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THE

TRIAL AND DEPOSITION

OF

MULHAR RAO GAEKWAR

OF

BARODA.

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INTRODUCTION.

BARODA, the largest independent Native State in Western India, has an area of 4,399 square miles, and a population of 2,000,225. The average density of the population is, therefore, 454·70 persons per square mile. This density is greater than that of any European State, as Belgium, the most thickly populated country in Europe, counts only 451 souls to the square mile, and England and Wales 389. In Western India the Kingdom of Baroda is only excelled in density of population by the adjoining British district of Kaira in Guzerat, which has 501 to the square mile, and it is not greatly inferior to the plains of Bengal and Behar, where the average number of inhabitants is 530 to the square mile. The possessions of His Highness the Gaekwar, the Sovereign of Baroda, comprise the largest portion of Guzerat, the Umreli Mahals, the province of Okhamundel in Kattywar, and the Wajpoor Turruf in Khandeish. On all sides except the seaboard the Gaekwar's dominions are surrounded by and interlaced with British territory. The districts in Guzerat form a great plain watered by the Nerbudda and Mhye rivers and by several smaller streams; and the black soil is exceedingly fruitful, producing abundant crops of cotton, sugarcane, oil-seeds, and grain. The general aspect of Guzerat about January or February, when the cotton crop matures, presents one almost unbroken sheet of cultivation; and with a soil so highly favoured by nature and so industriously tilled the people certainly ought, if secured from the oppression of a bad government, to be both rich and contented. The country is thickly studded with villages, which are pleasantly shaded by clumps of fine trees and consist of more substantially built houses than are commonly seen in India. According to the Census of 1872, the number of villages in the State is 3,007, and of towns containing 5,000 inhabitants and upwards thirty-one. Baroda, the capital, situated on the Vishvamitra river, 250 miles north of Bombay, and 60 miles south of Ahmedabad, is a large city, having a population of 150,000. The annual revenue of the Gaekwars is nominally about £1,500,000.

The following sketch of the political history of the State of Baroda since it came under the dominion of the Gaekwar dynasty, and of the relations maintained between the Gaekwars and the British Government up to the

year 1865, the ninth year of the reign of Khundi Rao Gaekwar, is extracted from the sixth volume of Aitchison's *Treaties and Engagements with Native States* :—

One of the most distinguished among the first Mahratta leaders was Khundi Rao Dhabaray, who subsisted his followers in Guzerat and Kattywar, from which provinces he exacted tribute. In the struggle for the supremacy in the Mahratta confederacy, he supported the cause of Sahojee, by whom he was raised to the rank of Senaputtee or Commander-in-Chief. One of his officers, Damajee Gaekwar, who stood high in his estimation, was on his recommendation appointed second in command. Khundi Rao and Damajee Gaekwar died within a few months of each other in 1721 and were succeeded in office, the former by his son Trimbuk Rao Dhabaray, and the latter by his nephew Peelajee Gaekwar.

In 1729 the Peishwa Bajee Rao obtained from Sirbulund Khan, the Moghul Deputy in Guzerat, a cession of the chouth and other dues of that province, and, among other conditions of the grant, engaged to prevent Mahratta subjects from taking part with disturbers of the peace. This condition was chiefly aimed at Trimbuk Rao Dhabaray and Peelajee Gaekwar, by whom it was considered to be an invasion of their rights. Trimbuk Rao therefore entered into negotiations with other Mahratta leaders in Guzerat to oppose the Peishwa's claims. But he was defeated and slain in battle in 1731, and the Peishwa's right in Guzerat were thus established. Jeswunt Rao, the infant son of Trimbuk Rao, was appointed to the rank of Senaputtee, and Peelajee Gaekwar was confirmed in his former post with the title of Sena Khas Kheyl. It was agreed that the Peishwa and Senaputtee should not interfere with each other's possessions, and that Jeswunt Rao should have the entire management in Guzerat, paying half the revenue to the Peishwa, and accounting for all contributions levied from countries not mentioned in the deeds of cession given by Sirbulund Khan to the Peishwa. The cession of the chouth by Sirbulund Khan, however, was disallowed by the Emperor of Delhi. Sirbulund Khan was removed from office, and was superseded by Abhee Sing, Rajah of Jodhpore, by one of whose emissaries Peelajee Gaekwar was murdered.

Damajee Gaekwar, son of Peelajee, avenged his father's murder, and succeeded in wresting the whole of Guzerat from the Moghuls. Jeswunt Rao, when he came of age, proved quite incompetent for his post, and the Dhabaray family gave place to the Gaekwars. Damajee Gaekwar supported Tara Bai in an effort which she made to free her grandson, the Rajah of Satara, from the thraldom of the Peishwa Ballajee Bajee Rao, but he was treacherously seized by the Peishwa, and was not released till he agreed to pay to the Peishwa 15 lakhs of rupees as arrears of tribute from Guzerat, and to share equally all his possessions and future conquests. In the following year the Peishwa obtained a partition of Damajee Gaekwar's conquests in Kattywar, and the Gaekwar agreed to assist the Peishwa with troops when necessary. Thereafter the armies of Damajee Gaekwar and of the Peishwa under Ragoba proceeded to the joint conquest of Guzerat. In 1755 the Moghul government in Ahmedabad was entirely subverted, and the town and country were shared between the Peishwa and the Gaekwar. Damajee Gaekwar was a supporter

of Ragoba in his rebellion against Madho Rao, and furnished him with troops under his son Govind Rao. But in this war he was defeated, and punished by the imposition of an annual tribute of Rs. 5,25,000, and annual service with 3,000 horse during peace and 4,000 during war. He also agreed to pay Rs. 2,54,000 for certain districts which the Peishwa promised to restore to him, making his tribute in all Rs. 7,79,000. He left four sons, Syajee, his eldest son by his second wife, Govind Rao, his second son by his first wife, and Manajee and Futteh Sing by his third wife. Govind Rao was at Poona at the time of his father's death, and by the payment of a large nuzzer to the Peishwa Madho Rao, and agreeing to the arrangements which had been concluded with Damajee three years before, he procured his recognition as successor to his father's rank of Sena Khas Kheyl. But Futteh Sing urged the superior claim of Syajee, the eldest son, who was an idiot; and the Peishwa, whose object was to divide the family and thereby reduce the Gaekwar's power, subsequently admitted Syajee's right, by which the brothers Govind Rao and Futteh Sing were made implacable enemies. To strengthen his position Futteh Sing made overtures for an alliance with the British Government in 1772, but his proposal was rejected. In January 1773, however, an agreement was made with him, by which the Gaekwar's share of the revenues of Broach, which, in consequence of a quarrel with the Nawab of Broach, the British Government had taken by assault on 18th November 1772, was to remain on the same footing as under the government of the Nawab.

After the murder of Narain Rao, the Peishwa Ragoba again recognised the claim of Govind Rao. Therefore, when Ragoba fled to Guzerat before the army of the ministerial party at Poona, who supported the claim of Madho Rao Narain, the posthumous son of Narain Rao, to the position of Peishwa, he found an ally in Govind Rao and an enemy in Futteh Sing. When the Bombay force joined the army of Ragoba, an unsuccessful attempt was made to detach Futteh Sing from the cause of the ministerial party. But after some successes had been gained by the British troops in Guzerat, a Treaty was mediated between Futteh Sing and Ragoba, by which it was agreed that he should furnish troops and money to Ragoba, who was to provide Govind Rao with a jaghir in the Deccan, and that the British Government as guarantees of the Treaty should receive the Gaekwar's share of the revenues of Baroach and several villages in perpetuity. This Treaty was abrogated by the orders of the Bengal Government, which dissolved the connection with Ragoba, and led to the conclusion of the Treaty of Poorundhur, formed by Colonel Upton with the ministerial party at Poona, one of the provisions of which was that the cessions made by Futteh Sing should be restored to him if it could be proved that he had no authority to make them without the previous consent of the Peishwa's government. The object of this on the part of the ministerial party was to induce Futteh Sing to acknowledge his dependence on the Poona Court, by whom, in February 1778, he was recognised as Sena Khas Kheyl on his paying up his arrears of tribute.

After the convention of Wargaon, it was proposed to reduce the Mahratta power by concluding a Treaty with the Gaekwar family, acknowledging their independence of the Peishwa, and by conquering for the British Government the Peishwa's share in Guzerat. General Goddard having effected some successes in the campaign in Guzerat, concluded a Treaty of offensive and defensive alliance on these principles with Fut-

teh Sing on 26th January 1780. Futteh Sing was to receive the Peishwa's territory north of the Mahee river, to cede his districts south of the Taptee, the revenues of Broach and villages adjacent and the district of Sinnore on the Nerbudda, to be relieved from payment of tribute to the Peishwa during the war, and to send 3,000 horse to join the British army. The terms of this Treaty were generally approved by the Supreme Government; but some objections were taken to the wording of it. The seal of Government and the signatures of the Members of Council were therefore affixed by way of ratification to an amended version, copies of which were sent to the Bombay Government to be exchanged with Futteh Sing. The alterations made, however, were never communicated to him. The question whether, under these circumstances, either of the versions of the Treaty was a binding document, is of no practical importance, for, by the Treaty of Salbye, which established peace between the British Government and the Peishwa in 1782, the territories of the Gaekwar were placed on the footing on which they stood before the war, and Futteh Sing was required to pay tribute to the Peishwa as formerly, but was exempted from all retrospective claims.

Futteh Sing Gaekwar died on 21st December 1789. His brother Manajee immediately assumed charge of the government for his brother Syajee, and was recognised by the Peishwa on payment of a large nuzzer. The claims of Govind Rao, however, were supported by Madhojee Sindia. To strengthen his power, Manajee applied for the protection of the British Government under the Treaty of 1780, but interference was declined, on the ground that the Treaty had been superseded by the Treaty of Salbye. The family quarrel was terminated by the death of Manajee on 1st August 1793, and the succession of Govind Rao, who was required to pay large sums to the Peishwa, and to sign an agreement ceding to the Peishwa the Gaekwar's districts south of the Taptee and his share of the customs of Surat. But this cession was afterwards relinquished by the Peishwa, the British Government having objected to it as a dismemberment of the Gaekwar's territory, contrary to the provisions of the Treaty of Salbye.

Aba Shelookur, the Peishwa's Deputy in Guzerat, excited the enmity of Govind Rao by levying contributions in the Gaekwar's villages. This led to hostilities, to which the Gaekwar was further incited by Bajee Rao, as Aba Shelookur was one of the supporters of the minister Nana Furnavees. The quarrel was materially affected by the intervention of the British Government. On the death of the Nawab of Surat in 1799, the British Government endeavoured to obtain the cession of the Gaekwar's share of the chouth of Surat and the surrounding districts. To this the Gaekwar consented, on condition of the Peishwa's sanction being obtained, and in the hope of securing assistance against Aba Shelookur. The request for aid was evaded, but in the meantime Aba Shelookur was made prisoner by Govind Rao, and, in October 1800, the Peishwa leased to the Gaekwar his share in the Guzerat revenues for five years, at the rate of five lakhs a year annually.

In September of that year Govind Rao died, and his eldest son, Anund Rao, was acknowledged as his successor. He was of weak intellect, and the powers of the State were usurped by his illegitimate half-brother Canojee Rao. The userper, however, was deposed by a party headed by Raojee Appajee, the minister of Govind Rao, supported by

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Baojee, his brother. But the cause of Canojee was espoused by Mulhar Rao, the cousin of Govind Rao, whose father had been a supporter of Govind Rao in his struggles with Futteh Sing, and who was dissatisfied with the treatment he had received from Govind Rao after the accession of the latter to power. The struggle was ended by Raojee Appajee throwing himself on the protection of the British Government, and agreeing, on 15th March 1802 to receive a subsidiary force from the Bombay Government, and to cede the chouth of Surat and the pergunnah of Chowrasee, on condition of being supported against Mulhar Rao. After a short campaign Mulhar Rao surrendered and received for his support Rs. 1,25,000 a year. Both Mulhar Rao and Canojee subsequently more than once rebelled, and the latter was eventually removed to Madras in 1812, in consequence of his conspiring with the Jam of Nowanuggur to secure his own elevation to the Baroda State and to destroy the British ascendancy in Guzerat. The former died a prisoner at Bombay.

The convention of 15th March 1802 was reduced to a formal Treaty confirmed by the Gaekwar in a separate written agreement on 29th July 1802. To this Treaty a private engagement with Raojee Appajee was added, guaranteeing to him permanently the post of minister and extending the protection of the British Government to him, his son, brothers, nephews, relations, and friends. By the 14th Article of the Treaty of Bassein, the Treaty with the Gaekwar was recognised and acknowledged by the Peishwa.

The convention of 15th March 1802 contained a stipulation, which was confirmed by the subsequent engagements, that the British Government should assist the Gaekwar in reducing his Arab mercenaries.* These troops had become all powerful in the Gaekwar's territories and even kept the Gaekwar in arrest. They cost the State about Rs. 3,00,000 a year, but the Gaekwar was powerless to discharge them, as he owed them arrears of pay amounting to about Rs. 20,00,000, and the current revenues of the year were mortgaged. The money was advanced to the Gaekwar by the British Govern-

* The engagements of 1802 gave the British Government an almost unlimited power of interference in the internal government of the Baroda State. When these engagements were concluded, there was really no government in Baroda. The power of Anund Rao was defied by Canojee and Mulhar Rao, while his person was seized by the Arab troops, who, although few in number, occupied all the important military posts, and with whom intrigues were kept up for the establishment of Canojee in power. Negotiations were opened with these mercenaries, who were offered full arrears of pay and liberal treatment on condition of their removing from Guzerat. They refused; and in consequence the town of Baroda, which was occupied by them, was invested by a British force. The Arabs at last capitulated and agreed to withdraw on condition of receiving the arrears due to them, and of the *Bhandary* or guarantee of the British Government being substituted for that of the Arabs wherever it had been granted either to persons or property. In Guzerat, at that time, no important engagement of any kind was ever made without a guarantee or security, and the Jemadars of the Arabs had in many cases not only become security to bankers for the re-payment of loans made by them to the Gaekwar, but had guaranteed their persons from molestation and oppression. To some extent the guarantee system was a power vested by the ruler in his subjects, enabling them to control him in the event of his deviating from his engagements. When the Arabs were discharged, they were released from these engagements, to which the seal of the British Government was attached as a guarantee. The British Government also committed themselves to other guarantees for loans advanced to enable the Gaekwar to discharge the Arabs and for other purposes, and to pledges to ministers and other officials, who really exercised the civil power, and who stipulated for protection to themselves and their descendants before they would commit themselves to the policy of the British Government.

These guarantees were considered at the time they were granted to be of much advantage in securing British influence at Baroda, at the same time that they established the Gaekwar's credit; and so long as the British Government continued to exercise a close control over the affairs of the Gaekwar, no inconvenience was felt from them. But after 1820, when the Gaekwar was vested with the full government of his State, the guarantees proved a source of much irritation. A particular account of them here would be out of place. Full information on the subject will be found in the Parliamentary Blue Book of 6th August 1853. Of late years it has been the policy of the British Government to withdraw from the guarantees, so far as it can do so with good faith. With exception of four guarantees, which have been declared to be perpetual, all have either lapsed, or been forfeited by misconduct, or declared to hold good only for the lives of the parties.

ment on territorial security. The reduction of the mercenary troops was effected not without bloodshed, after which the Gaekwar ceded districts yielding Rs. 7,80,000 for the support of the subsidiary force. The above engagements were all consolidated in the definitive Treaty of 21st April 1805, by which also the subsidiary force was increased, territories yielding Rs. 11,70,000 were ceded for its support, lands yielding Rs. 12,95,000 were assigned for the payment of the Gaekwar's debts to the British Government, amounting to Rs. 41,38,732; the Gaekwar bound himself to submit his pecuniary disputes with the Peishwa to the arbitration of the British Government, and generally his relations with the British Government were defined. The ceded districts were found not to yield a revenue equal to the cost of the subsidiary force, and therefore, on 18th June 1807, the Gaekwar ceded additional territories yielding Rs. 1,76,168. In 1812 a proposal was raised by the Bombay Government to restore to the Gaekwar, in consideration of a payment of upwards of a crore of rupees, the territories ceded for the subsidy, and to farm to him the districts acquired under the Treaty of Bassein, the engagements regarding the subsidiary force remaining otherwise intact. The proposal, as was to be expected, did not meet with the sanction of Government.

The Peishwa's claims against the Gaekwar for the tribute of Kattywar and the farm of Ahmedabad, which, after the expiry of the five years' lease, had in 1804 been renewed for ten years, at the rate of Rs. 4,50,000 a year, through the mediation and under the guarantee of the British Government, were met by counter claims on the part of the Gaekwar for the revenues of Broach, which the Peishwa had, without his consent, ceded to the British, and for the pay of extraordinary troops kept up for the defence of the Peishwa's possessions in Guzerat. Renewal of the lease, which expired in 1814, was refused, and Trimbukjee Anglia, the favourite creature of Bajee Rao, directed the Kattywar Chiefs not to pay to the Gaekwar the Peishwa's share of the tribute. To adjust these disputes, Gungadhur Shastree, the Gaekwar's minister, was deputed to Poona under the guarantee of the British Government for his safety, where he was basely assassinated by Trimbukjee Anglia. By the Treaty, which, in consequence of this outrage, the Peishwa was required to subscribe on 13th June 1817, the Peishwa was obliged to renounce all future claims against the Gaekwar, and to compromise past claims for an annual sum of four lakhs of rupees, a payment from which the Gaekwar was released on the overthrow of the Peishwa. As the result of this arrangement, a new Treaty was concluded, on 6th November 1817, with Futteh Sing, the Regent, on behalf of Anund Rao Gaekwar. The Chief provisions of this Treaty were an increase of the subsidiary force; the cession to the British Government of all the rights the Gaekwar had acquired by the farm of the Peishwa's territories in Guzerat; the consolidation of the territories of the British Government and the Gaekwar in Guzerat by exchange of certain districts; the co-operation of the Gaekwar's troops with those of the British Government in time of war; and the mutual surrender of criminals.

Anund Rao Gaekwar died on 2nd October 1819, and was succeeded by his brother Syajee Rao, who, during the two preceding years, had been Regent to the exclusion of his two legitimate sons, Bulwunt Rao and Peelajee Rao, by a Rajpoot

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1818. On his accession Government resolved to withdraw from the minute interference which it had hitherto exercised in the affairs of the Baroda State, on condition of the Gaekwar respecting the guaranteed allowances of his ministers, the agreements with his tributaries, and his bargains with his bankers. One of the conditions on which the Arab mercenaries had taken their discharge in 1803 was that the guarantee of the British Government should be substituted for the guarantees which had been given by the Arabs to several Baroda bankers, promising them security from molestation and the payment of loans advanced by them to the State. Besides these, Government guaranteed the payment of several other loans, which had been raised at different times to relieve the Gaekwar's embarrassments. In 1820 the whole debts of the State amounted to Rs.1,07,66,297. Loans for the liquidation of this sum were raised from six principal bankers under British guarantee, the Gaekwar engaging to pay them off at the rate of fifteen lakhs per annum. The instalments were very irregularly paid, and in 1825 it was found that the debts had increased. With the consent of the Gaekwar a new arrangement was made under guarantee, by which certain districts were farmed for seven years to pay off the debt. Syajee Rao, however, violated the leases and showed no disposition to respect the guarantees, and therefore Government, in 1828, temporarily attached the districts of Pitlaud, Byal, Kuree, Dubhoy, Bhadurpore, Sinnore, Amrolee, Damnuggur, and Seanuggur, and the tributes of Kattywar, Maheekanta, Rewakanta, Rajpeepla, Oodeypore, and the tributary Sunkheira villages. In 1832, however, after much negotiation, a private settlement was effected between the Gaekwar and the bankers, the guarantees were cancelled, and the districts and tributes were restored to the Gaekwar.

In 1820 Syajee Rao entered into a convention regulating the sale of opium in his territories, the export of which had been previously prohibited, except on payment of a duty of Rs. 12 a seer. In the same year another convention was concluded, whereby the Gaekwar agreed to send no troops into Kattywar and Maheekanta without the consent of the British Government, and to make no demand on his tributaries, except through the medium of the British Government, who engaged to procure payment of the tribute free of expense to the Gaekwar. In 1825 the Gaekwar agreed that his share of any fines levied in Kattywar, or of any extra revenue over and above the revenue fixed at the perpetual settlement, should be credited to the Infanticide Fund. In 1844 he issued rules regulating the levy of dues on vessels driven into his ports in Kattywar by stress of weather. Revised rules were issued in 1850.

