestions of the Native lawyers.

*Registration both of Property and Possession in Land.*—In Java, disputes about land are prevented by registration, under the following rules for securing certainty of rights, and for ensuring uninterrupted enjoyment of those rights :

1st. Questions of boundary are not subjects of suit. The whole land in the regency is accurately mapped, and its divisions are perfectly well known to all the local officials, both European and Native. In case of any complaint of encroachment, the European contrôleur is sent to the spot, or visits it on his next



monthly round. He points out the boundary, as shown by the register maps, and generally also by the land itself, and any subsequent encroachment by a neighbour, or resistance by a tenant, then becomes an offence by the wrong-doer, punishable as an "*affaire de police correctionnelle*." The Dutch are not content with mere nominal boundaries, always doubtful and easily infringed, but, wherever necessary, they cause a low bank to be thrown up along the junction line, and an hibiscus hedge to be planted upon it. The *contrôleur*, while going his monthly rounds, sees that the boundary hedges are properly clipped and looked after. When the hedge has once well grown, they say there can be no further dispute or doubt, for, though every other landmark may be moved from its former position, a live hedge cannot be so without killing it.

2nd. In like manner, questions of disputed conveyance of land are not subjects of suit; no transfer or mortgage of any landed right, either of property or possession, being valid, except such as are made openly before the resident and the secretary in the following manner:—A previous specification of the particulars of the property to be transferred is given to the landmeter or survey officer, who tests it by the register map of the seller's property, and, where necessary, makes a new survey and a fresh map of the portion to be parted with, from which, after payment of the transfer duty, the secretary

prepares the conveyance. The deed must be executed and the money paid by the parties in the presence of the resident and secretary, whereupon the transfer is officially attested, and forthwith registered in a simple form, well suited to a simple state of society, somewhat like the court roll of an English manor.

This mode of registry has the advantage with Natives of being one they cannot evade. A mere registry, giving a right of priority, is easily made a means of fraud ; but when the whole country knows that no document can be drawn, or conduct resorted to, which will give a shadow of right or of defence, and that nothing will effect a transfer of any kind, except giving and accepting openly before the European officials, no other mode of transfer is attempted ; and the very openness and publicity of the transaction prevent attempts to falsify either the effect of the transfer or the date of its occurrence.

3rd. All questions as to interests in land, whether of property or of possession, also depend exclusively on the register. This prevents suits being brought on questions the inevitable decision of which is known to both parties beforehand.

On change of rights before the landraad, or on complaint of dispossession by any person entitled under the register, no proof is required or any suit brought, but the *contrôleur*, at his next monthly visit, puts the complainant or new owner into pos-

session, warning the cottier tenants that such claimant or new owner is the only person entitled to the rent and services, and that the attempt to support any other claimant, or to pay their rents to any other person, will involve them as well as such other in penal consequences. This official supervision, and the rarity of revenue and decree land sales, which change the rights to property in a manner that outrages the moral sense of the people, prevent the conflicting claims, and the murderous fights for land by rival factions of tenants and armed retainers, so prevalent in India.

The Honourable J. Graafland, greffier of the court of justice in Batavia, from whom I obtained these details, adds, that "the above system has this to be said for it, that under it for nearly 200 years there has never as yet been a suit regarding any transfer of property or fixing of mortgage; and that, in Netherlands India, where there is so great an intermixture of people of different nations, it is pronounced by competent judges to be the best system as yet known to be in existence."

4th. *Registration and Administration of Successions.*—The rights of inheritance and of devise are secured by rules too plain to allow of questions of disputed succession. The violence and collateral suits and crimes caused, in India, by the attempts of rival claimants, with uncertain rights, to gain the great advantage, in the impending litigation, of

possession of the deceased's estate, are thus rendered impossible in Java. Directly a man dies, whether Native or European, his whole property of every kind is at once taken possession of by the Government department intrusted with that duty, acting through the local officials. It is administered carefully for those who may be ascertained by inquiry to be entitled, either as heirs or under a will, and, at the end of six months from the date of death, each sharer is put and maintained in sole and absolute possession of his separate share of the property.

Where there is no ascertained successor, as sometimes occurs in the case of intestate Europeans or Chinese, the property is administered by the Government department indefinitely, for any claimant, at whatever distance of time. Claims have lately been made for the estate of persons who died in the last century, and, notwithstanding the intermediate conquest and occupation of Java by the English, such estates have been accounted for and paid with their accumulated increase. This department is separate from the general Government, which repudiates the idea of applying such private means to state purposes, however long unclaimed.

The question of who are the proper claimants to the deceased's estate, whether real or personal, is too easily and certainly ascertained to give rise to suits. In the case of Natives, the Mahomedan law on the

subject is clear though complicated, and the resident's register, as well as his own and every other local official's personal knowledge, show at once the number and nearness of all the living male relatives of the deceased. The Mussulman law of the Koran gives the power of disposing by will of a certain proportion of the property, according to the state of a man's family, which the Dutch have confined to designating the person who shall receive that proportion in absolute ownership, but no testator can limit the interests in his property, either in his donee or in those heirs who succeed to him as of right.

The number and whereabouts of the relatives of deceased Europeans or Chinese are not so easily ascertained, and that, as well as the consequent amount of the deceased's disposing power under the Dutch law, based on the Code Napoleon, may thus give rise to suits. As far as possible, however, the board for the administration of deceased's estates is bound to discover and put the proper European or Chinese claimants in possession.

For a will to be valid, it must have been executed by the deceased before a European notary or official, who must certify thereon his knowledge of the identity of the testator ; it must have been registered by the testator personally with the secretary of the district where he was domiciled, or where his property was situated, when a certified copy is given to the

depositor; the original must not have been withdrawn from the register by the deceased in his life,—the only mode of cancelling it; and a claim must be made under it within six months of the testator's death. It is the business of the administration department to discover these details without suit, through the local authorities, and to put the parties beneficially entitled into possession within the year.

In the case of minors, the European receiver, who is sometimes the local *contrôleur*, and sometimes not, keeps possession of their shares, managing them and accounting to the *landraad* for the proceeds, till the minors successively come of age, when the transfer is made on the register, and the new owner is personally put in possession by the *contrôleur*.

5. *Registration and Specific Enforcement of Contracts.*—The provisions for preventing litigation on contracts are equally simple and effectual.

No written contract, between whomsoever made, will either be enforced, or damages for its breach given by any court, unless it was made by both parties personally in the presence of some European official or notary, and forthwith registered.

No contract, even so made and registered, is valid, if made in consideration of advances of money to a Native, or of other valuable, except seed for cultivation.

No contract is valid, which binds a Native to

deliver future produce at any fixed rate, but according to the yield of the crop, nor will any such be registered.

No culture contracts with cottier tenants will be registered, except with the consent of their landlord, either express or implied by his having granted a lease to the planter.

All registered culture contracts are only valid for one-fifth of the Native's rice land, and the land must be shown to be free from any former registered culture contract, before a new contract, inconsistent with the former, is allowed to be registered.

By these rules, the sources of litigation arising from disputed boundaries, from disputed conveyances, from disputed rights to land, and from disputed succession, are annulled ; while those arising from breach of culture contracts are prevented by local inquiry, and only the construction and breach of most other contracts, not the fact of the contract itself, can be in issue.

The absence of middlemen between landowner and cultivator, the universal fixed rent of one-fifth of the produce and one-seventh of labour, together with a power of speedily recovering rent, and punishing the defaulting cottier by a summary application to the resident, prevent many questions between landlord and tenant.

The greater part of the village lands not being held in property by the villagers separately, but being

yearly allotted for cultivation to the different heads of families, prevents any but mere temporary disagreements as to land between peasants, except in the case of the separate lands formerly brought into cultivation by the peasant or his predecessors.

Lastly, the necessity for both parties and witnesses in a suit to be accompanied by their immediate superiors gives the Native officials, as well as the community, an interest in having all disputes settled amicably; and, combined with the above rules, has almost destroyed in Java the inveterate gambling litigiousness inherent in Eastern nations.

*Comparison with Civil Justice in the Provincial Courts of India.*—The operation of our Indian Mofussil or provincial courts is wanting in most of these provisions, and the result is known to be highly unsatisfactory.

The number of civil suits is enormous, so great, indeed, as to absorb the whole time of the entire official staff, both European and Native, and yet to be generally from one to three years in arrear.

The questions in dispute are almost universally matters of fact, and the very large majority of suits, at least in Bengal, relate to land.

There is no criterion of either past or present interests made incumbent on the people, or available as trustworthy evidence. The collectors' books are so notoriously contrary to the real state of the rights in the land, as to be perfectly valueless for



any purposes of proof, and their rectification is not imposed, either on the officials or on the people, by giving them any legal weight. Registration exists, but in a form more useful to fraudulent suitors than to *bond fide* holders, and it is neither obligatory nor of any effect as proof, except to show the particular date at which registration was made, and the particular European official who was then registrar. Any piece of paper, in any form, prepared and executed in secrecy, without any guarantee as to its being either a genuine document or bearing a real signature, is in most parts of India quite sufficient to transfer estates, however large and however long in the family, or to disinherit heirs, however near.

The consequence is, that this uncertainty holds out a positive premium on forgery and perjury; that the time of our courts is constantly taken up by false suits; and that the local ignorance of our Anglo-Indian judges is often imposed on. In every case, whether true or false, the factum of every document is denied and disproved, and, before the court can turn its attention to the real matter in dispute, it has to make a guess—for its opinion on this point can be but a guess—as to whether the very foundation of the case is a reality or a myth. Where such baits are held out to the gambling litigiousness of Natives, to their cunning, and to their disregard of truth, and where the large numbers and the poverty of Native lawyers and court

clerks furnish ready instruments for increasing the business of the courts, for complicating their proceedings, and for retarding and extending their action, no wonder can be felt that even the laborious and unceasing work of the English officials is unable to keep pace with the demands upon it. The great opportunities supplied by this uncertainty, for unscrupulous enemies or for grasping men to disturb and annoy their more peaceful neighbours, and to endanger their possessions, fully account for the hatred of our civil courts evinced by all but those who use them for purposes of revenge or of aggrandizement.

The frequent change of Anglo-Indian officials, from one province to another, prevents the English judges generally from having much local knowledge of their districts. The Native judges, who in India decide singly the civil suits of lesser importance, are often men brought from a distance, with no more local knowledge than the Europeans. But both European and Native judges are also drilled to suppress any local knowledge they may possess, and to decide only according to the weight of evidence. This English maxim, of purely modern acceptance, loses much of its virtue in courts totally unacquainted with the rules of evidence, and in a country where any evidence required is unscrupulously produced in perfection without shame or loss of character.

Not only the English judge's capacity, but his ideas on legal subjects, and particularly on evidence both oral and documentary, have been thoroughly gauged by the Native legal practitioners in his first six months of office, and his weaknesses are known and practised upon. If he likes and listens to any one of his clerks, the man's fortune is made; he is doubly bribed on both sides in every case to talk the judge over, or, as the slang Hindostanee phrase peculiarly applied to this process has it, "to make him to understand." Such a clerk's influence, and consequent perquisites, are enormously increased by a highly reprehensible habit, adopted by most Anglo-Indian provincial judges, viz., the taking to their own houses the papers of any important case about to come on for trial, and going over them alone with such pet clerk. This previous examination of the papers, by the English judge at home, is generally due, either to a zealous but ill-judging man's wish to do unbiassed justice, or to a weak, nervous man's desire to be judicially brilliant at the trial. The untrained judge's unacquaintance with any but the mere technical law of the Indian regulations and acts makes him diffident of his power to deal with unexpected questions, and induces him thus previously to investigate the case, free from the confusion and turmoil of his ill-regulated court. The result, however, of course, is that, not only is the judge imperceptibly influenced on behalf of the side whose

larger payments are expressively said to have made the clerk's mouth sweet, but he generally thus forms a previous judgment on the case, which tends neither to his patient hearing nor to his impartial consideration of the pleader's arguments at the trial.

The state of society in India makes the proceedings of the local courts a matter of general interest to the neighbourhood, and the real merits of any important civil case are perfectly well known, before trial, to all but the European officials, together with what evidence has been adduced, and how much of it is false and how much true. A Native of station in India loses consideration among his countrymen by testifying in court, however truly; his reputation is blasted by personal perjury; but subornation of perjury and of forgery neither affects his fair fame nor troubles his conscience. He is gentleman enough to do such dirty work by deputy, but both his Native friends and lawyers, as well as himself, would consider it the height of folly to risk even a good case for want of a little convenient false evidence.

*Falsification of Evidence.*—Some of the more respectable witnesses, in very important civil cases, depose to the judge in person at odd times before the trial; the depositions of others are taken at different places by other officials under commission; but the less important ones in heavy cases, or the

whole of the witnesses in ordinary cases, depose in the usual manner, three or four at a time in different corners of the court, each *tête-à-tête* with the Native clerk, who takes down his deposition, and generally without any cross-examination whatever. Every clerk about the court is bribed, probably on both sides, and one of the commonest forms of perversion is to induce the clerk to take down the evidence of any witness who deposes in the absence of the pleaders on the other side, with variations in the enemy's favour, reading it over to him for signature without such variations. The side that called him is thus subsequently put into the dilemma of either suppressing his deposition, or of having it read as making generally for them, with apparently candid, honest admissions of collateral points in favour of the other side.

At the trial, the depositions of the witnesses are read aloud by the Native clerks, who are again bribed to read with varying emphasis and intonation, according to the purport. In any civil case of importance which has been well got up, the oral evidence produced on both sides is equally unexceptionable and equally worthless. False personation is frequent, but, whether false or true, the witnesses are equally unknown to the English judge, equally unvouched, and equally got up for the occasion, so that he has no means of ascertaining the comparative credit due to their statements, which are

diametrically opposed on every point of fact as well as of inference.

In most of the important civil cases among Natives in India, the newly arrived Englishman is horrified to hear some twenty or more apparently respectable Native witnesses, on each side, swearing dead contradictions to each other on some point of fact as to which there can be no mistake, and where, consequently, the witnesses on one side or the other are necessarily committing gross wholesale perjury.

In the Indian provincial courts, however, neither party places any reliance on the oral evidence, unless they can produce an English witness, for they know that the judge will disregard the conflicting Native testimony.

If the judge, as most provincial Anglo-Indian judges do, resorts in despair to documentary evidence, in hopes of solving the conflicting oral statements, each side supplies him with any amount of it, in the peculiar form he is known most to affect. Many provincial judges now decide chiefly on the documentary evidence of former suits and decrees in court, as the only thing that has some chance of not being false; but the Natives and their Native lawyers are now ready for them even here.

The invention and conduct of fictitious or collusive suits, for the very purpose of manufacturing evidence on the records of the court for subsequent production, is one of the most lucrative branches of the

Native provincial lawyer's business. These fictitious suits would be so arranged as to give a direct decree on the point required, by personation of the defendant, but for a peculiarly Eastern contrivance. To avoid this continually impending danger, every Native landowner pays a monthly stipend to some pleader at every court within whose jurisdiction he has any property, for the sole purpose of giving him immediate information of any suit brought in that court, directly or indirectly affecting in the remotest or most round-about manner either himself, his family, or his or their property. The consequence of this general watchfulness is, that only collateral objects can be attained in these manufactured decrees, which must also be between other parties. According to the laws of evidence, as applied in English courts, such decrees could not of course even be looked at, and their rejection by the Queen's courts, at the capitals of the Indian presidencies, formed a main ground for the Native preference of their English law procedure over that of the Company's courts, as removing one of the most dangerous snares to which property is subject. But the laws of evidence were either unknown to, or unapplied by, the majority of the unprofessional judges in the Company's courts, and no objection to the receipt and judicial inspection of any document filed was ever made, except by English counsel, and then always in vain. The provincial judge, whether

an English civil servant or a Native uncovenanted official, thinks himself bound to look at every paper produced on either side, and, since he cannot rely on either the oral or direct documentary evidence, resorts to this kind of evidence, not as conclusive, but as tending to show the former conduct of parties.

The object of manufacturing this evidence is for the inference to be drawn. For example, the suit was brought or defended collusively in such a manner, involving such an assumption of rights, to give the inference that those rights really existed at that time as assumed. Or a suit about a totally different matter is carried on collusively, for the mere purpose of putting in a forged deed as evidence, which suit is to be used hereafter as proof that the deed was then in existence, and was publicly produced without being challenged, in support of the inference that the deed is genuine. These are but the simplest illustrations of the object sought, which descend through depths of wile quite unfathomable by the English mind, the as yet ascertained acme of which seems to be, so to arrange the collusive suit as to lead to an apparent inference, sufficiently shallow to be detected as false by an Englishman, which, when set aside, leads inevitably to the real conclusion sought to be impressed upon the judge. It is more than probable, however, that the intricate folds of Native contrivance in such matters never



have been, and never will be, ascertained by the European. The talent and forethought evinced in the preparation of these atrocities is really wonderful, and the Native provincial lawyer's reputation among the Native clients depends, not nearly so much on his capacity in court, as on the art and refinement of wile shown in the invention, and in the successful unsuspected conduct of such cases for his client, or in the detection of hidden snares against his client in the cases instituted by his colleagues.

These records of former proceedings in court have at least this much of truth about them, that they have undoubtedly taken place at the specified periods; and, in the absence of local knowledge of the parties or witnesses, they give the judge something, however misleading, on which to form an opinion on one side or the other.

In provincial cases of importance the documentary evidence, chiefly of this character, either manufactured or real, amounts to a prodigious number of exhibits. In a very heavy case lately in Bengal, the exhibits filed on the two sides amounted to about a thousand, and about the same number of depositions of oral witnesses were taken.

When the day of trial arrives, exhibits and depositions are assumed to be all put in, without specific mention of any particular document to the judge, except where English counsel happen to be engaged in the case, and without any attempt to discriminate

or reject such as are not evidence. Exhibits and depositions are read out seriatim by the Native clerk, the Native pleaders on one side or the other repeating aloud and all together, after the clerk, such parts of each document as they wish particularly to impress on the judge's attention in favour of their client. A pleader or two on each side will then make a few remarks, lamentably contrasting with the same man's ability and judgment in the secret preparation of the case, and the judge is left to find his own way by his notes through the mass of papers, and to arrive at such conscientious conclusion as he may.

If the matter in dispute is of sufficient importance an English barrister on each side is retained from the Queen's court at the capital to argue the case. A Native would, however, no more think of confiding in his counsel than in the judge. He knows the persuasive quality of conviction, and the first object of his Native pleaders and law agents is duly to impress their counsel with implicit confidence in the justice of their cause. They think that humbugging him is half way to humbugging the judge, and they look to him merely for the oratorical power in which the Native pleaders are generally deficient, and for dealing with the facts and law of the case in a manner more congenial to the English judge's mind, and therefore more persuasive.

*Indian Provincial Suits mere Trials of Skill.*—It is a painful sight to see an honest English judge, anxious

to do right, groping laboriously among the directly conflicting evidence, both oral and documentary, for some clue to the truth ; resisting the efforts of all the Natives on both sides to fool him by the most delicate flattery of concurrence in his legal ideas ; and at last perhaps deciding according to the weight of evidence, without any confidence in his decision, and with great doubt whether an unjust judgment has not been wrung from him by the greater perfection and accumulation of fraud and perjury. The judge's perplexity is aggravated and made ridiculous by his own knowledge that his decision is awaited by the Native community, not as any criterion of right or wrong, but only to see whether the wrong side have been clever enough to filch a judgment, or the right side been lucky enough to get justice.

*Prejudicial Action of Native Lawyers in the Provincial Courts.*—In the regulation provinces of India, our present system of encouraging Native lawyers in the local courts is of very evil consequence. It withdraws a considerable body of men from more useful occupations, and gives them large opportunities for mischief, without any of those restraints which, even in civilized countries, are required to make lawyers an assistance, instead of a nuisance, to their fellow-citizens. At the same time the advantages thereby opened to unscrupulous men are such as to make the legal profession the main object sought by the majority of young educated

Natives, whose wholesome prejudices in this respect have vanished in the process of our purely literary training.

At a late examination there were 650 Native candidates in Calcutta alone, for admission as pleaders to the Native courts, with corresponding numbers in other towns, Dacca sending up over forty passed candidates for admission. What a deplorable prospect for the English people would be shown by 650 young Cockneys, and corresponding numbers from other English towns, applying at one time to be called to the Bar. In India, there is no preliminary ordeal like keeping terms, nor any qualification required for examination but a bachelor's degree, which is the usual close of most young Natives' English education. The examination itself seldom involves any principles of law, and, with some exceptions, the legal attainments of these Native candidates are limited to a *memoria technica* of the numbers of the regulations and sections relating to particular subjects. On the occasion referred to, the large number of candidates was due to the examination papers having been stolen, but the result is not a bad instance of the working of our system.

*Main Defects in the Provincial Civil Judicature of India.*—The great evils of the administration of civil justice, in the provincial courts of India, are the unprofessional ignorance of most of the Indian

civil servants with the principles underlying all law, their total unacquaintance with the practice of any but their own informal tribunals, the entire absence of any rules of evidence, and the falsification of proof, both oral and documentary, by the suitors and by their Native legal advisers.

The first three are evils only partly to be cured by codification, and by refined improvements on English law and procedure. A more practical remedy would consist in bringing the action of the provincial courts constantly to the notice of a superior court of professional lawyers, whose correction would not only keep the practice of the provincial courts in accordance with the codified procedure, but would gradually substitute fixed principles of law for the present honest, but uncertain and purely opinative, mode of decision.

The falsification of evidence is a social sore, probably only to be healed by a general improvement of morals, and by the attainment of a higher degree of civilization; but its frequency and evil consequences would be much reduced by fixed criteria of rights, and by introducing and giving scope to local knowledge both of persons and things. There are very few provincial cases where the decision depends on any question of law. Almost all are mere disputed matters of fact—did or did not A execute a particular will or deed?—was or was not a particular purchase made by B with his own

money for himself, or with C's money in secret trust for him?—was D or E in possession of certain land at a particular time?—in fact, the very cases for which, in a similar state of society, the tenants of the manor, or a jury *de vicineto*, with their local knowledge of persons and things, formed so excellent a mode of elucidation. The objections of dishonesty, of bribery, and of subserviency to the slightest intimation of the judge's opinion, make a common jury of Natives on the English pattern perfectly useless; but the landraad system gives full scope to local knowledge, without those objections, and the combination of a European, who has had a legal education, with local Natives of high station, secures both a just appreciation of questions of fact, and a proper application of the law to those facts.

*Custom the only Law of the Java Provinces.*—While such is the unsatisfactory mode in which the enormous Indian civil litigation is disposed of in our courts, in Java the state of things, and the regulations of the country, prevent many causes of action, and quickly, easily, and cheaply dispose of those which do arise. These, as previously mentioned, are decided, not according to any fixed or universal law, but according to the custom of the district, like manor courts in England, or perhaps I should rather say more like the old Norman courts, which decided according to *le droit coutumier*.

Practically, the difference between manor court and Norman court, both deciding according to custom, seems small in its immediate effect, but the ultimate results differ largely. The one teaches a people self-government, and fuses opposing races, the other does not. Custom law, administered to the different parts of the country by fixed local judges, who are also men of high rank, is a satisfactory administration of justice according to Eastern ideas, but does not gradually educate a people, and fit them for the management of their own affairs. Our old English manor court system, where the same custom was administered by the tenants of the manor to each other, under the superintendence of the lord, was the theatre and chief occasion of those intimate relations and united action which made Saxon, Dane, and Norman into Englishmen by about the time of Edward III., and gradually educated Englishmen into freedom and powers of self-reliance. As the Dutch do not pretend to a mission in the East to fit the Native races for independent rule, the latter qualities of our manor court system might be of doubtful acceptance with them; but we, who do so profess, ought not to neglect a means which worked so happily among our ancestors in a similar state of society.

In Java, however, the absence of Native land-owners, and the universality of office among the Native nobles, bring them and the Europeans into

such intimate relations, and such combined action in the government of the people, as to produce much the same effects. In India, the preponderance of Native landholders would require measures to be adopted which should not only connect the higher classes of Natives with the Europeans in the government of the country, but should also restore the old amicable relations between landlord and tenant, and should destroy their present purely antagonistic position. A combination of the two systems would probably best answer Indian requirements. A manor court on the old English plan would combine landlord and tenant, and a half-yearly landraad, attended by all the landowners of the district, would bring together the Native nobles and their English rulers. This landraad, or durbar, for such is the Indian term for similar meetings, if assembled half-yearly for a few days to decide on any general questions, to declare the custom on any doubtful point, to be publicly notified of the changes in property, or to discuss any measure on which Government wished to learn Native opinion, would gradually produce combined action and friendly relations. A committee of the full durbar, composed of one European and some Natives, all well paid officials of high local family and position, sitting weekly to decide civil and criminal cases according to the custom, would give the ready, strong, and satisfactory justice best adapted to Eastern races.



We should thus combine the ulterior benefits of both systems, the immediate effects of which are much the same, and work as happily in Java as elsewhere.

The local custom, known to and loved by all, which has grown up out of the very evils and advantages of their state of society, and fits into every queer nook and perverse faucy of the Native mind, is administered to the people of Java by their own local aristocracy, born and bred under the same custom, and kept straight by European assistance and supervision. The rights and possessions of the inhabitants of each regency are thus dependent solely upon the local custom, applied by a court with personal knowledge of the probabilities of the case, and on the evidence of vouched witnesses whose credibility can be gauged by the judges, both which of course obtained in a manor court composed of the tenants of the manor, and which would seem also to have been the objects sought in other courts by selecting the jury *de vicineto*

The custom of the island is the old Javanese or Sundanese use, modified by the Mussulman law of the Koran being superadded. How far the one has superseded the other varies according to the locality and to the subject of suit, and their combined action has the fine expansive undeterminate qualities of the English common law. The regent and the chiefs know the general unwritten custom of the district in which they were born and have spent

their lives ; but as in every court there must be a good deal of judge-made law, if only in the small details of carrying it on, so no doubt the landraad has often a good deal of judge-made custom. This judge-made custom, however, being made by local Natives, is well suited to the people, and combines well with the old usages. Whenever any question as to the custom arises, beyond what the landraad chooses to decide itself, the chiefs and priests of the regency are collected to the landraad, and, after discussion, the priests declare what is the custom of the district on this point. Such special meetings are of course too rare to produce an educational effect on Native character ; but in this, the administration of provincial law in Java has rather the essentials of the old English manor courts than of the Norman *droit coutumier* courts. Such also is the case with regard to the transfer of real estates ; for the rights, both of property and possession, to the whole land within the regency, are recorded on a plan practically equivalent to our manor court system of holding by copy of court roll.

*Advantages of Custom Law to Natives.*—Although the Dutch consider the Code Napoleon, and the law administered by the Dutch courts in the capitals, as infinitely preferable to the Javanese custom, and more suited to civilization, they have not attempted to introduce this or any European law into the interior, except where Native punishments or usages

abhorrent to humanity have been abolished or made penal. The regulations above mentioned, for securing certainty with regard to land, to wills, and to contracts, are not considered as laws by either the Dutch or the Natives, but are looked upon as mere rules, compliance with which is necessary to obtain rights on which the custom may act. The Dutch by this means clear the ground of the chief disputes of fact, but carefully abstain from giving the Natives any other laws than their own.

The Dutch deny that giving an uncivilized people a highly civilized code is a mode of civilizing them. They say that such laws can only be unknown, misunderstood, misused, and hated by people in such a totally different stage of civilization, and certainly our Indian experience goes in support of this result. The Dutch allege that custom-law, with its undeterminate expansive qualities, is understood and liked by the Natives; has arisen from their state of society; and is better suited to their degree of civilization than the best code or fixed rule of law ever penned, which can never have the same convenient adaptability to their curious fancies. The Native statements contained in General Sleeman's "Tour through Oude," which are corroborated by the personal knowledge of most old Indians, show that it is the newness of our regulation law, and its strangeness to their ideas, not any objection to its generally unknown purport, which makes it so hated.

They complained that its administration, though pure in the English judge, was vitiated by the Native practitioners and court clerks, and that it did not afford right and honesty sufficient protection against the fraud and machination always at the command of the longer purse. They also complained of the difficulty of getting access to the judge, of the expense and delay of our civil procedure, and of the ultimate uncertainty of what justice they should get.

The state of the evidence particularly excited their dissatisfaction, as based upon quantity not quality, and without those peculiar forms of sacred adjuration in a holy place, which their own experience and their knowledge of their countrymen showed them to be indispensable to secure true testimony.\* Natives commonly further complain that our courts are without the local knowledge necessary to discriminate between true and false evidence. The tedious and lengthy written pleadings, they say, are new and strange ; no suit can be begun or defended without them ; and no one knows how to prepare them but the Native practitioners about the court, into whose exhaustive grasp therefore every suitor is obliged to deliver himself. Long delay, sometimes for years, and infinite bribing of every Native hanger-on to the court, is necessary before they can get their case brought to the Native judge's ear. When they do

\* Sleeman's Tour through Oude, vol. ii. pp. 66, 67.

so, he decides according to a strange law, which no one but the Native practitioners know or understand, and the case, with increased delay, expense, and mystery, is appealed from the Native judge to the English judge, from him to a whole lot of English judges at the infinite distance of the capital, and perhaps even from them to some mythical forum in England, over the black water where it is impossible to follow; all these courts deciding and overruling each other on different views of a law unknown to any Native but the practitioners, often incomprehensible even to them, and, when understood and explained to the suitor, both new and strange to his ideas.

The Hindoo law and the Mussulman law form parts of the Hindoo and Mussulman religions, are set out in their respective religious books, the contents of which are taught to every child, and are of course perfectly well known to the votaries of each faith. These laws have been unchanged for centuries, and both Hindoo and Mussulman consider laws as little matters for change as religion. Our English law on the contrary is strange and new, it does not consist of a few plain rules which might be easily learnt, but runs through volumes of regulations, acts, constructions, and circular orders, of which vernacular translations are neither numerous, readily accessible, nor easy to be understood. The complicated and unknown contents of these volumes are a

constant impending danger to property, holding out inducements for attack to unscrupulous enemies and to their Native lawyers, against which a man has no protection but blind and costly submission to his own legal advisers.

The Natives of India complain that our law is divided between this abominable regulation system and the no law of the non-regulation provinces, where the judge pays but little attention to any of their Native usages, but decides on his idea of justice *pro re nata*. Still, of the two, they infinitely prefer the latter, except where men of rank are required to attend in person. They are not given over to practitioners and hangers-on to be devoured. They can get at the judge and can tell him their story. They know that he will decide according to his English ideas of justice. If his decision is not according to their Native conceptions of right, they bow to their fate, and at least it was neither long nor expensive.

*Inapplicability of European Law Codes to Natives.*

—I am sorry to say many of the Dutch laughed irreverently when I told them that, on account of the Natives' dislike to our regulation law, our dislike to the non-regulation no law, and our wish to administer the same law to Europeans and to the thirty-two or more different nations and races of India, all in different stages of cultivation, we proposed enacting a series of codes for the whole country, which had been elaborated by the cleverest men and

best lawyers in England and in India. I urged that these codes contained the latest and most refined theories and decisions on all questions of criminal and civil jurisprudence, and even made preparation in some respects for a more refined law than the English had yet attained to. The Dutch answered that a simple procedure code to facilitate the action of the provincial courts, and to keep the non-professional judges within certain limits, and up to a certain standard, might be very advisable; but that codes of laws, if drawn by wisdom itself, could not but be even newer and stranger to Native ideas than the old hated regulations. They added that the more highly civilized such codes were, the more incomprehensible and the more unlike the only Native standards of law, the Hindoo and Mussulman precepts, would such codes be. The Dutch asked if in our Native schools, as in theirs, the children did not spend their lives in learning the Koran or the Shasters, according to their creed, and in forming their ideas from the laws propounded therein; and they begged to know how we could expect that, after every Native in the country had learnt one combined set of religion and law for sixteen or twenty years, he should either understand, should appreciate, or should like laws as different from those inculcated with his faith as light is to darkness. They said they understood the application of European law to Natives, when, as the Spaniards had done in the

Philippine Islands, the old religions with the laws thereof were utterly destroyed and swept away, and the whole population was reared and educated in the Christian faith, with the ideas of Christians ; but they asked what we could expect but discontent and dissatisfaction, while teaching Hindoo and Mussulman laws and practising English ones ?

*The Indian Code of Procedure.*—Since my return from Java the code of procedure has been passed and has become the law of India. One of its clauses has had a curious and unexpected result in stopping litigation. It requires the plaintiff to affirm the truth of his complaint, which respectable Natives will not do. This arises partly from unwillingness to affirm to the numerous false and speculative cases which yet the Native was ready to support by purchased and suborned perjury and forgery, but still more from the stricter Native's idea of the indignity of affirming personally even to the truth, and of the impiety of swearing to what, in the smallest particular, may turn out not to be strictly accurate. This will aggravate the existing evil of redress being so constantly sought by illegal means, for the Native, who will not affirm even to a true statement, will not scruple to hire armed bravos to make a murderous attack upon his enemy, or otherwise to support his pretensions by purchased violence or suborned fraud. So far as litigation is not prevented by the affirming clause, the code of



procedure will hardly remedy the evils I have mentioned as the real sore of the Indian provincial jurisprudence, and probably will not affect them at all. It gives no means of restoring oral testimony to its natural prominence in the search after truth, nor does it point out what documentary evidence ought, or ought not, to be received and looked at by the judge. It assumes that evidence is tendered and objected to, is received or rejected on discussion, and is based altogether on a state of things existing only in the Queen's courts at the Indian capitals, and utterly unknown to either provincial judge or Native practitioners. The different Native and European judicial officers, in the interior of India, have had several meetings to try and make out the new requirements and injunctions of the procedure code, which they feel to be totally unsuited to the existing state of things in their courts. It expressly directs the evidence, in civil as well as in criminal cases, to be taken before the judge in fact ; but, as it does not alter the former tedious and irrelevant mode of giving evidence, or the slow process of recording question and answer at length, in the uneducated Native clerk's complex version of the vernacular, a strict compliance with its provisions on the present system will overwhelm the judge, and will cause the arrears of business to be even larger than they now are. As the procedure code neither reduces expences nor the

mass of papers, and makes both Native lawyers and court clerks more indispensable than before, and as it may also possibly open up new fields of undetected dodges to the Native legal practitioner, its reception by those classes is likely to be as flattering as its authors could desire. Should the Natives of India, however, fail to receive it as a panacea for their legal woes, the fault of course must lie in their stupidity and ignorance. If the object had been to satisfy and content ignorance and stupidity, instead of perforce enlightening them, the procedure code would have been made more like the Native's only idea of procedure; viz., ready access to the judge or court to tell his own story, with either summary justice thereupon, or a short day fixed for the production of witnesses in open court, followed by speedy and final judgment in accordance with Native laws and customs.

*Possible Result of Extending the Java System to India.*—The Dutch, by adopting a different course, by simplifying the procedure of the courts, by leaving to the Native his old custom for law, and by giving him security for the undisturbed enjoyment of his rights, have at least made their judicial system acceptable to the country; while, by gradually abolishing only those provisions of Mussulman law which are abhorrent to humanity, they have succeeded in so far humanizing their subjects without exciting any lasting or serious discontent. This limits the

selfish objects of their rule, which does not profess to seek more than the material peace and prosperity of the country. But the question yet remains to be decided, whether a gradual extension of the same system, in India, might not produce yet larger and more valuable moral results.

The application of a similar primitive system of jurisprudence might possibly, sooner and more successfully, raise the Natives of India to the standard of European cultivation, than enlightened codes which attempt to bridge, at one span, centuries of gradual progression and improvement. Local custom, varying with the varying conditions of society over the wide expanse of our Indian empire, may be more theoretically objectionable, but can hardly be so practically hurtful, as the application of the most refined legal speculations of the nineteenth century to different stages of civilization, ranging from the extreme barbarism of some of the jungle tribes to the feudal relations of the thirteenth century, or, at the best, to the low moral and material culture of the Bengalee, with the prejudices and vices of European society in the seventeenth century.

## CHAPTER III.

## ARMY AND NAVY.

THE ARMY—PROPORTIONS OF EUROPEAN AND NATIVE SOLDIERS  
 —FORMER WANT OF EUROPEANS—NEGRO SOLDIERS—LATE  
 INCREASE OF EUROPEAN SOLDIERS—STRATEGICAL REASONS  
 FOR COMBINING EUROPEANS AND NATIVES—NATIVE AND  
 EUROPEAN OFFICERS AND NON-COMMISSIONED OFFICERS—  
 CONSTANT EUROPEAN SUPERVISION—TREATMENT OF  
 EUROPEAN AND NATIVE SOLDIERS—PAY AND MILITARY  
 HONOURS—BATTALION SCHOOL—WIFE AND CHILDREN  
 —COTTAGE AND GARDEN—CANTEEN CLUB—CHARACTER  
 OF THE JAVA SEPOYS—COMPARISON WITH INDIAN SEPOYS  
 —LATE REVOLTS IN JAVA ONLY PARTIAL—CHARACTER OF  
 THE EUROPEAN SOLDIER IN JAVA—APPOINTMENT OF  
 OFFICERS—PAY—FURLOUGH—PENSION—PROMOTION—  
 COURTS-MARTIAL—LOCAL POLICE CORPS—THE MILITIA—  
 THE NAVY—COAST LIGHTS—SUPPRESSION OF PIRACY—  
 PARAMOUNT ANTAGONISM OF COLOUR AND CIVILIZATION  
 —LOCAL COMMAND IN WAR AND PEACE—ADHERENCE TO  
 TREATIES.

*The Army.*—The paramount importance of the armed force in the European rule of Natives, and the late mutiny of the Sepoy regiments in Bengal, of course directed my attention to the condition and peculiarities of the army in the Dutch East Indies.

I found it composed, like ours in India, partly of Europeans and partly of Natives, but with marked differences in its organization. The Dutch military system there seems to have succeeded in guarding against the insecurity of Native troops, without incurring the great expense of relying chiefly on European soldiers.

The efficiency of their organization was severely tested by the Bengal mutiny. The whole of the Native force, as well as the population of Java, and of its dependencies, is exclusively Mahomedan, and constant accounts were then being received that the Mussulman princes of India had driven out the English, and had restored the empire of the Great Mogul. Under these circumstances, those who know the pride and fanaticism of the followers of the Prophet will think it no bad proof of the stability of the Dutch hold, both on the people and the Native army of Netherlands India, that there was not an attempt at a rise in any part of their dominions. The subsequent attack on the Dutch by the King of Boni in the island of Celebes, and the massacre of the Christian Missionaries at Banjer-massin, on the south coast of Borneo, were both excited by fanatical pilgrims from Mecca. These were probably results of the Mahomedan excitement caused all over the East by the Bengal mutiny, but their purely local character enabled the Dutch to suppress them with ease. In both cases, also, they

were attacks from without, not movements from within.

*Proportions of European and Native Soldiers.*—The army is partly European and partly Native, but the European and Native elements are not made into separate corps. None of the conscript regiments which compose the Royal army in Holland are ever sent out to the Dutch East Indies. The army in Netherlands India is composed entirely of local colonial corps, composed of both European and Native soldiers in varying proportions, the whole of whom are recruited by voluntary enlistment for colonial service.

The engineers are partly Europeans and partly Natives, mixed together in the same companies.

The artillery is composed of European gunners, and of Boeguinese riders.

There is but one regiment of cavalry, the troopers of which are mostly Europeans, with a few Boeguinese. These latter are, however, being gradually replaced by Europeans.

The infantry, which is the most important branch of the army in Netherlands India, is divided into field battalions and garrison battalions, of which the privates are generally one-third European, and two-thirds Natives. Each company is composed separately either of Europeans or of Natives, but the European and Native companies are mixed in the same battalion in the proportion of one-third to

two-thirds. The infantry divisions of Netherlands India are in battalions instead of regiments. Each battalion is composed of six companies, the two flank companies consisting of European soldiers, and the four centre companies consisting of Natives. The European companies also contain half castes, negroes, seedies, the christianized and civilized Natives of Amboyna, and similar classes, who are technically called persons assimilated with Europeans, and who, both in military and private life, are ranked with Europeans, and possess the same privileges. The Native companies are composed of the different Mussulman and heathen nations of Netherlands India, all mixed together, so as not to allow of any great preponderance of a particular class of people in the same battalion.

Formerly the army of Netherlands India contained a very small proportion of real Europeans as private soldiers. The same distinctions of companies have long existed, but, till of late years, the European companies contained many more negroes, seedies, and Christian Natives than real European privates.

*Negro Soldiers.*—The negroes and seedies in particular were found to make excellent soldiers. They were recruited by purchase, on the coast of Africa, from the Native chiefs who held them as slaves. Many of them came from the interior of Africa, where they had been made prisoners in the

various raids of the Native slave-dealers. When brought to Java, they were generally in a state of brutal barbarism. Discipline, however, and the pride of being entrusted with arms, and of being enrolled with Europeans and treated like them, soon gave these negroes a species of semi-civilization. Naturally obedient and faithful, most of them gradually became also intelligent, careful, and cleanly in their military accoutrements and habits. Some even availed themselves of the school attached to each battalion, and made themselves fit for advancement as non-commissioned officers. Accustomed as they had been to the deadly climate of their own country, and knowing fatigue but by name, they were found impervious to injury from the sun, or from the worst malaria of such generally healthy countries as the Eastern Archipelago. They were enrolled, like other soldiers, for a certain number of years, after which they were free to go where they pleased, and to do what they liked. Most of them, however, continued to serve till old age. They then retired on their pensions, with the families which had grown up round them during their service, and ended their days in a state of great comparative comfort and civilization.

The discontinuance of this class of recruits is much regretted by the Dutch officers. They say these negroes were their strongest, their healthiest, their best disciplined, and most reliable troops.



Their introduction in large numbers into the ranks, their constant intercourse with the indigenous troops, and their marriages with the women of the country, tended to improve the quality of the Native soldier, and to infuse a powerful element into the effete and puny, though fiery and revengeful, character of the Malay. Remonstrances, however, were made by England that the purchase of these soldiers on the coast of Africa was an encouragement to the slave trade, and the Dutch have consequently for some years abstained from further recruiting in those dangerous latitudes, and the numbers of negroes and seedies in the European companies are gradually dying out.

*Late Increase of European Soldiers.*—The Java army was sinking more and more into a purely Native one, when England, that had made the difficulty, provided the means of escaping from it. The foreign troops raised by us during the Crimean war from men of different nations, and disbanded when the Crimean war was over, fell naturally into the hands of the Dutch recruiting officers. Europeans of all countries were enlisted, and many more were obtained than were actually required to fill the vacancies in the Java ranks. When the Bengal mutiny broke out, the Dutch had reason to congratulate themselves on their foresight. They enlisted corresponding bodies of Native troops, who, in Java as in India, are always to be got to

any number, and thus speedily raised their army from its former amount of about 15,000 men, to its present amount of about 25,000. The number of European soldiers thus obtained was however so large, that a change was obliged to be made in the formation of some of the new field battalions, three of which in 1858 were composed entirely of Europeans, and another battalion had three instead of two European companies. The remainder consisted, as before, of two flank companies of Europeans and four centre companies of Natives.

*Strategical Reasons for combining Europeans and Natives.*—This formation of the battalions is said to have arisen from strategical considerations. The army of Dutch India has been mostly employed in very small bodies, generally not above a battalion or two acting together. The great extent and small population of the Dutch dependencies, and of the adjoining Native territories, render the provisioning and movement of large masses impossible. Long and difficult marches through the great desert tracts which lie between the small patches of population, are the peculiar feature of the constant border warfare in the Dutch dependencies. Dense pathless jungles, high broken mountain wastes intersected with ravines and rivers, and dreary swamps reeking with malaria, are often more formidable enemies for the Dutch troops to overcome than the opponents

they are struggling to reach. These continuous obstacles have caused everything in their military formation to be made subordinate to the independent movement of small bodies of men. Each battalion consequently contains in itself the indispensable means of transporting provisions, ammunition, and light mountain guns. Where no other means of transport are procurable, these things are carried by the Native companies. The European companies meanwhile form a nucleus of resistance to any sudden attack, or a reserve in cases of ordinary skirmishing. This, I was assured, was the real cause of this formation, but its subsidiary advantage of making the Native soldiery less dangerous to their masters was also recognised.

*Native and European Officers and Non-Commissioned Officers.*—Formerly there were Native commissioned officers, as in India, but they were all men of high family, and not mere superannuated privates, as in our sepoy regiments. The field opened to Native ambition in the civil government of their own countrymen under their highest chiefs, was however found more congenial to the young nobles of Java than the subordinate positions of Native officers, under the direct orders and control of European superiors. As it was clearly both more useful to the country and less dangerous to the state, civil ambition was encouraged in the young Natives of family, and their military services were

gradually dispensed with. There are now only a very few Native commissioned officers remaining. There is no formal exclusion of the Natives, but no one can now become a commissioned officer except by passing an examination far beyond the powers of the Natives in the ranks. With the exceptions above mentioned, therefore, the whole of the commissioned officers are now Europeans.

In each Native company two of the four sergeants, and four of the eight corporals, must be Europeans. It frequently happens that even more than this proportion of the non-commissioned officers of the Native companies are Europeans.

*Constant European Supervision.*—Some of the European non-commissioned officers of the Native companies live in each of the barrack rooms occupied by their Native soldiers, who are thus never left to congregate in any numbers without European supervision. The European companies have separate barrack rooms from the Natives, but always in close proximity to the Native barrack rooms. In the same manner, when any of the soldiers of the Native companies are sent on detachment duty, a proportionate number of the soldiers of the European companies are detached with them. Thus no Native force ever moves, nor can any considerable body of Native soldiers even meet together, without the knowledge and presence of Europeans. The Native soldiers do not resent the distrust implied in this

state of things: it is even doubtful if they perceive it, for they have never known it otherwise. Their command by European non-commissioned officers seems to them, as to other uncivilized nations, but proper submission to the natural ascendancy of the civilized and conquering race. The hourly presence and supervision of their European superior is but the duty of his position. And their own great admixture of nations makes the constant accompaniment of the European, Negro, or Amboyna soldier of the flank companies hardly distinguishable. Even when these arrangements are so clumsily carried out as to reveal their object, the Dutch allege that it never occurs to the Java sepoy to be offended at the discovery of distrust on the part of his foreign rulers. Every Native, they say, judging by his own ideas, expects his European master to entertain the same feeling towards him that he entertains towards all, even his own countrymen, who are not of his immediate family. The denial of such feelings the Native does not credit, and the suppression of them he imputes to fear, and not to magnanimity.

The Dutch say also that these arrangements prevent distrust. Any dissatisfaction or bad feeling among the sepoys could not fail to be known, in which case it would be quickly remedied, if possible, or at least the Dutch would be forewarned. Irremediable causes of complaint do occasionally arise among men of such uncivilized and savage races.

Some time ago the Boeguinese soldiers made a frantic attempt at a mutiny, because one of their comrades was about to be hanged for killing a man of another nation. If he had killed a Boeguinese no possible objection could have been made to his death, but to hang him for killing a Javanese was an injustice not to be borne, though, if he had been knocked down at the moment and his brains beaten out, it was admitted that neither his family nor friends could have had cause of complaint. Any such outbreak by the Native companies is thus easily put down at once by the forewarned European companies, without allowing it to spread to other corps, or to cause more than mere local damage.

*Treatment of European and Native Soldiers.*—The treatment of the European and Native soldiers in the same battalion is assimilated as much as possible. There are of course differences both in their pay and in their food, and such duties as, according to Native ideas, are unbecoming to Europeans, like carrying weights on the march, are performed by the Native companies. But with these exceptions the duties of all the companies are alike, and the Dutch do not even allot the work in the sun more to the Native than to the European. In the barrack room, in hospital, at the canteen, all are equal. The European and Native soldiers, however, really live much apart and very differently, owing to the inherent difference in the civilization,

and in the characters, habits, and customs of the races.

*Military Honours.*—Honorary rewards, brevets, medals, ribbons, marks on the sleeve, and other distinctions, are bestowed in profusion and on all ranks. When a number of Java officers and men are together, the universality and variety of medals and decorations are such, as would not have been unworthy of the marshals of the Empire, and the soldiers of the old guard. I confess to have been so ignorant of the campaigns in which the Dutch colonial army covered itself with glory, that I fear I did not sufficiently appreciate the military qualities thus pompously proclaimed. But the increasing practice of other countries shows the value of these motives in the conduct of armies.

*Battalion School.*—Perhaps the most valuable, if not the most valued, privilege cheaply furnished to the Java soldier, is a school attached to each battalion, both for adults and for children. The soldier's offspring are thus gratuitously supplied with the means of rising in the world, and every soldier has the opportunity of repairing the defects of his own education. The officers are obliged to report on the ability, both natural and acquired, of their men, and to urge all to avail themselves of the battalion school, as a preliminary to rising from the ranks by passing at the military college. Every officer and non-commissioned officer in the battalion,

who has any peculiar knowledge, whether military or otherwise, is required to impart it by lectures or other means at the school. And any available talent or knack of teaching, which may exist in the battalion, secures to its possessor the envied post of assistant in the school, with an entire relief from all purely military duties.

*Wife and Children.*—Another great privilege, conceded to all European and Native soldiers alike, is that of being always accompanied by their wives and children, except when on active service in the field. The Native soldiers, like our Madras sepoy, value this privilege highly. It of course involves much inconvenience in the housing and moving of the troops, but the combination of Europeans and Natives in the same battalion has necessitated the extension of the same privilege to all. I was, however, astonished to learn that this system was carried out when the troops were in barracks, as well as when they were hutted. The women and children are equal denizens of the barrack rooms with their husbands and fathers, and the women have certain duties therein assigned to them. The men, women, and children belonging to each barrack room all mess together. The preparation of the food, and the cleaning of the barrack room, are the recognised obligations of the women by turns, who in these respects are, equally with their husbands, subject to military command. The soldier is him-



self responsible for the cleaning of his arms and the tidiness and good order of his clothing, but these duties are also mostly performed by his wife. The Java sepoy considers his duties limited to parade and guard. He spends all his spare time at cards, or in smoking and playing with his children, leaving the cares of life to his submissive helpmate. When the battalion is on active service in the field, the women and children remain in quarters under charge of an officer. In the absence of their husbands, the women are strictly looked after and kept under tight discipline. They have to parade in their barrack rooms, and to be present at mess, muster, and roll-call daily. Their wants are cheaply provided for out of their husbands' pay, and their propriety of conduct is, as far as possible, secured. The soldier, both European and Native, therefore leaves his family with every possible guarantee for their material and moral welfare. As soon as the campaign is over, and the battalion goes into quarters, the whole of the women and children are gratuitously forwarded by Government to their new homes, under charge of their commanding officer.

*Cottage and Garden.*—Another highly prized privilege is given to the well-behaved Java soldier, whether European or Native, as long as the battalion is not quartered in a town. A plot of ground is given to him, not far from the barracks, on

which to raise a mat hut and to make a garden, or the hut and garden left by some soldier of the battalion just relieved is made over to him. Here he, his wife, and children spend the day, and grow both flowers and vegetables for their own consumption. At night the soldier must return to the barrack room, but his wife and children either return with him or stay in the hut as he pleases. The cultivation of his garden relieves the tedium of military life, and prevents the soldier forgetting, or assuming superiority over, the honourable toil of the field. This privilege is so highly prized, that the promise of a hut and garden is the surest incentive to good conduct with both European and Native. In case of misconduct, or if the hut is not tidily kept, or the garden not well cultivated, the soldier is deprived of them, which, large as are the disciplinarian powers of Dutch officers over their men, seems to be nearly the most dreaded punishment they are able to inflict.

*Canteen Club.*—Though cottage and garden are equally prized by the European and Native soldiers, they are more availed of by the sepoy. The European private is not of a sufficiently domestic character to content himself with the companionship of his wife and children. He resorts largely to the canteen, which in Java stands on a very different footing from the canteens of English regiments. The soldier can there obtain spirits, but only to a cer-

tain amount. Every impediment is at the same time put in the way of his obtaining them elsewhere. Any private dealer is liable to severe pains and penalties for supplying a soldier with any spirits whatever, and precautions are taken for preventing soldiers resorting to any place but the canteen. At the same time the canteen is made as attractive as possible. It is to all intents and purposes a military club, managed by the members for the time being of the garrison. It is a large airy locale, most pleasantly situated in a garden, and has many conveniences and comforts given by Government, and the further benefit of all that the funds of the establishment can provide. Every canteen has one or more billiard tables, a skittle alley, a good library, and other means of amusement, which are all open gratis to the soldiers. Tea, coffee, and lemonade are there supplied *ad libitum*, and wine and spirits to a moderate amount, all of excellent quality and at the cheapest possible rates. Private theatricals and concerts among the soldiers at the canteen are encouraged, and whenever the small profits arising from the sale of drinkables come to a sufficient sum, it is exclusively devoted to the amusement of the soldiers, by being laid out in balls, pic-nics, or other similar pleasures.

*Character of the Java Sepoy.*—The Java sepoy is submissive when treated with tact and with justice, but is given to being insolent and insubordinate when

abused or spoken roughly to, when disturbed at his meals, or when hurried.

The Madurese and Boeguinese are great gamblers, very quarrelsome, vindictive, and subject to fits of frenzied violence. It is mostly among men of these races, both soldiers and civilians, that the peculiar Malay practice obtains called "running a muck." They brood over their wrongs and misfortunes, and work themselves up with opium, till all their other passions resolve into a thirst for blood, when they break out and rush down the street, or into the crowded market-place, stabbing right and left till knocked down and killed. As soon as a Malay begins running a muck, the watchmen, who have a fixed post in every street and market-place, give a well-known signal, on hearing which doors are instantly closed, and every one in the street arms himself with the nearest weapon. There is a reward for the man who first knocks down the Malay who is running a muck. And as soon as he is down, his brains are at once beaten out by the surrounding crowd. No inquiry is further made, nor is any one liable to be punished for having helped to kill the man under these circumstances.

These fits of general frenzy now seldom occur, even among the Madurese and Boeguinese, but the Java sepoy, of all the different nations in the colonial army, is much given to private and special vengeance. Their quarrels and mutual hatreds are mostly about

women. The lax morality of those climates, and the easy means of divorce given by the Mussulman faith, make the presence of the numerous wives, daughters, and sisters attached to the battalion a constant source of ill-blood, and not unfrequently a cause of crime. With a view to the prevention of such misdeeds, the Java Government has lately directed that none but sepoy's of known good character should be in future enlisted.

The Java sepoy's are enlisted only for a few years, but on the expiry of that period they generally re-enlist, receiving a fresh bounty and increased pay. The old village life has become strange to them, their ties and family affections have followed them to their new military home, and the prospect of losing the benefit of their past service generally retains these men in the ranks, till they have earned sufficient pension to give a competence for old age.

*Comparison with Indian Sepoy's.*—The Java sepoy's are physically far inferior to the splendid men who crowded the ranks of our Indian Native regiments. Morally, they are probably not more to be trusted than our sepoy's have shown themselves to be. But they are equally tractable, and are less burdened with troublesome prejudices.

As previously mentioned they are all Mussulmans, the conversion of the country from the Hindoo religion having been completed in the sixteenth and seventeenth centuries of our era. Unlike the con-

verted Hindoos of India, however, the Java Mussulmans have not retained any of the Hindoo caste prejudices. The treatment of the Dutch sepoy is not therefore encumbered with the numerous precautions necessary in India, to avoid outraging the caste feelings of Mussulmans as well as of Hindoos.

The Java sepoy also differ from those of India in being almost exclusively drawn from the lowest classes. In the East the European identity of the lowest classes and the labouring classes does not hold good. Birth is there the real distinction, to which employment is only a corollary. In India the labouring peasantry include the high-born and proud Brahmin and Rajpoot, and all the intermediate grades down to the low-born and humble labourers of the vile and contaminating castes. In Java also there is a great distinction of birth between men whose worldly positions are equally low in a European point of view. In India, however, it is generally the better born among the peasantry who seek military service, whereas in Java the Native ranks are recruited almost exclusively from the low born.

Another important distinction between our sepoy and theirs is the difference of intensity in religious feeling. This in Java is much less troublesome than in India. The Malay nature is naturally indifferent and careless. The things of the next world have no more importance for him than for other

men in a low stage of civilization, with faculties benumbed by ignorance and sensuality. His history, antecedents, and position prevent his being imbued with the worldly pride, greed of conquest, and religious scorn which are the very life blood of Mahomedanism in the races of Central Asia. And the happy destruction of caste, on the general conversion from Hindooism, has prevented religion in Java being the touchstone of the more general and more deeply felt influences of family ties and social position. In India, on the contrary, Mussulman and Hindoo cling to their religious observances with tenacity, and are ready to resist to the death any encroachment on the social distinctions which their respective religions secure. English ideas in India, as well as in England, long refused to believe that the greased cartridges were the real cause of the Bengal mutiny. The concurring testimony of the highest authorities has, however, at last carried the English mind far enough back to obtain credit for this apparently insufficient reason. The doubt arose from not giving enough weight to the totally different sense and importance which European and Native attach to their respective creeds.

Religion with us relates almost exclusively to a future world, and, as such, is of paramount importance to the few, but of small consideration to the many. Whether a man is a Protestant or a Roman Catholic is probably unknown to all but his most

intimate friends, and but seldom affects his relations in this life. The difficulties which some times arise on the occasion of marriages between members of different religious persuasions, is our only illustration of the daily and hourly distinctions caused in the East by difference of religion or caste. Religion there is far more a matter of this world than of the next, and is consequently more important to the many. There each man vaunts his creed upon his face and dress, and his whole life and daily and hourly habits are regulated by its distinctive social observances. Pride of birth and of position, intense self-consequence, and the deepest scorn and hatred of certain classes, are the very essence of both the Mussulman and Hindoo faith. To such men Christianity is hateful, not from its tenets, but from the humility and equality of which it is considered the type.