By the 8th Article of the Treaty of 1817 the Gaekwar was bound to maintain a body of 3,000 effective cavalry to co-operate with the subsidiary force. This Article gave the British Government no right to the services of this force except when the subsidiary force could be employed; but the practice grew up of holding it available at all times for Police duty in the tributary States. The force was very inefficient, and in 1830 the Gaekwar was called on to render two-thirds of the cavalry fit for service. On his failing to do so, lands yielding about Rs. 15,00,000 were sequestrated to provide funds for their punctual payment. In 1832, however, the districts were restored on the Gaekwar agreeing to deposit Rs. 10,00,000 with the British Government. In the following years the Gaekwar committed himself to a long course of unfriendly acts against

the British Government, endangering the alliance and leading, in 1839, to the sequestration of the district of Pitlaud, yielding a revenue of Rs. 7,32,000, and the threatened deposition of Syajee Rao Gaekwar and the transfer of the sovereignty to another member of the family. Part of the revenue of Pitlaud was appropriated to the maintenance of a body of cavalry organized by the British Governmet and called the Guzerat Irregular Horse. In 1840 it was proposed to the Gaekwar to reform his contingent by reducing the strength to 1,500 efficient men. This proposal was not based on the Treaty of 1817, which was declared abrogated by the unfriendly conduct of the Gaekwar. The Gaekwar, whose conduct for many years had been most unfriendly, was much opposed to this measure, but at last in 1841, when the causes of dispute between the two Governments were adjusted, an agreement was made with him, which revived the Treaty of 1817, provided for a payment of Rs. 3,00,000 for the Guzerat Irregular Horse, the maintenance of the contingent of 3,000 horse by the Gaekwar, and its employment in the tributary districts, with permission to the Gaekwar to reduce at any time the number so employed to 1,500 men. On the conclusion of this agreement the district of Pitlaud was restored, and the Rs. 10,00,000, deposited with the British Government in 1832, were refunded to the Gaekwar. In 1858, as a reward for the services of the Gaekwar during the mutinies, the payment of Rs. 3,00,000 a year for the Guzerat Irregular Horse was remitted, but at the same time the permission given to the Gaekwar to reduce the contingent to 1,500 men was cancelled, and the contingent was put on the same footing as that described in the 8th Article of the Treaty of 1817, with the additional provision that it should do ordinary Police duty in the tributary districts.

In 1856 the Gaekwar ceded in sovereignty the lands required for the construction of the Bombay and Baroda Railway, on condition that he should not suffer by the loss of transit duties. In the same year the Resident submitted three conventions, to any of which the Gaekwar was ready to agree. By the first, the Gaekwar proposed to abolish all customs and transit duties within his dominions for an annual compensation of Rs. 3,61,417; by the second he proposed to abolish all customs and transit duties in the districts traversed by the Railway for an annual compensation of Rs. 1,54,770; and by the third he proposed to levy certain duties on the traffic of the Railway passing through his territories agreeably to the existing tariff. None of these proposals were agreed to, but it was decided to compensate the Gaekwar year by year for any proved loss caused by the opening of the Railway. The Resident at Baroda has magisterial powers for the trial of cases arising in that portion of the Railway which passes through the Gaekwar's territories.

On 19th December 1847 Syajee Rao Gaekwar died, and was succeeded by his eldest son Gunput Rao, who, dying without male issue on 19th November 1856, was succeeded, on 12th December, by his brother Khundi Rao, the present ruler. Khundi Rao and his brother Mulhar Rao are the only legitimate lineal descendants of Peelajee Gaekwar. The present ruler has received the right of adoption. He receives a salute of 21 guns.

In 1840 *suttee* was prohibited within the Gaekwar's territories; the sale of children

was prohibited in 1849, and slavery in 1856. The military force of the State consists of 5,750 cavalry including the contingent, 4,000 infantry, 25 mounted artillery men, and about 3,000 sebundies. The British Government has the right of controlling salt-works and the opening of new ports in the Gaekwar's territories.

Khandi Rao died rather suddenly on 28th November, 1870, leaving no son, though his younger wife, Jumnabaee, was at the time of his death *enceinte*. The next heir to the *Gadee* was Khandi Rao's younger brother, Mulhar Rao, the fifth and last surviving son of Maharaja Syajee. Mulhar Rao had been accused in 1863 of being concerned in a conspiracy to compass the death of his brother Khandi Rao by poison or other means, and was in consequence confined as a State prisoner at Padra, in the Baroda territory, during the remainder of that Prince's life; his associates in the plot, who were in his service, being sentenced to long terms of imprisonment.

On the death of His Highness Khandi Rao, Mulhar Rao was at once summoned from Padra and installed as his successor by the Resident, with an intimation, however, that his recognition as reigning Gaekwar must be dependent on the sanction of the British Government, which was accorded conditionally on 1st December 1870, it being understood that, if Jumnabaee were delivered of a son, the child should be recognized as Gaekwar. The posthumous child being a girl, Mulhar Rao retained the throne.

During the first two years of Mulhar Rao's reign, while Colonel Barr, and after him Colonel Shortt, held the office of British Resident, the special attention of the British Government was not drawn to the affairs of this State, though it was known that the Maharaja passed his time in wreaking his vengeance on the adherents of Khundi Rao and in oppressing the general body of his subjects. But on March 18, 1873, a new Resident, Colonel R. Phayre, C.B., came into power at Baroda; and, shocked at the tales of misgovernment related to him, and the spirit of discontent prevailing amongst the people, Colonel Phayre thought it his duty to prefer certain charges against the Gaekwar and his ministers and favourites. These charges may be placed under the following heads:—

(1). Complaints of ill-treatment, spoliation and oppression of certain *British subjects*, including trading firms, &c.

(2). Grievances of the Sirdars and Military classes generally of the Baroda State, including the most arbitrary and revengeful acts on the part of His Highness.

(3). The ill-treatment and oppression practised upon the agricultural classes of the State in the collection of the Land Revenue and other cesses.

(4). Complaints against the Minister Nana Saheb Khanvelkur, for levying payments on appointments, thus turning out the occupants and reselling the places.

(5). Certain cases of torture by judical offices, one of them of a Brahmin woman, which lasted for five or six days ; the details of which are as disgusting as they are inhuman : the evidence generally tending to show that the practice of torture by both police and judicial authorities was systematic.

(6). The general attachment of the emoluments of hereditary offices or Wuttuns in the State, carried out under plea of enquiring into the rights of occupants seven or eight years ago, which was not done, though the emoluments were misappropriated by State officials.

(7). Cases of unjust imprisonment and excessive punishment by the Gaekwar.

(8). Highly arbitrary and spoliatory acts towards old and highly respectable banking firms at Baroda.

(9). Inhuman flogging, amounting to torture, of eight persons in the streets of Baroda on the 18th March 1873, one man having died under the same.

(10). Seizure of respectable married and unmarried women in the public streets of Baroda, and their compulsory detention as household slaves in the Maharaja's palace and elsewhere.

(11). The vindictive and sweeping proceedings of the reigning Maharaja Mulharrao against his predecessor's family and relatives, including the ex-Ranee and widow of his brother the former Gaekwar, and other ladies.

(12). Flagrant acts of oppression committed upon 60 or 70 followers and dependants of the late Gaekwar, and their spoliation of all private property, imprisonment, &c.

(13). Arbitrary resumption by the present Gaekwar without just cause or reason, of villages, lands, and other hereditary property conferred upon the nobility and gentry of the State, by former Gaekwars, during a course of a century and upwards, for civil and military services done to the State.

(14). Question of prison reform generally in the Baroda State, including the barbarous practice of flogging women.

(15). Complaints of certain widows and others of the village of Wuriao, of acts of oppression connected with their lands, &c.

(16). Confiscation of the property of the late Minister of H. H. Khunderao (Bhow Sindia), his suspicious death in prison, and the imprisonment and spoliation of the private property of his two widows.

(17). Complaint of the sons of a late Minister of Baroda who did excellent service for the British Government and the Baroda State in the time of the Mutinies. The resumption by the present Gaekwar of the hereditary property granted to their father in consideration of those services.

(18). The grievances of certain Thakoors of Bejapoor, connected with their Giras (assigned holdings) and other rights.

(19). Unsatisfactory state of the relations of the present Gaekwar's Government

with the British Government and the neighbouring States of the Mahi Kaunta, Reewa Kaunta, and Pahlunpoor Agencies.

The Government of India appointed Sir Richard Meade, Mr. E. W. Ravenscroft, Colonel Etheridge, Moomtazood Dowla Nawab Faiz Ali Khan as a Commission, with Mr. T. D. Mackenzie, as Secretary, to investigate these complaints of maladministration. The Commission assembled at Baroda to take evidence in November 1873, and in March 1874 presented a Report, the text of which will be found further on. The Commissioners gave it as their opinion that it was "impossible to avoid the conviction, from the vindictive "nature of His Highness Mulharrao's proceedings towards a large number of "persons, and his violent and spoliatory treatment of many of them, as also "his measures towards certain Bankers and Inamdars, and the general "character in other important respects of his administration during the last "three years, that he is not a Prince who can be reasonably expected to in- "troduce, of himself, the change of system absolutely necessary to reform "existing abuses and to place the administration on a footing to entitle it to "the confidence and support of the British Government, and the loyal and "willing obedience of all its subjects." They therefore recommended that a man of administrative experience, and with personal and other special qualifications for the post, should be chosen as Minister in place of the Durbar officials, and that "the Resident should, for a time at "least, be vested with special authority to intervene, if necessary, "between the Maharaja and his Minister," as they were convinced that "effectual measures of reform could only be introduced through the inter- "vention and under the auspices of the British Government."

Sir Richard Meade took this Report to Calcutta, and on July 25, 1874, the Viceroy in Council sent a *Khureeta* to the Gaekwar, intimating that a period of seventeen months, up to December 31, 1875, would be allowed to His Highness for effecting certain reforms; and the Resident, Colonel Phayre, was instructed to report progress from time to time. The Gaekwar was also advised to remove from office Nana Khanvelkur, the Minister of the State. With Nana had been associated, from December 1873, Mr. Dadabhai Naoroji, a Parsee gentleman well known as Secretary to the East India Association; and the Maharaja, disregarding the opposition of the Resident, now (in August 1874) appointed Mr. Dadabhai sole Minister, and conferred upon Nana Khanvelkur the honorary title of Prithcenedee. For the next three months the Resident and the Minister remained outwardly on friendly terms; but,

while Mr. Dadabhai on his side protested that he was anxious to carry out important reforms but was thwarted by the unwillingness of the Resident to co-operate cordially with him, Colonel Phayre maintained that the Minister, if sincere in his professions, had no real power, the old party at Court retaining the favour of the Maharaja, and that any changes introduced by him would be but a mockery of reform. This antagonism culminated, on November 2, 1874, in two despatches, one being a Report from Colonel Phayre to the Government of India on the state of affairs, and the other a *Khureeta* from the Maharaja, written by the Minister, in which the Viceroy in Council was entreated to remove from Baroda so impracticable an officer as Colonel Phayre. Although no mention was made of the matter in the *Khureeta*, the Resident had shortly before given deadly offence to the Gaekwar by refusing to recognize as heir to the *Gadee* a child born to him by a woman named Luxmeebaee, whom His Highness had married in the previous May, she being at that time his kept mistress and the reputed wife of another man. On the 5th of November Colonel Phayre further irritated the Gaekwar by expostulating with him privately on the attempts made by agents of His Highness to bribe high officials at Bombay in order to secure the recognition of Luxmeebaee's child. Four days afterwards, on the 9th of November, an attempt was made to poison Colonel Phayre by putting arsenic into his sherbet. The Colonel at once reported the circumstance to Government, and tried to find out the authors of the crime. He was pursuing this investigation when, on the 16th of November, he received a letter from the Governor of Bombay, informing him that the Viceroy thought he should resign the appointment of Resident, as he was personally obnoxious to the Gaekwar, but leaving him to exercise his own discretion in the matter. Colonel Phayre refused to tender his resignation; and on the 25th of November Lord Northbrook wrote to the Maharaja, saying he had removed Colonel Phayre and deputed Sir Lewis Pelly to Baroda as Agent to the Governor-General and Special Commissioner. The reason assigned to the Colonel himself for this supersession was that he had thoroughly "misunderstood the spirit of the "instructions both of the Government of India and the Government of Bom-"bay," and that the duties of Resident could no longer be entrusted to him "with the reasonable prospect of a satisfactory result." Sir Lewis Pelly arrived at Baroda on the 30th of November, up to which time the efforts of Colonel Phayre to trace his would-be assassins had completely failed.

Sir Lewis Pelly took office with a fixed intention to co-operate heartily with the Gaekwar's Minister in carrying out reforms; but,

elated by their triumph over Colonel Phayre, the Court party showed no anxiety to effect any real improvement, the discontent of all classes of Mulharrao's subjects increased from day to day till the State trembled on the verge of anarchy, and, within a month from Colonel Phayre's departure, the Minister, Mr. Dadabhai Naoroji, finding himself quite helpless, resigned. Meanwhile, the Detective Police, under Mr. Souter, C.S.I., Superintendent of Police at Bombay, had been diligently trying to find a clue to the origin of the attempt to poison; and on the 16th of December they heard from the driver of a hack bullock shigram in the Camp Bazaar that he had on one occasion driven an ayah from the Residency to the Gaekwar's Palace in the city at a late hour of the night. Mrs. Phayre's ayah was then examined and made a confession; and, the rest of the Residency servants having been questioned, suspicion fell on Rowjee bin Rama, the havildar of peons, as the most likely man to have administered the poison. Rowjee was taken into custody on the 22nd of December, and the same evening, having received a promise of pardon, he confessed to Mr. Souter that he had administered the poison at the instigation of H. H. the Gaekwar. In consequence of statements made by Rowjee, Nursoo, the jemadar of peons, was arrested on the 23rd, and the following morning he also made an unconditional confession corroborating Rowjee's, and persisted in it even after Sir Lewis Pelly had told him he would not be pardoned. (The story of these two men was, it may here be mentioned, confirmed a month afterwards by the confession of Damodhur Punt, the Gaekwar's Private Secretary.) The case having now become very serious, the depositions were on the 30th December laid before the Advocate-General of Bombay, who gave it as his opinion that "a strong *primâ facie* case of abetment of an attempt to murder" had been made out against the Gaekwar. The Viceroy, on receiving through Sir Lewis Pelly a report to this effect, summoned Mr. Souter to Calcutta, where he arrived on the night of the 11th of January; and three days afterwards the following Proclamation was issued :—

PROCLAMATION.

To all whom it may concern: Be it known that, Whereas an attempt has been made to poison Colonel R. Phayre, C. B., the late Resident at the Court of His Highness Mulharrao Gaekwar, and evidence has been adduced to the effect that His Highness Mulharrao Gaekwar instigated the said attempt to administer poison to Colonel Phayre, and whereas to instigate such attempt would be a high crime against Her Majesty the Queen, and a breach of the condition of loyalty to the Crown under which Mulharrao Gaekwar is recognised as Ruler of the Baroda State; and whereas, moreover, such an attempt would be an act of hostility against the British Government, and it is necessary

fully and publicly to inquire into the truth of the charge, and to afford His Highness Mulharrao Gaekwar every opportunity of freeing himself from the grave suspicion which attaches to him; and whereas, in consequence, it is necessary to suspend Mulharrao Gaekwar from the exercise of power, and to make other arrangements for the administration of the Baroda State: It is hereby notified that, from this date, the Viceroy and Governor-General in Council temporarily assumes the administration of the Baroda State and delegates all the powers necessary for the conduct of the administration to the Agent of the Governor-General and Special Commissioner at Baroda. The administration will be conducted, as far as possible, in accordance with the usages, customs, and laws of the country. All Sirdars, Inamdars, Zemindars and other inhabitants of Baroda territories, and all officers and persons whatsoever in the Civil and Military service of the Baroda State, or liable to be called upon for such service, are hereby required to submit to the authority of, and render obedience to, the said Agent of the Governor-General and Special Commissioner, during such time as the State may be under the administration of the British Government.

In accordance with the gracious intimation made to the Princes and Chiefs of India that it is the desire of Her Majesty the Queen that their Governments should be perpetuated, and the representation and dignity of their houses should be continued, a native administration will be re-established in such manner as may be determined upon after the conclusion of the inquiry, and after consideration of the results such inquiry may elucidate.

By order of the Viceroy and Governor-General of India in Council,

C. U. AITCHISON.

January 14th, 1875.

Acting on instructions telegraphed from Calcutta, Sir Lewis Pelly on the same day arrested the Gaekwar, who made no resistance, and lodged him in a house in the British Camp at Baroda to await his trial. The British garrison having been previously reinforced, by way of precaution, with a battery of artillery and a wing of English infantry from Bombay and a regiment of Native Infantry from Ahmedabad, Sir Lewis Pelly seized the city of Baroda, and took the administration of the government entirely into his own hands. The Gaekwar's troops showed no disposition to fight for their master, and were not even disarmed. Some of the Sirdars were annoyed at the interference of the British Government; but the population of Baroda generally acquiesced in the transfer of power from the Gaekwar to the Viceroy's Agent; and all signs of discontent quickly disappeared. But the excitement among the Mahrattas of Western India, as soon as it was known that the Gaekwar had been suspended from the exercise of Sovereign power, became intense; and Poona, in particular, the old capital of the Peishwas, showed the keenest sympathy with Mulhar Rao. The Anglo-Indian Press, in its comments upon the Viceroy's Proclamation, had expressed doubts of the expediency of appointing a Commission of Inquiry, and had strongly ad-

vocated annexation ; and the priestly class was movedat the prospect of the absorption into the British Empire of a Native State noted for its charities to Brahmins, while the Sirdars trembled for the loss of the pensions and other advantages secured to them by their relations at Baroda. Poona, therefore, became the head-quarters of a vehement agitation in behalf of Mulhar Rao—an agitation not limited to processions to the temples and prayers to the gods, but modernized by the educated natives into the form of public meetings and memorials to the Viceroy, praying that at all events the Commission of Inquiry might be equally composed of Natives and Europeans. The excitement rapidly spread among all sections of the native community, many of the Parsees even catching the infection ; and the cause of Mulhar Rao was soon identified with that of the subject races of the country. Meanwhile, the Gaekwar had employed legal advisers, who, besides engaging Serjeant Ballantine to come out and defend their client, used every art to inflame public feeling against the Government of India. Whether yielding to the pressure put upon it, or merely carrying out its original intention, that Government determined to constitute a Commission of three European and three native members. Holkar was at first asked to sit with Scindia and Jeypore ; but, as he declined, Sir Dinkur Rao was nominated, and on the 15th of February the following Proclamation was issued :—

The following instructions, issued to the Commission appointed to investigate the charges against His Highness Mulhar Rao Gaekwar of Baroda, are published for general information :—

To the Honourable Sir Richard Couch.
His Highness the Maharaja of Gwalior.
His Highness the Maharaja of Jeypore.
Colonel Sir Richard John Meade.
Raja Sir Dinkur Rao.
Phillip Sandys Melvill, Esq.

Whereas an attempt has been made at Baroda to poison Colonel R. Phayre, C.B., the late British Resident at the Court of His Highness Mulhar Rao Gaekwar; And whereas the following offences are imputed against the said Mulhar Rao Gaekwar, that is to say :—

I.—That the said Mulhar Rao Gaekwar did by his agents and in person hold secret communications for improper purposes with some of the servants employed by Colonel Phayre, the Resident at Baroda, or attached to the Residency ;

II.—That the said Mulhar Rao Gaekwar gave bribes to some of those servants or caused such bribes to be given ;

III.—That his purposes in holding such communications and giving such bribes were to use the said servants as spies upon Colonel Phayre, and thereby improperly to obtain

information of secrets, and to cause injury to Colonel Phayre, or to remove him by means of poison ;

IV.—That in fact an attempt to poison Colonel Phayre was made by persons instigated thereto by the said Mulhar Rao Gaekwar ;

And whereas the Viceroy and Governor-General in Council has temporarily assumed the administration of the Baroda State for the purpose of instituting a public enquiry into the truth of the said imputations, and of affording His Highness Mulhar Rao Gaekwar an opportunity of freeing himself from the grave suspicion which attaches to him :

THEREFORE the Viceroy and Governor-General of India in Council appoints you the said Sir Richard Couch, you the said Maharaja of Gwalior, you the said Maharaja of Jeypore, you the said Sir Richard John Meade, you the said Sir Dinkur Rao, and you the said Phillip Sandys Melvill, Esq., to be Commissioners for the purpose of enquiring into the truth of the said imputations and of reporting to the Viceroy and Governor-General in Council how far the same are true to the best of your judgment and belief. And the said Viceroy and Governor-General in Council appoints you the said Sir Richard Couch to be the President of this Commission, with full power to appoint times and places of meeting, to adjourn meetings, to adjust and arrange the method of procedure, to settle the course which the inquiry shall take, to call for and to receive or reject evidence documentary or otherwise, to hear such persons as you shall think fit on behalf either of the Viceroy and Governor-General of India in Council or of His Highness Mulhar Rao Gaekwar, and generally to guide the whole course of the proceedings of this Commission as from time to time shall appear to you to be proper for the purpose thereof.

AND WHEREAS certain other matters of importance pending between the British Government and His Highness Mulhar Rao Gaekwar were enquired into and reported upon by a Commission appointed by the Viceroy and Governor-General in Council by orders dated 23rd October, 1873 ; And whereas the enquiry which you are appointed to make is not connected with such matters : For the better understanding of your functions, the said Viceroy and Governor-General in Council hereby declares his desire that you shall not extend your enquiry to other matters than the offences imputed to His Highness Mulhar Rao Gaekwar as aforesaid ; and that you shall not permit any such other matters to be submitted to you for consideration or enquiry.

And the said Viceroy and Governor-General in Council desires that, in the event of any of your number being prevented by sickness or other cause from taking his place as Commissioner or from remaining as Commissioner till the conclusion of your enquiry, you the other Commissioners shall nevertheless conduct and complete your enquiry in the same way as if the number of Commissioners present or remaining were the whole number appointed hereby.

And the said Viceroy and Governor-General in Council hereby appoints John Jardine, Esq., of the Bombay Civil Service, to be your Secretary.

By order of the Viceroy and Governor-General of India in Council,

C. U. AITCHISON,
Secretary to the Government of India.

The Commission met at Baroda on the 23rd of February, and did not

conclude its inquiry, which was held in open Court with all the form and ceremony of a public trial, till the 17th of March. The Commissioners then came down to Bombay to consider their Report, and, as the European and Native Commissioners were hopelessly at variance as to the trustworthiness of the evidence against the Gaekwar, Sir Richard Couch, Sir Richard Meade, and Mr. Melvill drew up a joint Report stating that all the charges had been proved, while Scindia, Jeypore, and Dinkur Rao sent in separate reports, all however being in substance to the effect that the charge of instigating the attempt to poison had not been proved. Mr. Jardine, Secretary to the Commission, proceeded to Simla with the Reports, and reached that place on the 4th of April; but it was not till nearly three weeks afterwards that the Government of India announced its decision. The delay is generally attributed to a difference of opinion between the Viceroy in Council and the Home Government, the former wishing to treat Mulhar Rao as a convicted criminal, while the latter, influenced no doubt to a great extent by the outcry of the *Times* and other London papers which for some inexplicable reason had ranged themselves on the side of the defence before even waiting to see reports of the case for the prosecution, wished to avoid taking a course which would be sure to provoke hostile criticism in England. The traces of this conflict of opinion are clearly visible in the official papers finally published; for, while the Government of India in its "Resolution," which will be found along with the Reports of the Commissioners in the body of this Record of the Poisoning Case, has no hesitation in declaring that the guilt of the Gaekwar has been established, Her Majesty's Government, in the following Proclamation, refuses to assume that the case has been proved, and therefore brushes aside all the proceedings of the Commission, and deposes Mulhar Rao on the ground of notorious misconduct and unfitness to reign:—

PROCLAMATION.

To all whom it may concern: His Highness Mulhar Rao, Gaekwar, was suspended from the exercise of power, and the administration of the Baroda State was temporarily assumed by the British Government, in order that a public inquiry might be made into the truth of the imputation that His Highness had instigated an attempt to poison Colonel R. Phayre, C. B., the late representative of the British Government at the Court of Baroda, and that every opportunity should be given to His Highness of freeing himself from the said imputation.

The proceedings of the Commission having been brought to a close, Her Majesty's Government have taken into consideration the question whether His Highness Mulhar Rao, Gaekwar, shall be restored to the exercise of Sovereign power in the State of Baroda.

The Commissioners being divided in opinion, Her Majesty's Government have not

based their decision on the inquiry or report of the Commission, nor have they assumed that the result of the inquiry has been to prove the truth of the imputations against His Highness.

Having regard, however, to all the circumstances relating to the affairs of Baroda from the accession of His Highness Mulhar Rao Gaekwar, to the present time, his notorious misconduct, his gross misgovernment of the State, and his evident incapacity to carry into effect the necessary reforms ; having also considered the opinion of the Government of India that it would be detrimental to the interests of the people of Baroda and inconsistent with the maintenance of the relations which ought to subsist between the British Government and the Baroda State that His Highness should be restored to power, Her Majesty's Government have decided that His Highness Mulhar Rao Gaekwar shall be deposed from the Sovereignty of Baroda, and that he and his issue shall be hereafter precluded from all rights, honours, and privileges thereto appertaining.

Accordingly, His Excellency the Viceroy and Governor-General in Council hereby declares that His Highness Mulhar Rao, Gaekwar, is deposed from the Sovereignty of the Baroda State, and that he and his issue are precluded from all rights, honours, and privileges thereto appertaining.

Mulhar Rao will be permitted to select some place in British India, which may be approved by the Government of India, where he and his family shall reside with a suitable establishment and allowances to be provided from the revenues of the Baroda State.

Her Most Gracious Majesty the Queen, in re-establishing a native administration in the Baroda State, being desirous to mark her sense of the loyal services of His Highness Khundi Rao, Gaekwar, in 1857, has been pleased to accede to the request of his widow, Her Highness Jumnabaee, that she may be allowed to adopt some member of the Gaekwar House whom the Government of India may select as the most suitable person upon whom to confer the Sovereignty of the Baroda State.

The necessary steps will accordingly be immediately taken to carry into effect Her Majesty's commands. In the meantime, with the consent of His Highness the Maharaja of Indore, Sir Madawa Rao, K.C.S.I., will at once proceed to Baroda, and conduct the administration of the State as Prime Minister, under instructions which he will receive from the Governor-General's Agent and Special Commissioner at Baroda.

In conferring the Sovereignty of the Baroda State, no alteration will be made in the treaty engagements which exist between the British Government and the Gaekwars of Baroda, and the new Gaekwar will enjoy all the privileges and advantages which were conveyed to the Gaekwar of Baroda in the sunnud of Earl Canning, dated the 11th of March 1862.

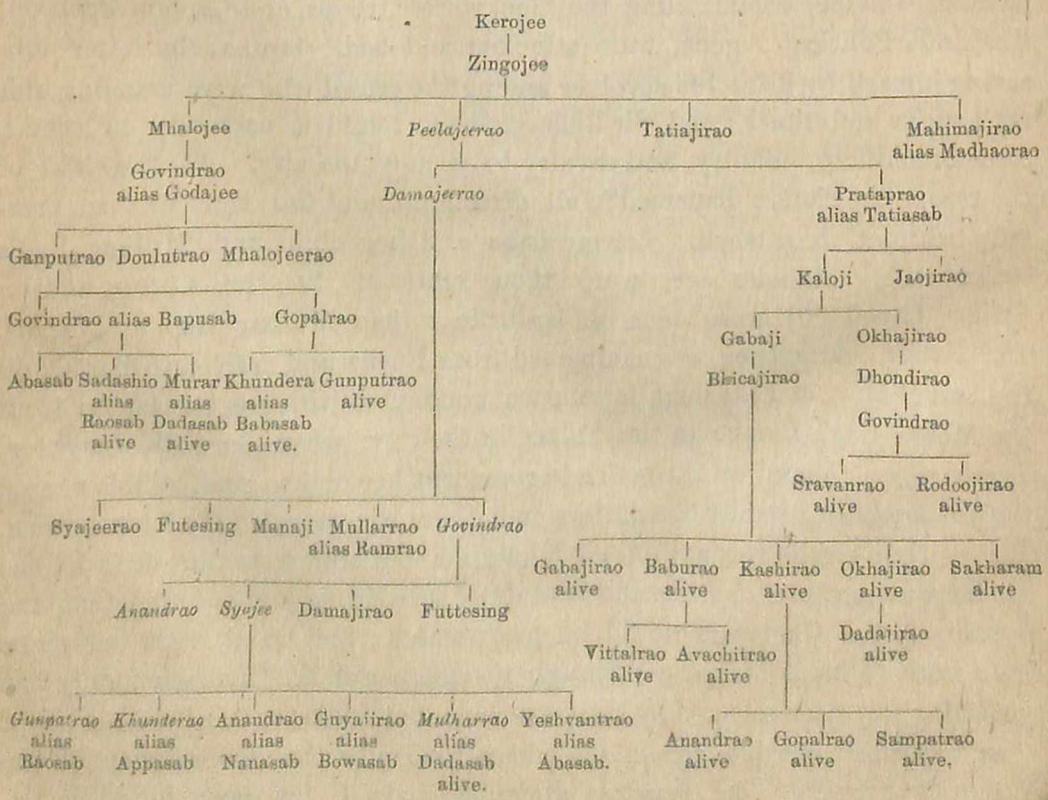
By order of His Excellency the Viceroy and Governor-General of India in Council,

C. U. Aitchison,
Secretary to the Government of India.

On the evening (April 22) before this Proclamation was issued, the

Gaekwar was informed by Sir Richard Meade, who had succeeded Sir Lewis Pelly as Agent at Baroda on April 10, that his deposition had been decreed, and that he must prepare for a long journey. His Highness wept and entreated, but finally submitted, and was conducted to a special train, in which he was speedily and secretly conveyed to Madras. The population bore very quietly the removal of their Sovereign; and probably the revolution would have been completed without disturbance if the Government had had the adopted son of Jumnabaee ready to place on the throne immediately Mulhar Rao was deposed. But the throne was left vacant for a week; and the disaffected took advantage of the delay to excite in the minds of the well-disposed suspicions of the Government's good faith in promising to restore the Native Raj. On the morning of the 28th of April the shop-keepers in Baroda, carrying out a preconcerted design, began to close their shops, saying there could be no trade while there was no Gaekwar; and, when the Police attempted to interfere, they were assaulted by the mob. The *émeute* soon assumed formidable dimensions. The populace took Luxmeebaee's child, placed it on the *gadee*, and proclaimed it Gaekwar; General Devine, commanding the Gaekwarree troops, and Captain Jackson, Assistant Political Agent, were attacked and badly beaten, the latter only saving himself by firing his revolver among the crowd who were assailing him with sticks and stones; and Sir Richard Meade found it necessary to send a force of artillery, infantry, and cavalry to occupy the city. At the sight of the troops the rioters dispersed in all directions, and the riot was suppressed without bloodshed. Luxmeebaee and her child and Mulhar Rao's senior wife, Mahalsabaee, were then removed to the Camp, and on Friday (April 30) were sent off by train to join Mulhar Rao at Madras. The Ranee Jumnabaee was summoned from Poona and arrived in Baroda on the 2nd of May, and the next day she was conducted with great ceremony from the Motee Bagh Palace to the Palace in the city, where her little daughter, Tarabaee, was placed on the *gadee* to represent her and to receive in her name the *nuzzeranas* offered by the Sirdars and others who crowded the throne-room. This solemn public recognition of Khundi Rao's widow as the head of the House was accepted by the inhabitants of Baroda as a guarantee that the dynasty of the Gaekwars would be perpetuated; and no attempt has since been made to break the peace, though no member of the Gaekwar family has yet (May 21) been selected by the Government of India for the Ranee to adopt "as the most suitable person on whom to confer the Sovereignty of the "Baroda State." The greatest difficulty, indeed, has been found in determining which of the several claimants has the best title to be chosen to

succeed to the throne. It will have been observed that Mr. Aitchison, writing ten years ago, spoke of the then Gaekwar Khundi Rao and his brother Mulhar Rao as "the only legitimate lineal descendants of Peelajee Gaekwar," the founder of the dynasty; and this was no doubt the prevalent opinion at Barodâ in 1865. If this opinion were correct, it must follow that, Khundi Rao being dead and Mulhar Rao and his issue set aside, the succession now devolves on the nearest collateral branch of the Gaekwar family, the descendants of Mhalojee, one of the brothers of Peelajee. But, while Mulhar Rao was on the throne, a Khandeish branch of the family, claiming descent from Peelajee through a younger son, brought forward evidence to disprove the belief commonly entertained of its illegitimacy. This evidence made a favourable impression on Mulhar Rao, who had no love for his kinsmen of the other line at Baroda, and since that prince's deposition it has been examined and reported to be satisfactory by two Government Commissioners appointed to inquire into the matter. But, the Baroda princes having sent in fresh memorials contesting the soundness of the judgment arrived at by the Commissioners, the Government of India has not yet made up its mind whom to choose for Gaekwar. The following genealogical table, in which the names of Gaekwars who have reigned are printed in italics, shows the descent of the main and collateral branches of the family:—



P. S. (May 22).—The Government of India has decided that the Khan-

deish line has the best title to the succession. Sir Richard Meade read to-day to the assembled sirdars, bankers, and other leading citizens of Baroda a Proclamation by the Government of India, announcing that the Viceroy in Council has, after anxious consideration, satisfied himself of the ligitimacy of Prataprao, the son of Peelajee from whom the Khandeish princes are descended ; and that he has therefore selected three children of this line from among whom Jumnabaee is to adopt one as the Sovereign of Baroda State. The names of the three boys are :—Gopalrao and Sampatrao, younger sons of Kashirao, their elder brother Anandrao being rejected on account of his age ; and Dadajirao the son of Okhajirao. The boys are aged respectively ten, nine, and nine years, so that, whichever of them is adopted, the State will remain under British management for probably the next ten years. The ceremony of adoption by Jumnabaee will be performed immediately, and the installation of the new Gaekwar will probably take place this week.

THE REPORT OF THE BARODA COMMISSION OF 1873.

From the Members of the Baroda Enquiry Commission, to the Secretary to the Government of India, Foreign Department.

SIR,—Having concluded our investigation of the complaints of mal-administration on the part of the Gaekwar's government, brought before us for that purpose by the Resident at Baroda, and the enquiries that appeared to be necessary to enable us to form an accurate opinion of His Highness's Contingent (maintained under the terms of Article 8 of the Treaty of 6th November, 1817,) and of the measures called for to render it reasonably efficient for the performance of the duties on which it is employed, in accordance with the views and instructions conveyed in your Office despatch, dated 19th September, 1873, to the Government of Bombay, we have the honour to report herewith the results of our proceedings on both these subjects for the information and orders of His Excellency the Right Honourable the Viceroy and Governor-General in Council.

2. As your office has, from time to time, been kept informed of the progress of our enquiry, it will be sufficient to state here on that head, that the Commission met in Bombay on the 1st November 1873, and on the same day intimated to the Resident, with reference to the instructions contained in para. 9 of your office despatch already alluded to, that it was only to deal with such complaints as were laid before it, by or through him—the course it proposed to take in carrying out the duty delegated to it by the Government of India; that it commenced its sittings at Baroda on the 10th idem and continued there daily, Sundays excepted, till the 24th December, when, the Resident having intimated officially that he considered the cases already enquired into amply sufficient to establish the general charges brought by him against the Gaekwar's administration, and it appearing undesirable that the Commission should protract its stay at Baroda any longer than was absolutely necessary, we at once returned to Bombay in view to arranging and analysing the evidence that had been taken and completing our Report at the Presidency.

Copies of the letters to and from the Resident on the above points will be found among the appendices to this letter:—

3. As the enquiry on which the Commission has been engaged originated in the allegations of mal-administration of the Baroda State by the present Ruler and his chief officers and servants, laid before the Government by the Resident, it will be proper in the first place to give a brief account of the principle events connected with His Highness Mulharrao, and his career hitherto, and the names and characters of the officials who are popularly regarded as his chief advisers.

I. His Highness Mulharrao is the fifth and last surviving son of Maharajah Seiajirao, and is about 43 years of age. Of his four elder brothers, two, viz.: Gunputrao and Khunderao, successively filled the post of Ruler after their father's death, the last named having reigned from 19th November 1856 to 28th November 1870. In 1863, His Highness Malharrao was accused of being concerned in a conspiracy to compass the death of his brother Khanderao by poison or other means, and was in consequence confined as a State prisoner at Padra in the Baroda territory during the remainder of that prince's life; his associates in the plot, who were in his service, being sentenced to long terms of imprisonment.

On the death of His Highness Khanderao on 28th November 1870, which occurred rather suddenly, Malharrao was at once summoned from Padra and installed as his successor by the Resident, with an intimation, however, that his recognition as reigning Gaekwar must be dependent on the sanction of the British Government, which was accorded on 1st December 1870.

II. His principal officers and advisers, who may be said to form the Durbar, are:—

1. The Dewan, Seiajirao Khanvilkar.
2. The Senapati, Bapujirao Mothia.

The members of the First or High Court, viz.:—

3. Govindrao Mama.
4. Bulvantrao Dev.
5. Bapubhai Daiashunkur.
6. Martandrao Anna.
7. The Revenue Commissioner, Hariba Gaekwar.
8. The Sir Foujdar, Bulvantrao Eshwant.

The other officials about the Court, who are regarded as having more or less influence on the conduct of the affairs, are:

9. The Deputy Revenue Commissioner, Naryenbhai Lallubhai.
10. The Farnavis Mahadevarao Ramchundar.
11. The Controller of the State Banks and His Highness's private treasury, Wasant Rambhao.

Of these persons, the first two are His Highness's brothers-in-law.

The Dewan is stated to be ignorant and inexperienced, and to be quite unfit for the responsible duties of his office. He has also the reputation of being very avaricious and of having already amassed considerable wealth by taking improper advantage of his position.

The Senapati is favourably spoken of, but has probably little real influence.

Of the Members of the High Court Govindrao Mama is not favourably spoken of.

Bulvantrao Dev was formerly dismissed from the post of Karbhari of Lunawada for taking bribes, and bears an indifferent character in his present office. He is stated to have been fined and dismissed the service by the late Ruler for corrupt practices.

Bapubhai Daiashankar bears a good reputation and is a respectable man.

Martandrao Anna is not well spoken of, but has little weight.

The Revenue Commissioner is regarded as a harsh authority in matters relating to his department, and is stated to have been accused of oppression and bribery.

The Sir Foujdar appears to have been mixed up in several of the oppressive and irregular proceedings that have been the subject of complaint before the Commission, and is said to have been sentenced to imprisonment by the late chief for taking bribes. The Deputy Revenue Commissioner was formerly dismissed the service of the British Government, in connection with charges of misconduct and taking bribes. The popular opinion of this man is stated to be most unfavourable.

There appears to be nothing to remark regarding the Farnavis, but the Controller of the State Banks and Privy Purse is said to be regarded as an unscrupulous agent of the Maharaja's, and his name has been un-

favourably mentioned in connection with some of the cases that have come before the Commission.

The opinions regarding the above mentioned persons recorded in these remarks have been gathered partly from the Resident and partly from independent enquiries by ourselves.

4. Turning now to the subject proper of the Report, viz. the results of our enquiries into the matters which have been under investigation at our hands, we propose to divide the same into two parts, as follows :—

Part I—to embrace (1) the alleged unjust and oppressive treatment of British subjects and the course recommended for adoption by the Commission in connection therewith, (as described in para. 5 of your Office Despatch No 2209-P), and (2), the allegation of general misgovernment of the Baroda State with the grievances connected therewith or arising therefrom that have been the subject of investigation, and the opinion of the Commission, as to the establishment, or otherwise, of the existence of such general misgovernment being held as proved, with the measures suggested by the Commission to bring about and maintain for the future a more satisfactory state of affairs without entailing a minute and vexatious interference on the part of the British Government, (as directed in para. 8 of your Office Despatch No. 2209P).

Part II—to embrace (1) the results of the enquiries instituted by the Commission into the present condition of the contingent, and its fitness, or otherwise, for the satisfactory performance of the duties on which it is employed in the Tributary Mahals ; and (2) the measures and rules proposed for adoption by the Commission, to render the force duly efficient for the purpose of such duties (as enjoined in para 14 of the Despatch already referred to).

PART I.

5. The Schedules furnished to the Commission by the Resident, drawn up in accordance with the instructions communicated to him in our letter dated 1st November 1873, are three in number, and contain the following cases or groups of cases of grievance.

Schedule I—Complaints of British subjects. Thirteen cases or groups of cases.

Schedule II—Complaints of Baroda subjects of general misgovernment. Sixty-six cases or groups of cases.

Schedule III—Miscellaneous and similar complaints to those in schedule II. Fourteen cases or groups of cases.

The evidence in extenso taken in all the cases brought forward in the above schedules that have been investigated, will be found properly classed and arranged in the minutes of the Commission together with the cross-examination, replies, or remarks by the Durbar agent in each case, and the final rejoinders of the Resident to the latter.

A summary of the proceedings in each such case, similarly arranged, with the opinion of the Commission on its merits, is attached as a separate appendix to t report.

6. Schedule I.—Complaints of unjust and oppressive treatment of British subjects.

In this schedule, as originally framed by the Resident thirteen cases were brought forward for investigation, but the Commission considered that only seven of the number properly appertained to this schedule, as demanding enquiry under the terms of para. 5 of the Despatch of 19th September 1873, and the transfer of the remaining six cases to schedule III. was accordingly ordered.

The Commission investigated the grievances of five of the seven complainants, whose cases were thus retained in this schedule, but was unable to do so in the case of the remaining two, as the complainants did not attend.

The opinion of the Commission on each of the cases investigated by it is recorded in the summary appended to this Report, and it will be seen that in only one, No. 10, does it consider that the complaint has been substantiated in a manner to require special redress from the Durbar ; and, further, that on the occurrence which forms the subject of grievance in that case being brought to its notice, the Durbar took proper action against the offending official and awarded adequate punishment. The amount of compensation that should be paid to the complainant in this case, has been fixed by the Commission at Rs. 100.

Finally, the circumstances that have been brought before us, in connection with this branch of enquiry, do not, in our opinion, warrant our proposing any general measures for the special protection of British subjects within the Baroda territories.

With regard to the Resident's remarks under Cases II. of Schedule I. and 33 of Schedule II. on the subject of the alleged irregular surrender of accused parties to the Durbar by the British authorities, and even their seizure by the Durbar officials in British territory, the correction of the former practice, if it really exists, does not rest with this Commission, while the British Magistrates are fully competent to deal effectually with every case of the latter that is brought to their notice. This has been pointed out to the Resident and he has been informed that the Commission cannot enquire into and deal with such cases.

7. Schedules II. and III.—Complaints and allegations in support of the charge of general misgovernment.

The Commission has enquired into fifty-seven cases or groups of cases brought forward in schedule II. and eight of those entered in schedule III. Nine cases in the former and six in the latter schedule, have not been investigated, or entered into, for reasons which will be found recorded under each such case in the list of uninvestigated cases appended to the summary.

8. The sixty-five complaints in both schedules, that have been enquired into, have been grouped or classed in twenty-one cases in the summary and the opinion of the Commission on each group or individual case will be found recorded therein, as briefly shown in the following statement :—

Grievances of the Sirdars and Military classes of the Baroda State.
Forty complainants examined.

The uncertainty of service and liability to summary dismissal without special cause or reason, to which these classes appear to have been subject at the hands of the previous Gaekwars, have been seriously aggravated since the accession of the present chief, by the wholesale reductions he has carried out amongst them within a comparatively brief period—generally in an arbitrary manner—and as regards the followers and dependents of his predecessors, rather apparently in a spirit of hate and vengeance, than from a feeling of State necessity.