Both Mahomedan and Hindoo sepoys would have told you that putting into their mouths cartridges greased with hog's and bullock's fat was against their religion. But if, while admitting the fact, you had asked what harm they expected it would do them, the answer would have entirely related to things of this life. You would have found that future felicity or misery was hardly, if at all, considered as dependent thereon. The consequences deprecated would be that their own relatives and friends would then refuse to eat or to smoke with them, that they



would be deserted by their wives, and denied by their children, or, if unmarried, could no longer mate with women of equal birth and family with themselves. The loss of caste thus incurred would not only cause this total disruption of all family and friendly ties, but would also involve the most galling degradation. The high-born and proud soldier would be sunk to the equal of men whom he had always considered the foulest of created things, and more to be avoided than the most loathsome reptile under his feet. He would in future be liable to be approached by the lowest objects of his aversion and contempt, without the right of repelling contamination by contumely and by vicarious outrage. He would be thereby subjected to an imaginary pollution, none the less hideous because ideal and imperceptible. He would be irretrievably sunk, both in his own and in public estimation, to a degree of vileness from which there is no escape but death, and for which, to his haughty nature, death would be the far preferable alternative.

The chief danger with Mahomedan troops in the service of European powers is the liability to sudden outbreaks of unreasoning fanaticism and pride. But like the great mass of Mahomedans in India, who are converted Hindoos, the Natives of the Eastern Archipelago have not the fierce hatred of the infidel which maddens the Arab and other more genuinely Mussulman races. The Dutch also are careful not

to offend the religious feelings of either the troops or the people. There is consequently but small danger of a fanatical outbreak, unless the troops be excited by Arab priests, or by pilgrims from Mecca. The constant European supervision prevents the frequent intrusion of such firebrands into the ranks, and the Native nobles, who are the priests as well as the rulers of the people, are both urged by the European officials, and instigated by self-interest, to prevent any such dangerous and schismatic poaching on their spiritual preserves.

*Late Revolts in Java only Partial.*—Formerly, under the monopoly rule of the Dutch East India Company, there were frequent outbreaks of Chinese and of others among the nations of the Indian Archipelago, some of which were put down with great slaughter. Two of the sights of Batavia, to this day, are the Bloodfield, where upwards of 2000 Chinese were killed in one of these revolts, and the grounds and skull of a half-caste who was the chief instigator of a most formidable conspiracy. An account of this plot, and of Erberfeld, its leader, together with the cruel sentence to which he was condemned, will be found in the 2nd volume of "Crawford's History of the Indian Archipelago," p. 423, et seq. His house was razed to the ground, and on the spot where it stood his skull was fixed on a post by a spike, with an inscription declaring that no house should ever again stand on the spot

where was framed the wicked conspiracy of Eberfeld.

Since the return of the Dutch in 1816, the milder and wiser policy of their Government has preserved them from any serious internal revolts. The few partial outbreaks in Java since that time have always arisen from mere local causes. Where civilized rulers are in contact with barbarous subjects, the utmost caution will not prevent temporary and local causes of misunderstanding, such as those which excited a rising of the Boeguinese troops on the execution of one of their countrymen. Such are, however, of no serious importance, and their occurrence tells no more against the Dutch policy than the Sonthal or Cole rebellions did against the general government of the East India Company.

*Character of the European Soldiers in Java.*— Thus the character of the Java sepoy has but few essential differences from that of his European comrades, except such as are inherent in their different stages of civilization. The character of the European soldier in Java bears more affinity to that of the French spahis in Algeria than to that of ordinary European troops. The great majority are men of the educated classes, who have been driven into the ranks by the consequences of their own folly and by reverses of fortune, while but few are drawn from the peasantry of any European country. The European companies contain men

of almost every European nation, even including England, and the rejected of almost every class of European society. All the languages of the civilized world are spoken in those ranks. Artisans, artists, lawyers, poets, men of scientific acquirements, and men of family, and often of very good family, are herded together with the common stock of peasants from which ordinary European armies are recruited. As may be supposed, European corps so formed require much tact and firmness to deal with, but the policy of ruling by dividing is well known to the Dutch officers, and is constantly applied to maintain peace and to avert combination. Quarrels often occur among these specimens of all the great and little countries of Christendom, and drink is the great resource of such men to drown reflection and regret. But the power of the battalion officers is large, and the punishments they can summarily inflict are severe. Tact, sympathy with the reverses of the past, severe discipline in the present, and hopes open to all in the future, combine to keep the various discordant elements of the European force in a state of efficiency and under due control.

*Appointment of Officers.*—The European commissioned officers are appointed in various ways. Some are young men sent direct from the military college at Breda. Others are transferred or promoted from the royal army in Holland, after passing the requisite examination there, but this class of

appointments causes great jealousy in the island, and will probably be discontinued, except for the highest commands. The rest are promoted from the ranks of the army in Dutch India. There are fixed proportions of the vacancies among the officers, which must be filled from the ranks, while the remainder may be given to the pupils from Breda or to the officers from the Dutch army. After three years' good service, of which one must have been as non-commissioned officer, every soldier who can pass the necessary examination at the new military college near Batavia becomes an officer.

The pay of the officers is so small, relatively even to the underpaid Java civilians, that it has just been necessarily increased to a proportion more suited to their rank and importance in the country, and to the largely increased prices of all the necessaries of life.

After fifteen years' service, or at any time previous under medical certificate, two years' leave to Europe is granted. The officer's pay is, however, so small, that he seldom avails himself of this furlough, except in such cases of illness as make a return to the climate of Europe imperative.

At the expiration of twenty years' service, the officer is entitled to a pension proportionate to the rank he has attained. His being allowed to continue to serve, or being then obliged to retire, depends on certain rules like those of the French army, made to

prevent obstruction in the lower ranks by old men unfit for promotion still clinging to employment.

*Promotion.*—The advancement of officers is also regulated by similar rules. The vacancies are divided in certain proportions between merit and seniority. Merit is the avowed reason for the speediest promotion, but envy says that such merit often consists in relationship. The remainder of the advancement must be given by seniority, and the combined action of the two principles fairly attains the ends sought, viz., passing some young men over the heads of others into early command, and yet leaving the less favoured the prospect of a sure though slow rise in the service. These indispensable military objects are less invidiously brought about, in both the English and Indian armies, by the now much decried system of purchase. As in France, the Java selection for speedy promotion by merit is almost universally carped at, and causes intense jealousy and much ill-will. On active service one man's superiority over others may become so apparent as to secure general consent to his selection, but in peace no such difference can be shown. Selection on any natural and undeniable ground of difference, such as knowledge, or even such as height, or strength, or fortune, is then less offensive to those passed over than selection for merit, which each man attributes to himself in equal proportions, though on several grounds. The Java

officers say that the merits of men in peace and in war are so opposed, that no selections but those made for conduct in the field command assent. The men most prominent for zeal and soldier-like qualities in quarters, they say, sometimes turn out well in the field, but more frequently are mere fussy martinets, totally without the peculiar capacities required for emergencies, while men who have been overlooked in quarters often display on service quite unexpected qualities. The constant Dutch border warfare with very small corps gives opportunities for thus testing the capacities of most of the Dutch officers, and causes selections for speedy promotion in the Java battalions to be generally made in accordance with the estimate formed of men in the field. But in India, where the forces are large and the opportunities fewer, any such plan of selection for regimental promotion by merit, as is now often advocated in England, would be the source of constant heartburning, and personal opposition, detrimental to discipline. The present Indian system of promotion by seniority, hastened by buying men out, combined with speedy brevet promotion for the more capable on the staff and in the irregular branches of the army, seems much better adapted both to our habits and to our requirements.

*Courts-Martial.*—The disciplinarian powers of the Dutch officers over their soldiers are large, but whatever

crime exceeds those powers is only cognizable by the "*conseils de guerre.*" These are composed mostly of officers, assisted more or less by professional lawyers, and differ from our courts-martial in being permanent and stationary tribunals, though with a periodical change in the military members. The officers take it by turns to leave their corps, and to spend some months in the performance of judicial duties, as members of one of the "*conseils de guerre.*" These are the only courts to which a soldier, whether European or Native, officer or private, is liable for all crimes, military or civil, beyond the correctional powers of the commanding officer. Every sentence of these military courts must be remitted for examination and approval to the supreme court of military justice in Batavia. This is composed of the president and some of the members of the high court of Dutch India, who are professional lawyers and the highest legal functionaries in the colony, to whom are joined, as members of the supreme court of military justice, certain officers of the army and navy, selected more for legal ability and experience than for military qualifications. The untechnical sentences of the military courts are thus kept in accordance with the legal provisions of the country, by the trained abilities of the highest legal functionaries.

Every European soldier or officer, condemned to heavy punishment, is removed from the colony, and



sent to expiate his crime in Holland. Local European infamy and punishment, the Dutch say, would be an evil to the country, by lowering the prestige of her white rulers, in comparison with which the personal consequences to the criminal must give way. The inability of the Dutch to support their colonial rule by such large home resources as England can send to maintain her empire in the East, makes the Java rulers cautious not to endanger their prestige, and obliges them to consider the ideas of their Native subjects more than the European principles of equality and fraternity. Their intimate knowledge of Native character prevents their incurring the peril of applying the same public punishments to Europeans and to Natives, in the presence of a people whose ideas interpret equality as degradation and abasement, and limit fraternity to the members of their own family.

*Local Police Corps.*—In each residency is to be found also a local police corps, composed of Natives, armed and drilled like the Native troops of the line. This local police is employed in the guard of the prisons, in the transport of treasure and prisoners, and in adding to the pomp and dignity of the local officials, by mounting guard at their door. Each residency of the police corps is drilled and commanded by retired European non-commissioned officers of the line. As was explained in the

preceding chapter, the pursuit and arrest of criminals is mostly carried out by the civil police, but this military police is under the orders of the civil authority, and is always liable to be called on to assist in the general police duties of the district, as well as to discharge the ordinary functions specially allotted to it.

*The Militia.*—Besides the regular army and these local police, the Dutch Government and the European community have the protection of the Schutterij, or Militia. This is composed of two corps, one cavalry and one infantry. Every European settled in Java, whether a Dutchman or a foreigner, must belong either to the militia or to the fire brigade. Although this liability gives rise to much complaint, there can be no doubt as to its wisdom, and the duties involved are not heavy. The Europeans in the interior are exempted from service unless specially summoned in case of emergency, but the European inhabitants of the large towns are periodically required to appear on duty.

The militia is not called out during the four wet months, but parades once a week during the eight dry months. The European militiamen are divided into two classes, according to age and office. The first class has to join the ranks on parade once a fortnight, and the second class once a week, when the corps is put through ordinary military evolutions for an hour or two. The aged and infirm are

equally members, but are exempted from attending parade. They, as well as all members of Government, who are exempted by reason of office, are, however, liable to a pecuniary contribution in aid of the poorer members, and to enable them to provide themselves with the necessary equipments. Whenever the regular troops of the line are called away from any of the large towns, the militia has to perform the ordinary military duties. This happens but very seldom, and only upon some pressing emergency, and the militia are, as soon as possible, again relieved from this unwonted charge. The military organization of all the European inhabitants is a great security in a country where, as the Dutch say, whatever be the jealousy and hatred between Native races, they will always join against the white skin and civilized man whenever there is a prospect of doing so with success.

*The Navy.*—Unlike the Java army, which is purely colonial, the fleet in Netherlands India forms a part of the royal navy of Holland, and its expenses are borne partly by Holland and partly by the colony. It consists of a larger proportion of steamers than of sailing vessels, though the steamers are not remarkable either for size or speed. There is also a private mail packet service, between Singapore and the different ports in Java, in communication with the Peninsular and Oriental steamers employed in the Overland route. Though these mail

packets are so slow as to take from three to four days to do the 400 miles smooth running, between Singapore and Batavia, they are still faster than the Government steamers. The Dutch commander-in-chief, General Van Stuers, left Java in one of the Government steamers, a day or two before we left in the mail packet, yet our slow boat contrived to land us first in Singapore. The only points relating to the Dutch marine, the consideration of which can be either interesting or important, are coast lights and the suppression of piracy.

*Coast Lights.*—The Dutch Colonial Government is taking measures to extend the security of coast lights to twenty-two of the most dangerous points in the Archipelago. The rarity of severe storms in those narrow seas, and one lighthouse at Anjer, in the Straits of Sunda, have hitherto been the only protection against the many dangers of a landlocked navigation. These proposed arrangements, however, when they shall have been fully carried out, will not only give vessels the security of coast lights in the smooth channels between the green islands of the Archipelago, but also on the far more dangerous shores of the Indian Ocean, where the line of Dutch lighthouses along the west coast of Sumatra will complete the chain of beacons erected by us round the Bay of Bengal.

*Suppression of Piracy.*—The most earnest efforts of the Java navy have been directed to the active

suppression of piracy. They accuse us of want of energy in not co-operating more largely with them for the suppression of this evil, and hailed Rajah Brooke's strong-handed measures on the north coast of Borneo as a most laudable assistance to their efforts on the south and west coasts of the same island. Great was their astonishment, therefore, at the blame which Rajah Brooke's conduct in this matter incurred in our House of Commons, and many were the inquiries made of me as to the real meaning of this censure. I explained that a party in England considered his proceedings an unwarrantable interference with the right of intertribal war, and his destruction of the piratical prahus and villages as a wanton and unprovoked attack on inoffensive Natives. I am sorry to say my explanations did not seem to be satisfactory, since the Dutch refused to believe that any body of English politicians could be so ignorant of the real character of Malay piracy as to use such terms in earnest. They continued to insist that some party intrigue must have been hidden under such reproach, and under the subsequent commission sent from Calcutta to Singapore to inquire into the real character of Brooke's conduct on that occasion.

Even without much help from us, however, the efforts of the Dutch have nearly put an end to piracy in the southern waters of the Archipelago, and have much impeded its prosecution in the northern parts

of those seas. Their success in this respect has been so considerable as to earn them the undying hatred of the Malay sailors of those numerous islands, whose loud curses of the Dutch in the different ports of the Archipelago have been mistaken for the general feeling of the Dutch Native subjects to their rulers. The suppression of piracy by the Dutch has called forth analogous feelings to those which long resisted the efforts of the lords marchers to give security to life and property on the border, without producing any more gratitude among the people than the lords marchers' proceedings seem to have excited among the turbulent populations of Cumberland and Teviotdale.

*Paramount Antagonism of Colour and Civilization.*

—This is one example of the inherent antagonism of civilization and barbarism, which, in Native countries governed by Europeans, so often takes the form of antagonism of race and colour. Old Indians used to say that the hatred between Hindoo and Mussulman was such that nothing would induce them to act together, and that their disunion was our security. We flattered ourselves that our sincere efforts for the welfare of the Native, according to our ideas, had secured us some regard from the Native population. Forgetful of the usual fate of such benefactors among ourselves, we expected gratitude for enforcing what we call "security to life and property," but what the Natives call "destruction of old

rights and interference with old habits," and for substituting our dearly loved liberty and equality in the place of the power, pomp, privilege, and respect to which Natives of all classes are so much attached. The more far-sighted of our Indian rulers, however, relied on the hate between Hindoo and Mussulman much more than on any affection for ourselves. At our pinch of need we found ourselves unloved and unhelped, and the hate of Hindoo and Mussulman vanished like wax before the differences of colour and of civilization. All that can be truly said in favour of our assumption is that our rule had not been sufficiently opposed to Native ideas to excite active opposition to us in the great mass of the people. Broadly speaking, the rebellion showed that the peasantry and the trading classes neither helped nor resisted us, but looked on with apathy at our struggle with the sepoys, the rabble, and the adherents of the old landed proprietors, whom we had deprived equally of power and of property.

No Native believes our rule to be more than temporary, extending perhaps over centuries, but still only temporary. It seems to them an injustice so monstrous that the country of their dusky race should be permanently made over to white strangers, that it exceeds even their belief in the maleficent qualities of their avenging deities. It is useless speaking to them of the mission for which England believes herself entrusted with the charge of their swarthy

millions, viz., their conversion to the faith that leads to everlasting life : for, as they remark in their darkness, their religion attains that object far more easily by the performance of certain material acts, and their gods would not therefore have sent us to India for so useless a purpose. Do what we will, the Natives look on us not as a blessing, but as a punishment to the country, and will continue so to do, if for no other reason than our differences of skin, of habits, of education, and of civilization.

The rebels of India read the white rulers of dark races a lesson, when they killed and mutilated the educated Bengalees, for the reason that, by speaking English and by having adopted English habits, they had become nearly as strange and hateful to the old religions and feelings as ourselves. It taught us that the Natives, however individually desirous of the advantages which European knowledge gives, do, as a body, consider European education as much an attack on their old religions and habits as direct proselytism, and far more dangerous. The general vague feeling throughout India, that Hindooism and caste were dying out before English education, undoubtedly exerted considerable influence in the late disturbances. It taught us also that, among all these millions, those only who had acquired our ideas by an English education had the same interests as ourselves.

It would doubtless be an error to think that the



educated Bengalee loves us. If we are to believe his own statement, his conceit looks on us as useful tools to hold the country for him to govern. He trusts to our necessities and to his own cunning to extend his influence over the stronger but denser races of the rest of India, and he builds on our theories of liberty and of equality between European and Native, and on his own acquired knowledge and continued residence in the country, the hope of gradually supplanting us in the intellectual branches of government, and confining us to exercise, for his benefit, those qualities of the heart and arm to which he does not scruple to renounce all claim. At most the educated Bengalee looks on us as good strong allies. But his moral and physical wants are more like ours, and our enemies of the old superstitions are far more deadly enemies to him. When one reflects on the condition of the young Hindoo, whose nature is merely veneered by English reading, philosophy talking, beefsteak eating, and wine and spirit drinking, and when one thinks what the return of a strict bigoted Hindoo or Mussulman Government would be to him, who cannot escape to other and more congenial countries, one understands the intense terror which distinguished this class for the two years of the mutiny. We know now, at all events, that English education is the one thing that puts the Native on our side against his uneducated and fanatic countrymen, and it

is our own fault if we do not spread English education.

The English education of Natives is not and cannot be without danger, but England is strong enough to meet it, and English convictions are earnest enough to brave it, in support of what is the sure mother of such glorious results here and hereafter. As long as the Hindoos of Bengal are the chief recipients of our English teaching, we are not likely to have very satisfactory results in the shape of active support or manly virtues. But if our teaching fails to educe high worldly qualities from natures morally and physically degraded by centuries of oppression and slavery, its evident tendency, even among them, is towards the light and the faith which purify and save. The first generation, who try to reconcile their old and new ideas, have abjured the Hindoo superstitions, and declared themselves deists and renewers of the old pure unity worship of God according to the Hindoo Vedas. They will soon pass by, and their sons, renewing and increasing the English element in their own educations, will sooner or later adopt the creed as well as the habits of those from whom they derive all that renders educated life agreeable.

The Dutch do not think it wise to ignore the Native's natural hatred of the superior power and civilization of the white race, and to insist on acting as if neither it, nor the European's correlative

dislike of the vices and failings of the dark race, had any existence. They recognise the fact of both feelings, and regulate their policy accordingly. They soothe the black man's feelings by giving him power and prosperity, and by keeping him from European interference and competition. They mitigate the white man's dislike, by maintaining without question those outward signs of superiority, in separate tribunals and privileges, which belong to his natural position in the country; by protecting his interests against Native fraud and imposition; and by requiring towards him those marks of respect which the people themselves consider due to all their superiors, Native as well as European.

*Local Command in War and Peace.*—The Dutch are careful also to maintain all the moral superiority of civilization, in the shifting phases of Eastern politics. This they consider depends on strict adherence to the spirit of treaties, and on the display of powers subordinated to constant fixed laws, and not swayed by the passions of the hour. In this latter respect, the relations borne by the Java officers, both of the army and navy, to the civil authorities and people of the country, acquire much importance from the sad uncertainty of those questions in India during the late mutiny. It is to be hoped that the necessity of the crisis will excuse, in the judgment of history, the Acts passed by the Indian Legislature in 1857, under which powers of life and death,

without restriction of procedure, without record of evidence, and without appeal, were sown broadcast over the land. These were indiscriminately given, not only to official but to unofficial Englishmen, till but few knew who had and who had not such authority. It is said that, in some cases, the absence of appeal and the immediate execution of the sentence, together with the general confusion, enabled these capital powers to be usurped with impunity, and to be exercised equally without authority and without truth. Even among those directly appointed by Government, some were most unfit to be entrusted with such responsibilities, and not only applied them without discretion, but sometimes abused them most grossly. Men are pointed out by name, whose first application of their new authority was to hang their own creditors, and whose conduct in this respect is said to have been the cause of certain influential Natives preferring the chances of rebellion to the tender mercies of such interested judges.

But the great evil was the concurrent exercise by civil and military authorities of the summary and unguarded judgments generally left to the soldier. Civilians daily sentenced Natives to immediate execution alongside of, and in addition to, the summary disposal of suspected rebels by drum-head courts-martial, under military law. No sufficient provision was moreover made for these mili-

tary judgments. The officers of the newly-arrived English regiments, who were of course ignorant of the language of the Natives, were often without the means of repairing their own deficiencies. The frightful spectacle was then seen of English officers summarily judging and hanging Natives, on the mere proof of their having been found in a particular place, without even being able to understand the frantic appeals of their victims. Well authenticated stories were rife of men who had been saved from the halter at the last moment, by being accidentally recognised as the servants of other officers, or as attached to some neighbouring regiment, and whose loud assertions to that effect had been previously unheeded, because not understood. Every human feeling stands aghast at the mockery of military justice on a wretch, however probably guilty, where the judges do not understand the criminal's language, and remain ignorant of even the substance of the defence proffered; or where the forms of justice are prostituted to inflict death on such charges as "winking rebelliously," or "mutinous demeanour."

It was doubtless partly to prevent such scenes that a young civil officer, with a knowledge of the language, was attached to each body of troops, to whom was given uncontrolled and unencumbered power of life and death. But the remedy was worse than the disease. The Iron Duke defined martial

law to be the absence of all law, but the infirmities of humanity, and the necessities of war, have made the ruleless violence of military passion the recognised remedy for abnormal occasions. When soldiers bayonet and shoot down the suspected occupants of a rebellious village, the innocent shares with the guilty one common lot. It is the evil fate of war, necessarily more general and indiscriminate in a civil war of white and black races. Even when, under the circumstances, a court of inexperienced officers passes hasty judgment on those subject to military law, the admitted evil has the excuse that the pressing danger must be met by the only summary means at hand. But the common sentiment of civilized mankind is outraged, where equally hasty and often unjustifiable sentences are passed by civil officers without control or appeal, and followed by summary execution without time for reflection or repentance.

The Dutch Government of Java carefully preserves its civil tribunals from the possibility of similar reproach. In peace the civil authority is absolute in the district, and the military and naval commands are not only subordinate, but dependent on the civil. In case of war, or wherever internal commotion becomes sufficiently grave to interfere with the ordinary march of events, the civil authority in the district is abolished altogether by proclamation of martial law. The whole conduct of

civil affairs is suspended, no fresh civil suits can be instituted, and the decision of all matters of a criminal or correctional nature falls exclusively to the military tribunals. The civil officials, both European and Native, are attached to the military and naval forces, for the purpose of giving information and providing local knowledge, but are not themselves allowed to exercise any authority whatever. As soon as the military movements have dispersed the enemy in the field, or the summary naval and field courts have disposed of the leaders of the revolt, martial law in that district is abolished by proclamation, when the civil authority again becomes paramount, and the ordinary march of events is resumed with the strict precautions and safeguards dictated by the law.

*Adherence to Treaties.*—The question of adherence to the spirit as well as to the letter of treaties is of still greater importance in Eastern countries. A great master of language has well said—“The entire history of British India is an illustration of the great truth that it is not prudent to oppose perfidy to perfidy, and that the most efficient weapon with which men can encounter falsehood is truth. The greatest advantage which a Government can possess is to be the one trustworthy Government in the midst of Governments which nobody can trust.” The deep wisdom of these remarks has unfortunately been lost sight of in our late Indian

policy. Considerations of finance have led to the annexation of countries and to the resumption of pensions under circumstances which, to Native ideas, are infractions of treaties, and this in obvious disregard of the plain moral rule that contracting parties are bound in the sense in which each knew the other to understand the contract. This policy was capped by the annexation of Oude on philanthropical considerations quite unintelligible to the Natives, and under a perversion and suppression of treaties which excited the liveliest alarm all over India.

In this respect the conduct of the Dutch is in very unpleasant contrast to our own. They became the protectors and the real rulers of the Preanger about the same period of last century that we adopted those functions towards the nawabs of Bengal and the Carnatic. The Preanger has ever since been as much in the Dutch power as Bengal and the Carnatic are in ours. But to this day the country is governed by the descendants of the Native princes with whom the Dutch treaties were made, and to this day the people of the country have never paid one stiver of tax to the Dutch, beyond the delivery of coffee at the low rate agreed on in the treaty. In pecuniary difficulty, almost in bankruptcy, the Java Government, sternly withstood the temptation of relieving their wants by annexing the Preanger, and by taxing its inhabitants. And truly



they have their reward. The faith of the Dutch Government stands above reproach throughout the Archipelago. Many of the Native independent powers hate and dread them, but none distrust them, and all rely implicitly on any treaty made with the Dutch.

How do we stand in these respects? The nawabs of Bengal and of the Carnatic have living heirs, but where are they? One is a powerless, landless, ruleless pensioner, with even the customary salute of his rank curtailed, as a punishment for arbitrary proceedings in his peculiar jurisdiction. The other is denied his hereditary titles and honours, is refused the benefit of the treaty made with his own father, is kept out of the stipulated share of his ancestral revenues, and is even stripped by us of the old private palaces and estates of his family, to satisfy debts incurred on the credit of the revenues we withhold. Oude, Nagpore, and other Native states too numerous to mention, are further examples of what little respect we show to our predecessors' engagements, when they stand in the way of our present convenience, or of our lately acquired perceptions of right and wrong. And truly we also have had our reward: General distrust of our promises, and a general feeling of insecurity among Native powers, were some of the most difficult elements with which our officers had to deal in the mutiny. And the refusal to himself of the pension

secured to his father by treaty, was what nerved the Nana's unflagging attacks on Wheeler's entrenchment, what caused his treacherous onslaught on the embarking garrison, and what led ultimately to the unspeakable horrors of the massacre of Cawnpore.

## CHAPTER IV.

## TREATMENT OF EUROPEANS.

PASS AND PASSPORT—PERMISSION TO RESIDE—SECURITY—  
 PERMISSION TO TRAVEL IN THE INTERIOR—PERMISSION  
 TO LEAVE JAVA—POWER OF DEPORTATION—DISABILITIES  
 OF FOREIGNERS—DUTCH ADVANTAGES IN JAVA—EURO-  
 PEAN LANDOWNERS—ABSENTEEISM—BENEFIT OF EURO-  
 PEAN ESTATES AND PLANTATIONS—NEW PRIVATE ESTATES  
 —ADMIRABLE MANAGEMENT OF OLD ESTATES—HOPEFUL  
 PROSPECTS OF EUROPEANS IN JAVA—EUROPEAN PRIVILEGES  
 AND PRESTIGE—DUTCH DISCOURAGEMENT OF EUROPEAN  
 KNOWLEDGE AMONGST NATIVES—DUTCH OPINIONS OF LEGAL  
 EQUALITY BETWEEN EUROPEAN AND NATIVE.

THE treatment of Europeans by the Government of Java differs in some respects, according to whether they are Dutch burghers or not, but in other respects all Europeans are subject to the same troublesome regulations.

*Pass and Passport.*—The same passport system, though in a modified form, is in force here as on the continent of Europe. Europeans may land without hindrance at any of the ports of Java and its dependencies, but travellers, on arrival, are required to

send their passports, for examination and registration, to the chief police magistrate.

If the traveller is not provided with a passport, as is uniformly the case with Englishmen arriving from British India or from Singapore, he must report himself at the police office, whereupon he will receive a pass, limiting his residence and movements to the neighbourhood of the town for six weeks, or for such period as the ship that brought him may remain in port. Within six weeks or sooner, if the ship by which he came leaves again within that period, the traveller must apply for a temporary permission to reside in the country, or to travel in the interior, as the case may be.

The simplest way of obtaining the permission is for the traveller to address himself, in the absence of personal friends or acquaintances, to the consul of the country to which he belongs. If he can satisfy this functionary as to his social position, or as to his prospects in Java, and if there is no reason for supposing him to have designs against the public order, he will meet with no difficulty in obtaining what he requires.

*Permission to Reside.*—The application for permission to reside is addressed to the Governor-General, and is accompanied by a printed form of security, signed, by two householders of the place known to the authorities. Mr. Fraser, the British consul, when applying for the pass, generally returns

his own and one of his partners' names as the security for any respectable Englishman, so all trouble on that score is saved by this most liberal, gratuitous conduct on his part.