Grievances of the Bejapur Thakors.
Seven complainants examined.

The levy of "Accession Nazarana" with the measure, taken to enforce its payments is the only item of complainants, grievances for which the present chief appears to be directly responsible ; and though the tax is, in the Commission's opinion, an objectionable one, it would appear, if the Durbar statement is correct, that it was imposed with the concurrence, as it certainly must have been, with the knowledge of the then Resident.

The present Chief is responsible for the addition of the "Accession Nazarana" to the previously heavy burdens borne by the people, and for the increased difficulties experienced in consequence in realizing the Government demands. The exaction of the Nazarana from the Vahivatdars on appointment and the alleged attempts of the latter class to recoup themselves from the ryots which have been brought to notice by some of the complainants in this group of cases, would also appear, even if in existence previously, to have acquired a more serious and injurious character since the accession of the present chief. It is also important to notice, in connection with this group of grievances, that representations of the ill-treatment inflicted on them, are alleged by some of the complainants to have been made by them and their fellow sufferers to the Chief himself, the Minister and the Revenue Commissioner, but without their obtaining any redress; while in some instances, the complainants depose that they were further ill-treated in consequence. Others of the complainants state that they made no such representations, because their doing so would have been useless.

Grievances of the agricultural classes in connection with the ill-treatment and oppression to which they are subject in the collection of the Government Land Revenue and other cesses. Depositions of twenty-six (26) complainants taken and recorded and one hundred and fifty-five (155) other complainants orally examined.

Complaints of certain Vahivatdars, or chief executive officers of Mahals, of having been summarily removed from their appointments, after having paid considerable sums for them, without any cause, and without a refund of the payments so made. Three (3) complainants examined.

There seems to be no reason for doubt that the levy of "Nazarana" on appointment, from this and other classes of officials, is customary, and further, that the collection of the revenue of their Mahals has, in some instances at least, been farmed out to the Vahivatdars.

The number of such instances brought before the Commission has not been large, but there can be no doubt that such cases do occur, and that there is good ground for the opinion that the character of the class of men, generally employed as Vahivatdars, and the circumstances connected with these appointments already alluded to, furnish no satisfactory or reasonable assurance that they are fitted for their responsible duties, and that they are unlikely to practise or to countenance the ill-treatment of those who are subject to their authority.

Complaints of Baroda subjects of personal ill-treatment, described as amounting to torture at the hands of the Gaekwar's officials. Four (4) complainants examined.

General attachment of Vatans throughout the Baroda State. No complainants examined.

The present Chief is not responsible for this measure, which was adopted by his predecessor eight or nine years ago.

In the proceedings taken against, and the sentence passed on Fakir Shaba Sahib, for writing defamatory articles regarding the Maharaja, the Commission considers, that there is no ground for questioning the right of the Durbar to institute proceedings against, and punish him; but the sentence passed was altogether excessive, and out of all proportion to the offence.

Complaint of unjust imprisonment by the Baroda Durbar. One (1) complainant examined.

The action of the late and present Gaekwars, towards individuals of this class, appears to have been highly arbitrary, and the proceedings of the present administration, especially in some of the cases brought before the Commission, seems to it to warrant the conclusion that wealthy individuals or firms at Baroda, who are not in favour with the Maharaja, or his principal officials, have grave grounds for alarm and anxiety as to the security and freedom from molestation of themselves and their property.

Grievances of certain State and other Bankers at Baroda. Four (4) complainants examined.

The Commission, in the face of the proceedings in the trial of the accused persons, laid before it by the Durbar, can only observe that the punishment appears to have been inflicted without any precaution to prevent its proving excessive, as one of the sufferers died while undergoing it. With regard to the further enquiries made by the Resident in this case, subsequent to the departure of the Commission from Baroda, it does not appear to be necessary to offer any remarks thereon here.

Case of the flogging of eight (8) persons, of whom one died, brought forward by the Resident. No complainant examined.

Seizure of respectable married and unmarried women at Baroda for compulsory service as "Loundis" or household slaves in the palace.

Three (3) complainants examined.

There can be no doubt that several instances of this discreditable nature have occurred, and that a serious scandal has thereby been brought on the personal character of the Chief himself, and on the administration of which he is the head.

Grievances of certain members of the late Gaekwar's family, who complain that they have suffered hardships at the hands of His Highness the present Gaekwar

Five (5) complainants examined.

The proceedings of the present Chief have been unusually harsh and severe towards his predecessor's relatives, and of a most sweeping and vindictive character towards his favourite followers and dependants.

Grievances of the followers and servants of the late Khunderao Gaekwar, who alleged that they have suffered hardships at the hands of the present Gaekwar.

Ten (10) complainants examined.

The measures taken against these classes are highly damaging to the reputation of His Highness Mulharrao, and cannot but be regarded with alarm by all associated with, or who enjoyed the favour of the late chief, who have not as yet been molested by his successor.

The proceedings of the present Chief and the grounds assigned for them in these cases, must, in the opinion of the Commission, have given rise to a feeling of uncertainty and anxiety amongst all persons of the classes to which complainants belong, holding such Inams, and emoluments under grants from previous Gaekwars.

Complaints of the arbitrary resumption by the Gaekwar's government, without cause or reason, of Inam holdings and hereditary emoluments granted by his predecessors.

Four (4) complainants examined.

It seems sufficient to observe that the ill-treatment of female prisoners by corporal correction, which forms the chief complaint, is stated to have been recently interdicted. A reform of the present jail system and arrangements is no doubt required.

Question of Prison Reform generally in the Baroda State brought forward by the Resident. No complainants examined.

The proceedings taken by the Durbar towards a vakeel employed as an agent by certain complainants, was ill-advised, and under the circumstances cannot but be condemned. An enquiry is being made by the Durbar into the complaints of the Nowsaree ryots under this head, and the result will be communicated by it to the Resident.

Complaints of obstruction offered by the Gaekwar's Government, or its officials, to parties desiring to appear before the Commission to state their grievances. Two (2) complainants examined.

Complaints of certain women, inhabitants of the village of Virino in the Nowsaree pargana.

The grievance complained of is one of long standing; but it is hoped that it will now be redressed. It is not, however, one in which the Commission can interfere.

The grievances of the complainants who were very numerous were heard orally by the Commission.

There is no doubt that the present Chief has attached and confiscated all the deceased's property in Baroda, on the ground of the public claims against the late Minister for maladministration of the State property and revenues; but the Commission is not in a position to judge of the merits of this proceeding, or to form an opinion of the value of the property so seized.

Claims of the creditors of the late Bhao Sindia, Dewan of the late Gaekwar.

No complainant examined.

The Maharaja appears to the Commission to be bound to adopt the steps that are necessary to effect an equitable settlement of these large personal claims against His Highness without delay. The Commission has suggested the mode that appears to it to be the most fitting, under the circumstances, for adoption with this object.

Claims of certain jewellers of Ahmedabad, on account of jewels sold by them to His Highness the present Gaekwar, the prices of which have not been paid by His Highness.

In the attachment by the durbar of the Inam Village granted to the then Minister by the late Chief, for his services at the period of the mutiny, the present Gaekwar is responsible for the *continuance* of an act of apparently unjust repudiation of his own grant by his predecessor, and for the determination to enforce the same by the final resumption of the village in question, giving complainant one of inferior value or a money payment in lieu of it.

Complaint of the sons of the late Ganesh Sudasseo, Dewan of Baroda under the late Gaekwar.

One (1) complainant examined.

The Durbar has intimated to the Commission its readiness to adjust the account on the attendance of complainant with his vouchers for the purpose.

Complaint of one Bhanabhai Lalbhai regarding the non-liquidation of his claim to Rs. 3,76,323 for boundary stones supplied to the Gaekwar's Government in 1863.

No complainant examined.

The claim is not one that the Commission can, with propriety, take up or dispose of.

Representations by the Resident of the present state of the relations of the Gaekwar, with the British Government and the neighbouring States of the Rewa Kanta, Mahikanta, and Pahlanpore agencies

No complainants examined.

The Commission has held no investigation into, and is therefore not in a position to offer any but general remarks on the subjects noticed in these representations, which will be found recorded in the summary.

9. On a full consideration of the circumstances that have come to notice in the course of the enquiry held by the Commission as summarised in the foregoing paras. of this report, we are of opinion that the proceedings of His Highness Mulharrao in the several classes of cases noted in the margin, have been highly arbitrary, and in some instances very unjust, and of a character calculated to bring grave descredit on His Highness's administration, and to excite distrust and alarm amongst a large portion of the influential and respectable classes of the community.

10. The Commission further considers :—

(i) That the grievances of the Agricultural classes require careful examination and consideration at the hands of the Durbar, in view to the mitigation or removal of several of the grounds of complaint, stated by the persons of these classes who attended the Commission, which appear to be well founded, and, though not due, or but partly due, to the present Chief, undoubtedly call for redress. These grievances include the present high rates of land assessment, which demand revision, and the levy of general "Nazarana" under whatever name, or on whatever ground, by the Chief or the Minister.

(ii.) That the existing practice of levying "Nazarana" on appointment, from Vahivatdars and other officials, whether in the name of the chief himself or by the Minister or his deputies, and of giving the Mahals, over which they preside, in form, on whatever plea, to the former class, is wholly inconsistent with good Government, and should be entirely relinquished and interdicted.

(iii.) That the practice of ill-treating accused persons or prisoners, with the object of extorting confession—which certainly obtains to some extent—demands the most watchful and sincere efforts of the Durbar for its absolute suppression.

(iv.) That the settlement of the rights of all Vatandars throughout the State, which was promised by the late Chief eight or nine years ago, when the Vatans were generally attached, should be carried out in a just and equitable manner without delay, or all action in the matter finally dropped, the Vatandars being restored to, or not being disturbed in, the enjoyment of their, generally, long-enjoyed rights.

(v.) That the adoption of a humane and otherwise suitable code of rules for the administration of the State Jails is very desirable; and—

(vi.) That the Judicial Department and Administration require entire reform, the existing abuses being abolished, so as to remove the present uncertain and irregular application of the law and want of confidence in the proceedings of the Courts and Magistrates, which have been strongly urged on our attention by the Resident in the course of this enquiry, and of the existence of which we can have no reasonable doubt.

11. Lastly, we are compelled to come to the conclusion that the state of affairs thus pourtrayed does, when viewed altogether, constitute mal-administration of a character urgently calling for reformation—especially with reference to the intermixed position of the Baroda and British Districts, and the consequent intimate relations and interests existing between them—and that such a change of system, as is needed with this object, cannot, under the peculiar circumstances of the case, be effected without some interference on the part of the British Government.

12. As regards the present Gaekwar himself, we have already (in para. 3 of this Report), given a brief sketch of his career, from which it may be judged, that his antecedents, at the time of his accession, can hardly be said to have furnished grounds for the expectation that he would prove a wise and good ruler.

His harsh and severe treatment of his predecessor's relatives and dependents forms perhaps the greatest blot on his character since his assumption of the Chiefship; but some excuse for this may be found in the fact that he considered that he and his friends and associates had been harshly and unjustly treated by the late Chief and *his* servants and favourites, and that retaliatory measures towards the latter, when within his power, were justifiable. Thus Bhao Sindia, who was at once deposed from the office of Minister and thrown into prison—where he ended his life after 18 months' confinement, under circumstances of grave suspicion—was the Chief Judicial Officer of the State who conducted the enquiry into the charge of conspiring against the then Chief, which resulted in Mulharrao's imprisonment during seven years, and the severe punishment of several of his friends and dependents; and no doubt many of the late Gaekwar's other servants and favourites, who have suffered at his successor's hand, took an active part in the proceedings against His Highness Mulharrao at that period, and were regarded by him as his personal enemies. Still, making every allowance for the feelings that would naturally actuate a person of His Highness Mulharrao's disposition under such circumstances, it is impossible to avoid the conviction, from the vindictive nature of his proceedings towards so large a number of persons as in

this instance, and his violent and spoliatory treatment of many of them, as also his measures towards certain Bankers and Inamdars, and the general character in other important respects of his administration during the last three years, that he is not a prince who can be reasonably expected to introduce, of himself, the change of system absolutely necessary to reform existing abuses and to place the administration on a footing to entitle it to the confidence and support of the British Government, and the loyal and willing obedience of all its subjects.

NOTE.—The reductions amongst the Sirdar and Silladar classes alone, on the ground of their being "Khanderao's dependents" are admitted by the Durbar to have aggregated, within the last 3 years, Rs 1,93,500 of annual charge.

13. Nor, however well-disposed His Highness might himself be to concur in the adoption of the measures necessary to this object, could they, in our opinion, be attempted with any prospect of success with the aid of his present Minister and principal officials, most of whom, so far as we can judge, are by no means of the class of men that should fill such responsible and important posts.

14. To obtain such a result, we deem it to be essential that the Minister of the Baroda State shall be selected with reference to his administrative experience, and personal and other special qualifications for the post, and while enjoined to secure the Chief's good-will and confidence and to work in respectful subordination to him never forgetting their relative positions, that he shall have such support from the Resident, as may be necessary to enable him to carry out, efficiently and satisfactorily, the important functions of his office, and that he shall not be liable to removal without the special orders of the British Government. We are further of opinion that the Resident should, for a time at least, be vested with special authority to intervene, if necessary, between the Maharaja and the Minister.

15. With regard to the unsatisfactory character of many of the present Durbar officials, and the bad reputation in which they appear to the Commission to be held by a large portion of the people, the first duty that would devolve on the new Minister, if appointed as above proposed, would be a careful elimination and dismissal of such of them as are unfit to be continued in the public service under the new arrangement, and he would probably require the assistance of the Resident in obtaining, under the sanction of Government, the services of an adequate number of competent and qualified men from the British provinces or elsewhere, who can be induced to take employment in the Gaekwar's service.

On this point we will only observe that, while we should deprecate any *needless* introduction of other than Baroda subjects into the service of the State, the employment of a few carefully selected men, who have already received an adequate training in the British public service, will, so far as we can judge, be absolutely necessary to enable the minister to carry out the changes so urgently called for. We understand that the Maharaja is not averse to the entertainment of any needful number of men of this class that can be obtained for the purpose.

16. In thus submitting, as directed, for the consideration of His Excellency in Council, our views as to the measures that should be adopted to bring about and maintain for the future a more satisfactory state of affairs in Baroda, without entailing a minute and vexatious interference on the part of the British Government, we would beg to add that we are not unmindful of the objections that naturally suggest themselves to such an arrangement as that proposed, or to the delicate nature of the task that will devolve on the Minister and the Resident, in making that arrangement, if carried out, work successfully.

17. But we are fully convinced that the defects of the Baroda administration are of such a nature, that no lesser interference than that suggested, can, under the peculiar circumstances of the case, be of any avail. There can be no doubt that, during the last 6 or 7 years of His Highness Khunderao's life, the system of Government, bad as it appears always to have been, underwent a serious decadence; the proceedings of the chief were more arbitrary than previously; new * cesses and levies were imposed without consideration of the previously heavy assessment to which the ryots were subject, and the collection of the Government dues were enforced by the local officials, by harsh and compulsory measures, of the character that have been deposed to by many witnesses who have appeared before the commission; while complaints were not heard, and there was no redress for such grievances.

* As one of 10 per cent. on the revenue of all state lands for one year for the construction of a new palace, another of smaller amount for the manufacture of a golden howda, &c.

The appointment of Bhao Sindia as Minister in 1867 appears to have still further aggravated the state of things previously existing, his character being, it is alleged, extremely venal and rapacious. The accession of the present chief has merely resulted in the change of some of the officials, but without benefit to the country or the people, for there has been no change in the system, and the craving for acquiring wealth, however irregularly or improperly, has been doubtless as keen amongst the new employes, as those displaced by them; while the Maharaja himself appears, unhappily, to have been bent on increasing his revenue by imprudent and oppressive means.

18. Under such circumstances, it appears to us to be hopeless to look for any effectual measures of reform, and improved Government at the hands of the present Ruler and his advisers, and we are convinced that these can only be introduced through the intervention and under the auspices of the British Government. At the same time, we have no doubt, that it will be quite in the power of the Maharaja to ensure success to the measures that may be so authorised, and to render further interference unnecessary, by accepting them frankly, and giving his cordial support to the Minister who may be appointed with the approval of the British Government.

19. Before closing this part of the Report, it will be proper for us to refer to the issue by the Resident, under our authority, of a notice, intimating that persons appearing to give evidence before the Commission, would be under his protection as Resident, in respect of *bona fide* evidence so given by them; and to save other points requiring remark. The issue of the notice was authorised by us in consequence of the Resident's representation that, without some such assurance, it was not to be expected that complainants would venture to come forward; but we were much concerned to find, on the receipt of the copy of your despatch to the Government of Bombay No. 4 C. P., dated 15th November 1873 (forwarded under your office docket No. 5 C. P. of the same date), that the course we had been led to take was opposed to the views and intentions of the Government of India, as set forth in para. 3 of that despatch.

A copy of the notice, as amended by us, will be found in the appendix to this report, and we will only add that, in its application to the witnesses who appeared before us, the instructions conveyed in your message on the subject, dated 22nd November 1873, were carefully borne in mind and acted on.

20. With regard to the hope expressed in the

Kharita, dated 19th September 1873, from His Excellency the Viceroy and Governor General to His Highness the Gaekwar, that he would afford to the Commission every assistance in his power during its investigations we deem it right to state for the information of His Excellency in Council, that we had, generally, every reason to be satisfied with the arrangements made by the Durbar with the above object, so far as they came under our observation. The conduct of the principal Durbar Agent who attended the sittings of the Commission, and those appointed with him, was friendly and free from obstruction, and our references through him to the Durbar, where such were necessary in any of the cases that came before us, were duly and generally promptly dealt with.

There were some complaints of obstruction by the Durbar officials to parties who desired to state their grievances to the Commission, and one of ill-treatment of certain ryots, who had visited Baroda, and represented their hardships to the Resident, which were laid before the Commission too late for any enquiry by it. The Durbar agent, however, promised that these complaints should be duly enquired into, and the result reported to the Resident.

On its part, the Commission was scrupulously careful to avoid any proceeding that might have the effect of rendering the enquiry it was conducting more distasteful and painful to His Highness than was absolutely unavoidable under the circumstances.

21. With reference to certain differences between the Resident and ourselves regarding some of the cases brought forward by him—as will be seen from our proceedings and his Schedules and letters in the Appendices—we beg to remark that we found it impossible to investigate, in the manner desired by the Resident, some of the cases entered in the schedules, as to have done so, had there been no other objection to such a course, to the extent required to enable us to form an accurate judgment of their exact merits, would probably have taken several days for each, especially where an examination of old and lengthy accounts was essential to a proper understanding of the facts. It was, moreover, unlikely that the evidence forthcoming would prove to be of an adequate character to establish satisfactorily the charge or claim in these cases, while, even if it should appear to be so, as the Durbar could not have been called on to defend them, and there could thus have been no contention, the result would still have been one-sided and valueless. Again, in certain cases in which the Resident desired the proceedings of the Durbar's Criminal courts to be thoroughly investigated, and the original charge in each such instance to be virtually retried by the Commission, we deemed it sufficient to consider: (1) if the Durbar had reasonable ground for regarding itself as warranted in dealing with the case; and (2), when it appeared to have such ground, if there was anything of so excessive or exceptional a character in the sentence passed by it, as to require or justify our interference. When the latter was not clearly the case, we deemed it to be our duty to decline such interference, as being unnecessary and improper. Lastly, in two claims against the Maharaja personally, on account of the price of certain jewels purchased by him, which had remained unadjusted by His Highness on the plea that he had been deceived as to the value of the articles, we considered that we had no authority to investigate the same, and therefore confined our intervention to directing the attention of the Durbar Agent to the said claims, and pointing out the most fitting course that appeared to us to be open for adoption for their settlement.

22. We will only add that we are well aware that many of the cases in which we have allowed the complaints to appear before the Commission, are not of a class that would ordinarily be fit subjects for enquiry or official interference at the hands of the British authorities. With reference, however, to the objects of the assembly of the Commission, and the general circumstances of the allegations against the Durbar, we have deemed the course taken by us in this class of cases to have been that which it behoved us to adopt, and trust that the same may meet with the approval of His Excellency in Council.

It may be proper further to explain that the Resident was anxious to notice the Durbar's replies or remarks in some of the cases deposed to before the Commission, and that, as there were obvious objections to his doing so in the way of a rejoinder at the time, we consented to allow him to submit a final memo: or note in each case in which he deemed such to be necessary. Such memos. we intended to be merely brief comments on any particular point or statement put forth by the Durbar Agent, which might appear to the Resident to call for special remark from him, but these final notes have in some instances extended to a length greatly in excess of what was contemplated by the Commission, when acceding to their submission. We have, however, thought it better, under the circumstances, to allow all of them to be included in extenso, in the Appendices to this Report.

MINISTRY OF CULTURE · GOVERNMENT OF INDIA

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GSL

PROCEEDINGS BEFORE THE COMMISSION OF 1875.

FIRST DAY, TUESDAY, FEBRUARY 23, 1875.

PRESENT.

SIR RICHARD COUCH (President) ; H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence :—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, Shantaram Narayen, and Wassudeo Juggonnath, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission :—John Jardine, Esq., Bombay Civil Service.

Interpreters :—James Flynn and Nowrozjee Furdoonjee.

His Highness the Gaekwar was present, and occupied a position on the left of the Commission.

Colonel Sir Lewis Pelly, K.C.S.I., occupied a position on the right of the Commission.

Proceedings commenced shortly after eleven o'clock.

The Secretary to the Commission read the following Notification to the Commission by His Excellency the Viceroy and Governor-General of India :—

To the Honourable Sir Richard Couch.
His Highness the Maharaja of Gwalior.
His Highness the Maharaja of Jeypore.
Colonel Sir Richard John Meade.
Raja Sir Dinkur Rao.
Philip Sandys Melvill, Esq.

Viceroy's Notification to the Commissioners.

WHEREAS an attempt has been made at Baroda to poison Colonel R. Phayre, C.B., the late British Resident at the Court of His Highness Mulhar Rao Gaekwar ; And whereas the following offences are imputed against the said Mulhar Rao Gaekwar, that is to say :—

I.—That the said Mulhar Rao Gaekwar did, by his agents and in person, hold secret communications for improper purposes with some of the servants employed by Colonel Phayre, the Resident at Baroda, or attached to the Residency ;

II.—That the said Mulhar Rao Gaekwar gave bribes to some of those servants, or caused such bribes to be given ;

III.—That his purposes in holding such communications and giving such bribes were to use the said servants as spies upon Colonel Phayre, and thereby improperly to obtain information of secrets and to cause injury to Colonel Phayre, or to remove him by means of poison ;

IV.—That in fact an attempt to poison Colonel Phayre was made by persons instigated thereto by the said Mulhar Rao Gaekwar :

And whereas the Viceroy and Governor-General in Council has temporarily assumed the administration of the Baroda State for the purpose of instituting a public enquiry into the truth of the said imputations, and of affording His Highness Mulhar Rao Gaekwar an opportunity of freeing himself from the grave suspicion which attaches to him :

THEREFORE, the Viceroy and Governor-General of India in Council appoints you the said Sir Richard Couch, you the said Maharaja of Gwalior, you the said Maharaja of Jeypore, you the said Sir Richard John Meade, you the said Sir Dinkur Rao, and you the said Philip Sandys Melvill, Esq., to be Commissioners for the purpose of enquiring into the truth of the said imputations and of reporting to the Viceroy and Governor-General in Council how far the same are true to the best of your judgment and belief. And the said Viceroy and Governor-General in Council appoints you the said Sir Richard Couch to be the President of this Commission, with full power to appoint times and places of meeting, to adjourn meetings, to adjust and arrange the method of procedure, to settle the course which the inquiry shall take, to call for and to receive or reject evidence, documentary or otherwise, to hear such persons as you shall think fit on behalf either of the Viceroy and Governor-General of India in Council, or of His Highness Mulhar Rao Gaekwar, and generally to guide the whole course of the proceedings of this Commission as from time to time shall appear to you to be proper for the purpose thereof.

And whereas certain other matters of importance pending between the British Government and His Highness Mulhar Rao Gaekwar were enquired into and reported upon by a Commission appointed by the Viceroy and Governor-General in Council by orders dated 23rd October 1873 ; and whereas the enquiry which you are appointed to make is not connected with such matters : For the better understanding of your functions the said Viceroy and Governor-General in Council hereby declares his desire that you shall not extend your enquiry to other matters than the offences imputed to His Highness Mulhar Rao Gaekwar as aforesaid ; and that you shall not permit any such other matters to be submitted to you for consideration or enquiry.

And the said Viceroy and Governor-General in Council desires that, in the event of any of your number being prevented by sickness or other cause from taking his place as Commissioner or from remaining as Commissioner till the conclusion of your enquiry, you and the other Commissioners shall nevertheless conduct and complete your enquiry in the same way as if the number of Commissioners present or remaining were the whole number appointed thereby.

And the said Viceroy and Governor-General in Council hereby appoints John Jardine, Esq., of the Bombay Civil Service, to be your Secretary.

By order of the Viceroy and Governor-General of India in Council,

C. U. AITCHISON,
Secretary to the Govt. of India.

Mr. James Flynn interpreted the Notification in Mahrattee and Hindoostanee.

Short-hand writers' notes to be supplied to the Commission.

The Advocate-General brought to the notice of the Commission that arrangements had been made for taking short-hand notes of the proceedings, which would be furnished to them daily if they wished.

Serjeant Ballantine mentioned that there were one or two witnesses whose presence under particular circumstances he might deem to be of importance. His clients had made endeavours to obtain their presence in Court, and possibly might be successful ; but he had to ask his Lordship the President to assist them if hereafter it should appear that they might not be successful.

The President intimated that it would be convenient

to the Commission if notes of the proceedings were furnished the Commission in the manner suggested, and to the learned Serjeant he replied that the Commission would be happy to assist him by every means in their power.

Serjeant Ballantine thanked his Lordship. It had been considered by his learned friend the Advocate-General that the short-hand writer's notes might be considered as open to all members of the Commission. It had been agreed that there should be short-hand writers employed on both sides, so that, if any error might creep into the record of the proceedings, in all likelihood it would be perceived and corrected.

The Advocate-General's opening address to the Commission.

The Advocate-General—My Lord Chief Justice, your Highnesses, and Gentlemen of the Commission,—It now becomes my duty on behalf of the Viceroy and Governor-General of India in Council, as briefly as the importance of the case will admit, to state the nature of the evidence it is proposed to place before you in regard to the charges which the Government of India have found it necessary to prefer against His Highness Mulhar Rao, Gaekwar of Baroda. As the Commission has gathered from the Notification just read, evidence has been laid before the Government of India tending to raise grave suspicions against His Highness, and these suspicions relate to four charges, which have also been read, and which may, perhaps, be reduced to two—that, in the first place, His Highness, through his servants, and directly, tampered with the servants at the Residency, and other persons attached to the Residency, at Baroda, for improper purposes, and, in the second place, that His Highness, both directly and by the agency of his servants, instigated certain persons to commit the high and serious crime of attempting to poison the British Resident. In stating to the Commission the main features of the evidence which will be adduced before them, I do not at present propose to give any but the briefest summary of the case. Albeit this is not a judicial inquiry, and the functions of the Commission will be discharged by way of report to the Government of India, and not in giving judgment in this Court, I think it will be more convenient if in the present state of the inquiry I should simply state what the nature of the evidence is that will be laid before you, and tell you briefly who the witnesses are by whom that evidence will be given. There are matters referred to in the Notification just read which are of great importance, but which will be used by me only for the purpose of fixing dates. For instance, in regard to the principal matter mentioned in the Notification—namely, the assembly of a previous Commission of Inquiry at Baroda—I refer to it only to fix the date at which the evidence shows that the attempts to tamper with the Residency servants began to be made. That Commission assembled under orders issued by the Government of India on the 23rd October 1873, and met in Baroda during the two following months of November and December. It was during these two months that by means of two *jasoods* or confidential servants named Salim and Yeshwuntrao—one a Mahomedan and the other a Hindoo,—negotiations were opened with certain of the Residency servants. These negotiations were not confined to the official servants of the Residency, but extended to the private servants of the Resident Colonel Phayre, and his wife. At the time to which I refer Mrs. Phayre was residing in Baroda. Her ayah was one of the persons with whom these negotiations were entered into. This ayah subsequently became the servant of Mrs. Beevey, Mrs. Phayre's daughter. This ayah, whose name is Ameena, had been for a considerable time in the service of Colonel Phayre's wife, and she seems to have enjoyed the confidence of her mistress, and we shall find it in evidence that she was induced to visit His Highness Mulhar Rao in the city. We shall show that these visits were made on three occasions. The first occasion was during the sitting of the Commission, and consequently towards the end of 1873. The second visit was made after the close of the proceedings of the Commission and after the return of His Highness Mulhar Rao and Colonel Phayre from a visit to Nowsaree in May 1874. The third visit was at a later period—a period fixed by the ayah with reference to the Mahomedan month Ramzan, and not long before the attempt to poison Colonel Phayre was made. On these three occasions the ayah was introduced to the presence of His Highness the Gaekwar. She saw him, and personally conversed with him. That she was conducted to his presence by one or other of the two confidential jasoods before alluded to, and that she did go to the Palace (or Haveli) on these three occasions, will be established in evidence by the testimony of persons who accompanied her. On the first occasion she was accompanied by a Chobdar of the Residency, Faizoo Ramzan, and she was driven from the Camp from a point near the little school on the road leading from the Residency to the railway station by certain drivers. On the first occasion to which I have referred—namely, during the sittings of the Commission—she was driven by Kabhai Poonjabhoy, was accompanied by the Chobdar, and was introduced by the jasoods to the Gaekwar. She will tell you that she was asked to endeavour to get Mrs. Phayre to use her influence with her husband Colonel Phayre on behalf of His Highness Mulhar Rao in certain matters then pending between His Highness and Colonel Phayre. On the second occasion she was taken to the Palace by Salim and a Residency peon named Shaik Kurreem, and again introduced to His Highness the Gaekwar, with whom she had another conversation. On the third occasion she was again induced to go by Salim, and she was driven by a cart-driver named Shaik Daood and accompanied by her servant-boy named Chotoo. On that occasion a more important conversation than any which had taken place previously was held, and I think it will be best for me if I leave the Commission to hear this part of the story from her own lips. The Commission will understand from the statements I have made that these three visits of the ayah to the Gaekwar will be spoken to by persons other than the ayah, who will, I believe, establish beyond doubt that those visits were made. On the first occasion it does not appear that any pecuniary present was made to the ayah. On the second occasion she did receive money. A sum of Rs. 200 was paid to Yeshwuntrao, of which one-half was paid to Kurreem and the other half to the ayah. After the third occasion a further payment of Rs. 50 was made to her. In further corroboration of her statement I propose to call Shaik Abdool, the husband of the ayah, to whom she related what had passed between her and the Maharaja. This can be done under section 157 of the Evidence Act. But not only does the evidence of this ayah find support from the verbal testimony I have just stated, but most important corroboration, I think, will be found in certain documents which were discovered in the ayah's room after her arrest. These documents consist of four letters. Two of them are addressed by the ayah to her husband, and two by the husband to the ayah, and they all point most conclusively to the establishment of communications between the ayah and the Maharaja by means of Salim and Yeshwuntrao. Of the authenticity of these letters

think the Commission will have very little doubt. The circumstances under which these letters were found will be detailed to the Commission. The writing of the two letters addressed by the husband to the ayah will be described by the husband, who recognized his own hand-writing. That they were despatched through the post appears to be clear from the postal marks.

Serjeant Ballantine said he wished to guard himself against the supposition that he concurred that these letters were evidence in the case. It would probably be his duty at a subsequent part of the proceedings to contend that these letters could not be evidence in the case. If, however, the learned Advocate-General contented himself with asserting that the letters were admissible as evidence, and did not go on to state their substance till produced in evidence, he would content himself with making no objections at present.

The Advocate-General—I shall certainly contend that these letters are most important evidence in the case, but at present, in deference to the objection expressed by the learned Serjeant, I shall do no more than allude to them as a mere corroboration of the ayah's story.

Serjeant Ballantine signified his concurrence in the course proposed to be followed by the Advocate-General.

The Advocate-General resumed :—No doubt the ayah will be subjected by my learned friend Serjeant Ballantine to a severe cross-examination, but I think it right to state here in regard to her evidence that at the time her preliminary statement was made she was suffering from severe illness and was considered by the medical men in attendance on her to be in danger of her life, and I cannot help thinking that that circumstance will have an important influence on the mind of the Commission in determining the amount of weight which ought to be attached to her evidence. I have now introduced to the attention of the Commission the fact of two persons at the Residency, one a private servant and one an official—namely, the ayah Ameena and the peon Shaik Kurreem—receiving presents of money from the Maharaja for the assistance they were expected to give him. Another of the Residency servants, with regard to whom attempts at bribery were made, is Pedro de Souza, Colonel Phayre's butler, who had been in Colonel Phayre's service for twenty-five years. The same jasoods entered into negotiations with him, and although he states that he refused to go to the Palace he received from the servants of the Gaekwar a present of Rs. 60 Babashai, equal to about Rs. 50 Government of India currency. I now come to a more important class of evidence, and that is evidence connected not merely with the attempt to obtain information of what was going on at the Residency, but with the attempt that was eventually made to take away the life of Colonel Phayre. I think the Commission will have no doubt that such attempt was made. I think the Commission will also have no doubt that it was only by the mercy of God that the attempt was frustrated. It appears that that attempt took place on the 9th November last, but we have evidence to show that similar attempts had been made on two days previous. The agency employed for this purpose was that of certain peons attached to the Residency, notably a havildar named Rowjee. Communications appear to have been opened with him by Salim and Yeshwuntrao before the Commission sat, and these communications appear to have been entered upon in September 1873. He was taken by Salim to the Palace and then, according to his statement, was asked to supply information of what was being done at the Residency during the sitting of the Commission. That he agreed to do. For his assistance he was asked to get hold of the jemadar, named Nursoo, who had served under many successive Residents. According to his statements he, during the period the Commission sat in Baroda, paid three visits to the Palace, on each of which occasions he had an interview with the Maharaja and conversed directly with His Highness. After the Commission had concluded its labours, and before His Highness the Maharaja and Colonel Phayre went to Nowsaree, Rowjee visited the Maharaja three times, and about the same time, being about to celebrate his marriage, he received a present of Rs. 500 from the Maharaja through Yeshwuntrao. At Nowsaree he continued his communications with the Maharaja and his servants. After his return from Nowsaree he continued in the same course, and, not long after his return from Nowsaree, a sum of Rs. 800 was handed over by the same Yeshwuntrao to the jemadar Nursoo, who had been induced to join in the conspiracy, and this money was divided between Nursoo, Rowjee, and one Jugga, a punkawalla, who from the nature of his employment had ample means of hearing what was said at the Residency table, and who seemingly at the close of the day used to put his information in the form of a letter which was handed by Rowjee to Nursoo, by Nursoo to Yeshwuntrao, and by the last to the Maharaja. After the arrest of Salim he was handed over by His Highness the Maharaja to the British authorities, and upon his house being searched by Mr. Hormusjee Wadia, who was then Fouzdar, a bundle of papers was discovered and sealed up. Upon examination of the bundle some of these news-letters were discovered. Three are in my possession. One of them is admittedly in the handwriting of Jugga, the punkawalla, and the other two are in a handwriting which has not yet been identified. As the learned Serjeant may make the same objection that he made regarding the four letters found in the possession of the ayah, I shall not allude to the contents of those letters for the present, though afterwards I shall submit to the Commission that they are receivable in evidence. As I have already stated, a present of Rs. 500 was made to Rowjee at the time of his marriage. A subsequent present of either Rs. 300 or Rs. 400 was made to Rowjee after his return from Nowsaree. I shall call evidence to show that at the time it is alleged these payments were made, Rowjee, though in receipt of only a small income as havildar of peons, was in possession of considerable sums of money, spent large sums in ornaments, and lived in a style quite inconsistent with the wages he was getting for his services. I shall also prove that in his visits to the Palace he was accompanied sometimes by Jugga the punkawalla, and at times by a man named Kabhai, whom, he says, he used to take with him, because he was afraid to go into the city at night by himself. That he obtained these ornaments, will be established by the evidence of friends who bought them, and by the two goldsmiths who made them. With regard to the jemadar I shall show that he, while in attendance on Colonel Phayre at Nowsaree, received from the Maharaja, through Yeshwuntrao, Rs. 250 as a present, and, after his return from Nowsaree, received his proportion of the Rs. 800 which I have already mentioned as having been divided between him, Rowjee, and Jugga. I think, therefore, that the Commission, if they believe these witnesses, will have little doubt that communications for improper purposes were made by H. H. the Maharaja, both directly and by his agents, with some of the servants employed by Colonel Phayre or attached to the Residency, and that bribes were received by those servants as rewards for their giving the information to which I have referred.

In regard to some of the communications which were so made by Rowjee, either himself directly or by means of the news-letters written by Jugga, evidence will be obtained from the letters themselves should the Commission determine to receive them. In regard to other matters of great importance, other evidence will be given by witnesses—by one, at all events—who received in this manner an important official document, and read its contents to His Highness. Among documents communicated in a similar way there was at least one official document of considerable importance, to which I shall not at present refer further. I come now to the most important branch of the case—the attempt to poison Colonel Phayre. That attempt was discovered by Colonel Phayre on the 9th November, although it would appear from the evidence given that two previous attempts had been made to poison Colonel Phayre on the 6th and 7th November. The person by whom the poison was attempted to be administered on the 9th was Rowjee, the havildar of peons, to whom I have already once or twice referred. The method employed for administering the poison was this. Colonel Phayre was in the habit, every morning after a walk or a ride, of proceeding to his office adjoining the main building of the Residency, and connected with it by a covered verandah, where he had dressing accommodation. It was the duty of one of his servants, named Abdoola, to prepare every morning a tumbler of sherbet made of pummelow juice. Abdoola will tell you how he made this sherbet and what he did with it. He used to put it on a table in Colonel Phayre's inner room and there leave it for his master. Upon the morning in question Abdoola prepared this sherbet as usual. Of the various servants who were employed about the house, it appears to have been the duty of Govind, hamal, to attend to this particular room. I shall call Govind, and he will tell you how he was occupied on this morning. Rowjee, though he had no immediate occupation in that room, was in the habit of going into it from time to time, either to arrange pens or paper, or do some other little duties, so that his going into the room would not be calculated to excite suspicion. The position which he used to occupy in the Residency was on the outer covered verandah, where a bench was placed for the accommodation of peons, and from that bench Rowjee would have a view of Colonel Phayre's room, so that by simply remaining in the position ordinarily occupied by him he could see much that was done inside, and particularly what was done with the sherbet when Colonel Phayre returned from his morning exercise. On the morning in question, it will appear from Rowjee's evidence, he introduced into the goblet the poison which was so nearly fatal to Colonel Phayre. His method of administering the poison was as follows:—Having received it from the Maharaja's servants he first of all made a solution of the poisonous compound in a small bottle, and shook it so as to cause the particles of the poison to mix as thoroughly as possible with the water. He then poured this solution into the goblet of sherbet which stood ready for Colonel Phayre. That there was poison put into the goblet I do not think the Commission will have the slightest doubt. Colonel Phayre took two or three sips of the mixture. He did not like the taste. He thought it possible that the sherbet had been made from some bad pummelow, and threw a portion of it away. He sat down to work, and in a short time symptoms exhibited themselves which he had noticed on the two previous days, the 6th and 7th, and which he had attributed to poorliness. His suspicions were roused. He experienced great nausea and a dizzy feeling in the head and other curious symptoms which led him to think that he had taken something that had disagreed with him. He examined the goblet, and noticed a sort of sediment in the small quantity of sherbet left in the glass. He at once wrote to Dr. Seward, the Residency Surgeon, and asked him to come over to him. That note was given to a peon named Mahomed. When Dr. Seward heard the symptoms from Colonel Phayre, he took away the goblet at once to his own residence and made an investigation of the contents of the glass, which satisfied him that the sediment was composed partly of arsenic and partly of some glittering substance which he afterwards ascertained was diamond dust. Not satisfied with this examination, Dr. Seward sent the remains of the sherbet, with the tumbler, to Dr. Gray, Chemical Analyser to the Bombay Government; and Dr. Gray, after carefully examining the sediment, arrived at precisely the same conclusion as Dr. Seward. I think, therefore, that the Commission will have little doubt as to the scientific part of the evidence, and will agree that in this sherbet on the morning in question a poisonous dose was introduced which might have taken away the life of Colonel Phayre. I shall now proceed to connect the Maharaja and his servants with this attempt upon the life of Colonel Phayre. It will, I think, be found beyond a doubt by the Commission that on the morning of the 9th November the two men, Yeshwuntrao and Salim, who had been employed in all the previous negotiations with the Residency servants, came unusually early to the Residency. Their presence there at this hour will be testified to by a number of witnesses. On being asked by one witness why they had come so early, they said they had come with a present of fruit, as it was the Dewalee. But the excuse thus given will, I think, be shown to be deceptive, because it was not until long after their arrival at the Residency that this present of fruit arrived. It did not arrive until half-past eight in the morning, whereas these men came to the Residency somewhere about 6 o'clock. I have mentioned that Colonel Phayre sent a note to Dr. Seward by the peon named Mahomed. We find Salim at once addressing himself to Mahomed. He requested him to go into the town and buy him some biscuits. The peon consented, but delivered the note first to Dr. Seward and then went into the city. Whether he really went for the biscuits or to give information is a matter which the Commission must determine. Another point that I think I shall establish upon conclusive evidence is this—after Colonel Phayre had noticed the sediment, and set down upon the table the glass containing the remains of it, and after the message had been sent to Dr. Seward, Salim mounted his horse and rode at full speed in the direction of Rowjee's house, and afterwards to the city. What he did there I do not propose now to state to the Commission, although I may say that evidence is furnished by the Maharaja himself in a statement he made to a witness called Damodhur Trimbuck or Damodhur Punt. I shall allow this statement to be made by the witness himself. But that Rowjee did take this ride will, I think, be proved beyond doubt. He returned to the Residency after this, and saw the Assistant Resident, Mr. Crawley-Boevey, with whom he had some conversation. I now come to another class of evidence in regard to this part of the case. I have said that the poisonous substance intended to be administered to Colonel Phayre was arsenic. Of the poisonous qualities of arsenic I need not tell you. But of the diamond dust which was mixed with it I may mention that it has always been considered an efficacious means of destruction by the natives of this country. Dr. Norman Chevers in his "Manual of Medical Jurisprudence for India" says—"Although this material has no