After the application is sent in with the security bond, if there is no other objection, authority is immediately given by the Governor-General, to the resident of the place where the applicant then is, to give him a temporary permission to reside in the country. This document, which is called an "*acte van tydelyk verblyf*," is then granted by the resident to the applicant, on payment of the fees and stamps, amounting to about one hundred florins, or £8 6s. 8d.

This permission to reside is only refused when there are suspicions of the applicant's intention to disturb the public peace, or when he is unable to obtain two good securities; but unless these formalities are complied with, and the permission obtained, the traveller will have to continue his journey, the ship which brought him being bound to take him away again under a penalty of 1000 florins. Instances have occurred of passengers arriving from the Australian colonies, who, from inability to provide the required security, have been obliged to go on with the ship; and thus had their previous arrangements disturbed in a manner which they doubtless thought exceedingly tyrannical. It generally happens, however, that the agents of the ship give the necessary security, in order to obtain a

clearance, preferring the contingent risk to the obligation of subsisting their passenger for a second voyage, which he may not have the means of paying for.

*Security.*—The security is required to guard against the stranger being left a pauper on the hands of Government, and thus becoming a burden on the state. The sureties bind themselves for the applicant's good behaviour, and to undertake to pay any debts he may incur to Government, as also the expenses of maintaining and sending him out of the country, should he become destitute, or the cost of his interment, should he die in the meantime without sufficient effects for this purpose. This guarantee has no further signification than as a security to Government, and does not apply to debts to third parties, which must be recovered from the debtor by the ordinary course of justice.

*Permission to Travel in the Interior.*—If a foreigner wishes to see the country, he must apply through his consul for a special passport, with leave to travel in the interior. A Dutch citizen or burgher, a naturalized foreigner, or a stranger who has obtained permission to reside in the country, in short, all classes but Dutch officials, also require passports to travel in the interior, but these are granted by the local resident without reference to the Governor-General, and are easily obtained on request. In the case of a foreigner who has not

yet obtained permission to reside, the same formalities have to be gone through, and the same securities furnished to the satisfaction of the Governor-General, as on the application for an "*acte van tydelyk verblyf*," but no fees or stamps are payable for a mere passport to travel in the interior. The application for this passport takes ordinarily about a fortnight passing through the various offices and going to and from Buitenzorg, the Governor-General's country residence, forty miles from Batavia, for his signature. This fortnight's delay is a source of great complaint to the impatient Englishman, who perhaps only has a month or six weeks to see Java in, but Mr. Fraser again comes to the rescue, and by his knowledge of the intricacies of the Circumlocation Office, pushes the passport through the offices and up to Buitenzorg and back in three or four days.

The passport to travel in the interior is sometimes withheld on slight grounds. On our arrival at Batavia we met a French gentleman at the hotel, who stated himself to be the author of a well-known French work of literary travel, under what was his former name before his present title had accrued to him by the death of a relation. He was not only essentially "*un homme de bonne compagnie*" in habit, manners, conversation, and tone of thought, but used commonly the turns of phrase, and peculiar applications of certain words, which the old French noblesse pride themselves on retaining, as

distinctive of their old manners and associations from those of the mushroom France around them. He asserted himself to have lately held high political posts in the Emperor's service, and to have come to the East, partly for relaxation and an old love of wandering, and partly to prosecute some further researches in Natural History. Wherever his alleged travels coincided with my somewhat errant career, his local knowledge was both accurate and peculiar, besides which he was a good classical scholar, and possessed a wonderful amount of varied and general information, particularly on the subjects of his *soi-disant* literary works. He was evidently in possession of ample funds, and as little like a *Chevalier d'Industrie* as possible. He had, however, borne another name at Singapore, and the French consul at Batavia asserted that no person of either his Singapore or his Batavia name had occupied the posts in the Emperor's service to which he laid claim.

His French passport was "en règle" in his Batavian name, but for these reasons the French consul refused to stand security for him, or to apply for his passport to travel in the interior; and though the gentleman persuaded some French merchants to be his sureties and to apply for a passport for him, the Dutch Government refused to give him the necessary permission. If the Dutch either had anything to conceal, or if, as in India lately, the Government



thought they had cause to dread the effect on the Native mind of any foreign suggestions, this refusal would have been reasonable ; but, though the whole of the foreigners and officials in Batavia admitted that he could do no harm in any possible manner, they all said it was hopeless his attempting to leave Batavia, as he would be instantly followed and stopped. For the same reasons the Java Government refused him leave to remain in the country, and he would have had to return to Singapore in the mail packet that brought him, if he had not preferred to embark in a sailing vessel for China.

When\* a stranger has obtained permission to travel in the interior, he has to give a short notice of the route he means to adopt, and the time he proposes starting, that intimation of his arrival, and orders for his post-horses, may be sent on beforehand. He will then, at the appointed time, find everything prepared for him ; fresh relays of post-horses, ready harnessed, will be waiting at every five miles to be attached to his carriage ; and he will travel with as much convenience and comfort as attended the best posting on the Continent with an *avant courrier*, before the introduction of railways.

At every head station town through which the traveller passes, he ought to call on and have his passport viséed by the resident or assistant-resident, who also arranges about the traveller's post-horses on. The Dutch, who are very polite and punctilious,

always go through these formalities when travelling, and an Englishman, who wishes to see the country and people to advantage, should do the same, and will thereby secure to himself the good-will of the officials, and every assistance and convenience he may require. As intimation, however, has been received beforehand of every foreigner who has leave to travel in the interior, together with his proposed line of route and orders for his post-horses, the traveller's arrival is expected by the officials, and impediments are hardly ever put in his way, even if he chooses to be uncivil.

*Permission to leave Java.*—Although the stranger has had such formalities to comply with, for permission either to travel or to reside in the island, he has further formalities to go through before he can obtain permission to leave it. He must apply for such permission some days beforehand, to enable the authorities to ascertain that, during his stay in the country, no possible liability to Government has been incurred by him or on his behalf. There is a fine, strictly enforced, of 1000 florins on the captain and agents of any ship that takes a person from the island without the proper Government permission for him to leave. This, like the security on the permission to reside, only applies to debts and liabilities to Government, for mere private indebtedness is no bar to a permission to leave, except when judicial process is out against the fugitive.

The pass and security regulations, however, are equally useless and indefensible. The pass is a mere piece of police red-tapery, submission to which is simply annoying, and which has neither good reason nor public benefit to support it. The security required of foreigners is still more irritating, and hardly more useful. The inconvenience of having to find sureties might be patiently borne, if the object were to guarantee commercial credit, with all the personal and general benefits that commercial credit carries in its train. But to subject every foreigner to this difficulty, and to expose the local inhabitants to risk for strangers, only to avoid the faint future possibility of a slight burden on Government, is a remnant of former narrow-mindedness, such as the enlightened Dutch rulers of the present day ought no longer to support. The general wisdom which marks the larger branches of their policy is not shown in thus maintaining a cause of offence to foreigners, and in keeping up an annoyance to the resident European community, for such inadequate objects to the state.

*Power of Deportation.*—The chief means of guarding against injury to the Native community from European violence, is the power of deportation, vested in the Governor-General in Council by the “Regulations for the Conduct of the Government of Netherlands India.”

The forty-fifth, forty-sixth, and forty-seventh

articles of that enactment give him this power over all the inhabitants of Netherlands India who may be considered dangerous to the public peace and order. In case of the deportation of any Dutch subject, the sentence of deportation must be accompanied with reasons, and must be immediately communicated to the Colonial Minister in Holland, and brought by the King to the notice of the States-General. In the case of a foreigner it must be at once communicated to the Colonial Minister, but need neither show the reasons nor be communicated to the Dutch Parliament. Besides this total deportation, however, the Governor-General in council can also remove any person from the interior, and can limit his residence or movements to any particular part of the country. These articles apply the same powers of deportation equally to those not born in Netherlands India, and to born denizens of that country of European parentage, and extend the Governor-General's powers of removal to Natives as well as to Europeans. By delegation also, the Dutch resident, or chief European official in each province, has the power of removing from his district any person, whether owner of an estate, manager, planter, or any of their European or other subordinates, who may have been ill-treating the Native population.

A temporary removal from the interior may sometimes take place, but the power of deportation

is very rarely exercised, as the personal responsibility of so doing is very great. The only case of deportation, of late years, that I could hear of, was that of a Dutchman, who, at a time when the notes of the Government Bank of Batavia were convertible only partly in cash and the rest in other notes, demanded the whole in cash.

The Bank of Batavia held to the Java Government much the same relation as the Bank of England bore to our Government in the last century; and the great extension of culture and commerce, after 1834, led the Batavia Bank to over-issue on insufficient or on unsaleable security, till, in 1840, it was in the same condition as the Bank of England at the beginning of this century. The Java Government was then obliged to uphold the credit of the Bank, by making its notes a legal tender, and only partly convertible into cash; which, after some time, enabled it to recover its position, and to resume cash payments.

In the meanwhile, however, the above demand was made, and on the Bank refusing to comply with the Dutchman's request for the conversion of his notes all into cash, he proceeded, by the usual forms before the court of justice, to have the Bank of Batavia declared bankrupt, for not paying according to the tenor of the note. He then repeated his demand on Government, and, when refused, proceeded in like manner to have the Governor-General

and the King of Holland also declared bankrupts, on the same ground. It seems that there was some omission or irregularity in the legislation suspending the cash payments by the Bank, which prevented Government defeating his proceedings by process of law. Any concession to this Dutchman, behind whom appeared the mass of discontented holders of unconvertible notes, would at once have brought on a crisis, so the Governor-General was obliged to deport him, to stop his proceedings. So anxious, however, was Government to avoid this necessity, that he was actually offered one of the best appointments in Java to desist from his purpose, and was only deported on his refusal to listen to any terms, Government subsequently giving him compensation in Holland for the loss he had suffered thereby.

If our new paper currency in India runs the same course as that introduced by the Dutch into Java some thirty years ago, and brings on a suspension of cash payments, it is to be hoped that we may pass through that crisis as safely as the Dutch did, and without having to resort to sterner or more arbitrary measures than the quiet deportation of some troublesome British subject.

The power of deportation is admitted, under the existing restrictions, to be a wise provision of the law. Even the large majority of Englishmen in Java acknowledge the advantages of such a controlled power in possessions where the population is almost

entirely Oriental; and among the best Dutchmen in the colony, unofficial as well as official, there are hardly two opinions on the subject.

*Disabilities of Foreigners.*—The same distinction which is made in the matter of deportation, between Dutchmen and foreigners, runs through the general relations of the Java Government with the Dutch and foreign inhabitants of the island. The principle is practically recognised that the Dutchman has the sole right to all the benefits in the power of Government to bestow, while the foreigner is only admitted, *ex abundanti gratiâ*, to a share of the crumbs that fall from the children's table.

- After six years' uninterrupted residence in Java, the foreigner may be naturalized as a Dutch burgher. For this he must apply to the King of Holland, who will grant letters patent on an Act of the States-General, in the same manner as naturalization is granted in England. Until this is done, the foreigner is subject to the same alien disabilities as in England, in not being able to hold land out of the precincts of the three capitals, or to hold ships.
- But, with these exceptions, the foreigner in Java is not legally subject to any disadvantage, far less to the insulting distinction existing in India, where the Frenchman or Dutchman, instead of having the same judicial privileges and exclusive tribunal as the Englishman, is classed with the Natives in the forum to which they are criminally liable. On the

other hand, the European foreigner in India is under no disability in the acquisition of property, nor is any practical difference made between him and the British subject in matters of business ; whereas in Java foreigners complain that, till they become naturalized, a practical preference is always given to their Dutch competitors. I was told that, even before being a burgher, a foreigner may buy an existing Government contract from the holder, or take a running lease of a plantation, but that he would not be likely to obtain the necessary permission of the Java Government unless the seller had great interest, and would be still less likely to obtain a renewal, when the lease or contract was out, unless he had meanwhile become a Dutch burgher. The relative pressure of the disadvantages which foreigners suffer in India and in Java may be perhaps fairly tested by the fact that most foreigners in Java incur the expense and trouble of naturalization as soon as possible, whereas in India such a thing is almost unknown.

The tendency of the Dutch in Java to keep all the good things in the island to themselves is corroborated by their refusal even to share the local reputation with foreigners. The inscription on the Waterloo Monument, in Batavia, informs the future Eastern historian that it was by the courage and steadfastness of the Belgians, who were Dutch subjects at the time of the erection of the monument,



IN ÆTERNAM CELEBERRIMI DIEI  
DUODECIMI ANTE KALENDAS JULII A.D. MDCCCKV.

## Memorium

quo

FORTITUDINE ET STRENUITATE BELGARUM, EORUMQUE INCLYTI DUCIS WILHELMI FREDERICI GEORGII  
LUDOVICI PRINCIPIS ARANSIACI, POST ATRACISSIMUM IN CAMPIS WATERLOOÆ PRÆLIUM STRATIS  
— ET UNDIQUE FUGATIS GALLORUM LEGIONIBUS,

## PAX ORBIS RELUXIT,

HOC MONUMENTUM SUB SUMMO PATROCINIO CELCISSIMI PRINCIPIS WILHELMI FREDERICI CAROLI  
SACRUM FECIT CONSOCIATIO WATERLOOICA BATAVIÆ A.D. MDCCCKXXVIII.

PRIMUMQUE EJUS LAPIDEM POSUIT VIR CL. RERUM PUBLICARUM ADMINISTER  
ET H. T. IN INDIA ORIENTALI REGIS VICES GERENS,

LEONARDUS, COMES DU BUS GISIGNIES.



that, after the severe struggle on the field of Waterloo, and the general defeat of the French army, peace was restored to the world. The monument must have been erected for the purpose of flattering Belgian vanity, perhaps, to judge from the date on the inscription, with a view to preventing the separation of Belgium from Holland; but the monument now mainly serves to impress the Natives with a fictitious respect for the European military prowess of their Dutch masters. The absurdity is rendered the more glaring by the inscription being in Latin, so that the very knowledge necessary to read it implies at least enough historical acquaintance to see the utter folly of ignoring both English and Prussians on the occasion.

*Dutch Advantages in Java.*—While foreigners in Java thus suffer comparatively, both in purse and in material reputation, the Dutchmen have made to themselves pleasant places in their Eastern possessions. In Java, the European landowner, planter, and contractor, and generally all those engaged in developing the resources of the soil, hold social positions at least as high as the European officials. They are the equals, and frequently the superiors, of the officials in birth, education, and refinement, and are universally men of larger means, the official merely having the temporary pre-eminence of command. They are in many cases the relations of officials, and not unfrequently retired officials them-

selves. As in India, no civil or military officer is allowed to engage in trade or to buy land. In Java, the permission of Government for a European official to hold land is generally only given in the cases where an estate devolves on him by inheritance, Government discouraging the possession of landed property during the continuance of office. But when an official's term of service is over, he retires with a pension, as in India, and can engage in trade, buy land, conduct a plantation, or adopt any other mode of life that he pleases.

*European Landowners.*—The direct powers granted to European and Chinese landowners over their peasantry are small, but their indirect powers are large, and the European or Chinese manager is vested with the same powers as the landowner. The landowner pays yearly to Government three-fourths of one per cent. on the total value of his estates, estimated every three years, and is solely entitled, but at the same time limited, to the one-fifth of produce and one-seventh of labour due from the peasant. He is also considered to have so far acquired the rights of Government as to be entitled to appoint, with the approval of the resident or assistant-resident, a Native police officer or chief of the estate, with Native subordinates in each village, all of whom he is further bound to pay. The chief of the estate, and his subordinate village mandors, have the same small police powers and duties as the wedana and man-

tries on the crown lands, and exercise those powers under the orders of the Native *demandg*, or head police officer. This functionary is appointed by Government, and holds a somewhat analogous position and powers, in the districts composed of private estates, to those of the regent on the crown lands. The villagers on the estate also elect their village chief, who is confirmed by the landowner or his manager, and can be by them dismissed for misconduct, in which case the villagers must elect another.

The landowner himself has no power of punishment whatever, but sends his people up to the resident for any misconduct which he thinks deserves punishment exceeding the Native police officer's power to inflict.

Most of the private estates are situated in the districts round Batavia, where there are no district or regency courts. The matters elsewhere cognizable by those courts are here judged by the *landraad*, by the resident's police roll, and by the petty powers of the chief of the estate. With this exception, the crimes and petty offences committed by the Natives on the estate are tried in the same manner as on the crown lands, the landowner and manager, like every other European in the interior, being subject to the resident's general authority and supervision, but only punishable by the Dutch courts at the capitals.

*Absenteeism.*—I inquired of the Dutch if absenteeism was general or hurtful in Java. I was told that it was common enough, but not appreciably injurious to the Natives, though it sometimes reduced both the value and income of the estate, and thus was chiefly hurtful to the absentee himself. On my telling the Dutch that some of our English statesmen thought that any benefit to be derived from the possession of estates in India by Europeans would be more than compensated by the evils of absenteeism, they answered that a limitation of the claim on the peasant, to a certain fair proportion of his produce, prevented his suffering from the absence of his landlord, except in so far as the care and assistance rendered him by the resident European manager was less than he could have received from a resident landlord. The competition for labour, sure to arise among European landowners cultivating improved crops, would, they said, oblige even the manager to do more for the peasantry than any Native landlord would do; while the evil of withdrawing rents from the country by absentee proprietors could never bear any comparison with the constant removal of savings and fortunes by Europeans, where no inducements were held out for their local investment by the creation of easy, profitable, and agreeable employment for capital in developing the resources of the soil.

The worst evil of absenteeism in Java is that it

causes the one-seventh of labour to be neglected or misapplied, and diminishes the fostering care and control of the cottier tenants and day labourers, the general result of which is that the peasants fall back into their old wasteful habits and careless cultivation, or are allured away to some better managed property. In either case the absentee's estate gets into a condition from which it takes years of care and great expense to restore it to its former value. The Dutch say that the application of European capital and intelligence to Eastern land and labour is the life-blood of the country, and that the principal benefits to the country and people are secured by the employment of these means, whether by a good manager or by a resident landlord.

It may be safely asserted that the worst managed European estate in Java, and the one on which the least money is spent by the owner, is in both these respects better off than the best Native estate in India.

*Benefit of European Estates and Plantations.*—The small proportion which the land tax bears to the income from land, and the regulations for preventing an absentee's estate being sold for arrears of land tax during his absence, make a European estate in Java a safe and agreeable investment, and cause such property to be much sought after. The climate in the low lands round the coast is about as hot as at Madras, without much variation in temperature at any season, except that

the rather hotter days and colder nights of the eight dry months are exchanged for about the same amount of muggy heat through the whole twenty-four hours in the four wet months. The Dutch modes of life in Java are, however, adapted to the climate, and a few years' residence on the coast not only accustoms the Dutch to the heat, but makes it more agreeable to their feelings than a colder country; while the change is always easy to the delicious temperature of the hilly interior, bathed in perpetual spring, producing buds, flower, and fruit indiscriminately throughout the year.

To make Java a pleasant home for Dutchmen is one of the chief objects of the Colonial Government. For this purpose the European's position and prestige are maintained, his active life is made profitable and distinguished, and his old age is secured in comfort and in the enjoyment of such European luxuries as are most appreciated by the Dutch. Among these good music and singing are pre-eminent, to secure which Government gives whatever is required over the subscriptions to maintain a good French operatic company at Batavia, the members of which also perform occasionally at Samarang and Soerabaya. In all three towns, when there is no opera, there are theatrical performances, and in Soerabaya the theatre is spoken of as a very fine building. The opera in Batavia is as good as the operas generally are in the best provincial French



towns, such as Rouen, Lyons, or Bordeaux. Public and amateur concerts are frequent, and are encouraged by Government both with patronage and money. Reading societies, book clubs, and the numerous booksellers in the capitals receive by every mail consignments of the latest publications in Dutch, French, and German, as also all English books which have obtained success. A good club, with all the common accessories of clubs on the Continent, also exists in each capital, the subscriptions to which are low enough to be within the reach of all, but the selection of members is very strict. The club is limited to the purposes of society, and made neither an eating nor a lodging house as in India, such uses being well carried out by the hotels, which are both numerous and excellent. Society in Batavia is unconstrained and agreeable, and is also easy of access to all Dutch gentlemen, and to such foreign residents and travellers as are well introduced and will conform to the usages of the country.

These advantages in the capitals, with profitable and agreeable employment on the estates and plantations situate in the genial climate of the hilly interior, within reach of the towns by a few hours' easy posting along good roads, make the Dutch gentleman's occupations in Java very pleasant. Many of the estates also are very large and valuable, and give to their European possessors a local position and an influence which tend to retain them in Java.

One, the Pamanuchand estate, contains twelve hundred square miles in a ring-fence ; extends from the top of the mountains in the interior down to the seashore, through the whole range of climates between the temperate and the tropical ; produces all the fruits and seeds of Europe and of Asia ; and is carefully, but insufficiently, cultivated by a cottier tenantry, and by a labouring population, amounting together to about one hundred thousand souls. This principality formerly belonged to an English mercantile firm at Bombay, who had bought it very cheap from the Native grandee to whom our English Government of Java had injudiciously granted it. The members of this firm followed the usual English practice of putting their sons into professions, instead of sending them out to Java to look after and to improve their magnificent property. Their impoverished descendants, some few years back, sold the neglected estate, much below its value, to the present proprietors, under whose care and judicious outlay it is fast attaining to a proper state of cultivation, and to the production of an enormous income.

The possession of such estates in an Eastern country, where the civilized pleasures of Europe are also to be enjoyed, not unfrequently induces the Dutch colonist to spend his whole life in the island, giving up the idea with which most Dutchmen go to Java, as Englishmen do to India, of merely

making money to take back to Europe. After becoming accustomed to the country and to the climate, and after investing his fortune in the purchase of an estate, or in the establishment of a plantation on Government land, he often prefers founding a family in his adopted home to seeing those who bear his name renewing his former obscure struggle among the unknown crowds of his native land.

Many Dutch families have thus cast deep roots in the country, by permanent settlement on their own properties for generations, mostly educating their girls at home with the help of imported governesses, but generally sending the boys at eight or ten years of age to school in Holland, to be hardened by a ruder climate and severer treatment for the future duties of manhood.

Most of the absentee proprietors of estates are young men, who have succeeded to their Java properties while being educated in Holland, and who prefer spending their incomes in Europe to exile in Java; but I was told that when such absentee proprietors came and spent some time on their estates in the island, they not unfrequently either permanently remained, or spent the rest of their lives alternately in Java and in Europe.

These old-established plantations and estates, with the old families still resident upon them, form great ties between the Europeans and Natives, and

tend daily to increase the number of permanent European settlers.

At the termination of a Dutch official's career, he, like the Indian officer and civil servant, generally retires to Europe with his pension and his savings, either for a temporary or for a permanent residence. Like the Indian official, he finds himself a stranger among a strange people, and in a strange land, which yet he has always been accustomed to look upon as home. After the first revival of the associations of boyhood has lost its charm, the retired official finds himself without employment and without consideration ; he has passed his life free from pecuniary cares, as a ruler and a noble by race, colour, and employment ; he returns, save in a few exceptional instances, to comparative poverty, to obscurity, and to idleness. He finds the territorial possessions of his native land, the power, the position, and the influence which make the goods of this world, belonging to fellow-countrymen at home, between whom and himself the habits of a life and mutual unacquaintance have necessarily thrown an impassable gap. He cannot but remember that these men, who look down on him as a colonist, only hold in that foggy Holland the same positions of rule and power which he held in his sunny isle of the Southern seas. He cannot but smile or stare to find that he, who in Java swayed the destiny of millions, is in Holland often not

thought competent to be entrusted with parish business.

Like so many Anglo-Indians he eats his heart away. But, unlike them, he has the resource of returning to the sphere of his former labours and usefulness, and there spending the evening of his life in a genial climate, and in the enjoyment of all the civilized pleasures of Europe. After a few years spent on the Continent, and when the education of his children no longer requires his attention, the retired Java official usually turns his back on Europe for ever, and returns to the home of his adoption. He there invests his savings in the purchase of an estate, or in establishing a plantation on Government land, and the remainder of his days run peacefully and calmly away, where his worth is known and respected; where his children, who have succeeded him in the active life of the colony, can still occasionally gather round his board; and where he is surrounded by old friends and connexions, engaged like him in agricultural pursuits, which instead of being thought derogatory to their former rank and position, are considered the natural and respected occupations suited to the honoured close of a well-spent life.

*New Private Estates.*—This employment of official savings, and of the fortunes made by the culture system, has raised the value of the few private estates in Java so high as to be beyond the reach

of most would-be purchasers; while the advantages of an estate and residence in Java have created a demand for land which those few private estates are quite inadequate to supply. Hence the present strong pressure on the members of Government, who are urged by the European non-official residents, whether traders or planters, to convert part of the rest of the island into private estates, selling the land at a price equal to the capital of the difference between the one-fifth of produce, and one-seventh of labour now received, and the three-fourths of one per cent. on the whole value of the estate, which would be paid by the private landowner.

The idea of bestowing estates on the Native aristocracy is repudiated by all. The Dutch say they make excellent rulers of their fellow-countrymen under European supervision, but abominable landlords. The few remaining Native landowners are fast losing their ill-managed properties, from the operation of causes natural to their stage of civilization. With the competition of intelligent and educated European landlords and managers, cultivating their estates with large outlays of capital, the agricultural ignorance, the carelessness, and the dislike to sinking money in the soil, which are natural to Natives, of course cause their properties to deteriorate, and ultimately to pass into other hands. None, therefore, but a few theorists in Holland propose to make the Java Natives landed

proprietors, or to disturb the natural predominance of the European landowner. One great argument, indeed, urged against the creation of more private estates is the fact that a considerable proportion of the few now existing have gradually got into the hands of the Chinese, who are harsh and exacting masters, though, unlike Native landlords, they certainly improve their properties.

The creation of fresh private estates from the cultivated parts of the Java crown lands does not seem to be open to much objection. On the contrary, it is admitted that it would largely increase the produce of the country, by the help which private landlords in Java, or their European managers, give to their cottiers, and by the attention which they pay to the whole cultivation being greater than that the Dutch officials and planters bestow on any but the crop for manufacture.

It is alleged that the force of circumstances and of public opinion must soon oblige the Dutch Government to adopt this course. Not one-half of the island is at present cultivated, and as population is rapidly increasing under the general welfare, it is hoped that the Dutch Government will extend its present system to the now uncultivated parts of the island, making over gradually the old cultivated districts to private European landowners.

The Dutch officials doubt whether Government

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will make this change, though they admit that the tendency of opinion is in that direction, but the surplus revenue is of such importance to the mother country, that the home Government, it is said, will hardly curtail its indefinite expansion on the culture system with the increasing population of the island.

An objection to this conversion, much insisted on, is its tendency to destroy the Native aristocracy.

The best Dutch statesmen consider the rights, the welfare, and the opinions of the Native nobles as much entitled to consideration as those of the Native peasant. They refuse to make the former landowners, as tending neither to their own benefit, nor to that of the Government and the country. But they hold themselves bound to maintain the Native chiefs in their accustomed places of power, emolument, and dignity. These it has been found practically impossible to maintain in those parts of the island which are composed of private estates. The European or Chinese landowner soon supersedes the Native chief in influence over the peasantry. The proud Native noble will not accept the position of mandor, or that of chief of the estate, who are appointed and can be removed by the proprietor; so that the mandors and chiefs of estates have to be selected, like our Native officials in India, from the best specimens of a class inferior to the old Native aristocracy. These, and the elected village chiefs,



who also are confirmed and may be dismissed by the proprietor or by his manager, soon become the sole rulers of the peasantry in the district. Though the position of the highest Native officials in the landraad is maintained in these private estate districts, yet even their power is much shorn by the government of the people having practically passed from them to the landowners and to their Native police officers. The office of wedana, and the various duties of the mantries, being rendered useless or unimportant in these localities, have either been abolished, or will no longer be accepted by the old nobility. The worst of the local aristocracy have there sunk into the ranks of the peasantry, while the remainder have emigrated into other districts, where the government of their own countrymen is still carried on through their compeers, in accordance with their opinions of what is due to family, and to their right of hereditary rule over the people.

*Admirable Management of Old Estates.*—These objections to the creation of new estates, however, involve only the personal question as to the Native nobles, for the peasantry on the private estates seem not to have suffered, morally any more than physically, by their absence. The social edifice of Native life probably has been injured by the removal of the keystone of the old Native aristocracy, equally on the private estates in Java as over the whole of our territories in India. In Java, however, the

substitution of European landowners, and the riches conferred by the general imitation of the Government culture system, have prevented the same demoralization of the people. Industry has there taken the place of idleness, and crime has made way for peace and order. On some of the private estates the general welfare has almost destroyed crime, particularly where the owner manages his own property.

The good feeling between landlord and tenant, as well as between employer and employed, in Java, is much due to the admirable regulations for the management of private estates, which were issued in 1836, and have been since carefully enforced. These regulations will be found further explained and commented on in the next chapter, on the Relations of Europeans and Natives.