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place in Dr. Taylor's treatise, it is certain that a belief in its deadly potency existed long ago in Europe, and that the same idea is at present of considerable prevalence in India." He then goes on to say that it is considered that the Powder of Succession of the Italian poisoners was diamond dust. He states that Benvenuto Cellini relates that an attempt was made to poison him, when in prison at Rome, by the administration of pounded diamond in his food, &c., and he then goes on to give a number of illustrations tending to show that in India diamond dust was and is considered a powerful poison. We are able to trace the source from which this diamond dust and arsenic was procured. The evidence of Damodhur Punt, who formerly held the office of Private Secretary to the Gaekwar, and also had charge of His Highness's private treasury, will prove that an application was made to him direct by the Maharaja to obtain arsenic. Damodhur Punt tried to obtain two tolas from the Fouzdaree, which was then under the control of Mr. Hormusjee Wadia, but although a written order was sent for this poison, and it was said it was wanted for a horse, the poison was not supplied. Damodhur Punt, however, states that he subsequently obtained the required quantity from a Borah, and by direction of the Gaekwar gave it to Salim. With regard to the diamond dust Damodhur Punt will tell you that it was purchased from Hemchund Futteychund, a jeweller, and that by direction of His Highness the Gaekwar it was given to Yeshwuntrao, Salim's associate. The arsenic and diamond dust thus obtained appear to have been handed over by Salim to Rowjee on two, occasions. The witnesses Nursoo and Rowjee will state that it was by the express directions of His Highness that Salim was ordered to give these powders to them. The first supply came from Salim to Nursoo, who handed the powders over to Rowjee, and it may be that the powder thus supplied was as administered to Colonel Phayre on the 7th November. That powder, as I have already said, did not take effect, and Salim and Rowjee, when they next saw His Highness, say that they were somewhat severely blamed by the Maharaja, who complained that the poison had not been efficacious. On the same occasion that he made this complaint, he said he would send for a further supply, and that further supply was handed over by Salim to Nursoo, who in his turn gave it to Rowjee. Rowjee said that of the powders so obtained, some of them were used and some remained with him. Of those that remained with him one has been found. After the result of Dr. Seward's analysis Rowjee was arrested upon suspicion. His belt was taken from him and handed over to another peon with whom it remained until it was examined by the Police, and in a small pocket under one of the cross pieces a small packet was found wrapped up in paper which was found by Dr. Gray to contain seven grains of white arsenic. Authorities show that a fatal dose of arsenic is contained in two or three grains. But in this small packet there were, as I have told you, seven grains. Of course it must be obvious to the Commission, and to all who have heard the statement I have been making, that the evidence against His Highness will depend very much upon the degree of credibility to be attached to Damodhur Punt, Nursoo, and Rowjee in regard to this attempt upon the life of Colonel Phayre; but I think that when the Commission has heard the history of the manner in which that evidence has been obtained, and the entire absence of any connection between the three persons, who have each told their story independently of one another, and yet with a large amount of agreement, it will be seen that albeit a certain amount of doubt must attach to the testimony of persons giving their evidence under the circumstances of the witnesses just named, nevertheless the witnesses are telling a true story. I may say that the statements of Rowjee and Damodhur Punt were made under a promise of a free pardon, but that of Nursoo jemadar was made voluntarily after he had been told that no pardon would be granted to him. The evidence of Nursoo will, therefore, be a very important element in the considerations which will lead the Commission to form their opinion upon this case. There is one other circumstance in regard to Nursoo. He had been many years in the service of the Residency, and held a high position among the official servants at the Residency. After he had given his evidence under the circumstances I have stated, he felt so strongly the disgrace he had incurred, and the treacherous conduct of which he had been guilty, that he attempted to drown himself. There is a deep well near the Residency. One day he broke away from his guards and jumped into the well, from which he was rescued by the police. I think that if the Commission were to visit this well, and note its size and depth, they will conclude that Nursoo must have intended self-destruction when he leaped into it. But the evidence of Damodhur Punt not only corroborates the evidence of Nursoo and Rowjee, but is supported by most important documentary evidence derived from the accounts of the personal private expenditure of the Maharaja. I shall be able to lay before the Commission a number of these accounts, which were kept with the regularity which always distinguishes the accounts of the natives of this country. I shall be able to show the payments which were made out of the Gaekwar's private purse to Yeshwuntrao and Salim. I shall be able to show that some of these payments were made on dates corresponding very nearly to those on which payments to the ayah, Nursoo, and Rowjee were made. The sums are not exactly, although they are nearly, the same; but I think it is not an unreasonable inference to draw from the sums entered and the sums disbursed that the disbursing persons retained a portion in their possession. I shall show that subsequent to the enquiry being instituted into this attempt to poison Colonel Phayre, by order of the clerks and officers who had charge of these accounts clumsy attempts were made to deface certain entries by pouring ink over the places where Salim's name occurred—the object of which I think cannot be doubted by the Commission. I shall show, moreover, from these accounts how the payment, or a part of the payment, was made to the jeweller Hemchund, who furnished the diamonds which were eventually powdered into the diamond dust. And with regard to these accounts I shall show from the entries how the monies were disbursed, and that such entries entirely correspond with the statement made by Damodhur Punt with regard to them at a time when he had no access to these accounts, and when he was speaking from memory with regard to them. I shall show from these entries how the monies were obtained. The payment made to Hemchund Futteychund was a payment of about Rs. 3,000, and there are a number of cross entries in regard to that payment which I may perhaps here shortly describe. There was an account kept called the Saving Account—Kisgee. Two items from that account were appropriated to the payment to Hemchund of the Rs. 3,000, which he was to receive in part settlement of his claim for the diamonds supplied. One of these items was an item of saving upon the discount in respect of oil supplied to the Gaekwar's Commissariat, and that amounted to Rs. 1,856-12-3, from which Rs. 150 was to be deducted for oil for lighting the tower over the gateway which adjoins the Palace. And there is an

endorsement in the handwriting of Damodhur Punt, directing that this sum shall be credited to the Kasgee account on the 10th of Magsur Vud. The other item was an item of Rs. 1,926-1 realized by the sales of coins given as nuzzeranas, and that was ordered to be credited to the same account on the 8th of Magsur Vud, two days before the previous item. The aggregate of those two sums were directed on the 8th Magsur Vud to be paid to one Rameshwur, the manager of the Swami Narrayen's Temple, in order to give a feast to a number of Brahmins, but no such feast was given. The entries will show that the total derived from these two sums was, in point of fact, applied to the payment of Rs. 3,000 to the jeweller Hemchund. It will not also fail to be noted by the Commission that the order directing this total sum to be paid to Rameshwur for the feast to be given to the Brahmins is dated on the day previous to that on which one of the items was brought to account—the latter being dated on the 9th and the former on the 8th ! The order for payment of the two bears date the 8th. Hemchund the jeweller will of course be called, and his evidence will I think be important as showing the way in which this purchase of diamonds was sought to be kept secret. He will tell the Commission that he was applied to by some of the Gaekwar's people after the discovery of the attempt to poison Colonel Phayre, and that he really consented to take out a portion of his own books in order that this entry might be cancelled. His books will be produced, and he will state to the Commission the circumstances under which his books were tampered with, and by whose desire they were so tampered with. I now come to another piece of evidence which I think has a material bearing upon the case as affecting His Highness personally. It was the habit of His Highness to visit Colonel Phayre, the Resident, twice a week—on Mondays and Thursdays. The attempt to poison, as I have already stated, took place on the 9th November—which was a Monday,—and on the Monday His Highness paid the usual visit. Colonel Phayre was still suffering from the effects of the poison which he had imbibed, but he did not know at that time, as he had not heard from Dr. Seward, what he had taken. He received His Highness as usual, and was much struck by His Highness in the course of conversation describing to him almost exactly the symptoms under which he was suffering, and saying that there was a great deal of sickness about the town of such a character as Colonel Phayre was at that very moment suffering from. He said that he had himself suffered in the same way. It is curious that such a conversation should take place. Colonel Phayre did not tell Mulhar Rao what he had taken, or what his suppositions were at that time—he may have thought something had been put in his goblet, but he had no definite idea that he had partaken of poison, not having then seen Dr. Seward. But if Damodhur speaks truthfully the Maharaja knew perfectly well then that the attempt had been made and had failed, because on his driving back from the Residency to the Palace he picked up Damodhur Punt on the road, and had a conversation with him about it. That conversation Damodhur Punt will himself relate. I think it will strike the Commission that such an attempt as this—an attempt to poison the Resident—was a circumstance that would rapidly get wind in the town ; it was a matter that could not remain long hid. It is curious, however, that it was not until the following Thursday when the second formal visit of the week came round that His Highness made the slightest allusion to Colonel Phayre on the subject. He did not go at once on hearing of the report, nor did he communicate with Colonel Phayre. He waited till the time of his ordinary visit took place, and then said he had heard of it on the previous day, Wednesday. On that occasion His Highness was accompanied by his then Dewan Mr. Dadabhoy Nowrojee, and although a conversation then took place between Colonel Phayre and His Highness in regard to the attempted poisoning no formal communication on the subject took place until two days afterwards, namely, on the 14th November, on which occasion a Durbar *yad* was sent by the Maharajah to Colonel Phayre in these words :—

"At a formal interview with you the day before yesterday, I learned from you the particulars about the attempt made by some bad man to poison you, for which I am sorry ; but it was the favour of God that his cruel design did not meet with success.

"If it becomes necessary for you to obtain any assistance in proving the criminal's guilt the same will be given. This is written for your information."

Dated 14th November 1874.

The only comment I make upon that letter is that it is a curious circumstance that it came so late. I have now gone through the main points in the evidence which I shall proceed to lay before the Commission. I do not at present propose to do more than make this brief recapitulation of the points to which the witnesses' attention will be directed. After the witnesses have been heard upon the subject, and the cross-examination of my learned friend, I believe I shall be allowed, with the sanction of his Lordship the President, to sum up the evidence ; and, in case my learned friend should call any witnesses, to reply on the whole case. I shall therefore not further take up the time of the Commission at present, but proceed to call witnesses without any further delay.

Ameena ayah examined by Mr. Inverarity.

AMEENA, Mrs. Crawley-Boevey's ayah, was then called, and, having been sworn, was examined by Mr. Inverarity, and deposed as follows :—

My name is Ameena. I remember the period when the Baroda Enquiry Commission was sitting. I was at that time in the service of Mrs. Phayre, the wife of the Resident, as an ayah, and I continued in her service until she went to England ; and I then entered the service of Mrs. Boevey as an ayah. She was the daughter of Mrs. Phayre, and she lived at the Residency. I continued in her service until the time when Colonel Phayre went to Bombay. I know His Highness Mulhar Row Gaekwar. He was in the habit of coming twice a week to the Residency. Once, while in the service of Mrs. Phayre, I went to the Haveli (or Palace) of the Maharaja. While I was in the service of Mrs. Boevey, I went there on two occasions. I have not been long in Baroda, but I believe I went to the *old* Haveli of the Maharaja. I don't exactly remember when I went on the first occasion when I was in the service of Mrs. Phayre, but I think it was at about half-past 9 or 10 at night. That was about the time when the Commission was about to close. At that time I was living at the Residency. When I went from the Residency to the Haveli, I was accompanied by Faizoo, a chobdar. We went on foot as far as the well which is situated close to the school on the road to the city. We thence continued our journey in a vehicle which was waiting near the well. We (I and Faizoo) both went to the Haveli in that vehicle. Faizoo was a fellow-servant of mine at the Residency. He had been employed some time before me ; I was newly employed at the time. [A peon was here shown to the witness.] That man is the Faizoo, of whom I have spoken. [The man admits that his name is Faizoo.] I had not seen anything of Baroda before

The garrywalla drove up to some door or gateway, and there stopped the garry. After the garry stopped, Salim came. Salim, I, and Faizoo then went to the Haveli. I don't remember, but I think the distance was about 150 paces between where the garry was stopped and the Haveli. Salim used to come with the Maharaja twice a week to the Residency. I and Faizoo and Salim walked from where the garry had stopped to the Haveli, which we entered. We went upstairs. When I and Salim went upstairs, Salim desired me to wait a little while, and he would go and inform the Maharaja of my arrival. Salim returned along with the Maharaja, when Salim told me to wait. I did so in a small place, where you can sit at the top of the stairs. [The Interpreter explains that the witness may mean a landing-place.]

Witness—Something like a small place where you can sit.

Mr. Melvill to Interpreter—Ask her to describe it.

Witness—Just above the stairs there is a small place. [Interpreter—She calls it a room; she uses the English word.] I did not observe that there was a door. I and Faizoo were shown into that small place I have been speaking of, and and were told to wait there, while Salim went to inform the Maharaja. Salim returned with the Maharaja; the latter sat on a bench, I and Faizoo sat on the floor, Salim remained standing. The Maharaja asked me whether I had heard the Madam Sahib saying anything about the Commission. I said I know nothing, and I have heard nothing. Then the Maharaja said, "Do you say something to the Madam Sahib on my behalf?" I said I cannot say anything or explain anything. The Maharaja then said "Should the Madam Sahib say anything at any time, inform me through Salim or through Yeshwuntrao." That is all that took place as regards me on that occasion. Then something occured with respect to Faizoo. Faizoo said something about his son, who was then in the service of the Maharaja. I did not take particular notice of what he said. I can't tell exactly, but I think I and Faizoo remained in the little room I have spoken of for about half an hour. Yeshwuntrao is a jasoos, and used to accompany the Maharaja when he came twice a week to the Residency. [The Interpreter explains that jasoos means a messenger.]

Mr. Melvill—It also means a spy. What is the meaning of jasoos down here?

Mr. Flynn—A messenger.

Mr. Melvill—His Highness the Maharaja of Jeypore understands it in exactly the same way as I do—a spy—but it may have a different meaning down here.

Mr. Flynn—It is equal to chuprassie, a man who wears a belt, a peon.

Witness—When I left the Haveli, Faizoo, Salim, and I returned to the place where the garry was standing. Faizoo and I got into the garry, and we went home. The garry stopped at the place where we first got into it, and then we got into it, and went home. I said that I went twice to the Haveli when I was in Mrs. Boevey's service. It was after the Maharaja returned from Nowsaree that I went.

Mr. Scoble—It will save some trouble if I mention that I and my learned friend Serjeant Ballantine have agreed to accept the dates, when the Maharaja was at Nowsaree, as from the 2nd April to the 2nd May 1874. The return would be after the 16th May 1874.

Witness continues:—It was in the month of June, after the Maharaja had returned from Nowsaree, that I went to the Haveli. Salim asked me and Kurrim Naik to come. Kurrim Naik is a peon serving under Mr. Boevey. At that time Mr. and Mrs. Boevey were residing at that Residency. Mr. Boevey was at that time Assistant to Colonel Phayre, the Resident. Kurrim Naik accompanied me to the Haveli on that occasion—that was in consequence of a communication made by Salim. We went on foot as far as the spot near the school, and there we got into a garry. It was not in the day, but at night. I don't remember the exact time, but I think it was 8, a quarter-past 8, or half-past 8. This happened a long time ago, so I have no clear recollection as to the time. When we got to the Haveli on this occasion the driver of the carriage went and called for Salim, who came. Then Salim, I, and Kurrim Naik got into the garry. We went close to the Haveli near the staircase. It was raining a little at the time. Salim joined us somewhere near his house in the city. When we three arrived at the Haveli, we all three alighted from the carriage and went upstairs. We went up one flight of stairs, and having got to the top of that flight, Salim desired me and Kurrim Naik to stop there. [Interpreter—She corrects herself.] We went up two flights of stairs. I and Kurrim Naik were told to stand there, and Salim would go and inform the Maharaja of our arrival. The Maharaja came and sat on the same bench on which he had sat on the previous occasion. We were asked to come upstairs. We went up another flight of stairs. We went up a few steps. I and Kurrim went and sat there opposite to where the Maharaja was seated on the bench. Salim stood. The Maharaja asked whether the Madam Sahib, meaning Mrs. Boevey, had said anything about the marriage which had taken place at Nowsaree. I said to the Maharaja that I had heard nothing about it. I further said that Mrs. Phayre had left for England. I said, When she returns from England something good will happen. She is favourably disposed towards you, and so is Colonel Phayre. Then the Maharaja said to Kurrim Naik, "Do you say something to Mr. Boevey in my favour." I then said Mr. Boevey will not attend to anything which any one may say to him; and Kurrim Naik said that he also could do nothing. I then made a salaam to the Maharaja, and was about to go downstairs, when I heard the Maharaja say to Salim, "Do you give them a sum." I understood that was in reference to a wedding, the Maharaja's marriage.

Mr. Inverarity—Did he give you any sum?

Witness—I have something more to say. Then after that, Salim, I, and Kurrim Naik went downstairs, and to the place where the garry was standing. I heard Salim say to Kurrim—"Do you go to-morrow to Yeshwuntrao's house in the evening." After that we got into the garry and went home. On the evening of the following day Kurrim Naik told me that he had brought Rs. 200 from Yeswuntrao's house, where, he said, the money had been given to him by Salim. On the morning of the following day Kurrim gave me Rs. 100, and kept Rs. 100 for himself.

The Commission was hereupon adjourned for half an hour.

The Commissioners again met at three o'clock, but H. H. the Gaekwar was not present during the remainder of the sitting.

The witness Ameena was re-called, and further examined by Mr. Inverarity, and said:—

I visited the Maharaja on the third occasion in the month of Ramzan. I left the Residency at about 8 or half-past 8 in the evening. I went because Salim came and told me that the Maharaja urgently wanted me to come and see him. No one accompanied me on the third occasion except a boy named Chotoo. My husband and Chotoo went on foot. My husband went by the road which leads to the bazaar, in order to get a garry. I and Chotoo got into the garry near a wud tree, near Dadabhoy's shop. My husband's name is Shaik Abdoola. I and

Chotoo first drove to a place called the Arab-khana (or Arabs' house) near the Haveli. Salim had appointed the place where we were to go. [Mr. Flynn here explains that the month Ramzan would be from the 12th October until the 10th November.] The driver of the garry called out to Salim. Salim came. I and Salim entered the Haveli, and we went upstairs. Chotoo remained in the garry and did not come with us. I and Salim went upstairs to the same place where we had sat on previous occasions. Salim called out to the Maharaja, and the latter came and sat on the same bench on which he had sat before. I had some conversation with him. As I am eating the salt of the British Government, I am going to tell you everything. I shall not conceal anything. The Maharaja first asked me this:—"Has the Madam Saheb been saying anything about the child?" Mrs. Beevey was the Madam Saheb referred to, and the child was the son that was born to the Maharaja. I said, "The Madam Saheb had said nothing, nor have I heard anything." And I said, "When the burra Madam Saheb comes, that is Mrs. Phayre, something good will occur to you. She and Colonel Phayre both wish you well." And I also said to the Maharaja, "When the Madam Saheb comes back, something good will happen to you, do you attend to what the Saheb says—don't be afraid." Salim said, "Can any charm be used?"

Mr. Flynn—Sansar is the word she used.

Mr. Melvill—That word is peculiar to this part of the country. The Maharaja of Jeypore is also unacquainted with it.

H. H. the Maharaja Scindia thought that for charm the word muntur would be used.

Witness continues:—Salim first spoke about the charm. Salim said, "Should a charm be used, will the Saheb's heart be turned?" As for me I did not exactly understand what he meant. I then said to Salim, as well as to the Maharaja, "Don't you use any jadoo on the Saheb. [Mr. Flynn explains that jadoo means sorcery, and that the witness means "Don't resort to the art of sorcery."] They will have no effect on a saheb." The reason I gave for that is this: that the saheb logue had faith or trust in God. Then Salim said to me—[Witness weeps, and, while wiping her tears, says—"What I am stating is the truth."]—"Should anything be given to the Saheb, what do you think the effect will be?"

Mr. Flynn—She means what will occur.

Mr. Serjeant Ballantine—No, no; let us have what she says.

Witness—At that time I felt very much alarmed at hearing this, because, before that I had heard something stated by two persons. I then said to the Maharaja, "I am going away." I don't see the Maharaja here now. Were he here, he would probably corroborate what I say. (Laughter.) Then Salim, addressing me, said, "Do you hearken to what the Maharaja will tell you, and if you attend to it, you will have enough to live upon for the remainder of your life." Salim then said to me, "Your husband will also get employment, and you, too, will not have to serve any more." I said in return to Salim, "I have not been starving all this time. I have passed my life up to this time in serving the English." Just then as I was about to go away, I said to the Maharaja, "Don't you listen to what anybody may tell you to do to the Saheb, for if anything injurious should happen to the Saheb you will be ruined." It appeared to me that the Maharaja got angry at this, because he said to Salim, "Take the ayah away;" and Salim did so. I and Salim then went downstairs. I went to the place where the garry had stopped. I and Chotoo then went home. We went in the garry as far as the wud tree. We alighted and walked home. I saw Salim again when he came with the Maharaja to the Residency. He came to me on that occasion to the dispense-room where the pantry is, and he said to me, "I have placed fifty rupees under your cot." I mean that he said kutcha rupees—Baroda rupees—they are inferior to Bombay rupees. My cot was in my room. I was not in my room then. I was at the bungalow. My room is in the Residency, near the kitchen. When he told me that I went to my room, and under my bedding I found fifty rupees.

Mr. Inverarity—At the time that you made these three different visits at the Haveli, was your husband Abdoola living with you or not?

Witness—My husband was not living with me at that time.

Mr. Inverarity—At the time of the three visits, was your husband in Bombay or not?