The Dutch do not pretend to take a high view of their mission in India. They consider that Java is given them as an assistance and support to their small mother country, and as a pleasant home for themselves, considering their duties towards her fulfilled when they have gained the contentment and good-will of her people. This they attain by giving to the aristocracy exclusive rule and honour, and by securing to all peace and prosperity, real protection for life and property, and the undisturbed enjoyment of their own faith and usages. We have thought to conciliate the Native by practically excluding Europeans from India, except as mere

passing officials, and our Indian rulers are now halting between this traditional policy and the real encouragement of European enterprise, for the sake of the financial consequences. The Dutch allege this as an instance of the hypocrisy imputed to us by all Continental nations, saying that our pretended motives are either unintelligible or incredible, both to Natives and to other Europeans, neither of whom believe the professions of conquerors pretending to govern for the good of the conquered rather than their own. The Dutch allege that the seizure, by the English, of a fair portion of the conquered territory, would have been more satisfactory to the remainder of the people, as an intelligible proceeding, to be expected under the circumstances, and in accordance with the rights and usages of conquest. Finally, they say that, if our alleged motives be true, our policy was ill-judged, since, without conciliating the Natives, it has thrown difficulties in the way of what must ultimately occur, when financial, social, and even humanitarian considerations will, sooner or later, drive us to the European occupation of large portions of the soil, for the necessary development of its resources, for the permanent settlement of educated Europeans, and for the ultimate civilization and conversion of the heathen.

*Hopeful Prospects of Europeans in Java.*—While such are the present benefits enjoyed by the Dutch

settlers in Java, their future prospects are full of hope. The rapidly increasing prosperity of the country sheds its advantages over all, and opportunities will be largely extended by the introduction of railways, which are much called for. Government is urged to carry out the principle of the culture system by applying part of the present large yearly surplus of revenue to the making of railroads. Facilities for doing this economically are presented by the late discovery of coal in the neighbourhood of Batavia, and cheap Government railways would not only add to the general welfare, but would increase the revenue, and would relieve the pressure on the cattle roads, which are hardly adequate to the enormous increase in the produce traffic of late years. By making railways, by creating new estates, and by extending the present culture system to the waste parts of the island, the Dutch Government has an almost indefinite financial prospect in Java; the produce of the island would be largely increased, the private trade benefited, and the European proprietor would gradually spread the influence of his civilization over the whole of its variegated surface.

*European Privileges and Prestige.*—But besides these material advantages secured to the European in Java, the Dutch Government gives him a social and moral pre-eminence and prestige over the Native, which the Dutch assert to be necessary to the good government of a large Native population

by a few scattered Europeans, and which, while gratifying to the European, is in strict accordance with the distinctive and reverential ideas of the Native. Feelings of Native dissatisfaction would of course be excited, if all place, power, and reverence were monopolized by the European, but the entire absence of competition, and the separate lines reserved to each, with the prestige and reverence secured to the high Natives, preserve the European's privileges from being regarded with envy or hatred.

The Dutch policy in this respect is diametrically opposed to ours. They hold that any attempt to make the Native the equal of the European by law must fail. As long as a few Europeans hold dominion over large bodies of Natives, and, in case of resistance, enforce that dominion by the power inherent in them as Europeans, and as heirs of civilization, so long, whatever the law may say, will the European be the superior, and so long will he be so considered by the Native. When the Natives become our equals in body and mind, irrespective of any law, they will probably not allow us to continue their masters in fact. The Dutch, not thinking the speedy attainment of this contingency desirable, refuse to educate the Native, and meanwhile uphold the prestige of the European: not so much as a means of maintaining their dominion, for which, like us, they trust to their stout hearts and

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arms, but as a means of maintaining it easily, quietly, and, above all, economically.

Among other instances related to me of the extent to which the general European feeling in Java goes in this direction, was the following. A Native regent, who had got the consent of the daughter of a poor and low Dutch family to marry him, though her social position would have prevented her going, except as a servant, into the house of any one of the Europeans with whom the regent daily associated on equal terms, asked the permission of Government to his marriage, and received for answer his dismissal from his office of regent. This was related to me by Dutchmen as a praiseworthy vindication by government of European prestige, and as a proper punishment for the assurance of a Native, however high, in thinking of marrying a European woman, however low. Much of the intimate knowledge of Native ideas and habits possessed by the Dutch is doubtless owing to the not unfrequent habit of young Dutchmen living with Native or Chinese women, but the bare suspicion of any such relation between a Native man and a European woman causes universal horror.

In maintenance of the European prestige, the Dutch will not allow a European to be a domestic servant to a Native, and no Native would presume to drive among the Dutch with a European coachman, or with a European toady complacently seated

on the front seat, flattering his employers, and paraded to both Europeans and Natives, as an insult to the former, and as an insolent bravado of the latter. These things the Dutch consider of no moment in Europe, where they have no ulterior effect, but of the worst example and tendency among a nation of Orientals, most ready at taking hints and at giving the true Native meaning to such acts.

In like manner drunken European soldiers and sailors are not allowed to reel and lie about the streets of the capitals, unnoticed and uncared for by European authority, amid the sneers and taunts of a crowd of contemptuous Javanese. Any European thus disgracing himself and his country by the exhibition of a low vice abhorrent to the abstemious Native, would be at once taken charge of by the numerous European police of the capital, till restored to his senses, and then sent back to his ship or barracks with but small chance of again getting leave.

*Dutch Discouragement of European Knowledge amongst Natives.*—For the same purpose of upholding European prestige, Dutch opinion discourages the Native use of any but Oriental languages. During the whole of my stay in Java, at Batavia as well as up-country, I only met one Native who could speak any European tongue, though some of the servants at the hotels had a smattering jargon for the use of travellers. The only exception was a Javancse of high family who had been in Europe, and who, at

Paris, had become a first-rate artist. He had exposed pictures with credit at both the Paris and London exhibitions, and showed me an admirable painting, just finished by order for Prince Albert, of the mode of riding down deer and despatching them with the long Malay knife, which I had seen at the great hunt at Bandong. He spoke English, French, and German well, and Dutch probably as well as the languages in which I was competent to gauge his efficiency. He told me that whenever he spoke any European language to a Dutchman, private or official, he was almost always answered in Malay or Javanese. The only other Natives whom I could hear of as knowing any European tongue were two of the regents, who spoke Dutch perfectly, but could never get any Dutchman to answer them except in the vernacular.

The educational Government institutions in Java are both numerous and excellent, but confined to the capitals. I was told that they, as well as the missionary efforts, were limited in operation, so as to exclude the purely Native population of the interior, and particularly all Natives of rank and fortune. The aristocracy of the country are thus practically condemned to a forced ignorance of all the ordinary elements of European education, as well as of European languages.

With a higher view of our duties, we have as yet educated such small proportion of the more civilized



racés of India as would accept our English teaching, and have converted as many as we could persuade to consent to the martyrdom of being outcast from home and kindred, without even the compensation of Christian support and assistance. The Dutch consider this on our part a suicidal policy, but admit that our large philanthropical assertions in the face of Europe hardly left us any other alternative.

*Dutch Opinions of Legal Equality between European and Native.*—What they profess, however, to be totally unable to understand, is why, not content with thus shortening our Indian dominion, we should meanwhile make that dominion as unsatisfactory as possible to both Natives and Europeans, by constant proposals and attempts to reduce all, high and low, rich and poor, black and white, to the dead level of a mere fictitious legal equality.

That our Indian legislature should carry this equality-mania to the length of enacting the disarmament of Europeans, after the mutiny of 1857, was so far beyond anticipation, that I can only guess at the Dutch estimate of the character due to such policy.

With regard to the black acts, as the attempts to make the unofficial European criminally liable to the provincial courts are called, the Dutch ask why, when the enforcement of equality before our courts, between different ranks among the Natives themselves, is one of the chief grievances urged against

us, we should persist in arousing all the worst feelings of the Europeans towards the Natives, by constant threats to reduce the unofficial European to the same level? They wonder that when they, a people democratic by race and by tradition, have been forced by the aristocratic and distinctive character of the Native to surrender, in the Government of Java, their old associations and ideas, aristocratic England should insist on forcing democratic institutions and ideas of equality on the people of India, the very essence of whose faith and daily habits is belief in the uneradicable qualities of difference of birth, and in the justice and necessity of the most exclusive privileges founded on no other claim. They asked if we were so ignorant of Native ideas as not to know that the Native despises his equals, and only respects those to whom he is required to show respect; and they inquired how we could keep up such fancies, in spite of the necessity for external respect being so much more strongly insisted on, and exacted, by the Native chiefs, through whom we governed the people, than by the Europeans? When I answered that we did not govern the people through any Native chiefs, but directly under ourselves, though India was full of Native chiefs of high family and of large fortunes, with immense local influence, the conversation generally ended with a shrug, or with a polite intimation that our people must be easier to govern

than theirs, or the rebellion of 1857 would not have been the first rising of a body of nobles dissatisfied at being deprived of all legitimate share in the government of their own countrymen, but left with large means of mischief as landowners, and as feudal lords over numbers of devoted vassals and retainers.

## CHAPTER V.

## THE RELATIONS OF EUROPEANS AND NATIVES.

FRIENDLY FEELINGS—MISTAKEN IDEA OF NATIVE HATRED TO THE DUTCH—CORDIAL BUSINESS RELATIONS—MASTER AND SERVANT—LANDLORD AND TENANT—FORCED LABOUR—PLANTER AND LABOURER—ABSENCE OF SCORN AND ABUSE—CAUSES OF CORDIALITY BETWEEN EUROPEAN AND NATIVE—MARKS OF RESPECT—ABSENCE OF COMPETITION—GOVERNMENT THROUGH NATIVE CHIEFS—PRESENT AND PROSPECTIVE IMPROVEMENT OF THE CHIEFS.

*Friendly Feelings.*—The financial and commercial results of General Van den Bosch's policy have been shown in an earlier part of this book, but if it be permitted to his great spirit to look down on the consequences of his human efforts, we may perhaps assume that he most willingly contemplates the great social feature of Java life—the present excellent feeling between Native and European—as the best result of the two successful experiments—the culture system, and the government of the people by their Native chiefs under European superintendence.

*Mistaken Idea of Native Hatred to the Dutch.*—A very general idea exists among the English in

the East that the Dutch are hated by the Natives of Java, and that Native assistance would be readily furnished to any English or other European attack on Netherlands India. This idea is greatly due to the hatred of the Dutch openly expressed at Singapore by the Native traders of the Archipelago, most of whom come from the independent Native states, or from the unsettled Dutch dependencies, and all of whom have suffered from the rigorous suppression of piracy by the Dutch cruisers. From the concurrent testimony of the English and other foreigners in Java, as well as from the visible character of the constant intercourse between European and Native, this hatred is certainly not shared by the Javanese, but on the contrary, the relations of European and Native are there marked with a friendliness and mutual regard, which are the result of the systems that I have endeavoured to portray. The difference of feeling, entertained towards the Dutch by the Natives of Java and of the rest of the Archipelago, seems to result from the application of the Roman maxim, "*Parcere subjectis debellare superbos.*"

The motives which should induce the Native nobles and people of Java to rebel against the present Dutch rule are too few and feeble to render insurrection probable, unless as an ebullition of religious feeling.

The royal house of Soerakarta has by treaty the almost independent rule of its family domains, but

its influence over the rest of the island, which never approached that of the Great Mogul over his Indian tributaries, has been much weakened by lapse of time. The inferior princes, in the other parts of the island, have as much power and more security as Dutch regents than they ever possessed under the Native emperor, and the ideas of the country are opposed to any Native property in land, except in the ruling power. The present landless condition of the Java noble is therefore only a continuance of the old state of things, and not probably thought of as a grievance; while the real though controlled government of his fellow-countrymen, and the pomp and personal dignity of office which the Dutch wisely countenance, are all he could expect under Native rule, and seem to satisfy his aspirations. Instability of personal office and power is too frequent an Oriental occurrence, for the sudden and sometimes capricious dismissal of a regent or wedana by the Dutch to excite any but individual dissatisfaction, and the wise policy of selecting a successor to the regent from the same family, and of leaving the choice of wedana to the people, gives the nobles generally a security beyond what they would possess under a purely arbitrary Native despotism.

Neither would the Native nobles be probably drawn to aid foreign aggression on their Dutch masters by any prospects of ambition or avarice. The former British rule did not make them land-

holders or increase their power. On the contrary, it took from them their old government of the people and the administration of justice, and made them mostly mere idle, obscure, and powerless pensioners. It is to the Dutch they owe their restoration even to official rank and power, and such recollections can hardly excite a wish to change their Dutch for other European masters.

Without the co-operation of the Native nobles no Indian statesman looks for any active help from an Oriental population, but even the Java peasant's wishes would, probably, now be in favour of the Dutch against any European assailant. With the exception of the satisfactory justice and police which we introduced, the Java peasant's recollections of English rule do not seem to be happy. Our attempts at giving him separate property he neither understood nor appreciated; our abolition of his old labour rent was agreeable, but was contrary to his ideas, opposed to the old custom of the country, and far more than counterbalanced by the English land tax, with the introduction and exorbitant amount of which the memory of our Government is chiefly associated. The common people fully recognise their present flourishing condition, and each peasant cannot but feel that the great increase in his wealth, his release from the grip of the money-lender, and the gradual diminution of Native tyranny are the results of the Dutch rule, as administered since the

introduction of the culture system. The Dutch consequently have no fear of assistance being rendered by the Natives of Java to English or other European aggression, though the temporary success of the rebellion in India, with fortnightly accounts of the re-establishment of the Mussulman empire of Delhi, and of the eviction from India of the English rulers, led the Dutch to take precautions against any possible outbreak of Mahomedan fanaticism.

The Dutch say also that only the few educated or naturally talented Natives are capable of appreciating either the benefit or the merit of giving them peace and security, and that all the others merely look to what affects themselves. Though capable of great devotion to the man who has won their admiration by brilliant qualities, Natives have no idea of gold-beating their ardent personal attachments into a thin veneer of affection for a whole race of rulers.

*Cordial Business Relations.*—The character of the relations between European and Native in Java is as different from that in India as mere formal communion between uncongenial associates is from the hearty and cordial business intercourse of equals with the same labours and interests.

In India the time of the English officials is so absorbed in their own duties, with which the Native gentry have no connexion, that the visits of Native gentlemen are either evaded, or curtailed to the shortest proportions consistent with scant politeness.



The constant complaint among officials is, that such visits absorb time which cannot be spared, that topics of mutual interest are difficult to find, and that the Native gentry mostly make such visits with a view to some object to be gained, or for the purpose of availing themselves of the influence which intimacy with the official presupposes. The Natives of India, on the other hand, complain that their visits are frequently evaded, and that their wish to hold intercourse with their English rulers is practically discouraged. Formerly, when there were fewer Europeans in the country, and when most of the English lived with Native women, in a manner perfectly honourable and correct in Native estimation, there was at least more frequent and more cordial intercourse. With the increase of Europeans, the improvement of morals, and the higher tone of Anglo-Indian society, these old manners have become happily extinct, but the few bonds of union between European and Native, thus destroyed, have not been replaced by any other tie. Attempts at social intercourse have been occasionally made, particularly in Calcutta, where the educated Natives have rejected many unsocial prejudices, but such efforts have constantly failed, from the still inherent differences of habits, civilization, and tone of thought.

In Java social intercourse between European and Native is practically confined to the highest Native nobles, but the universal tie of common labours and

interests, in parallel uncompetitive duties, runs through the whole classes of Native gentry, and unofficial as well as official Europeans. The absence of competition prevents collision, community and co-operation of labour cause constant intercourse of the most natural character, and mutual interests furnish frequent occasions for mutual obligations and for joint consultation and discussion, from which each race has gradually learnt to appreciate the other's qualities, and to be more tolerant of the other's defects and prejudices.

The same amenity of feeling has descended through the different relations of life, and now marks the general intercourse between Europeans and their Native servants, tenants, and dependents of all classes.

*Master and Servant.*—The only relation in which the English and Natives have been brought intimately together in India is that of master and servant, and the late rebellion showed the power of that tie. The Anglo-Indian is sometimes an uncongenial, unsympathetic animal, treating his Native servants like so much furniture, and in these cases the servants, during the revolt, bitterly revenged their outraged feelings of humanity; but in the far larger class of kind and considerate masters, and even in many cases where there had been occasional ill-treatment without scorn or indifference, none stood by the English like the domestic servants. Though great trust is reposed in Indian servants, the Anglo-

Indian only feels real confidence in the few cases where he can get his father's old domestics who knew him as a child, or where he has acquired the admiration and love of his own servants by personal qualities and kind treatment for a lengthened period. In Java the same influence has had a much wider scope, and has attained the force of hereditary attachment on those old properties where generations of the same Native tenants and servants have been dependent on generations of the same European landlords and masters.

It is but very seldom that a European of whatever grade in Java strikes a Native. Javanese, Sundanese, and Malays are all very sensitive to a blow, except when inflicted by judicial authority, and any European who strikes a servant will probably be deserted by that servant at once, and possibly by all his other free servants as well. The fact of a blow having been given is held by the authorities sufficient justification for such desertion, which is otherwise punishable. In case of complaint, the European is also liable to be fined by the resident twenty-five florins silver. But as the Dutch think prevention is to be attained more by removing motive than by punishment, they carefully leave the European no excuse for violence towards his servants, but give him easy means of securing due attention to his rights, by sending the Native servant up to the resident for punishment.

*Landlord and Tenant.*—The relations of the European landlords in Java with their Native cottier tenants are generally very friendly. The European landowner's rights in the soil are recognised and upheld, so that the Native cottiers do not look on him as a mere useless claimant of part of their produce, but as the owner of the land from which they derive a livelihood. The landlord has no power of personally ordering punishment to his cottier tenants, and is liable to fine, and even to being removed from the interior to the capital, and to being thus deprived of the personal management of his estate, if he gives way to violence against the Natives. He can only send his people either to the Native chief of the estate, or to the European resident, with a statement of the offence, whereupon such punishment is inflicted as the official thinks proper, within the limits of his power.

As the value of a property depends entirely on the number of the cultivators, and as the Javaneses, if ill-treated or beaten, emigrate to neighbouring estates, it follows that the European landlord, besides the legal prohibition, has the sense of his own interest to keep him from giving way to violence in a moment of passion. On the contrary, the landlord or his European manager is obliged, for the improvement of the estate, not only to treat the peasantry with great kindness and consideration, but to render them every possible help. When a

young peasant wishes to leave his father's house and to set up for himself, or a new cottier tenant comes to settle on the property, it is customary for the landlord to lend him sufficient money to build his cottage, as well as the usual outhouses wherein to store his crops and to stall his cattle, and also to give him a pair of buffaloes, a plough, and a cart, which gift becomes absolute after he has cultivated two years on the estate. The loan is repaid without interest by instalments, on the discharge of which the cottage and outhouses become the tenant's property to sell, with the landlord's consent, but not to remove. The landlord is induced to make these advances, for the purpose of increasing the number of cottiers on the estate, and of getting so much more of it brought into cultivation, when he receives his one-fifth of the extra rice crop, and one man's additional gratuitous labour rent, applicable to the cultivation of such improved crop as the landlord grows on the home farm for sale or export.

The Native cottier of Java is thus secured the means of growing rich, and is protected from extortion or oppression by the "Regulations for the Management of Private Estates." The landowner has been thereby maintained in all the rights necessary for the improvement, and for the profitable and agreeable enjoyment of his estate, without infringing on the peculiar position of the Oriental cottier tenant, and without opening the door for

the mutual recriminations of oppression and evasion, so common between Native landlord and tenant in India. At the same time, under these regulations, the European owners of estates in Java grow coffee, indigo, sugar, and tobacco, to a very large extent, and on very profitable terms, without the possibility of either such resistance or such dissatisfaction as are now ruining the indigo planters of Bengal. An adaptation of that regulation to the zemindary districts of India might, perhaps yet reconcile the conflicting rights of property, and might save the large European capital, invested in the Bengal indigo districts, from being utterly lost.

It will be seen that the produce rent is strictly proportionate, and limited to one-fifth of the harvest crop, and that the labour rent, of one day's gratuitous labour in seven, is so regulated as always to leave the tenant six full days per week for his own cultivation. Even the agreement made between landlord and tenant before the crop is cut, as to the number of piculs which is to be the landlord's share, can be set aside by the tenant, if the crop is intermediately injured, on his giving notice to his landlord to content himself with the one-fifth of what crop actually remains. The tenant has, however, to deliver his landlord's share of the crop at the manor grange, free of expense, except when the crop is cut down by the villagers, as explained in a previous chapter; and the village chief is made responsible that

the tenant does not remove his grain and defraud his landlord. In like manner, the peasant's labour rent includes his going and returning, and involves payment by the landowner, if the scene of labour is beyond five pails, or about five English miles, from home.

Any agreement for rent made for more than one year, or without reference to the actual crop of the year, is strictly prohibited. This prohibition of the form of rent most common in Europe, and most approved of by political economists, is in Eastern countries a careful precaution against a form of contract in which the improvident Eastern peasant always gets the worst, whether with European or Native landlord, and against the same peasant's consequent dissatisfaction thereat. At the same time the small fixed proportion of the landlord's share gives the cultivator all the previous knowledge necessary to regulate his cultivation and outlay.

There are no leases, but every tenant whom a landlord allows to settle on his property is a leaseholder, on certain fixed conditions, for the area which the landlord allows him to occupy. This does not derogate from the exclusive right to the soil belonging to the landowner, who cultivates as much of his estate as he pleases for himself, with his peasants' labour rent and with day labourers, who acquire no leasehold by such cultivation.

*Forced Labour.*—Besides the ordinary day labourers, the landlord, whether Government or a

private landowner, is further entitled to require the cottiers on his estate to work for him as much as he pleases, but only on the condition of paying each man the highest agricultural wages of the district. This is the only real forced labour in Java, and the only point on which the landowner there has any but a strictly limited power over the cottier peasantry on his estate. The labour rent extending all over the island causes no perceptible dissatisfaction, but the forced labour beyond the one-seventh excites bitter feelings if persisted in. Both the labour rent and the forced labour are applied, on private estates, to the cultivation of those crops which the landowner is growing on the spare land for his own profit, except so much of the labour as is required for the gardens, and for the maintenance of the roads near the estate, both which the landlords have to keep up from the labour rent.

The cottier peasant is carefully guarded from extortion by his landlord, but bound to pay his landlord's share of the produce of the land; his subordinate rights in his holding are protected, but kept subject to his landlord's paramount right to the soil; and he is practically freed from oppression, though subject to have his labour utilized by his landlord. By these means the cottier tenant's interests are secured, and he soon becomes rich, from the large surplus produce of his holding after paying his landlord's one-fifth. By the same pro-



visions the landowner is invested with sufficient power over his whole estate to enable him to turn the remainder of his land to the most profitable use it is fitted for. After having thus carefully regulated the respective rights of landlord and tenant, the Dutch are wise enough to abstain from further interference, beyond seeing that the legal conditions are fulfilled. If a landowner chooses to exact forced labour from his cottiers, and thereby to create discontent among them, the Dutch officials do not envenom this feeling by issuing injudicious proclamations of abstract rights for the cottiers, or of remonstrance with the landowner. They take care that the landowner complies with the law, by paying the highest agricultural wages for such forced labour, and they meet the peasant's complaint by saying that the landowner is only exercising his right, in a manner of which he is sole judge, and that the cottiers must either submit or withdraw from the estate.

The Dutch say that it is open to the European rulers of Eastern countries to fix the character of the landed tenures, as practically either peasant or landlord property, but that either system involves logical and unavoidable political consequences. If a peasant Utopia is to be created, a Bœotian degree of placidity may be excited among an idle and unenergetic people, but the rulers of such a Utopia must bid farewell to improvement, to civilization,

and, above all, to any but a small amount of revenue per head. They must also be prepared to find gross vices and low passions usurping the place of the poetic attributes of Arcadia, and to see poverty general and increasing, and crime both organized and violent. If, on the other hand, landlord property be established, much sentimental philanthropy will be outraged, the ready Oriental will shape his complaint in the most touching but exaggerated strain of oppression and extortion, and occasional real hardship will have to be endured by the peasantry. But, as a counterpoise, the desert will gradually be reclaimed, the cultivated area will be tilled like a garden, the communications as soon as opened will bear a large commerce, adding to the wealth of both cultivator and landowner, and peace, with general prosperity, will soon bring contentment to the people, and a large revenue per head to the Government. The judicious application of such revenue will enable light to be let into the darkness of centuries, and will ultimately cause civilization and Christianity to supersede barbarism and superstition. The Dutch admit that the conditions of Oriental society preclude at present the entire adoption of either of these courses, to the exclusion of the other; but they say that deterioration or improvement will depend on whether the necessary compromise bears most strongly the character of peasant or of landlord property; and that the more

or less speedy attainment of these benefits from landlord property will depend on the character and knowledge of the landlords, and on the degree to which they employ capital in the cultivation of their estates.

In India Lord Cornwallis and his advisers preferred policy to sentiment, and stamped a strong landlord character on our then Indian territories. Their successors reversed this policy in our subsequently acquired dominions, and complained that Lord Cornwallis' perpetual settlement had subjected almost the whole of the lower classes throughout our older provinces to most grievous oppression. To avoid the natural action of the landlord on the tenant in a low stage of civilization, after we had destroyed every tie between the peasant and his former lord but the mere antagonistic connexion of a rent payment, our subsequent Indian rulers substituted more and more the peasant for the old noble, till this system reached its pitch of humanitarian extravagance in Thomason's village republics, and in the entire suppression of Native landlords over a large part of India.

The bubble was burst, and the broad results of each system were displayed in the mutiny, and still more in the present condition of the different provinces of Hindostan. The scenes of our chief philanthropical innovations were also the scenes of the most general rise against our rule, while, at the same

time, the condition of general poverty to which we have reduced those districts, by our ill-judged measures in favour of the peasant, will prevent their assisting much in the payment of the mutiny debts. The new income tax in India will fail to repair the deficit in the finances, but it will probably settle the question of landlord or of peasant property, by showing the far larger proportions in which the burden can be imposed on the landlord inhabitants of the perpetual settlement and other zemindary provinces of India, than on the peasant holders and village republics of the ryotwarree and village settlement districts.

While such have been our Indian measures, the Dutch have, at least since General Van den Bosch's time, guided the Java Government by policy instead of by sentiment. Whether on the crown lands or on private estates, landlord property has been made to predominate, with every encouragement to landowners to add to their own and to the country's wealth, by applying European intelligence and capital, in aid of Native labour, to bring forth the teeming riches of their Eastern soil and climate. The result has been moral benefit as well as material prosperity. Communion of labours and of interests has excited cordial relations between the different races, and precludes, with the enlightened European landowners of Java, the bad feeling, resistance, and evasion, which in India are such a serious impe-

diment to the improved cultivation of the country.

The Dutch, French, and Spanish colonists have been often harsh and cruel masters, and, both personally and as a body, have frequently oppressed the Natives individually, in a manner which cannot be charged against the English in India. Yet how different is the feeling between landlord and tenant, between master and servant, even between European and Native, in their Eastern colonies, where Europeans have become settlers and landholders for generations, to the careless indifference or positive dislike with which, after our centenary rule in India, the Native of Hindostan regards the ever-varying faces of his merely official European rulers. From a mistaken idea of not interfering with the Native landowner, the Court of Directors rejected Warren Hastings' proposal to give Englishmen estates in India, and we have since systematically impeded the European's acquisition of land and permanent settlement with his family. This one element, however, in the teeth of much ill-treatment and injustice, has given stability to Dutch, to French, and to Spanish colonies in the East, by securing the influences of habit and association, if not of love; and thus binding the people to their European rulers by personal attachments, instead of by such a mere rope of sand as a general reputation for justice and integrity, to which we have trusted for affection in India.

*Planter and Labourer.*—As above explained, it is only in the residencies round the north-western end of Java, that there are private landed proprietors. In the rest of the island, where Government is the landlord, the relation between the Natives and the non-official Europeans is limited to the cultivation of one-fifth of the village land, as above explained, either for the contractors or for planters on lease of crown lands, but not under advances from Government.