Witness—He was in Bombay on the occasion on which I made the first visit to the Haveli. On the occasion of the second visit he was in the service of Major Blakeman (or Blakeley?) here in Baroda. On the third occasion he was then living with me in my house. By my house, I mean my room at the Residency. I informed my husband that I had been to the Maharaja on two occasions. I told him myself of the first occasion when I went, and the other occasion when the Maharaja returned from Nowsaree. As for the third occasion, I don't remember where my husband was—whether he was at Mahableshwur or not I cannot say. When I and my husband were living apart we corresponded together. The first letter was written when I went to Bombay.

Mr. Inverarity—Can you recognize that letter again if you saw it?

Witness—I do not know how to write.

Sir Richard Couch—We don't know when she went to Bombay.

Witness—I went to Bombay when Mrs. Phayre went when she was going to England in the month of March. I got one Syed Abdool Rahim to write the first letter for me. I call him Rahim Syed. I am not sure whether that is his proper name. I can neither read nor write.

Mr. Inverarity—I propose to have the letter read out to the witness by Mr. Flynn, and to ask her whether that is the letter she instructed this man to write.

The President—In that way you will be putting the letter before us before it has been shown who wrote it.

Mr. Inverarity—Then I will ask to be allowed to call the witness again.

The President—You had better do that.

Mr. Inverarity (to witness)—When did you write the second letter?

The President—You had better say, when did you get the second letter written?

Mr. Inverarity—When did you get the second letter written—during the same visit?

Witness—It was while I was in Bombay, when Mrs. Phayre went to England. I got it written by the same person, Rahim Syed. I sent those letters to my husband by post. I don't remember receiving any letters from my husband. It has happened a long time before, and I don't remember whether my husband sent me any letter or not, but one of the letters which I had got written was returned to me by the Post Office. I believe you (Mr. Inverarity) have got it there.

The President—You were asked what you did with it, not where it is now.

Mr. Flynn—The witness wishes to explain about these letters.

The President—Ask her whether, when she got that letter from the Post Office, she tore it up or what she did with it.

Witness—I tore it up. I think I sent my husband two letters from Bombay—though I am not sure as to that—and one letter to him while he was at Mahableshwur. This is my impression. I am not sure. I remember making a statement before Mr. Souter. At that time I was very ill, and Dr. Seward is aware what the state of my health was then. I was under his care; he put a plaster on my stomach, and leeched me.

Cross-examined by Mr. Serjeant Ballantine:—

Ayah Ameena cross-examined by Mr. Serjeant Ballantine.

Q—What did you do with the fifty rupees that you found under your bedding? A—I spent them during the month of Ramzan. I gave some money to mendicants—religious mendicants—fakeers. I gave the mendicants a feast.

Q—Was your husband living with you at that time? A—Yes, he was.

Q—Did he know of these rupees? A—Yes, he knew of them; but I had possession of them, and I spent them.

Mr. Melvill—I think she means more than that—that she was in the habit of spending the money.

Mr. Flynn—Yes, she means that.

Witness—I used to give my husband money to go to the bazaar.

Mr. Melvill—Her expression was that she used to manage the expenditure.

Mr. Flynn—Yes, make the expenditure.

Mr. Serjeant Ballantine—Did you tell your husband that you found the money under the bed? A—Yes, I did tell him.

Q—Did you tell him that Salim had put it there? A—Yes, I told him that. You don't suppose that I am telling lies [begins to weep]; I have been five times to England. (Laughter.) [Witness weeps and produces a bundle of certificates as to her character.]

Q—I am sure I have done nothing to make you cry. Did you tell your husband why this present of fifty rupees was made to you? A—I told my husband that Kurreem Naik had said that it was a present given to me on the occasion of a marriage.

Q—Then you did not tell your husband that it was an inducement to poison Colonel Phayre? A—There was never anything said about poison.

Q—But didn't you understand that there was a suggestion that Colonel Phayre should be poisoned? A—No; I didn't understand anything of the kind.

Q—Not at the third interview? A—The conclusion I came to was in consequence of what those two men had said to me. Pedro and Rowjee were their names.

Q—Now answer this question—was it from what those two men told you, or was it from what the Maharaja and Salim had said at the third interview, that you thought that? A—It was from what those two men previously told me, that this occurred to me.

Q—Then if those two men had told you nothing, should you have thought that the Maharaja intended to poison Colonel Phayre? A—I should not have understood that the Maharaja intended that poison should be used.

Q—When did you hear this talk about the two persons—from these two men Pedro and Rowjee? A—These two men were in great favour with the Maharaja.

Q—When did you hear anything from these two men about poisoning? A—Pedro and Rowjee were not the persons who told me all this. There were two other persons.

Q—Then why did you tell me it was Pedro and Rowjee? A—I was not thinking of what I was saying at the time.

Q—Are you quite well now, or under the care of any doctor? A—I am not quite well yet—my arms and legs are swollen. (Laughter.)

Q—Well, now, as it was not Pedro or Rowjee, who was it? A—Kurrim Naik and the Cazee of Chandwud were the persons who told me.

Q—When did they tell you? A—About a month before that third interview with the Maharaja, but they did not mention the name of the sahib.

Q—How did you come to think that they meant the saheb? A—It struck me that Colonel Phayre was intended.

Q—Did you tell either your mistress or Colonel Phayre of what you believed was intended? A—How can I tell them without any ground for telling them?

Q—Did you tell them is what I asked you? A—I did not tell them.

Q—Did it not occur to you that your master might get poisoned, and that you might save him by telling him? A—I didn't think any one in our bungalow would poison him.

Q—Was that the reason you did not tell him then? A—I swear that I had no other reason for that.

Q—What made you think of Pedro and Rowjee? It was not your legs and arms or anything of that kind that made you think of Pedro and Rowjee? A—Those who gave me the information about Pedro and Rowjee told me that they were much in favour with the Maharaja, but I didn't think that Pedro and Rowjee would make the attempt to poison the saheb.

Q—What had it to do with the question of poisoning Colonel Phayre that Pedro and Rowjee were in great favour with the Maharaja? A—I was not aware that such things as these took place in the territories of Native Princes. I never heard of such an occurrence before.

Q—Was that the reason you did not mention it to your master or to your mistress because you had such faith in Native Princes? A—Yes; I did not think that such a thing would happen to a saheb.

Q—But you told us, you know, that you were very much frightened at what the Maharaja and Salim had said to you because you thought it indicated poison. Were you very much frightened? A—I really was much frightened.

Q—What frightened you? A—I felt frightened from what I heard from those two men whom I have mentioned.

Q—Did you believe it was true what these two men told you? A—I had no grounds on which I could say it was true. I thought it was mere bazaar gup.

Q—But if you thought it was mere bazaar gossip, what frightened you? A—I felt frightened when I was before the Maharaja on that occasion. I thought if I were to mention it, I might be killed outright.

Q—Who did you think would kill you? A—I, being a woman, was very much frightened at the time. I did not think as to who would kill me.

Q—But you were very much frightened. As you were very much frightened and thought it possible you might be killed, why did not you tell your master and mistress, because they might be killed, you know? A—How could I state that to them. I didn't think that anybody in the bungalow would do such a thing.

Q—You did tell your husband, didn't you, about this suggestion of poisoning? A—I said to my husband that I thought something might be given.

Q—To poison the Resident, Colonel Phayre? A—I did tell my husband this; but it occured to me that no one in the bungalow would do such a thing.

Q—When did you tell your husband?—how soon after your third visit to the Maharaja? A—I don't remember how long after the third occasion.

Q—Well, then, you must try to remember it. I want particularly to know it. A—I did not mention poison to my husband at all. I said that something

might be given. I don't remember whether I mentioned anything to him about poison.

Q—Try and recollect. A—I don't remember telling that I said anything about poison to my husband.

Q—What did you tell your husband on the subject of your third interview? A—I mentioned to him that it had been said to me that something might be given to the saheb to turn his heart in order that the saheb might be induced to do some good for the Maharaja.

Q—How long after the third interview was it that you told your husband this? That is what I began with and is what I want to get the date of? A—On the day following that on which I had the interview with the Maharaja. I said nothing to him the night before about it.

Mr. Serjeant Ballantine here intimated that he was about to enter into some other matter which would involve dates, and as he could not be expected to finish his cross-examination for some time, he thought it would be better, if not inconvenient to the President and their Highnesses, to adjourn.

This suggestion being concurred in unanimously, the Commissioners rose at half-past four o'clock.

SECOND DAY, WEDNESDAY, FEBRUARY 24, 1875.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, Shantaram Narayen, and Wassudeo Juggonnath, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esq., Bombay Civil Service.

Interpreters:— James Flynn and Nowrozjee Furdoonjee.

His Highness the Gaekwar was present, and occupied a position on the left of the Commission.

Colonel Sir Lewis Pelly, K.C.S.I., occupied a position on the right of the Commission.

Proceedings commenced shortly after eleven o'clock.

Ameena's cross-examination resumed.

The witness AMEENA, ayah, was re-called, and her cross-examination by Mr. Serjeant Ballantine continued:—

Q—Do you remember the day when the poison was put into your master's glass? A—I do not remember the day.

Q—Do you remember the circumstance occurring? A—I mean to say that I know nothing about it. It is asserted that something of the kind was done.

Q—Did you hear that at the time? A—Some time after that.

Q—Were you living in the Residency at the time? A—I was at the Residency at the time.

Q—Then you must remember it—you remember it perfectly, do you not? A—I heard of it afterwards.

Q—Did you mention to anybody, when you heard of this, what you have told us about the poison? A—No; I did not mention it to any one. To whom could I mention it?

Q—Why, if you heard that there had been an attempt to poison your master, did you not mention what you had heard previously about the intention to poison him? A—The enquiry was regarding the poisoning, not with regard to my coming and going.

Q—Is that the reason you did not say anything about what had been said to you? A—Yes, for that reason. Whose name could I mention?

Q—Did you know that your husband was examined by Colonel Phayre upon the subject? A—Yes; I was aware of that.

Q—Why did you not tell your husband, so that he might have mentioned it in his examination? A—How could I mention it? Whose name was I to mention?

Q—Did I understand you rightly yesterday to say that you never mentioned anything about poison to your husband? A—I don't remember whether I mentioned it or did not mention it.

Q—Have you seen your husband since you were examined yesterday? A—No. I was cautioned not to have any communication with my husband.

Q—Who cautioned you? A—The Khan Bahadoor, the police authorities, and the sepoys.

Q—Did you have any communication with any of the police since yesterday? A—No, none. I was not allowed to communicate with any one. I am telling the truth.

Q—Do you adhere to what you stated yesterday, that your belief about the poison arose from what was told you by the two men and not from what occurred with the Maharaja? A—I adhere to that still. I do not want to alter that statement.

Q—Now just attend to this. Is it true, then, that in your third interview with the Gaekwar you understood him to ask you to consent to administer poison to Colonel Phayre? A—He did not say anything of that kind to me, and I have stated exactly what I know. It is true I told the Maharaja that he should not do anything which would cause injury to the saheb, otherwise he would be ruined.

Q—What injury do you mean? A—I have stated what I have said.

Q—When did you first make the statement to anybody upon the subject of your interviews with the Maharaja? A—To Mr. Souter on his enquiring regarding all this going and coming. I stated what had occurred.

Q—When was that? A—It was after Mr. Souter's arrival in Baroda.

Serjeant Ballantine (to the Court)—We will take it that her first statement to Mr. Souter was made on the 18th December; there will be no doubt about that.

Mr. Scoble—That is the date when her first statement was taken down.

Cross-examination resumed by Mr. Serjeant Ballantine:—

Q—Do you remember whether the statement you made was taken down? A—It was not taken down while I made the statement the first day.

Q—Do you remember if the statement made to Mr. Souter was taken down? A—It was not taken down when I made the statement on the first day.

Q—Who were present on the first day when the statement you made was not taken down? A—The Khan Bahadoor was present, and a driver of a garry, and a lad, but not Mr. Souter, and I made my statement to Khan Bahadoor Akbar Ali.

[Akbar Ali called into Court and shown to witness.]

Q—Is that Akbar Ali? A—Yes, I knew him in Bombay in the time of Mr. Forjett.

[Khan Bahadoor Akbar Ali was identified by witness and retired, Mr. Serjeant Ballantine stating that he would not trouble him to remain.]

Q—How long was that before you made the statement to Mr. Souter? A—I think I made it two days afterwards. I was kept in confinement.

Q—Were you kept in confinement before you made this statement to Akbar Ali? A—Yes; I was detained.

Q—Were you imprisoned any days before you made the statement to Akbar Ali? A—I had not been confined before that.

Mr. Melvill—The point is, whether before she made the statement she was in confinement.

[Question was repeated to witness, who did not answer.]

The question was again repeated. A—I said to Akbar Ali that I could not make my first statement, as I was very ill, but when I recovered a little I should let him know, and it was on that day I was placed in confinement.

Mr. Melvill did not think witness understood the question.

Serjeant Ballantine—Ask her, when Akbar Ali first spoke to her, was she in confinement, or was she free?

Witness—Akbar Ali said I must remain here, and must not go away anywhere.

Sir Richard Meade—I think her answer is quite clear—that she was not in confinement.

Witness—I said to Akbar Ali that I could not make my statement—that is when I first saw him—I was very ill; when I recovered I would tell him what I had to say, and it was on that day I was placed in confinement.

Mr. Melvill—We are no nearer now than we were before.

Serjeant Ballantine—When Akbar Ali first spoke to you on the subject, were you, or were you not, in confinement?

Witness—I first said to Akbar Ali that I was very sick, and when I recovered I would make my statement to him. He put me in confinement.

Serjeant Ballantine—I just want to know this—when you first spoke to Akbar Ali, were you in confinement, or did he put you in confinement when you told him that you were too ill to make any statement?

Witness—I was not then in confinement; I was very sick. I was at liberty in my own house.

Mr. Melvill—I don't think she understood the question. (To Interpreter) I think you should ask whether, when she first spoke to Akbar Ali, she was at that time in confinement or not?

Mr. Serjeant Ballantine (to Interpreter)—Would you kindly attend to me. When Akbar Ali first spoke to her on this subject, was she in confinement or at liberty?

Witness—I was lying on my cot at that time very ill. I could not go anywhere.

Q—Were you in confinement when Akbar Ali first spoke to you?

Witness—When Akbar Ali came to me and spoke to me, and when I had made that statement which I have just made, he said you must not leave this place; you must not go anywhere.

Q—Were you allowed to remain in your own house, or were you taken to prison? A—I was confined in my room; I was not allowed to go anywhere, and my husband was not allowed to come near me. About two days afterwards I was taken to the hospital. I made a statement to Akbar Ali on the first day to the effect that I would tell everything.

Q—You told Akbar Ali that you were too ill to make any statement, did you not? A—Yes.

Q—After that you were confined in your own house; what occurred? A—I do not know what occurred after that. I believe I was taken to another room. I was very sick, indeed.

Q—How soon after that did you make a statement to Akbar Ali about the Maharaja? A—I don't know. All the people came to take my statement.

Q—Did you make any statement to Akbar Ali before you made the statement to Mr. Souter? A—I merely said I had gone, but being very ill, I could not make any statement.

Q—You spoke of a statement made in the presence of Akbar Ali, your boy Chotoo, and the driver. Is that true? A—That is quite true. I made that statement at once after the driver and the boy came.

Q—Did you give any account of your three interviews with the Maharaja? A—No; I did not make any lengthened statement at that time. I did not tell all.

Q—Why didn't you? A—I was very sick at that time, and you may ask Dr. Seward as to what state of health I was then in.

Q—How long after that was it that you saw Mr. Souter? A—I state from memory,—about two days.

Q—Where were you then? A—I was in another room, to which I had been taken, and there were sepoys present.

Q—A room in your own house? A—It was in Mr. Boevey's bungalow.

Q—Who were present? A—Sepoys, the Khan Bahadoor, and the junior Khan Bahadoor.

Q—Akbar Ali and Abdool Ali? A—Yes.

Q—How many sepoys were about? A—I do not remember. I was sick at the time.

Q—Did Mr. Souter take your statement down in writing? A—Yes.

Q—Did he tell you that you were to tell him everything you knew? A—Yes. Afterwards I made a further statement at the hospital before Mr. Souter of something which I had forgotton.

Q—Did Mr. Souter ask you whether you knew anything about the attempt to poison Colonel Phayre? A—Yes; Mr. Souter did ask me, and I said I knew nothing about the poisoning. After that I told Mr. Souter everything I knew.

Q—When Mr. Souter asked you whether you knew anything about the poisoning, what did you say? A—I said I know nothing as to who did it, but that two persons had mentioned it to me, and I then stated what I had heard.

Q—Did Mr. Souter ask you whether the Maharaja had said anything about the poisoning? A—Yes; Mr. Souter did ask me, and I stated everything I knew.

Q—Did either Akbar Ali or Abdool Ali say to you that the Maharaja must have said something about it? A—Yes; they threatened me, and said, if anything of the kind was said, "Do you state it," and then I said, "I have stated all that I know."

Q—Did Mr. Souter threaten you? A—No; I was not threatened. No one threatened me.

Q—What made you say you were threatened? A—No; I did not say that. They said to me that the Maharaja must have said something to me about poisoning, and I said, no he had not.

[Serjeant Ballantine asked that the short-hand writer should read the previous answer in which the witness said she had been threatened. The answer was read.]

Q—Did you not say that they threatened you? A—It is not true. They did not threaten me. I do not think I said so. I may have said it.

Q—Who is taking care of you now? A—I am now in confinement.

Q—In charge of Akbar Ali and Abdool Ali? A—Yes; in their charge, or their sepoys, or policemen.

Q—After you had made these statements, did Mr. Souter read them over to you? A—No.

Q—Were you taken before anybody else, or did anybody else come to you? A—No one came to me. I am in confinement.

Q—Did you see Mr. Cleveland? A—I don't know anybody. I am in confinement.

Q—Did you make another statement to Mr. Souter

after this interview? A—No; not to Mr. Souter, but I made a statement to a vakeel. Perhaps it was a barrister, as I don't know the difference between a vakeel and a barrister.

Q—You did make another statement to Mr. Souter, did you not? A—Yes, in the hospital. I stated the whole truth. I never tell a lie. I consider this place just like the house of God.

Q—When was it that you made this other statement to Mr. Souter? A—That was after I was sent for to the hospital.

[The learned Serjeant here stated to the Court that it would be conceded that the statement referred to purported to be taken on the 21st December by Mr. Souter.]

Cross-examination continued :—

Q—Did Mr. Souter come to you at the hospital? A—I sent for Mr. Souter, and he came to me in order that I might tell him everything I knew.

Q—Whom did you send? A—I do not remember now. But I spoke about it to Dr. Seward or somebody else.

Q—Well, you did not send Dr. Seward. Who was it you sent? A—I mentioned to somebody that I wanted to see Mr. Souter.

Q—Was it to Akbar Ali? A—No.

Q—Was it to Abdool Ali? A—No. I was then under a guard of sepoys. No one was allowed to come in.

Q—How did it happen that you went to the Maharaja upon the first occasion? A—As for Baroda, I don't know much about it, but I have seen it before. I have seen England, Cawnpore, Neemuch, Jodhpore, the mountains of Simla, Mount Aboo, and Arabia. (Laughter.)

Q—If you answer my question you may see these places again. I repeat my question. A—Salim and Faizoo were after me for about two months. They asked me from time to time to come to the Maharaja and pay my respects to him.

Q—Why did you not go? A—I did not go, because I did not know how to go.

Q—You know if they wanted you to go they would have taken you and shown you the way. Why didn't you want to go? A—Faizoo and Salim said to me, "Don't you fear," and Salim said I should accompany Faizoo.

Q—Why were you unwilling to go? A—Because I had never been to the Maharaja.

Q—Was that the only reason? A—Yes; I had never been in Baroda before then.

Q—Do you know Damodhur Punt? A—No; I don't know anybody.

Q—Do you know whom I mean by Damodhur Punt? A—I do not know. I never saw him.

Q—Is it the truth that you were persuaded much against your will by Faizoo Ramzan to visit the Maharaja? A—That is true.

Ameena re-examined by Advocate-General.

Re-examined by the Advocate-General—You say that you made a statement to a vakeel. [Shown Mr. Cleveland.] Is that the vakeel to whom you made your statement? A—Yes; he heard what I stated, but did not read it.

Q—While you were in the hospital, did you see either of the Khan Bahadoors? A—No; I did not see anybody in the intervals.

Q—Did you see either of the two Khans? A—No.

Q—During that time, had you communications with any police officer? A—No. I was under a guard. How could I answer anything?

Q—What hospital was it you were in? A—The regimental hospital. The doctor of the regiment, whose name I do not know, and Dr. Seward came to see me.

Q—You say you saw the Khan Bahadoor, with a garrywan and a boy? A—Yes.

Q—Was that the first time you had seen the Khan Bahadoor at all about this matter? A—Yes.

Q—At that time where were you? A—On my cot in my room. I was sick.

Q—How many days had you been sick at that time? A—For about four or five days. Before that I was suffering from fever, and I had a liver-complaint.

Q—During the four or five days, had you been lying sick in your room? A—Yes.

Q—Do you know who the garrywan was who came with the Khan Bahadoor? A—I did not know him before he came on that occasion with the Khan Bahadoor.

Q—Do you know his name? A—It is some name like Tabba or Tabboy. I do not know the people hereabouts.

Q—Who was the boy? A—My own servant.

Q—Tell me, as nearly as you can recollect, what passed between you and the Khan Bahadoor upon that occasion? A—All that I said was that I was not able then to tell anything. In fact, I was afraid when I saw the driver and the boy, and I further said I would afterwards tell everything, and that it was true I had gone to the Maharaja upon three occasions.