Contractors and planters are all under the same personal restrictions, in the treatment of Natives, as the private proprietors of land, but with the further check that, as they cannot appoint a chief of the estate or mandors with any power of punishing the peasants, their only remedy is by complaint to the *contrôleur* or resident. The unauthorized, or, as they have been called, the outlaw courts, held daily by every planter and Native landholder in India for the punishment of his peasants, are unknown in Java. On private properties, the landlord or manager, the Native chief of the estate, and some of the village chiefs, sometimes hold a kind of imitation *landraad* for the trial of petty offences, but limited by the legal powers of punishment vested in the chief of the estate. The numerous small complaints which in India are brought to the planter's or *zemindar's* court, go in Java to the village chief, to the local salaried *mantrie*, or to the *wedana*, only

the last of whom can fine to three florins, but all of whom have powers of conciliation and prevention, which answer most purposes of these small cases equally well. The contractor or planter in Java has no legal judicial authority, and is not allowed to usurp and wield illegal powers of the kind. When I explained the Indian planter's and Native landholder's unrecognised, though necessary, self-created and self-asserting courts, I was met by the remark that Anglo-Indians must be a curiously inconsistent people, with a monstrous propensity to shut their eyes to things as they are, and to act as if things were only as they ought to be. The planter's and zemindar's courts being evidently necessary, and answering to the requirements of large insufficiently administered districts, the natural and wisest policy, it was said, would be to legalize and limit their powers, and control the exercise of them; but that, while admitting the practical necessity of these courts, and with the existence and daily exercise of these illegal powers known to every official in the country, we should neither legalize nor suppress them, exceeded the comprehension of the Dutch.

After confidence in the culture system had been established, the Government contracts were only given to such men of education as Government thought would treat the Natives with kindness and consideration, and many of the original contracts were bought by gentlemen of the same character

from the inferior class to whom the grants had at first been necessarily made. The same rule has since been followed with the culture leases, and no man of coarse or overbearing manners would have any chance of being allowed to settle as a planter on any of the crown lands. The planters and contractors in Java thus gradually became, and now are, almost universally men of family and fortune, and, as a whole, fully equal, if not superior, to the officials. Their dealings with the crown cottiers are patient, kindly, and considerate, for they have learnt what an enormous difference in their profits is made by a careful and contented cultivation of their crops. They treat the surrounding villagers much as an English gentleman does the peasants at his gate, and are universally and cheerfully resorted to for medicine, for advice, and for both pecuniary and other assistance.

Many planters of course express a wish that Government would make them owners of the land they cultivate, or would at least give them the landowner's privilege of appointing a chief of the estate, and of requiring the one-seventh of gratuitous labour rent. Such powers will not, however, be conceded to them, for the Dutch statesmen know that the great safeguard against the abuse of such powers is the owner's interest in maintaining the value of his estate, which is of course less strong in a mere planter or contractor for a limited period,



than in the absolute hereditary proprietor. But, as before explained, large parts of the crown lands will probably soon be converted into private property, when the planters and contractors will obtain those rights, together with the interests which tend to prevent their misuse.

*Absence of Scorn and Abuse.*—Both in the intercourse with the Natives, and in the ordinary way of speaking about them, I was struck by the total absence in all the Europeans, low as well as high, of the contemptuous and depreciatory tone which has so much increased in India within the last three years. The scorn and insolence of language and manner, which were formerly limited to the vulgarest of the Anglo-Indians, have been widely spread, both by the horrors of the Native outbreak and by the stern measures required for its suppression, till its most characteristic development, the free use of the words “Damned Nigger,” is now often heard from men whose forbears would have blushed at the feeling so portrayed. This feeling, as far as I could ascertain, had been suppressed in Java by the present state of the relations between Europeans and Natives, though I was assured that formerly both the feeling and the equivalent Dutch expression were common enough.

*Causes of Cordiality between European and Native.*—The cordiality and kindness of European and Native intercourse seemed to me so important, that

I took pains to ascertain its origin. I was told that in its present universality and genuineness it dated from the culture system, which, by giving the European and Native common interests mutually dependent on each other, had brought them more together, and made each better acquainted with and more tolerant of the other. But even before mutual interests had been created by the culture system, amicable relations had been established by mutual labours in the government of the country, by the absence of competition between European and Native, and by maintaining reverence and prestige in the European, and hereditary power in the Native aristocracy.

The community of interests and labours caused by the culture system, and the joint working of European and Native noble in the judicial and administrative departments, have been before explained, but the marks of respect, the absence of competition, and the government of the people solely through the Native chiefs, require further observation.

*Marks of Respect.*—In Batavia, the people are respectful in their manner, and neither by act nor word is there any of the insolence so marked at Singapore, and occasionally visible in India, but generally they go about among the Europeans much as in Calcutta. In Batavia, as in Calcutta, quiet, reputable, well-dressed Natives drive about without any par-

ticular marks of respect, though not generally at the places resorted to by the Dutch, but if, as sometimes occurs in Calcutta, a half-naked ruffian dared to drive insolently among ladies, exposing his person under one thin narrow strip of transparent gauze, he would be at once seized and left to cool his naked heels for twenty-four hours in the stocks of the police yard. As soon, however, as the traveller gets some little distance from Batavia into the interior, he begins to meet Natives who, at the approach of his carriage, get off their horses, take off their big round hats, and squat down in the absurd Javan attitude of respect till he has passed, and when the traveller enters the Preanger, subject to a more purely Oriental rule, he finds this practice universal, and adopted, as of course, by every Native in the district.

The high Native officials do not squat down to Europeans like the common people, but only take off their hats, while servants wait on Europeans in the same manner as in other countries, except in the house and presence of a regent, where both Native and European are served upon the knee. Formerly no Native presumed to adopt any but a kneeling posture within the regent's view, but now a Native of rank sits upon a chair, after having gone down on his knees to the regent as a preliminary mark of proper respect, and only again resorts to his knees when addressed or called by the regent, or

when about to depart from his presence. The only exceptions are the servants of the resident or other European, who, in their master's house, serve the regent as they do their masters, standing up.

At every party or evening dance, many of which are given by the Europeans in the up-country stations of Java, I never failed to see the Native regent mixing in the crowd, and treated with familiarity by the Europeans, but at the same time with deference, as the superior in rank of all but the resident. The regents, through whose regencies we passed, seemed anxious by frequent entertainments, and by every other means at their command, to return the European civilities they received, and to promote the general amusement of the station. The social intercourse between the Europeans and the regent was much like that between county families in England, where, though of different ranks, all are gentlemen and so far equals, and totally unlike the general intercourse between Europeans and Natives in India.

The regents, however, are the only Natives who habitually associate with the Europeans at the station, but every *contrôleur*, in going his monthly rounds, is accompanied through each district by the *wedana* and by some of his *mantries*, as also by the local salaried *mantrie*, with all of whom he lives on friendly terms. *Contrôleur* and Native officials share the same stranger's house in the village where they pass

the night, examine together the village cultivation, and join as equals in the sport with which the labour of the monthly rounds is frequently enlivened. This attendance of the local Native officials on the young Dutch civil servant maintains among the people the prestige and distinction of the European, and secures him, without interference or personal authority on his part, the same respect from all that is paid to the highest Native aristocracy.

*Absence of Competition.*—Absence of competition between the two races seems to be indispensable for a really cordial feeling between European and Native. In Java, it is considered of such importance as to pervade the entire colonial policy of the Dutch Government as an unchangeable rule, to which no exceptions are allowed.

The whole community is legally divided into Europeans and persons assimilated with them. Christianity is the broad distinguishing feature ; all Christians, even those among the Native population, being technically assimilated with Europeans, and all heathens and Mussulmans being technically assimilated with Natives. The former are generally only subject to the Dutch courts and laws, the latter to the Native courts and laws. At the same time the Governor-General can except the Christian Natives from their liability to Dutch courts and laws, where the stage of their civilization is so backward as to make the old Native custom more acceptable to their

ideas. In like manner the Chinese and other foreign Orientals, who are technically assimilated with Natives, and are criminally subject to the Native courts, are exempted from the civil operation of the Java custom, except in matters affecting their personal rights and their rights of inheritance. The broad distinction is drawn, and then such exceptions to the general rule are recognised as are called for by the habits and wishes of the people.

This division of the whole inhabitants of Netherlands India into two distinct classes is so fundamental a principle in the policy of the Dutch Government, that it is enacted in the code specifying the limits and conditions for future legislation in Netherlands India. It is thereby withdrawn from the competence of any local legislative power, and preserved from alteration except by the paramount legislative authority of the Dutch sovereign and States-General.

While such is the legal division of all the inhabitants, the classes of Europeans and Natives, properly so called, nearly monopolize all power, and share with the intermediate races the other benefits of the country.

The Dutch, of course, keep the chief government in their own hands, and form the whole of the first two classes of officials; but the half-castes, who almost universally adopt the religion and habits of their European fathers, rather than those of their

Native mothers, can enter into the subordinate offices of the state, and, on becoming officials of the third class, have the highest appointments in the local Government, not only theoretically, but practically thrown open to them.

The Natives, on the contrary, as was to be naturally expected from their numbers and their ideas, practically exclude all others from any share of power in the subordinate government of their fellow-countrymen entrusted to their charge. No Native noble would ever think of opening to a Chinaman the road to Native honours by making him a mantrie, nor would the Native community ever select such a mantrie to any superior post in the provincial Government. It will be remembered that, as described in the chapter on Officials, the choice of the Native regent is limited to some member of the one family to which all the other Natives in the district grant precedence, and that every other vacancy among the Native officials is filled by the election of the Native community from among the mantries of the regency. Sometimes a starving Chinaman, or other foreign Oriental, or one of the half-breeds of Chinese and Native parentage, will adopt the Native dress and customs in the interior; but the generality of Chinese and other foreign Orientals live among their own countrymen in and around the capitals, mostly combining their industrious habits as artisans with

the universal trade of usury. They are thus practically excluded from power, and confined to the pursuit of wealth, forming in Java the only class who are under the real disabilities to which, in all but a few instances, we subject the whole Native community of India.

With this exception, Europeans and Natives in Java have such lines of ambition, of power, and of prosperity marked out for each, as best suit the respective ideas of each race, and the station in life of each individual, but the palpable distinction of European and Native is recognised and acted on in every line of life, so as to avoid collision and consequent ill-will. Different duties, ranks, and advantages are allotted and strictly preserved to each. The Native has ample fields of employment and ambition open to him, from which he is not ousted by the European's superior knowledge and power, while the European's pride of colour, conquest, and civilization is not irritated by the Native galling his kibe. Each race has its allotted sphere, and it is as impossible for the Native to be a contractor, a planter, a resident, a secretary, or a *contrôleur*, as it is for the European to be a regent, a member of the *landraad*, a *wedana*, a *mantric*, or a village chief.

This separate employment in distinct lines best suited to the natural capacity of each people, and the consequent absence of competition between races



of unequal powers, is a far greater advantage to the Native than any mere theoretical equality, even when followed by our Indian mode of either foisting him into positions for the performance of whose duties he is less fitted than his English competitor, or trying to educate him up to an equal capacity. In spite of our attempts to supersede the influence of generations of civilized ancestors, by the special cram of a hasty education, nature will assert her rights, and the friction of necessity or danger generally reveals the Oriental substance under the European varnish. Employers of labour, Government as well as individuals, are thus practically forced to prefer the Englishman to many occupations which have long been considered by the Natives as their monopoly. Notwithstanding the Indian Government's strenuous efforts to the contrary, the inferior judicial and administrative appointments which are not subject to the direct action of a European superior, are being gradually transferred, by sheer force of circumstances, from the Native to the Englishman. Offices so expressly created for Natives, under the late philanthropical system of our Indian Government, have not even an English name—ameens, sudder ameens, principal sudder ameens, and many others—are now held occasionally by Englishmen, with a manifest tendency to supplant the Oriental.

The palpable reason is that, when creating offices

for the employment of Natives, our philanthropical regard for our pet—the peasant—or our fear of the Native noble, led us to an ingenious misapplication of the elements at our command. Instead of entrusting the higher Natives with the government of their fellow-countrymen, under our supervision, for which they are both anxious and well adapted, we created mere subordinate judicial and administrative offices, which the pride of the Native noble prevents his accepting. At the same time we left the inferior Natives, who would consent to hold such unhonoured offices, without either direction or assistance. The very lowness of their civilization, and the inadequacy of their knowledge, of course prevented their unguided and unaided performance of their duties coming up to our high standard. The remedy of substituting Europeans for Natives will of course improve the administration of justice in the particular office. But this may possibly be more than counterpoised by the general feeling of the people, that the tendency of English policy at present is to deprive them of the small remnant of power to which Lord William Bentinck restored them.

At the same time our European education daily brings into the labour market numbers of young men whom we have unfitted for their own humble sphere of Native life, and for whose excited aspirations our system furnishes no adequate field of employment. In Lower Bengal, the critical Native

reader and commentator of Shakespeare, or the successful acquirer of the literary knowledge to which our Indian education is chiefly directed, finds it more difficult to earn his daily bread than the uneducated peasant or artisan. Such Natives as have studied medicine and surgery enter the Government service on a fair salary as of right, and to this provision is due the flourishing condition of medical education in India; but, for the ordinary recipients of an English education, whose practical available acquirements consist in reading and writing English, the field of employment is limited to clerky duties, of which the supply far exceeds the demand. An educated Bengalee considers himself fortunate if he can carry away from his numerous competitors the lowest and worst-paid employment of copying English papers, and even this means of livelihood is being daily reduced by the increased action of the printing press. A feeling of soreness against us and our system has consequently arisen even among those Natives whose English education has severed them from their own uneducated countrymen, but without binding them to us.

As long as we persist in acting as if the claims and interests of the peasant were paramount to those of all other classes of Natives, and as if the only mode of protecting him from his fellow-countrymen was by reducing all others to his level, so long we must daily take his government more and more into

our own hands, and daily supplant Native by European agency. But if the natural distinction of European and Native were recognised and acted upon, with different lines in the government of India and in the development of its resources marked out and allotted to each, the Indian noble's assistance might be secured, when his knowledge of his own countrymen would enable him, under English supervision, to do more for the general welfare than can be effected by the best intentions of the uncongenial Briton. Education would then only improve the Native agency, into which its possession might be made the means of introducing men whose birth, in the opinion of their fellow-countrymen, would otherwise exclude them from sharing with the Indian aristocracy in the government of the people.

The difference between the Dutch and our systems in this respect seems to be, that our refusal to make what we call invidious distinctions between the races secures the practical degradation of the Native, and his gradual ouster from power and office by the Englishman; while the broad distinction drawn by the Dutch gives practical equality of benefits and duties to each race in separate lines, and secures the personal position of high Natives on a level with the official status of their Dutch conquerors.

*Government through Native Chiefs.*—The government of the people by their Native chiefs, under

European supervision, is admitted by all in Java to be the keystone of the general content, and the *sine quâ non* of really cordial relations between European and Native.

It may be said that the same system was formerly tried in Bengal, but was obliged to be gradually discontinued, in justice to the people, on account of the tyranny and incompetence of the native rulers. Our remedy for this natural state of native society was to abolish the native ruler, and to take the protection of the people into our own hands. The result in India has not been happy, as shown by the general Native dissatisfaction with our system. When Natives presided over and carried on so many branches of the public administration, in our first Indian conquests, the system was distinguished from that in Java by the two elements on which, the Dutch say, the success or failure of the process depends. There was no practical European supervision or control of the Indian Native ruler, and the office was considered personal to the individual, instead of merely limited to the class.

The same abolition of the Native rulers was adopted by Sir Stamford Raffles in Java, to the great discontent of the people, and the foundation of the present good feeling was laid by the Dutch restoring the Native aristocracy to place and power. This system has been continually in operation since 1817, and has been gradually improved by the

Dutch superintendence, and by the sharp remedy of removing the individual Native for incompetence or malpractices.

The prestige of the Dutch rulers is thus kept up, without their taking a personal part in the control or direction of the people, otherwise than by advice and assistance, while the administration being confided to the Native chiefs gratifies their natural ambition of power, and utilizes their necessary influence by directing it into legitimate channels.

The Java policy in this respect is diametrically opposed to ours in India, and in no point has the contrast in the two countries been more marked. The distinction between that system and ours is material, and not merely apparent. In India we govern directly, our openly given orders being merely carried out by ministerial Natives. In Java the regent only carries out the orders of the resident, on occasions of emergency, but in all other cases his line of conduct is regulated by the decision of the *landraad*, of which he and the Native councillors are known to form a majority; and they, therefore, and not the Dutch rulers, bear the blame and ill-will of those injuriously affected. The *contrôleur* reports any particular case in which the regent's general orders bear hardly, and individual exemption or modification frequently follows. Thus the peasant looks to his monthly intercourse with the Dutch official as a means of making his grievances

known, and of possibly obtaining relief and protection ; his relations with the European are always made pleasant and profitable, while he suffers in no manner except by the order and with the consent of his Native superior. The elected village chief collects the peasant's one-fifth of produce, specifies and enforces his labour rent, and allots to him his share of any requisition made for carriage or provisions. He is the medium through whom the higher Native officials act on the peasant, and through whom also the peasant seeks for protection or relief by the European authorities.

At the worst, Native administration, contrary as it is to European ideas, seems not to excite anything like the amount of dissatisfaction among the people which we should expect. The government of the independent Native states in India seems on the whole satisfactory, even to the lower classes. The necessity in Native states of obtaining support from inferiors against numerous enemies, secures kind and considerate treatment of tenants and dependents, while the evils of violence and misrule seldom descend to the masses, are at least in accordance with Native usages and ideas in the aggregate, and their occasional infliction is borne as the work of destiny, and endured in hopes of better times. It is when a strong Government, like the English, abolishes the Native landowner's old motives for keeping the affection and support of his tenants and

dependents, that the galling and continuous tyranny of Native superiors to inferiors has free scope, and produces lasting and general dissatisfaction with our system. Even in Oude, which we had annexed for mal-administration, chiefly resulting in what we called lawless violence and ruthless ill-treatment of the people, the universal rebellion against our humane and enlightened rule seems to show that Orientals, like Englishmen, prefer mismanaging their affairs in their own way, to having them better managed by others in modes unsuited to their habits of thought.

The Native officials in Java of course, as elsewhere in the East, do sometimes oppress the people, but being members of the first and richest Native families, their tyranny is both less mean, and more willingly endured, than that of low, petty men, like Indian darogahs, chuprassces, and policemen, whose exactions are so minute and galling. The village chief also, through whom in India so much vicarious and personal oppression is suffered, is in Java himself a villager, elected yearly by his fellow-villagers, but whose term of office is limited to the year. The emoluments, as well as the power, attached to the position of village chief in Java, make subsequent re-election desirable, for which the individual must secure the good-will of at least a majority of the villagers, which the necessary confirmation by the officials, and their local knowledge, prevent his



seeking by oppressing the minority in favour of the majority. The *contrôleur's* monthly visit makes any flagrant tyranny difficult to be concealed; and, lastly, we know that Natives will willingly bear from each other, and particularly from their own old nobility, what they would resent from us. If the administration, therefore, should sometimes be more defective than in a European country, the Dutch do not consider that a reason for abolishing the high-born and responsible Native instruments, and for substituting a purely European executive, acting merely ministerially through Natives, whose birth and functions lower them in the estimation of their fellow-countrymen. The Dutch prefer allowing for the imperfections of all systems, and think that if, by the government of Natives through Natives, under European supervision, they satisfy the ambition of the nobles, and give them useful, dignified employment, without materially, and at present without even perceptibly, injuring the peasant, they have gained a great step towards the peace and satisfaction of the country at large.

*Present and Prospective Improvement of the Chiefs.*—When mentioning this subject since my return to India, I have been constantly met by the assertion that the Native chiefs in Java must be very different from the high Natives of India, to render such a system possible. They certainly now are very different; but, when restored to power in

1816, the Native chiefs' administration was as bad as it well could be, while Raffles' account of them, with his entire suppression of their influence and power, shows that he ranked them even lower than the Indian aristocracy. The Dutch say, that at first enmity, extortion, and tyranny were rife among them, and that power and influence were only applied to secure followers, and to make a party against some other chief. They constantly thwarted the Government in every proposal of amendment, and rendered a tolerable administration of justice through them almost hopeless. By patience, however, and particularly by the more constant European intercourse and supervision dating from the culture system, these faults have been gradually removed, till now their government of their fellow countrymen leaves no reasonable ground for complaint.

The late improvement in the Native officials of Java is no doubt due to the culture system, and to the general close and constant European supervision which that system necessitated. But it is doubtful whether this would have operated so quickly or so well, unless the field had been prepared by the practical education of the youthful mantries by their early employment in public affairs. As I have before remarked, the young Java noble's position and functions in the wedana's household are nearly similar to those formerly belonging to the young aspirant to chivalry in a knight's castle. The

duties required of the mantrīe produce active habits and considerable self-control ; while the able gratuitous performance of those duties is the only road to honour, and to future office.

This is the most hopeful, I had almost said the only hopeful, element in Eastern life ; the only prospect I have seen for changing the sensuous, emasculate, vanity-sick Oriental into the true man, firm of purpose, strong to do, and still stronger to bear.

As far as can be judged by the few cases in India, where our English education has done more than rub off the Native crust, the best to be expected of all those millions, under our present teaching, is, that they shall drift from their present grovelling state of society into a civilization of low epicurism, like that of the latter empire, for want of passing through the crucible of chivalry and of poetic Christianity, to which we owe all that distinguishes our civilization from that of the old world. The means to better ends do exist in the feudal relations, and in the high-minded though perverted notions of the old nobles and people of India, but, instead of using their pride to direct their ambition aright, we have been destroying both pride and prospects of amendment by the slow fire of our subversive sale laws, by our levelling anti-feudal policy, and by the debasing example of civilized Christian rulers, seeking mere gratification of moneyed greed, instead

of the personal rank, the local power, and the permanent status natural to conquerors, and which alone enable the rulers of an Eastern country to influence it permanently for good.

In Java, a few years of this school of chivalry have converted the chiefs from laziness and tyranny to active habits and to the exercise of self-control, have taught them to value reputation above ease, and to consider useful employment, however trivial or almost menial, no derogation from the dignity of birth and station.

How glorious might be the result of the same civilizing process on the people of India, in a state of society so exactly suited to its reception. Chivalry, the nurse of manly sentiment and heroic action, would fit into the proud aristocratic nature of the Indian noble, whether Hindoo or Mussulman, without exciting his religious susceptibilities. And what might not be the progress of Christianity and of civilization, when the heathen idols of sensuality, avarice, and personal consequence had been displaced by pride in labour for the public good, by self-control and sacrifice for the sake of reputation, by the thirst for true honour, and by the virtues of the Christian and the gentleman.

## CHAPTER VI.

## APPLICATION TO INDIA.

COMPARISON OF THE PRESENT STATE OF JAVA WITH THAT OF BRITISH INDIA—GENERAL DISCONTENT IN INDIA—COMPLAINTS OF THE NATIVE ARISTOCRACY AND LANDOWNERS—LOSS OF POWER—REVENUE AND DECREE SALES OF LAND—THE BENAMEE SYSTEM—GRIEVANCES OF THE NATIVE COMMUNITY—INADEQUATE NUMBER OF LOCAL OFFICIALS—EXCESSIVE LAND TAX AND EXCESSIVE RENT—ZEMINDAR'S LAND TAX TO GOVERNMENT—PEASANT'S RENT TO GOVERNMENT—PREVENTION OF IMPROVEMENT—DIFFERENCE IN THE VALUE OF LAND—PEASANT'S RENT TO LANDHOLDER—REQUIREMENTS OF THE ENGLISH GOVERNMENT AND PEOPLE IN INDIA—INCREASE OF REVENUE—DIRECT TAXATION—DEVELOPMENT OF INDIA'S RESOURCES—FRESH EMPLOYMENT FOR EUROPEANS—GOOD-WILL BETWEEN EUROPEAN AND NATIVE—MEANS OF RAISING NATIVE CHARACTER—POSSIBLE RESULT.

*Comparison of the Present State of Java with that of British India.*—The foregoing account shows generally how far Java is ahead of India in the chief elements of material and social prosperity. The two countries are analogous Oriental states, inhabited by Natives and governed by Europeans,

under much the same natural conditions of climate, soil, position, and society.

If Java has the advantage in soil and climate over large parts of Hindustan, other portions of British India are fully equal to Java in both these respects, while the Hindoo and Mussulman population of India is naturally more tractable, more industrious, and more civilized than the Malay population of Java. The painful conviction, therefore, arises, that the difference is due more to the respective systems of administration than to any natural inequality.

The state of India in 1859 was too exceptional to afford a fair comparison, and I have therefore taken each country as it stood in 1856-57, the last and most prosperous year of normal tranquillity in India before the rebellion. Java is as different from the rest of Netherlands India as our Indian territory is from the Native states in Hindustan. The fair comparison therefore is between Java and Madura, on the one side, with 10,800,000 of population, yielding nearly the whole revenue of Netherlands India, and on the other side, the English territory in India, with 132 millions of population, yielding nearly the whole revenue of British India.

The Indian area is sixteen times larger than Java and Madura.

The Indian population is twelve times that of Java and Madura.

The Anglo-Indian revenue is only four times that of Netherlands India.

The land tax per head in India is one-third heavier than in Java, and forms three-fifths instead of only one-tenth of the revenue.

Revenue, without taxation, gives in Java per head thirteen times as much as in India, without either the monopoly or the immorality of the Indian opium revenue.

Indirect taxes in Java yield per head nearly four times as much as in India, of which in Java one-sixth is for the necessary of salt, and five-sixths for the voluntary consumption of luxuries, instead of the Indian proportions of two-fifths for salt, and three-fifths for luxuries.

The Java revenue per head is three times that of British India, with one-third less pressure on the people.

Unproductive expenditure in India absorbs over two-thirds instead of under one-third of the revenue, as in Java.

One-fourth of the revenue in Java is employed in reproductive works, instead of only one-ninth as in India, giving a beneficial expenditure per head at least seven times greater in Java than in India.

The whole Java expenditure is per head double that of India, and yet leaves a yearly net surplus of one-fourth of the revenue, instead of a yearly deficit.

On two heads only is the comparison apparently against Java.

The home charges in Holland are heavier per head than the home charges in England, which is but natural with the smaller country. The former only come, however, to one-seventeenth of the Java revenue, while the latter absorb one-twelfth of the Indian receipts.

The interest on the debt in Java is three times as much per head as the interest on the Indian debt before the mutiny. But, as remarked in the chapter on Finance, the Dutch East Indian debt is not a proper charge on Netherlands India, and the interest on that debt, being a mere reduction of the Java surplus revenue paid to Holland as tribute, makes the amount of the debt, principal and interest, immaterial to either the rulers or people of Java.

*General Discontent in India.*—It must be admitted that there exists at present a prevalent feeling of dissatisfaction among all classes in India. That of the Native community arises from our treating them on English principles opposed to their habits and feelings. That of the European community depends on the Indian system of Government being opposed to their interests.

We have sought to improve the Native, to protect the weak against the strong, and to do equal justice indifferently to all classes, regardless of these excellent maxims being contrary to the usages and



ideas of people in a low state of civilization. The Dutch have contented themselves with satisfying the Native, trusting for his improvement to the gradual action of time and of good government; they keep the weak in subjection to the strong, only interfering to prevent gross excesses; and, while doing equal justice to all, they administer it differently to different classes. The practical results are in favour of their theoretically inferior system.

If the first duty of the state is to satisfy all classes of its subjects as far as possible, we must be content to postpone ameliorations till the spread of knowledge among our Indian subjects enables them to be introduced without exciting discontent. During the last fifty years our policy has advanced much faster than any change in Native opinion, and with but small regard to the sufferings of those whom we crushed in the road to improvement. We have our reward in the conviction that a continuance of the same system requires for its support an increase of power, such as India in its present state can hardly provide means of maintaining.

*Complaints of the Native Aristocracy and Landowners.*—The old aristocracy and large Native landowners in India openly complain that, on any territory coming under our direct rule, they lose all power and all share in the government of their countrymen; that by our selling their estates for arrears of revenue, or under civil decree, even their

lands soon pass from them ; and that, practically, a few years of our rule reduce the old Native nobility from power and affluence to poverty and obscurity.

This general effect of our system has been repeated on every occasion of the transfer of territory from Native to English rule. The supporters of our principles of government admit this gradual degradation and ruin of the old nobility, but aver such to be the unavoidable results of equal justice to all classes. The Native noble's reckless dissipation and want of business habits, it is said, soon require the sale of his lands in justice to the trader and money-lender ; while his disposition to tyranny and extortion is alleged as making it impossible to trust him with any share in the government of the country, in justice to his inferiors. The welfare of the great mass of the community, it is said, calls for the destruction of the old wealth and power of the Native aristocracy, and the substitution of a government solely by and through Europeans.

These principles, on the other hand, are alleged to be founded on a mistaken view of the ends of government, to be unsuited to the state of Native society, and, even if true, to be incapable of being carried into practice. Justice is not a specific dogma of universal application, but varies with the ideas and prejudices of those to whom it is administered. English primogeniture, French forced division of property, Indian adoption, and other proofs of this

axiom are too numerous and plain to require comment. In the present state of Native society, selling the noble's land to pay the money-lender, and preventing the patrician from exercising even oppressive authority over the plebeian, are no more thought justice by high or low, than they would have been so considered by our ancestors under the Plantagenets.

*Loss of Power.*—Many consider that depriving the old Native nobles of power has merely destroyed our best instruments for acting beneficially upon the people, and has injured and dissatisfied the upper classes without benefiting or pleasing the lower. This opinion derives weight from the general adherence of the people throughout the late rebellion to the old dispossessed proprietors. In many places the tenants at once helped their old landlords to evict the purchasers under our revenue and decree sales, amid the general approval of the people; and even in the village republics, which we had freed from all landlord control, no opposition was made to the resumption of authority by the old landholders. This seems to show that Native society in India had passed from the primary condition of the Saxon Franklin into the feudal state of the Norman Manor; that, though the village community still lasted, the want of superior authority was felt; and that local ties and ancestral attachments had reconciled the peasantry to their old landlord's rule, hard and unjust in many respects as we consider it to have been.

The Dutch policy of maintaining the old nobles in power has made government by an equally turbulent, tyrannical, and extortionate aristocracy, under European supervision, a blessing instead of a curse to their country. The landed estates of the Indian nobles would facilitate rather than impede our adoption of a similar policy, but its success would require that our English officials should not at first be over inquisitive or suspicious as to the Native superior's modes of acting on his inferior, and of compelling his performance of such duties as are required of him. Our control should be limited to cases of complaint, to be followed by inquiry, expostulation, and report to Government, who might in any gross instance apply the sharp remedy of personal dismissal with advantage. Our own Government has always been obliged, on important occasions, to resort to compulsory means of securing the participation of the people in providing for the necessities of the moment. Such measures, though opposed to our ideas, are well suited to Native feelings, and, as experience has shown, are the only mode, in their state of society, of achieving great results. What right have we to object to actions which the Native does not himself consider cause of complaint, and which are not necessarily inconsistent either with good government or with justice, according to Native ideas ?

Then again we cannot govern solely by and through Europeans. In our system, as in the Dutch,

our European officials are little more than the head, of which the Native is the hand.

With us, at the best, the hand consists of the poorer members of the Native middle classes in the inferior judicial and administrative departments, from which they are being gradually ousted by the greater aptness of the European for such offices. With these few exceptions, the Indian administrative hand consists solely of low men—darogahs, clerks, policemen, and all the tribe who will accept the mere ministerial subordinate and unhonoured positions which our desire to do everything ourselves has only left us to offer them. These men have large temptations and many opportunities for petty tyranny and extortion; while but few of our Native officials have either pride of birth or position to restrain them, and hardly any have old ancestral associations with the peasant, or any of the milder influences of family and fortune. Even the best of our Native officials are not the kind of men the Natives would themselves have selected for rulers. Many of them possess estimable qualities, and are above any suspicion of malpractices; but they want the prestige of old family, high position, and wide-spread local influence by birth, such as the Java regents and chiefs possess, and which are everything to the Native. Their example only goes to show that Natives can be safely and usefully employed in India, as well as in Java, so long as they are superintended

by Europeans, their positions made sufficiently honourable, and they themselves raised above the temptations of straitened means.

The Dutch hand, on the contrary, is composed of all the rank, family, and fortune in the country, whose tyranny and exactions are not likely to be either so minute or general, and whose worst faults are neither so galling nor so unexcused. In India, we leave the possessors of this same rank, fortune, family, and influence with the large, uncontrolled powers of landlords, rather than entrust them with the authority of rulers under control. In their present position as landlords, their greed of riches and of sensual pleasures, in the absence of honourable occupation and motives, causes them constantly to resort to means of swelling their purses or gratifying their passions, far more oppressive than any measures they would be likely to attempt in ruling their countrymen under our superintendence.

Our experiment has failed, the Dutch one has succeeded, and the course of events in the late rebellion tends to prove that some adaptation of the system of government through the Native chiefs is one of the great requirements of Indian society; even though the peasantry would be thereby subjected to more constant and direct action and control by superiors than at present. If so arranged, under sufficient European supervision, as to protect the lower classes from serious injury, the nobles at least

would be less dissatisfied, and one great element of stability, and of the gradual education and improvement of the Native upper classes, would be gained.

*Revenue and Decree Sales of Land.*—As the highest Indian nobles, who would be those most acceptable to the people as officials, are also large landholders, their position and usefulness would require that their estates should be secured from dilapidation by revenue and decree sales, which is their present most serious cause of complaint.

There are many practical objections to the entire abolition of revenue and decree sales, but there is nothing in the state of Native society to require that large landed estates should have less protection in India than in England, under the system of entails, but the contrary. The introduction of an adaptation of English entails for short periods would be hailed by the landowners as a general boon, and the security to the land thus obtained would be as devoid of injury to the trading classes generally as it is in England. If confined to Europeans, and to Native officials, during the continuance of office, it would encourage the purchase of land by Europeans for permanent residence, and would be the means not only of securing the services of the highest local aristocracy, at little or no cost to Government, but also of making the retention of office, even without salary, a matter of importance to the richest Natives.

The liability of land to sale for arrears of revenue

is the chief impediment to the purchase of estates by Europeans for permanent settlement in India. The operation of the revenue sale law also works great injustice to the old Native aristocracy in newly acquired territories; but its present practical limitation to Bengal, where the perpetual settlement has made the payment of the revenue easy, and where the people have become accustomed to the law, does not so absolutely call for its total abolition, as for its modification, so as to remove the frequent injustice of its working. This, and exemption from its operation to be secured by a power of entail in Europeans and in Native officials, with redemption of the land tax open to all, would probably answer most of the purposes required, and would leave us a means of securing the services of the first Natives in the country, of which we should be deprived by the total abolition of the revenue sale law.

The chief ground of Native complaint on this subject, however, is the sale of land under decree, which means judicial sale of land in execution of a judgment for private debt, personal to the debtor, or in satisfaction of a mortgage. The operation of this law in India hitherto has been unmitigatedly bad. It is offensive to all but the professional money-lender, who has made it the means of gradually drawing to himself the old noble's estates. Sale of land for personal debt is contrary to the ideas of justice of all nations in a low state of civi-



lization ; and even England, in the nineteenth century, would hardly patiently endure it, if the power of entail did not practically deprive it of effect over the large landed properties.

*The Benamee System.*—The decree sale law is also one chief cause of that nuisance, the benamee system, which is the curse of India, and tends more to maintain a low scale of morality, and an indulgent consideration for deceit in all its forms, than any other Native institution. It is a peculiar contrivance for getting the benefits and credit of property, and avoiding its charges and liabilities. It consists in one man holding land, nominally for himself, but really in secret trust for another, and by ringing the changes between the two, by sometimes setting up the one, and sometimes the other, as the real owner, relieving the land from being attached for any liability personal to the proprietor. This system dates from the Native rule, when it was resorted to as a protection against violence. The estate was then generally taken in the name of some powerful man, whose nominal ownership was itself a sufficient safeguard against spoliation. Our rule, while removing violence as a motive for benamee, substituted for it sale of land for private debt. English officials, too, regardless of the convenience and self-consequence of the Native landholder whose presence they require, were introduced ; and English courts without local knowledge, where totally

unfounded claims<sup>8</sup> are well supported by perjury and forgery, are, I am sorry to say, neither rare nor of unfrequent success. The prevalence of such a trust system necessarily presupposes a great degree of confidence by the real owner in the honesty of the secret trustee, and formerly this confidence was very seldom abused. Of late years, however, the nominal proprietor has frequently claimed the estate as his own, and where there is no secret trust deed, as is often the case, the real owner has great difficulty in resisting this claim. A secret trust deed, however, is liable to discovery when the nominal holder is being set up as the real proprietor, and is therefore but seldom resorted to, as its disclosure leads to unpleasant consequences to all concerned, in prosecutions for perjury and subornation of perjury. The present mode, adopted in preference, is to take the estate in the name of some female member of the real owner's family, who, as living in his house and under his control, is neither likely nor well able to turn against him, or to incur liabilities dangerous to the estate. Her inability to show herself, or to quit the female apartments, preserves her from summons or attendance on the English official, which is so serious a grievance to the Native gentry, that they impute the benamée system more to this than to either of the other causes. Her privacy makes the real owner's management of the estate, nominally for her, all the more natural; her inviolability, both by

law and custom, makes her less liable to disagreeable inquiries, with their possible dangerous consequences; while her legal ability to have separate property, even when married, makes these advantages of her sex and condition consistent with her assumed character of a landed proprietor. This last refinement of the benamee system is indeed so perfect as to be likely to resist all attempts to abolish the nuisance, except by removing the motives for concealment, and by substituting motives for the open display of ownership. As long as landed property in India subjects its owner to contingencies so offensive to his ideas, so long will Eastern cunning devise some such means of evading them.

By introducing a system of entail, under some such registry as in Java, or in an English manor court, the Native aristocracy would have it in their power to secure the continuance of their estates in their own families, while the extravagance of any individual would thus only affect his interests during life, and would not divert the property from his descendants. By instituting government through Native chiefs, the Native landowner would no longer be directly subject to the English official, and would receive from his own official countrymen of rank such treatment as, according to Native ideas, is due to his position. By requiring all transfer of property to be made in open court, the registered owner would be protected from unjust claims upon hi

land. By attaching power, position, and the degree of respect and precedence in durbar, to which each man should be officially entitled, to the amount of property openly held in his own name, the land-owner would be induced to proclaim his estates, and to take on him the duties and liabilities as well as the rights of property.

The inseparable disadvantages of the benamee system would then no longer be counterbalanced by its superior advantages, and the chief motives for concealment would be superseded, in Native officials, by the desire of openly acknowledging property for the purpose of protecting it by entail. The chief complaint of the rest of the Native community, on this head, would be met by repealing decree sales of land for personal debt, leaving them in force for mortgage securities containing a power of sale. The benamee system would then gradually die out, to the benefit of the country, to the facilitation of justice, and to the improvement of the Native character. By making the concealment of ownership unnecessary to obtain objects which command the sympathies of the people, we should stamp it, not only with the character of deceit to which Native opinion is indulgent, but with the character of fraud maintained solely for bad ends, which is as strongly condemned by the Native as by the Englishman.

*Grievances of the Native Community.*—Sale of land and loss of power are the chief and peculiar

complaints of the old Native aristocracy, and of the large Native landowners, but they as well as the people suffer from the common grievances of bad police, strange and tardy justice, an inadequate number of local officials, and an entire absence of good roads throughout the greatest part of this gigantic empire. Excessive land tax is also one great cause of complaint by all who hold directly under Government, whether as landowners or as peasant cultivators, except in the perpetual settlement districts, where the amount payable by each estate was fixed for ever at rates now made generally easy by subsequent improvement, and by the increased value of land. The complaint of excessive rent is retorted on the landowner by his peasant tenantry, wherever, over the whole of our Indian dominions, the peasant holds under any superior except at a fixed rent.

*Inadequate Number of Local Officials.*—To realize a fair picture of most Indian districts in this respect, my readers must imagine a large agricultural area as big as Yorkshire, full of towns and villages, with a population of from two to three millions of souls, and crowded with large landed proprietors, rich bankers, and traders of every kind and degree. To administer the affairs of this enormous district, we appoint here and there a few Native judges for the smallest civil cases, and a few Native police for the discovery of crime. We refuse to confer the slightest power on any of the

numerous large landed or moneyed gentry of the district, but leave our petty Native officials or the people themselves to report such occurrences as they please, for the decision of the English authorities. These consist of an English county court judge and a stipendiary magistrate, helped by an English tax collector, and by some two or three English assistants, all living at the chief county town, with perhaps a couple more English assistants, each living in a separate riding. No wonder the people resort to the Native landholder, to the planter, or to any one within reach, though without legal authority, who will help to decide their differences, and will protect them from the numerous evil-doers that, in such a state of society, prey upon the peaceful and the weak. If we were to confide the rule of the people to the Native aristocracy this evil would be much decreased, and that at small expense to Government, by employing what in Native estimation are the stronger motives of power, namely, pomp, honour, and precedence, instead of pecuniary salaries, which the large properties of the Native aristocracy do not render indispensable for the maintenance of their rank, or for the preservation of their personal integrity. As the available resources of the Government increased, either by an adaptation of the culture system or by the mere increase of general prosperity and content, the English staff of supervisors could be enlarged, till this ground of com-

plaint was removed by an efficient Native administration, and by a real, instead of a merely nominal European superintendence.

*Excessive Land Tax and Excessive Rent.*—The complaints of excessive land tax and excessive rent give rise to separate considerations, yet bearing on each other. Government justifies the amount of the land tax, as not exceeding the proportions usual under the Native rule, and as absolutely required by the necessities of the state; while the crown cottier complains of his increasing poverty, and the Native landowner pleads the demands of Government from him, and his forcible deprivation of all the higher interests of ambition and power, as excuses for consoling himself with such riches as he can extort from his tenants, and only limiting his demand by the peasant's utmost ability to pay and exist.

The present complaints by the landowners of excessive land tax seem chiefly to relate to the proportions of the natural rent to be appropriated by themselves and by the state, and to be based on the different views taken of their respective rights and interests in the soil.

In Bengal, the land tax was fixed at a certain sum for ever with the large Native landholder on each estate, including wild lands. This was formerly a large proportion of the landowner's rent, but has now generally sunk to about one-third of the net profits. In the North-West, the land tax is settled

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either with landholders or with the peasant representatives of village communities for thirty years, when it will be readjusted, and wild land, since broken up, will be subjected to fresh tax. The proportions here are one-half the cottier's produce, and two-thirds of the landowner's net profits. In Madras, there is a perpetual land tax fixed with the peasant cultivator on each tilled field. The proportions here vary with the class of land from one-third to one-half the gross produce. In Bombay the land tax is also settled with the cultivator for each tilled field, in the same proportions as at Madras, but liable to readjustment after thirty years. Bengal and Madras have been long settled; the North-West and Bombay more recently.

Bengal has flourished under its perpetual settlement with landowners. The whole natural rent of the country was formerly taken there, as well as over the rest of India, and its payment naturally produced those effects both of peasant poverty and idleness, which are now the known result of a disproportion "between that part of the annual produce which, as soon as it comes either from the ground or from the hands of the productive labourers, is destined for replacing a capital, and that which is destined for constituting a revenue either as rent or as profit."\* But, of late years, the great increase in Bengal exports, the return imports for which have been

\* Smith's *Wealth of Nations*, vol. ii. p. 7.



about one-third in treasure, as well as the large outlay on railways, and other great works in the country, have occasioned a fall in the value of money, which, together with the great and sudden demand for labour caused by those works, has raised the market price of labour above its natural price, and at the same time caused a great rise in the price of commodities. As rent has not materially varied during the same period, the larger benefits of such increase have fallen to wages and profit, and the condition of the Bengal peasant producer has thus been proportionately improved.\* As further proofs of the comparative prosperity of Bengal, the landowners are rich, the produce of the country has largely increased, the rental is supposed to have doubled in the last fifty years, and the trade is out of all proportion with that of other parts of India, except Bombay. Madras, on the contrary, has certainly not advanced under its perpetual settlement with the peasant, and shows no counterbalancing prosperity in other classes to set off against the poverty of the peasant. The North-West shows signs of following Madras rather than Bengal, and the settlement of Bombay on any but the old Native plan, under which it flourished, is too recent for the result to be apparent.

*Zemindar's Land Tax to Government.*—Soon after our first conquests in Bengal, much inquiry was made

\* Ricardo's Political Works, by McCulloch, pp. 31 and 51.

on the subject of landed tenures, with conflicting results on some points, but a general concurrence on others. Mr. Shore, afterwards Lord Teignmouth, and Mr. Grant, seem to have been the two chief champions of the conflicting opinions as to the proprietary or merely official character of the zemindars or landholders, and jagheerdars or holders of fiefs; the former summarizing his opinion on the Native proverb that the "land is the zemindar's, the rent the King's," the latter contending that the zemindar was the mere steward of crown lands not granted out in fiefs. Both sides, however, admitted that the crown rent from the zemindar was the full amount fixed on the peasant, minus small allowances, together coming to less than one per cent. of the settled rent-roll of crown lands in Bengal; being little more than three-quarters of 1 lac (Rs. 83,150) out of 108 lacs (Rs. 1,08,87,071). The rights of jagheerdars excited less discussion, for there were very few in Bengal, and they, as well as those in Behar, it was equally clear, had originally received their lands temporarily for the support of permanent bodies of troops, and had subsequently usurped permanent hereditary power, discharged of all but the feudal obligation of providing a scratch militia when required. It seems to have been also admitted that the legal division of land was into khalsa or crown lands, the rents of which were collected from the peasants and paid to the crown by these zemindars, and into jagheers, the

rents of which were kept by the feudal lords to support the paper troops which they failed to keep up in flesh and blood.

Lord Teignmouth argues convincingly, from Musulman and Hindoo precedents, in favour of the proprietary heritable right of the zemindar in Bengal and Behar, and against the heritable proprietary right of the jagheerdar; but from the contentions and admissions on both sides, it seems clear that this theoretical state of things had passed away long before our conquest, and that the change of society and progress of the feudal feeling had subverted the rights originally attaching to those tenures; making the zemindar a mere crown steward, while the jagheerdar had become a feudal lord, holding only on feudal and military services. This inference is supported by the fact that, with modifications, such is the general inversion of old rights now existing in Native states. This inversion of old rights is further shown by the different meanings attached to the technical terms of landed tenure in different parts of India. Zemindar, literally laudholder, is in some parts applied to the large crown steward to whom the peasant cultivators pay the rent or laud tax, and in other parts to the peasant cultivator himself. So talookdar, literally estate holder, is in Bengal a mere small middleman between the proprietor zemindar and the peasant cultivator, while in Oude, and in many other parts of India, the ta-

lookdar is a powerful manorial lord over the peasant zemindar. The inference is, that the local meaning of such terms shows the greater or less development of society, in the various phases of the transition from a primitive patriarchal to a feudal state, which is distinguishable all over India.

The change of opinion evolved by the feudal predominance of might over right, and the Mussulman conqueror's claim to the whole rental of the land had, before our conquest, more or less sunk the incompatible landlord property of the zemindar into a sort of customary claim for continued employ as a crown-rent collector, and had generally left the peasant nothing but a sort of customary right of occupancy on the lands tilled by his fathers, and some centuries before perhaps owned by his ancestors.

We chose, philanthropically, rather to restore obsolete rights than politically to recognize existing facts. Lord Cornwallis and his advisers seem to have realized, and been willing to accept, the inevitable consequences of thus converting the Bengal crown lands into private estates; but different ideas, and the increasing requirements of Government, have caused their successors to struggle against the logical consequences of similar philanthropical admissions in other parts of the country. In Bengal and Behar the inconsistency of such large concurrent rights, both in the Government and in the zemindar, was abolished, and the practical conversion of crown lands

into private estates was carried out to its natural consequences by the perpetual settlement, which accepted such conversion as a fact, and limited Government's claim on each estate for ever to a fixed sum as land tax. The result has been that these estates have so increased in value by the rise of prices, by the gradual accumulation of wealth in the district, and in some few cases by the employment of capital in developing the resources of the soil, that the fixed land tax has sunk to a reasonable proportion of the income, and in these districts there is but little, if any, complaint on this score.

In our later conquests the same philanthropical error has been repeated, without the same remedy, though in the North-West of India the transformation of society, from the primitive to the feudal state, had become much more complete.

If we had allowed society in India to develop itself naturally in the course which we found it taking, we could have amply satisfied all just claims by the creation of new fiefs, the rent-free existence of which would have been contingent on the continuance of our rule, and yet have easily retained half the area of our conquests as unencumbered crown lands, in which short leases, intelligent European management, frequent changes, and a constant assertion of the crown's sole right of property, would have prevented any but small peasant rights from springing up. But by recognising in the subject

permanent hereditary landlord property in crown lands, maintained in security by our firm rule, ideas of right have been inculcated or revived, till, even in the short settlement districts, the practical ownership of the land has been so far changed that public opinion now supports the descendants of the former rent collectors in asking why they should pay to Government two-thirds of the income of *their* properties. This fundamental cause of disagreement must continue and increase so long as our Government, after having thus practically converted the Indian crown lands into private estates, still claims to deal with most of them on the old footing. Continued possession will naturally make the proprietors look daily more and more to their real ownership and hereditary rights to govern their relations with the state, and less to the memory of their ancestors' mere stewardship of crown lands. The action of such conflicting rights meanwhile leads men to deny the propriety and justice of such large claims on the part of the state, which their ancestors never thought of disputing. These ideas have now gone so far, that in the late settlements, or in what would in England be called the late renewals of crown leases, Government, instead of receiving the whole rents of the crown lands minus one per cent., has been obliged to content itself with one-half instead of three-fourths of the collections from its own property, thus unconsciously alienated by our administrators dealing

with Indian landed tenures more as if they were freehold estates of the eighteenth and nineteenth centuries, than as primitive tenures fast verging into the feudal fiefs and crown lands of the thirteenth century. In short, what was formerly paid willingly as but a portion of the crown's own income from its own lands, is now grudgingly yielded as an exorbitant demand by the state on the profits of the subject's own property.

The Native princes supported their claim to the whole rent of all the lands not granted out in fiefs, by maintaining the crown's sole right of ownership therein, and, when strong enough, limiting the zemindar's position to that of a mere crown steward. Though the Native ruler's right to the whole rent seems to have been both practically and theoretically admitted by the zemindar, the payment of it was constantly resisted, and often evaded by the strongest rent collectors, to the mutual relief of themselves and of the numerous crown tenants, whereas English power forbids resistance, and every estate in the country must either pay or pass into other hands. No wonder the figurative Oriental says that "the little finger of the Company is heavier on the loins than the whole arm of the Native ruler."

The Dutch plan of clearly marking the difference between crown lands and private estates, not allowing any conflicting proprietary rights in the subject to interfere with the Government receipt of the whole

rental from the crown lands, and fixing the crown's claim on private estates at a very small fixed proportion of the landlord's rental, seems to offer suggestions for quieting the zemindar's complaints of excessive land tax, by extending the perpetual settlement with its advantages to the large landholders all over India.

Those who remember the newspaper comments on Lord Canning's speech to the talookdars of Oude will probably think that this policy was there inaugurated. But though one clause of that speech naturally led to this inference, it turned out on inquiry that it was after all only the old indefeasible right to pay whatever Government chooses to ask. The grants of their old estates, just made to the talookdars, mentioned the conditions on which the estate was secured to the grantee and his heirs for ever, but one of those conditions was to pay a fixed land tax for four years, and then to pay such further sum as Government should be pleased to assess. It is true that Government has determined not to assess the talookdars in future beyond the half of their receipts, but no assurance of this kind, nor any limit, was contained in the grant. Even with every help on the part of Government, however, the talookdars' estates will certainly not long remain the property of the existing men or of their descendants, unless the decree sale law be repealed or a power of entail given. As in other parts of our territory, the



personal habits of the old nobles, and their low state of society, will be availed of by the money-lenders to get them into debt, as the cheapest means of forcibly buying the large estates of these feudal chiefs. When the land shall have thus passed into the hands of low men, dwellers in cities, bearing no other relation to their new tenants than that of unknown rent collectors by vicarious legal process, we shall hardly be entitled to express surprise, if, at the next opportunity, we again find the ruined baron rising with his old retainers against a Government whose principles allow the low attorney and usurer to trick the feudal lord out of his ancestral possessions. We shall again see, as in the late mutiny, the cowardly purchasers, under our revenue and decree sales, crowding to us for protection against the tenants of an estate they have never dared to approach, and against the fury of a family whom they have cheated out of riches into poverty, and reduced from high position and power to obscurity, and to the loss of all but the ancestral attachment of their old vassals. If, on the other hand, we would but secure the most high-minded and honourable of our Indian subjects from the dilapidation of their estates, the future increase of revenue, surrendered by extending the perpetual settlement of all the large landholders in India, would be more than compensated by the indirect advantages of a rich landed gentry, whose expanding prosperity was contingent on the continu-

ance of our rule, by the increase of indirect taxes due to their larger means, and by the reduced expenditure required for the government of a contented instead of a dissatisfied aristocracy.

*Peasant's Rent to Government.*—In the various forms of the ryotwarree system, or where in fact the state may be considered as the landlord, the Government and the cottier stand in the same relations to each other as they do on the crown lands in Java. In those districts the amount of the payment from the peasant cultivator to Government, be it called rent or land tax, is a matter not involved with the consideration of other intermediate interests; whether the peasant holds individually as in Madras, or in village communities as in the North-West Provinces.

By the old Hindoo law the proportion of the peasant's produce payable to the state was one-sixth in peace and one-fourth in war. The Mussulmān conquerors adopted one-fourth as the rent payable at all times, but gradually added cesses under various pretences, which raised the pressure on the peasant probably to about one-half the produce of his land. On our conquest of the ryotwarree districts we adopted this proportion of one-half as the rate on which we calculated the commuted money rent.

The miserable condition of the ryotwarree peasant in Madras is well known. There, a specific money rent is fixed for ever on each cultivated field, varying according to the quality of the soil, but equal to the

value of from one-third to half the produce. As no improvement has taken place in the mode of cultivation or in the character of the crops, the remaining produce has gradually become more and more insufficient for the increasing population dependent upon it. In the other ryotwarree districts the assessment is liable to occasional re-adjustment, generally at the estimated money value of half the produce. In all the ryotwarree districts but Bombay, the very slow and small accumulation of wealth would seem to show that the amount taken by Government approaches to the whole surplus produce after payment of wages, thus leaving too little profit for any but a very tardy and partial replacement of capital. In Bombay the very irregularity of assessment under the Native system, only yet partially abrogated, and the venality of the inferior revenue officers, may not unlikely have prevented the yearly amount paid all over the country reaching to such a crushing proportion of the produce. Whatever be the reason, the comparative prosperity of Bombay is shown by its external trade being three times that of Madras, the area and population of which are double those of Bombay,\* and the coincidence at least of this state of things with the old settlement of Madras, and the new settlement of Bombay, is suggestive of cause and effect.

In both the Madras and other forms of ryotwarree,

\* Mill's India in 1858, p. 3.

the security to property given by our rule has caused constant overcropping, while the ignorance and apathy of the Native peasant generally prevent either manuring or a sufficient rotation of crops, and have allowed many of the great Government irrigation works to get out of repair. These used formerly to be maintained by the forced labour of the people, at but small expense to the Native ruler, but our philanthropical ideas abolished forced labour, and it is only of late years that our Government has made any serious outlay on irrigation works. The consequence is, that in our ryotwarree districts, and also, but to a smaller extent, in our zemindary districts, the land does not now yield what the occasional fallows, formerly caused by Native violence and insecurity, used to enable it to produce.

The Java culture system seems to offer suggestions for increasing the Government revenue from the ryotwarree districts, and at the same time for raising the poverty-stricken cottier to comparative influence, by a merely different adjustment of the relations of landlord and tenant in the East. By merely legalizing and exercising the Indian landlord's old custom and claim of right to direct his tenant's cultivation, so long as the rent is adjusted accordingly, and by either lowering the rent or facilitating its payment by large wages to every individual peasant or village, a portion of whose land shall be devoted under the culture system to

the production of more valuable crops, the complaint of excessive Government rent would be abolished, the finances of both Government and the people in the ryotwarree districts would be improved, and Englishmen at home and in India would be equally benefited by the increased value and variety of the products of the soil.

*Prevention of Improvement.*—The existing land revenue system, in all but the perpetual settlement districts, is also open to the grave objection of preventing improvement. Knowledge has not yet made such progress in India as to call forth improved modes of treating the old cultivations, and improvement is therefore mostly limited to breaking up wild land. In the short settlement zemindary districts, as the peasant holder can neither be evicted nor his rent raised by the landowner, the proprietor has but little power over his tenantry, and as all wild land broken up involves the payment of further land tax, the zemindar has but little motive for employing his money in the improvement of his estate. In the ryotwarree districts the Eastern peasant's hatred of labour, his want of capital, his ignorance, and his possession of a bare sufficiency for his few desires prevent any peasant improvement. In all but the perpetual settlement districts, that part of the annual produce of the land which is required for rent, land tax, and consumption, is so large as to leave hardly any margin for replacement of capital, which margin

alone can be employed in improvement of the soil ; while even of such small margin as thus exists, the natural defects of a low state of society cause almost the whole to be wasted in mere ostentatious and superstitious outlay. Nor is even the capital of labour judiciously employed. In some few parts of India labourers are competing for land, while over its far larger portion, and often close to the overcrowded spots, the land is, competing for labourers. The land revenue system prevents the natural equalization of these conflicting conditions, except in the perpetual settlement districts, where the landowner's desire to reclaim his wild land is not interfered with by any liability to further land tax for new cultivation, and where his larger power over his tenants enables him to employ such means as his knowledge of his own countrymen suggests, for extending and fixing the population on the uncultivated parts of his estate. In other districts, even where advantages are held out by Government for the peasant cultivation of wild tracts of land like the Soonderbunds, no lasting result is attained. Grants are made for clearing, gratuitously for so many years, and then with a small rent ; but the peasants take the grants, remove the jungle, grow large crops for the rent-free years, and then desert the clearing, which the rapid vegetation soon restores to jungle. The only continuous clearing, even of such districts, occurs when the grant is made to some European farmer with capital,

who lays it out in thus creating a fine estate for himself at a low Government rental. In the short settlement districts also both peasant and landlord know that no allowance will be made by the officials at the next re-assessment for improvements, but that both the cultivator's rent and the proprietor's land tax will be proportionably increased in the manner above described, Government thus absorbing, without any outlay on its part, one-half of the profit from the improvements. The principles which regulate the outlay of capital and labour in land improvements are now well known, and no surprise will therefore be felt at Indian ignorance being deterred by the above considerations, when the intelligence of Europe has only of late years overcome slighter impediments. The result is, that hardly any peasant improvement occurs in India, and that with few exceptions landlord improvement of estates, by the application of capital, has been practically limited to the districts where the perpetual settlement law, or the great length of time for which the land tax is fixed, has overcome Native suspicion, and where the landlord's greater power over his ryots enables him to secure to himself the profit of such improvements.

*Difference in the Value of Land.*—The liability to periodical re-assessment at such high rates has also the disadvantage of destroying confidence in the future.

In the perpetual settlement districts, land commonly sells at from 20 to 25 years' purchase of the difference between the fixed land tax and the gross income, but in the short settlement zemindary districts at only about 5 to 10 years' purchase of the same difference.

Against these disadvantages to the people, in the short settlement districts, is to be set off the advantage to Government of sharing in the gradual progress of the country and in the rise of prices.

In the perpetual and long settlement districts, where most improvements have been made, Government, on the contrary, derives none but a small indirect benefit from the general advance.

The Dutch seem to have hit a happy medium between the horns of this dilemma.

The now universal Government practice of fixing the crown cottier's land rent at only the harvest value of one-fifth of his rice produce, gives to him and to his family for ever, as against Government, four-fifths of all improvements made, or land freshly brought into cultivation, while it gives Government the benefit of one-fifth share in improvements on crown lands. The Java peasant is even lazier than the Indian one, but, while his necessities are supplied by his share of the village lands, his large receipts of money under the culture system induce him to comply with the persuasion of the Native officials, and to invest it in breaking up new land by



his family or by day labourers, of which he reaps the whole produce, land rent free for five years, and afterwards retains four-fifths of the profits for himself. The result in Java is, that wild crown land is being now brought into cultivation by the peasants, as fast as the increase of population enables this to be done, and Government receives a corresponding benefit.

In the same manner the Dutch law fixing the utmost yearly claim of Government on the private landowner in Java at three-fourths of one per cent. on the whole value of the estate, estimated every three years, makes his land tax about one-fifth of his net yearly receipts, calculated at four per cent. per annum on the value of the estate. As the Java proprietor gives no information to Government about his receipts, but leaves the officials to estimate the value of his estate by a rough guess from what they see of it, he more frequently only pays to Government one-tenth or one-twentieth of his net yearly income. Whether, however, the proportion be more or less under one-fifth, the remaining four-fifths give the Java landowner sufficient inducement to improve his estate. The full benefit of that share of his improvements is secured to him by his absolute ownership and power over his tenants, though his own interests of course prevent severe exercise of power except in extreme cases. The result is, that Java landlords, who are all either Europeans or Chinese,

do improve largely, and Government, at the next triennial estimate, shares in that improvement although only to a small extent.

The present large peasant improvement of Java crown land is due, no doubt, more to the means derived from the culture system than to the small claim of Government. The large landlord improvement, however, is due entirely to the fixed small claim of Government, and to the landlord's enlightened view of his own interest. But neither peasant nor landlord improvement would take place, the Dutch say, unless the Government's claim was fixed low, and never liable to enhancement above the proportion of one-fifth.

The exigencies of the Indian Government preclude the possibility of any present reduction in the amount of the land tax, but the complaints of the landowners, in the districts under short settlement, would be partly met by recognising and giving effect to their practical ownership, by making the present amount of land tax perpetual for the area under cultivation, reserving the uncleared jungle as crown land in which no proprietary rights should be admitted, and by allowing redemption of the land tax, at say twenty years' purchase of the amount for the time being. This would not only further improvement and give security, but would raise the property in value from ten to at least twenty years' purchase.

*Peasant's Rent to Landowner.*—The peasant's complaint of over-assessment by the landowner, or excessive rent, is chiefly confined to the perpetual settlement districts, and involves an important principle, which is practically yet undecided.

In the short settlement districts the amount of the land tax is regulated on a statement of the rents payable by the cultivators, and the person who contracts with Government for the payment is forbidden to enhance their rents.\* Where the contractor is merely the representative of a village community, or of a brotherhood of petty proprietors cultivating either personally or by day labourers, exactions of increased payment from his constituents are either not attempted or are resisted. But where he is the rich and powerful descendant of the old noble rent collector over a large tract of crown lands, which have practically become his property instead of the state's, he seeks to recoup himself by raising the rents of his tenants in spite of the prohibition, and uses his power and hereditary influence both to effect that object, and to prevent his tenants seeking protection from the English authorities. In this case the same considerations apply as in the perpetual and long settlement districts, the circumstances of which will be now considered.

The whole subject of the rights both of landholders and under-tenants in India, before our conquest, is well treated, and the opinions of Lord

Teignmouth and other high authorities on the subject, when the whole matter was considered previous to the perpetual settlement of Bengal and Behar in 1793, are given in the third volume of Harington's "Analysis of the Regulations, Calcutta, 1817." The result seems to be that the whole Mussulman revenue system was founded on great inquiry, as to the amount payable by the peasant cultivators in each conquered district. With this exception, however, the Native Government seems not to have paid much attention to the theoretical rights in the soil, but as land was the foundation of riches and power, the strong took it from the weak. Its temporary possessor, whether conqueror, holder of a fief, or mere rent collector of crown lands, subdivided it amongst his followers for their maintenance, some parts in consideration of money payments, other parts in consideration of feudal and religious services, and sometimes as a reward freed from all liability but fealty. Such under-tenures were respected by the family successors of the grantor, but generally unregarded by other successors, or by any fresh conqueror except ourselves. We ousted the Native lord paramount, but maintained his grantees and stewards, and their under-tenants. Our strong rule prevented private war, the feudal services became obsolete, and were in some cases commuted for money payments. Where land was held only for religious services, or free of all liability but fealty,

we recognised such rights when given by the sovereign power, and these are the only lands in India which assimilate to our freehold tenures in exemption from liability either to Government or to a private landlord.

All these changes occurred without practically affecting the peasant's occupation, as his labour could alone make the land yield that yearly profit for which his successive conquerors and their dependents were contending. Although at first his Mahomedan masters seem merely to have required the peasant to pay his rent in the proportion of one-fourth of his produce, this was gradually so raised by other demands on various pretences, that latterly, in the greater part of the Mussulman conquests, the peasant seems to have retained no admitted rights but customary occupancy to till the land at the will of his lord, though many centuries before, no doubt, he had proprietary rights, of which he had been despoiled much in the same manner as the Norman barons destroyed the proprietary rights of the Saxon Franklins. In other parts of India, where society was in a more primitive state, the peasantry still held, or had only lately been despoiled of, certain vague proprietary rights, but little more extensive than a mere right of continuance in occupation of the ancestral fields. Traditions and claims of ancestral property, and of extorted or defrauded rights, were as rife then among the Indian peasantry

as they lately were among the Irish, and their recognition by us was as impolitic and as injurious to the natural progress of society, as the admission of similar claims would now be to Ireland.

On our accession to power, and continuously up to the late rebellion, we restored the peasant's proprietary rights wherever we could do so with impunity, and in the districts where the landholders were numerous and powerful, we admitted a theoretical right in the Indian peasant not to be dispossessed of his holding, as long as he paid the old accustomed rent. For fear, however, that the rights of under-tenants should interfere with the facility and value of Government sales of the landlord's estate for non-payment of land tax, peasants were practically divided into two kinds; the hereditary occupants of their own village lands were protected from any enhancement of rent above the existing amount, and all others were entitled to continued occupation as long as they paid rent at the usual rate in the pergunnah or district. While the landlord was forbidden to take higher rents from the latter, any lease at less rent which they might obtain by foregift was defeated by a sale for Government revenue. The conflicting claims of a society passing from that of peasant ownership to that of landlord property, which had nearly died out under the Mussulman conquest, were thus revived, and have been the cause of continuous difficulty ever

since. The perpetual settlement, while making the landholders what the acts themselves call "the actual proprietors of the soil," set up rights in the peasant inconsistent and incompatible with landlord property. A constant struggle was thus created, by the landlords trying to obtain from their tenants the increasing benefits of property, and by the peasants trying to retain, as against their landlord, independent proprietary rights.

The regulations for the protection of the peasants from increase of rent, and from eviction, seem to have answered their purpose tolerably, so long as the land remained the property of the old zemindars. The Bengal crown rent collectors, whom we made landowners, were mostly gigantic proprietors, often holding estates as large as some English counties, who contented themselves with the accustomed rents of the peasant cultivators, helped by occasional forced contributions on particular occasions. Our revenue and decree sale laws, however, were soon used by the money-lenders and the unjust stewards to transfer different portions of these gigantic properties from the old zemindars to themselves, or to others in secret trust for them, and these new men then began to look sharply after the peasant cultivator and to raise his rent.

The conflict between the landlord and the unprotected tenant has since continued with varying success. In 1845, for the first time, the landlord's

absolute right of property was recognised, by enacting that a purchaser at a Government sale for arrears of revenue should be entitled to eject and to enhance the rent at discretion, on all under-tenures but *bona fide* rack rent leases and the protected old tenures, at fixed rents dating from last century.\* This, with a native landlord, of course meant who could prove such old tenure, which, from lapse of time, family changes, and divisions, and the loss or original absence of documents, but few were able to do out of the great mass of the peasantry. The European officials, however, struggled against the law, and generally limited the right of enhancement even in these cases to the pergunnah rate. Rates in the same pergunnah, however, often differ from eight annas, or one shilling, to three rupees, or six shillings per beegah, or third of an acre, and the amount of assessment was consequently litigated in each case, while the judge had no fixed criterion on which to decide.

There is no evidence that the landlord used this new power with more harshness than must always exist between landlord and tenant in a low state of civilization. Their acts were not unlike those of certain Scotch and Irish proprietors, whose treatment of their tenants has of late years excited loud philanthropical clamours, but has been a great improvement and a general blessing to Great Britain.

\* Act I., of 1815, sec. 26.



Peasant property, however, still held too firm a hold in India on the non-landed official mind ; and another, and probably a last, attempt to support it was recently made in the Bengal Landlord and Tenant Act.\* On the introduction of this bill, the Bengal landowners petitioned Government against fixing any limit at all on the landlord's power to raise the rent, for which they quoted all the usual English arguments of the landowner's free right to deal as he liked with his own property, adding that, if limited, they begged it might be limited to the proportion of one-half the produce of the tenant's land, as the customary proportion to which the Native landlord considered himself entitled, and as something definite and of easy ascertainment. The Indian Government, which, at every fresh settlement of land tax, takes from the landlord half the gross income, or from the crown cottier half the produce, rejected with magnanimous indignation the Bengal landowner's request for half the produce of his tenant's land. The Government, also, holding his arguments as to the landowner's right to do as he liked with his own not to apply to the state of landed interests in India, fixed the limit, not at a lower proportion, but "at the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent," instead of "at the pergunnah rate." The rights of

\* Act X., of 1859.

Native landowners, and the criterion for local officials, do not seem much more clearly fixed under the latter definition than under the former.

The right to withdraw the absolute power of the landowner over his estate, granted by the act of 1845, has thus been vindicated, and the property of the tenant in his landlord's land has been re-established, even where the peasant is unprotected by an old tenure or any engagement between landlord and tenant. The ease and quiet with which this doctrine, that would set Great Britain in a blaze, was imposed on the Native landed gentry of Bengal, shows the facility of making in India what would in England be considered dangerous infringements on the rights of the subject, so long as they are not opposed to Native ideas.

With this exception, the Bengal landowners say the act has settled nothing, that the amount of the rent must still be litigated in each case, varying according to the view taken by the temporary official of a vague and varying standard, and that the only certain effect of the act will be to stop or retard the landlord improvement lately begun in Bengal.

The enactment of a proportionate share of the produce as the landlord's rent would be grateful to the peasant as a return to his old traditional mode of payment, and, if coupled with the power of keeping the landlord's rent assessment below that proportion, by the right to deliver that proportion in

kind, would protect him from the most common form of landlord oppression. The landlord's inability to get better terms from other peasants, and his interest in keeping as many cultivators on his estate as possible, would prevent his resorting, except in extreme cases, to eviction; while yet the power of so doing would give him the means of exciting and directing his tenants' industry to the improvement of the uncultivated parts of the estate. If fixed at a low proportion of the produce, such a specific rent, for unprotected peasant tenures, would remove the peasant's complaint of excessive rent, would allow him a yearly surplus for the accumulation of wealth, and would give form and consistency to the present uncertain relations of landlord and tenant in India.

This would satisfy the legitimate demands of the unprotected tenants, but there is another evil, incidental to the protected peasant's tenures in the perpetual settlement districts, which requires redress. As the destruction of protected peasant tenures increases the value of the estate, by raising the rental, their holders are constantly oppressed by the zemindar, and frequently seized and confined till they have signed away their rights. Unless the landowner be caught in the act of imprisoning the protected tenant, his power and influence, as well as the nominal form of purchase in which these surrenders are always taken, and the favourable terms on which an unprotected lease for a short period is at once granted to

the man thus robbed, generally prevent the peasant incurring the expense and risk of trying to set aside his surrender as made on compulsion. This would be prevented, as well as the immense benefit of certainty of landed rights secured, by making all landed transfers valid only when made publicly by and before the European authorities, and registered as in Java, or in an English manor court. If to this we added the old French legal distinction of peasant and noble tenures, incapable of being held together, the pride of the Native landholder would prevent his attempting to encroach on the rights and privileges of the protected peasant.

*Requirements of the English Government and People in India.*—The well-known want of the Indian Government is increased revenue, and the general complaint of Anglo-Indians, official as well as un-official, is that India is daily losing its old money-making advantages, and their consequent prospect of return to England, without either becoming an agreeable residence, or offering to Englishmen new opportunities for profitable employment in the place of those now passing away.

Great part of the financial difficulties are due to the Indian land tenures having been moulded into their present form; as above described, more by ideas derived from the present state of English landed property than from the analogy of our old feudal system. The restoration of obsolete rights, incon-

sistent with the feudal state in which we found the country, has gradually undermined the large claims of Government on the produce of the soil, and has prevented the land revenues from rising in proportion with the expanding requirements of the country.

The history of the Middle Ages shows the frequent pecuniary difficulties of the crown, when the weakness of the sovereign had yielded too much to the constant pressure for conversion of crown lands into fiefs, and the coarse remedy derived by his successor's resumption of such grants. Our Indian Government now suffers from the same difficulty, without possessing the same remedy. Instead of continuing the Native plan of having fiefs and crown lands intermingled, the former paying nothing but a rude succession duty or an occasional feudal aid, but supplying the armed force, and the crown lands supplying the revenue for carrying on the affairs of the country through mere crown stewards without proprietary rights, we have granted away nearly our whole Indian territory to either noble or peasant, whom we have made modified proprietors, paying land tax. The reduced amount thus recoverable from the crown lands, and such indirect taxes as are incident to rude societies, are now insufficient for the wants of the state, and yet the ideas of the people will no more admit this as an excuse for direct taxation than our ancestors did. They virtually say to us, as the feudal lords in effect said to

our old kings : " If you have wasted and diminished the crown lands, which were your property, till the income is no longer enough for you, that is no reason why you should seek to make up the difference from us and from our properties. Resume your late grants, or improve the remainder, but we won't help you."

As we cannot resume, we are practically driven to the alternative of direct taxation, or of improving such residue as is still in our power. In the zemindary districts, where we have converted the old nobles, from mere rent collectors of crown land, into permanent hereditary landholders, the rights we granted have become a valuable property to them, as shown by the considerable saleable value of even the lowest of such rights; and accordingly any general infringement of such property would probably be forcibly resisted. Most of the zemindary districts are thus beyond our reach, and both policy and good faith call, not only for their continuance in their present condition, but also for the conversion process being completed by the properties of the large landholders being made perpetual settlement estates.

The Natives not unreasonably ask that the Government shall seek a remedy for its financial distresses in the improvement of the crown lands still left to it, before it resorts to the community for more than occasional and temporary assistance. This is all the more just, as the difficulty is created by the extra

requirements of a highly civilized Government, and such extra demands ought therefore to be met by the extra supplies to be drawn from the crown lands by civilized management.

*Increase of Revenue.*—Indirect taxes in India are paid by 132 millions of people, and therefore, though only coming to 1s. 5½*d.* per head, give upwards of nine millions sterling, of which two-fifths are for a necessary of life—salt—and three-fifths for the small luxuries of a poor and abstemious population. Direct taxes in India, on the contrary, can only be paid by the few, even when levied so low as down to incomes of 20*l.* a year, as proposed by the late Mr. Wilson. The largest estimate of incomes above that sum, based on the proportions of the land produce in land tax, only raises them to fifty millions sterling, of which more than half must be from incomes between 20*l.* and 50*l.* per annum. Should this estimate be correct, the whole produce of Mr. Wilson's income tax therefore at two per cent. from 20*l.* to 50*l.*, and three per cent. for general purposes above, will, even if not evaded, only produce at most a million and a half sterling. An advance on salt of ½*d.* per lb., or its sale by Government at 1½*d.* instead of 1*d.* per lb., would raise the present salt tax from four to six millions, and thus give more than the income tax, without taking from the consumer a larger portion of his increased wages than salt at 1*d.* per lb. did a few years ago. For the

same reasons Mr. Wilson's tax on tobacco will probably yield him larger returns than his income tax. Of course the objection is to taxing the poor instead of the rich, but in a country like India, where the poor are so many and the rich so few, however contrary it may be to our philanthropical ideas, productive taxes can only be drawn from the former. It is better that this should be done by the state, than that the rich should shift their burdens on to the shoulders of the poor, which, however to be deplored, is the only certain result of taxing powerful and unscrupulous zemindars and Native traders.

*Direct Taxation.*—Besides the inefficiency of Indian incomes to repair a serious deficit by anything short of an exhaustive contribution, direct taxes are open to this practical objection, that they have always been consistently and universally resisted in India. Forced contributions, robbery of every kind, and even partial spoliation and confiscation, have been imposed with impunity by Native rulers on larger or smaller Native communities, or on individuals, but general direct taxation of a continuous and yearly-recurring character is the one thing which all Natives have from time immemorial united to avoid. Direct taxes, with inquisitorial search into private affairs, are a combination of the two greatest antipathies of a low state of society. The mere proposal of a mercantile and professional income tax lately excited such commotion in



the large cities of the North-West, that the keen traders of India voluntarily applied for the restoration of octrois and transit dues to avoid its imposition. Mr. Wilson's large and masterly generalizations, admirably suited to educated men, and which made his proposals acceptable to the European community of Calcutta, must have been either unknown or unintelligible to the ignorant natives of India, whose firm persuasion is that the English have been taxing them for a hundred years to take the money away to Europe. It would have been fortunate if the results of his scheme, supposing it had been carried out in all points as first proposed by himself, had not shown that the Government of a free and enlightened people, voting their own burdens, can take liberties with their subjects, far beyond the power of the despotic rulers of ignorant and suspicious millions. The disarmament of the country, and our own increase of power by the suppression of the late rebellion, might perhaps have saved us from active resistance, at first ; but, unless we employ a degree of summary dealing with the Natives equally opposed to our custom and to our ideas, our direct taxes will be so evaded as to be unproductive, while yet their continuance will be regarded as universal oppression, exceeding the worst spoliations and occasional forced contributions of Native violence. Our officials say they are strong enough to force an income tax on the people, including the Native

land and fundholders, but admit that the result will be universal passive resistance, evasion, and hatred deep and general. Such a direct personal motive for opposition to our rule, in the leaders of 130 millions of people, must either drive us from India, or render its retention a heavy burden on England; and the simultaneous imposition of a tobacco tax, though otherwise politically innocuous, will furnish the leaders with only too ready a handle for moving the masses.

Many of the same Natives, however, who admit that the whole Native community will resist a direct income tax, say that, if Government must have money, it would be more in accordance with Native ideas, and less offensive to the people, to raise once for all an extra contribution. It has been calculated that an extra levy of fifty millions sterling in three years could be raised from the whole body of the people without permanent injury to the country, if Government would merely apportion to each district its share of the yearly total, and leave the chief landed and moneyed proprietors to allot it among themselves, and to make up the amount from their inferiors without interference by our officials. Such was the mode adopted in the Punjab by Sir John Lawrence, and compensation for all the Punjab losses was thus easily raised. When a similar object was sought in Lucknow, the English officials took it in hand themselves, so as to guard against

injustice and oppression on inferiors in the allotment and collection by the Native landed and moneyed classes, and we conducted our proceedings with such careful justice and discrimination that but little was realized, and that almost exclusively from the fundholders. Though such means of raising a large contribution have been pressed on Government, both by Natives and by English officials, the knowledge that to be efficient its allotment and collection must be left to the Native upper classes, and that the contribution must be to a certain degree forced, seems to deter the present Government from resorting to this measure. We are drifting into all the real evils of direct taxes on the Natives for the purpose of raising the interest on the mutiny debt, to avoid the problematical evil of paying off the principal by means neither permanently injurious nor very unsatisfactory to the great body of the people, but only opposed to our benevolent, unappreciated ideas.

*Development of India's Resources.*—While such are the objections to direct taxation in India, a very general assent has been given to the policy of developing the resources of the soil. This is called for in England as well as in India, but no specific plan has yet been suggested for doing it in a manner to give Government a direct share in the result, and to increase the revenue largely and speedily. Railways, canals, roads, and irrigation

works are the chief means proposed, but these, however valuable as parts of a larger plan, can only benefit the revenue indirectly, gradually, and to a small extent, chiefly by the obnoxious method of further raising the assessment on land. The main elements of any great and speedy increase of prosperity must be sought in better and wider cultivation.

The one branch of the culture system in full operation in India—the opium culture—is the happiest feature in our revenue sheet. The objections to opium as a deleterious drug would not apply to other harmless and more useful products of the soil, and the full success of the Government opium culture in raising a revenue without the slightest pressure on the people, ought surely to more than counterbalance any theoretical objections to its growth as a Government monopoly, while the culture system may be applied to other products without necessarily incurring even this reproach. It will also be remarked that the gratuitous labour rent and the right to forced labour, existing in Java, have nothing to do with the culture system, which exists and flourishes independently of and beside those features of Javanese tenure. The one-seventh of labour is employed on the roads and public works, neither contractor nor planter can require forced labour from the peasants, and every hour's toil for the culture is paid, and largely paid, to the peasant. At the same time the chief advantages of the culture

system are independent of the objectionable export to Europe by Government. Whether Government is repaid in kind, and sells the produce by auction at the capital for export, as it does at present with opium, or whether the contractor himself sells it at the capital and repays Government in cash, is immaterial to the success of the system. The merchant in either case would buy it for export as freely as any private produce, and the result, to both Indian and English trade, would be largely increased exports from India, with a corresponding return in imports.

The Government of India might thus derive from the culture system the same indirect advantages as in Java, and a large part, though not the whole, of the same direct advantages, without infringing either of the principles of free labour or free trade.

• *Fresh Employment for Europeans.*—Besides quadrupling the revenue, the culture system in Java provided a remedy for the European complaints of failing means, and want of agreeable and profitable employment. The English character is scarcely so inferior to the Dutch as to prevent our applying the same system as beneficially to ourselves, and with as little injury to the Natives as they have succeeded in doing.

The professions in England are now overstocked with gentlemen of education, good sense, and energetic habits, hundreds of whom could surely be induced, by fair prospects of present competence and

future affluence, to devote their manhood to carrying out the cultivation of India. The forced contribution, or, if that be not resorted to, loans in England for the specific purpose, would supply the necessary capital; the land, the climate, and the labour only await our availing ourselves of these resources, and the Dutch in Java show us what bringing these various elements together will produce.

Here is the solution and the realization of the English project for colonizing India. The American and Australian climates make those colonies better suited to the English labouring man, whose coarse strength and inclination to tyrannize over the weaker race are both hateful and injurious to the feeble and fastidious Native. But the culture system would develop the resources of India by means of educated gentlemen as directors of labour, whose character and example would be beneficial to the people, and who are the real colonists required by our Eastern empire.

The only apparently necessary ingredient for the success of an Indian adaptation would seem to be, as in Java, selection of the contractors according to character and disposition, and particularly limitation to European gentlemen, with whom the contracts should be personal, and depending on their continued residence on their plantations. It is the intelligence derived from education and civilization, and the enlightened self-interest of the European, which have

made his liberal application of the Government funds at his disposal tend to the improvement of the manufacture processes in Java, and have thus given the product high European market values. The Native in India can equally grow and manufacture indigo, sugar, and cotton, but the carelessness of details, and the unwise dislike to necessary outlay, which are inherent in his state of civilization, always make his products fall below par. The culture system would be a new field for the European, chiefly on land where Government is the landlord, and which would not therefore encroach on any Native right. If limited to the European, as in Java, there seems to be no reason why its success, both direct and indirect, should not be as great in India as there, and the moral advantages to the country at large would probably be greater than the material ones. If extended in India to the Native, its material success would be problematical, and its moral success certainly null.

Like Java, the high plateau of Southern India has lovely hills and dales bathed in perpetual spring. The long range of the Himalayas offers Alpine homes to the Anglo-Indian. The whole land but asks for the application of capital by English intellect to pour the treasures from her teeming lap. Surely the blessings of permanent English settlements in India are worth trying for, although their realization might convert the Native's dearly beloved laziness, with its consequent poverty, into industry and riches.

*Good-will between European and Native.*—Kindly feelings in the great body of Natives can hardly exist towards us, either as a people or as a Government, so long as their requirements, and the objects of their fondest hopes, are either disregarded or ignored. To secure the affections of the feebler race we must attend to their interests, and must adapt our system more to content their actual desires than to improve their ideas. We must deal with their state of society as we find it, not as we would wish it to be, and must recognise the rights which that state of society gives to the high as well as to the low. It is not by destroying the old noble, and by giving the peasant and small trader unwonted exemption from the power, or even from the exactions, of his natural superior, that we can secure peace and good-will. The natural influences of birth and of ancestral dominion, in a feudal state, are too strong for disruption, even by the violent operation of our sale laws and village republics. We thereby merely irritate the upper classes without gaining the lower, while it is only with the upper ranks of Natives that we can hope to establish the cordial relations of mutual labours and interests.

*Means of raising Native Character.*—Though the government of Natives by their own old nobility, even in an unimproved state, would be more satisfactory to the country at large than our present system, it would no doubt be open to many abuses,



and can only be made such as we should wish it by raising the general character and tone of thought of the Native official. We have tried English literary education alone, without producing any perceptible effect in this direction, but have totally neglected any application of those processes by which, in a similar state of society, our own rude natures were raised and ameliorated. Neither the Dutch nor the Javanese are a feudal people, and yet Native society has there insensibly adopted some of the most distinctive features of the feudal ages, and in no case with happier results than in the practical education of the young Native noble, by his employment in public affairs, and by his early coming under the influence of public opinion. The gradual operation is not unlike that of Eton, where the tradition of what is gentlemanlike and what is snobbish, with no other control than the opinion of one's schoolfellows, moulded boys' minds into tone, and led to the habits that brought Etonians their distinctive epithet. Both in schools and in Oriental countries, it would no doubt be better if religious instead of merely honourable feeling could be made the great motive power, but while Arnold found the former impossible at Rugby, he succeeded in greatly raising the character of the Rugby boy by means of the latter. The Indian noble's innate pride, and thirst for personal distinction, would probably cause him to be both easily and beneficially influenced by some such

mode of chivalrous education in office as has raised the character of Native officials in Java. A different idea of honour might be thus inculcated into the higher Natives of India, through whose amended tone of thought public opinion would undergo a favourable change, and would gradually permeate to the lower classes. If reprobation of deceit itself were substituted for reprobation of deceit to bad ends, if subornation of perjury became as dishonouring in Native estimation as personal perjury, if high principle and chivalrous honour took the place of izzut or personal dignity, if manly straightforwardness superseded crooked ways, if the spiritual and intellectual objects of this life attained equal value with selfish and sensual pleasures, more steps would be made towards ultimate civilization and Christianity than our present system has ever yet shown any symptom of attaining.

Then, and not till then, can we feel assured as to the prospects for our future tenure of India, and satisfied as to the fulfilment of the higher duties for which we believe God to have entrusted this great gift to our charge.

*Possible Result.*—India, if thus raised to the same condition as Java, would form the grandest empire it has ever yet entered into the heart of man to conceive. Without annexing another mile of Native territory, the same population per square mile, and the same revenue per head, would give us upwards

of 170 millions of people, yielding a revenue of more than 130 millions of pounds sterling per annum, not only without impoverishing themselves, but while daily increasing in wealth, in contentment, and in civilization.

The glory of achieving such a result is the highest meed of praise any statesman could desire, and if my humble efforts shall help to point the way, I shall have repaid, to the noble country of India, the benefits she has conferred on my family and on myself.

THE END.



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