Q—You say you were placed in confinement afterwards. Were you taken to any jail, or were you left either in your own room or in any other house? A—I was placed in another room in the same bungalow.

Q—What sort of confinement were you placed in? Were you simply under surveillance, or were you placed in custody of the police? A—I do not know the distinction.

Q—Were there any policemen posted in your room or posted outside? A—There was a sepoy at the door of my room.

Q—And you remained there until you were removed to the hospital? A—Yes. I did not see my husband after that.

Q—Do you remember seeing Mr. Souter on the same day that you first saw the Khan Bahadoor with the garrywan and the boy? A—I do not remember. I did not see him. I don't think I saw him.

Q—You were asked yesterday a good deal about your being frightened on your third visit to the Haveli. Were you really frightened? A—Yes.

Q—And you connected your fright with what you had heard from two men whose names you mentioned as Cazee and Kurreem? A—Yes.

Q—Were you frightened when you first heard what the Cazee and Kurreem said to you? A—I did not exactly understand at that time what these two men meant when they spoke to me.

Q—When did what they had said to you begin to frighten you? A—When I went on the third occasion to the Maharaja.

Q—Do you speak English? A—A little.

Q—Do you understand English? A—I do not understand difficult words.

Q—Were you in the habit of speaking English to your mistress, or was your mistress in the habit of speaking English to you? A—My mistress generally spoke Hindoostanee, but sometimes she spoke English to me.

Q—On any of these three occasions you have mentioned, did you obtain leave from your mistress to absent yourself? A—On two of the occasions I obtained leave from Mrs. Boevey to go out.

Q—You mentioned to Serjeant Ballantine that, after hearing statements from these two men, Kurreem and

Cazee, you mentioned the fact to Mr. Souter ?.A—Yes ; I mentioned these two persons' statements.

By the President—Do you know the drivers of the garries in which you went to the Maharaja's ? A—I do not know these drivers. It was at night when I went. I do not know their names. (Recollecting herself.) Yes ; I think I do recollect the name of one of them. Salim told me that the name of one of them was Sundul. That was when Salim told me to come to his house. He then said to me that Sundul knew his house. I had not seen Sundul at any time previous, but I saw him on the day following when he came to Kurreem Naik to ask for the fare.

Q—You have told us that you heard about the attempt to poison Colonel Phayre. Can you tell us how many days it was before you heard this that you had visited the Maharaja for the third time ? A—It was about twenty days or a month.

Q—Was it near the end of the month or earlier ? A— I do not remember, but it may have been ten or twenty days.

Q—Before you heard of the attempt to poison Colonel Phayre ? A—I do not remember how long it was before that, but it was in the month of Ramzan.

Sir Richard Meade—Put the question in another way. She went to the Palace in the month of Ramzan: how long was it after that that the attempt was made ? A—I cannot say how long, but I am quite sure I went to the Haveli before I heard of the attempt to poison Colonel Phayre.

This concluded Ameena's evidence.

FAIZOO RAMZAN, sworn, and examined by the Advocate-General, deposed—My name is Faizoo Ramzan. I was employed as a chobdar in the Residency here. I was so employed for about twenty years. I remember the time when the Commission was sitting in Baroda. I know ayah Ameena, who has just given her evidence. While the Commission was sitting, I accompanied the ayah to the Maharaja in the city. The time when I went with the ayah to the city was at night after nine o'clock. I went in a garry. I don't know who the driver of that garry was. Salim sowar told me he would send a garry, and the garry was found at a place near the school, where Salim, or rather Salim's man, had said it would be waiting for us. The ayah and I drove in that garry to the city. On the road we did not see anybody. In the city we met the Maharaja, but did not meet any one. When we got to the Chapani gateway the garry stopped. This gateway is near the new bazaar. It is one of the city gates. I and the ayah then alighted and found Salim the sowar, and we accompanied Salim to the Maharaja. We found the Maharaja in the Haveli upstairs. The Chapani gate is about 200 or 250 paces from the Palace. We entered the Haveli by a staircase in the direction of the Nuzzur Bagh, which is at the back of the Haveli and adjoining. The Nuzzur Bagh runs up to the wall of the Haveli. The front of the Haveli is to the public street. I went to the Haveli by a staircase adjoining the Nuzzur Bagh. This staircase is at the back of the Haveli. I went into the Haveli by flights of stairs, but it was night, and I do not remember whether I went up three stories or four stories. On going upstairs I and the ayah sat down, and Sowar Salim went to apprise the Maharaja of our arrival. As nearly as I can remember, in the place where we sat down, there was a stool or a bench, and I saw a large mirror on one side of me, but as it was night time I could not see well. The room was a small one. Just as we got to the top of the stairs we found this little place, a sort of sitting-place. This sitting-place was just in front as we got to the top of the stairs. While the ayah and I were sitting there, the Maharaja came to us after a little time. I knew it was the Maharaja because I used to see him when he came to the Residency, and I recognized him as the same Maharaja. After the Maharaja's arrival he sat down upon a bench, and I salaamed to him. The Maharaja said to the ayah, "You don't come to me." She replied, "I have no leisure or opportunity." The only other conversation that passed was, as nearly as I can remember, that the Maharaja said to the ayah, "Do you request the madam saheb to speak to the saheb in my favour, as many persons are making statements or representations." The ayah said she could not say anything in favour of the Maharaja to the madam saheb, but if there was anything else, she might speak about it or do it. I made a salaam to the Maharaja and said, "My son is a servant, and there are persons who are jealous of me and at enmity with me." After that some little talk took place, after which I left. I mean that after this conversation the ayah and I went away. To the Maharaja I represented that as my son was in the service of the Maharaja, therefore they bore enmity against me at the Residency. My son is a sowar in the service of the Maharaja, and was in the service of Khunderao. He is now about sixteen years old. He gets ten Baroda rupees, which is something more than eight Queen's rupees. Ever since his employment he has received that pay. I could recognize the cart-driver who took me to the city that night.

Examination of Faizoo Ramzan, the Residency chobdar.

(A man produced.) That is the garrywalla.

The garrywalla said his name was Khaba Poonjabhoy.

Cross-examined by Serjeant Ballantine :—

Q—Was that man pointed out to you before at the Residency ? No ; but he was in the habit of coming to the Camp and to the Residency. He was brought to me by Mr. Souter to identify him.

Faizoo cross-examined by Serjeant Ballantine.

The Advocate-General though that the witness's answer had not been quite fairly stated. Witness said that the man had been brought before him by Mr. Souter and he recognized him. This was very different from stating that the man had been brought to him and pointed out.

In answer to the President,

The witness replied—He was brought before me when I was before Mr. Souter, and I recognized him.

Cross-examination continued :—

Q—Were you examined by Colonel Phayre after this alleged attempt at poisoning ? A—Yes.

Q—Did Colonel Phayre speak to you upon the subject of the alleged poisoning case ? A—Yes. I said I knew nothing about the matter.

Q—Did you say you ever had paid a visit to the Maharaja ? A—I did not state that, as all the persons about the Residency bore enmity to me. I came to the Residency at seven o'clock in the morning, having remained in the city during the night, and this matter of the poisoning happened at six o'clock in the morning.

The Advocate-General—I am told that the witness said he did not mention the matter because the other servants accused him.

Serjeant Ballantine—This is a most important difference. (To the Interpreter)—Let us know the exact words he used in Hindoostanee if not in English.

The Interpreter, after repeating the previous question to witness—He says that the other servants bore enmity to him, and accused him of having done this thing.

Cross-examination continued :—

Q—Was that the reason why you did not mention your visit to the Maharaja ? A—Yes. I feared I might be accused.

Q—What became of you after you were examined by Colonel Phayre ? Did you remain in his service ? A—Two days after I was examined I was dismissed.

Mr. Melvill—It is not clear from his answer, whether he was examined two days afterwards, or whether he was examined on two consecutive days.

Cross-examination continued :—

Q—Were you examined by Colonel Phayre twice or only once ? A—After my statement was taken to Colonel Phayre, two days afterwards he sent for me. He took down my name on the second occasion, and asked me how long I had been in his service.

Q—Did he examine you upon any subsequent occasion ? A—Yes. Afterwards questions were put to me. I was asked who had incited me to do that, or who had spoken to me.

Q—Did Colonel Phayre mention the Maharaja in the course of any one of these examinations ? A—No; he did not mention the Maharaja's name. He only asked me who had incited me to do this.

Q—Did he ask whether the Maharaja had done so ? A—No ; he did not put me that question. He merely asked me to let him know who had instructed him to do this.

Q—Do you mean to say that he did not mention the Maharaja's name at all ? A—I was only asked to mention the name of the person who had instructed me to administer the poison. That is what I was asked from time to time.

Q—After the last examination by Colonel Phayre, what became of you ? A—I remained here in confinement.

Mr. Melvill—That is not a definite answer to the question. The question is, after the last examination what became of you ? How long, after he knew that the other servants were suspecting him, did he remain with Colonel Phayre ? A—I was put into confinement two days after this poisoning matter.

Cross-examination continued—Have you been in confinement ever since ? A—Yes.

Q—Where do they confine you ? A—I am now living in a tent.

Q—Guarded ? A—Yes.

Q—Are you in charge of Akbar Ali and Abdool Ali ? A—Yes.

Q—Do you know Rowjee Rama ? A—Yes.

Q—Do you know if he was one of the persons who accused you of poisoning your master ? A—Yes ; he was one of these persons. The whole of the people at the bungalow were against me. They were on one side, and I was on the other.

Q—I am curious to know how it was that you went to the Maharaja's with the ayah. Please relate all the circumstances minutely under which you went with the ayah to the Maharaja. A—I have already stated what occurred.

Q—Did she ask you to go, or did you ask her to go ? A—That sowar told both of us we should come in the evening. The sowar's name is Salim.

Q—Were you and the ayah together when Salim told you to come ? A—I and the ayah were standing at the Residency. Salim had been to the saheb with some fruit, and on his return he told us to come.

Q—What did Salim say ? A—Salim said, "Do you come there." He had been speaking to me frequently before that time about going, and I said, "What business have I to go ?"

Q—Is it true that you persuaded the ayah to go, and that she was very unwilling ? A—I did not persuade her. She is not a child that she should require anything of that kind. She went of her own accord. She could not be taken up and carried away in a man's arm.

Q—Is it true, as Ameena has sworn, that she was persuaded much against her will by Faizoo Ramzan to visit the Maharaja ? A—She may have stated what she thought proper to state. I make my statement.

Q—Is what she has said true or false ? A—We both went of our own accord. We were not taken by force.

Q—Why did you go ? A—I went because the ayah went.

Q—Was that the only reason ? A—Yes; otherwise I had no business to go. The ayah said, "I have been asked to go from time to time for a long time past. Let us go."

Q—What for ? A—I did not ask her for what purpose.

Q—Did you ever mention to any living being that you had been at the Maharaja's until you were examined on the 29th December by Mr. Souter ? A—No. I did not tell anybody that.

[The learned Serjeant here called the attention of the Court to the date just mentioned, the 29th December, which would have an important bearing in the case.]

Cross-examination continued :—

Q—Before you were examined by Mr. Souter, had you been told that the ayah had been examined ? A—No ; no one told me.

Q—Did you not know that she had been examined ? No ; I did not know.

Q—Did anybody examine you before Mr. Souter did ? Did Akbar Ali or Abdool Ali ? A—I was taken one day and made to stand up, and the garrywan was made to stand up in one place and I in another. The driver of the garry gave his evidence, and the ayah gave her evidence.

The Advocate-General (to the Interpreter)—Begin at the beginning of what he has stated, and then the Commission will understand how it is that he makes this statement.

The question was repeated.

Witness—The driver of the garry was standing at one place, I stood at another place, and the ayah was somewhere inside, because she was sick. We were standing outside. Then I admitted that I had gone to the Maharaja on one occasion. Some one said to me that the ayah said I had gone.

To the Court—Somebody said to me that the ayah had confessed that I had gone with her once. The garrywan made the same statement, and then I confessed.

Cross-examination resumed :—

Q—Did anybody at that time tell you that the ayah had confessed and stated that you had been with her ? A—No. Nobody told me so. I was taken to where the ayah was. I was placed on one spot, and the driver of the garry on another.

Q—What occurred when you and the driver were placed in position at the ayah's door ? A—Then I acknowledged that I had gone on one occasion.

Q—Did the ayah say anything in your presence ? A—No.

Mr. Melvill—I do not think you quite understand the question. The question is, "When you were standing at the ayah's door, did she say anything in your presence ?" A—No ; she did not say anything to me, but, as the two persons who had gone were there, I admitted that I had gone to the Maharaja's upon one occasion.

Cross-examination resumed :—

Q—Did you know that she had admitted it ? No ;

I did not know at that time. I lived at one place and she at another.

Q—Then why should you have admitted that you had gone merely because you had seen the ayah and the garrywan? A—As the witnesses had been found I admitted I had gone.

Q—Did you know that the witnesses had mentioned you? A—I did not.

Q—Was Akbar Ali there? A—No.

Q—Was Abdool Ali there? A—Nobody was near me at the time.

Q—Then to whom did you admit it? A—Akbar Ali was standing some distance off. The Rao Saheb was there.

Q—That is another policeman? A—Yes.

Q—When you three were placed in the way you have stated, did Akbar Ali say anything? What took place? Who spoke first? A—I spoke first; I acknowledged it. I said I went once.

Q—Without a word being said to you? A—Nobody said anything to me. People are not allowed to talk where persons are kept in confinement.

Q—When you said you went once, were any questions put to you? A—I was asked whether I had gone, and I said I had.

Q—Who asked you that? A—Rao Saheb.

Re-examined by the Advocate-General:—

Faizoo re-examined by Advocate-General.

Q—Where was it that you and the ayah and the garrywan were brought together in the way you have stated? A—In the hospital.

Q—From the time you were given into custody to the time you were taken into the hospital to the ayah, had you had any communications whatever with the ayah? A—No.

Q—Did you see the ayah in the hospital on that occasion? A—Yes.

Q—Did you on that occasion have any conversation with her? A—No.

Q—Did she make any statement in your presence? A—No.

Q—Did the garrywan make any statement in your presence? A—No.

Q—Neither ayah nor garrywan? A—Neither.

Q—Do you remember how many days it was after you had seen the ayah that you made your statement to Mr. Souter? A—It was on a Monday, the day on which Mr. Souter was about to leave.

Q—I want to know how many days after you had seen the ayah at the hospital you made your statement to Mr. Souter? A—I do not remember how many days it was.

Q—During the time that elapsed between your seeing the ayah at the hospital and making yonr statement to Mr. Souter, did you see the ayah or the garrywan, or did anybody tell you anything of what these two persons had said? A—No.

[The witness then stated for the information of the Court that he had been thirty years in the service of the British Government, and he knew the Maharaja Scindia well, although His Highness did not know him.]

The President—The Maharaja wants to know which Palace it was that the witness went to?

Witness—The Palace called the Haveli.

The President—Was your son taken into the service of the Maharaja at your request? A—At that time the present Maharaja was not on the Gadee. It was in the time of the late Maharaja. I made a request to the Resident, Colonel Wallace, about the time he was going to England, that I might be employed under His Highness Khunderao, as what I got at the Residency was not sufficient for my maintenance. Colonel Wallace then transferred me and another man to the service of the Maharaja Khunderao. Syed Hoosein was the name of the other man. I remained in the service of the Maharaja for two years, and after that Colonel Barr got me back to the Residency, and my son got my place in the service of the Maharaja.

The Court rose for half an hour.

The Commissioners re-assembled at about 3 o'clock. His Highness the Gaekwar was again absent from the afternoon sitting

KARBHAI POONJABHOY was the next witness called—and having been solemnly affirmed, was examined by Mr. Inverarity. He said—My name is Karbhai Poonjabhoy. I am a hack shigramdriver in the service of Ramchunder Hulwa, whose place is situated in the Baroda Bazaar, Camp. I know Faizoo, a chobdar at the Residency, because he was with the ayah when they went in my garry. It is a long time ago—about a year or a year and a quarter since they went in my garry. They got into the garry at a place near the school, and went to the Chapani gate. When they got there they told me to stop the garry and to remain there. This happened a long time ago. I don't remember exactly the hour, but I think it was about 8 o'clock, that is to say they got into the garry about 8 o'clock in order to be driven to where they stopped. It was at 8 o'clock at night. I saw them, after getting out of the garry, go into the city through the Chapani gate, but I don't know where they went after that. That is the road which leads to the Haveli. I stopped there as they told me to do. I was asleep when they returned. They awoke me, and got into the garry. I drove to the spot near the school, and they got out of the garry and walked towards the Residency. The Residency is on the north side of the maidan from the school.

Karbhai Poonjabhoy examined by Mr. Inverarity.

(Ameena ayah shown to witness.)—This is the woman I drove.

Cross-examined by Mr. Serjeant Ballantine:—

Faizoo cross-examined.

I came here from Barton Saheb's bungalow where I was in custody. There is a tent pitched there.

Q—Is that the place where Mr. Souter is staying? A—Yes; Mr. Souter puts up in the bungalow, but the tent in which I am kept is some distance from the bungalow.

Q—How long have you been kept in the tent? A—After the Maharaja was arrested, I was taken up—and I have been in custody ever since.

Q—What for? A—I am kept in custody in order that I may not communicate with any persons.

Q—Have you done anything except, as you say, driving these two people to the Palace? A—I have done nothing more than that—those persons got into my garry, and I drove the garry towards the Chapani gate.

Q—When did you first mention having driven either of these persons to any one? A—I informed my master that night that Faizoo and the ayah got into my garry, and that I drove them to the place which I have described. I did not inform anybody else.

Q—Had you known the ayah and Faizoo before? A—I had seen the ayah on the occasions on which I drove my garry to the Residency.

Q—Had you ever seen Faizoo before? A—I had seen Faizoo, but I had never spoken to him.

Q—When did you tell your master? A—On the same night when I returned with my garry.

Q—Now, were you present when Faizoo and the ayah were both of them present at the hospital and when Faizoo said that he had been driven by you? A—I

was asked to point out the ayah who had ridden in my garry, and I pointed her out at the hospital. I was then at some distance from her.

Q—Was Faizoo present at that time? A—He was present, but at a distance from me.

Q—Did you point him out? A—Yes; I pointed out Faizoo.

Q—How did you point him out? A—There was some person who serves under Mr. Souter.

Q—Akbar Ali? A—Yes. Akbar Ali Khan Saheb.

Q—And was it to Akbar Ali that you pointed out Faizoo? A—Yes.

Q—Did Faizoo hear what you said? A—No; he did not hear what I said, because he was at a distance from me.

Q—Did he see you point him out? A—I don't know whether Faizoo observed me pointing him out, but I did point out Faizoo.

Q—How far was Faizoo off at the time you pointed him out? A—As far as from here to the hedge outside there (about 60 feet).

Q—Had you not pointed him out before? A—No.

Q—Never? A—I had no occasion to point him out, and therefore I did not point him out.

Q—Why didn't you go a little nearer? A—I was told to look at him from where I was at the time.

Q—Were you told that he was there? A—Just before I pointed him out I was asked if I could recognize him. I was asked this, "Did he go in your garry?"

Q—Do you mean that nobody pointed him out to you, and asked you whether he was the person? A—"See if you can recognize that man as the man who went in your garry," that was what was said to me.

Q—Was there any woman there but the ayah? A—There was no other woman there at the time. I did not see any other woman. The ayah was inside.

Q—And the only woman there? A—Yes.

Q—I suppose your master is not in custody, too, for letting the carriage? A—No; he is not in custody.

Q—Has he been to see you? A—My master has to look after four garries, and also to collect outstandings, and he has no leisure to come and see me.

Q—I ask you simply whether you have seen your master since you have been in confinement? A—No.

Q—Did you tell Akbar Ali, or any of his officers, that you had told your master that you had driven these people? A—No; I did not tell anybody.

Q—I am rather curious to know. But do you expect to get out of prison, or out of confinement, or what? A—That will depend upon the order made by the Sircar.

Q—Have you been told that it depends on this case your getting out of prison? A—No. Nobody said anything of the kind to me. I was told that I would be liberated by the Sirkar's order.

Q—You were told you would be liberated by the Sircar's order? when? A—After the witnesses are done with; after this business is over.

Q—I suppose Akbar Ali told you to be sure to tell the truth? A—No; Akbar Ali did not ask me anything. My statement was taken by my saheb.

Q—Who is your saheb? A—Mr. Souter. He merely took my statement.

Q—Was anything said to you about getting out of confinement by Mr. Souter? A—No; Mr. Souter did not say anything, but he said this to me, that when the Sircar's business would be over I would be set free.

Re-examined by the Advocate-General:—

Faizoo re-examined.

Q—Just tell us what sort of confinement it is that you are kept in? A—It is no confinement at all. I am supported by the Sircar. I sit there. There is no remedy against an order of the Sircar. (Laughter.)

Mr. Serjeant Ballantine—He did not exactly call it a pleasure to be there.

The Advocate-General—You don't object to being kept there now?

Witness—As long as ever the Sircar may keep me.

Mr. Serjeant Ballantine (to Interpreter)—Is he a married man? (Laughter.)

Witness—No; I am not.

Mr. Serjeant Ballantine—Then, that accounts for it.

Witness—Oh, I forgot. Yes; I am a married man. (Loud laughter.)

The witness then retired.

Shaik Kurreem, Residency peon, examined.

SHAIK KURREEM, the next person called as a witness, was examined by the Advocate-General, and said—I am a peon or pattawalla employed under Mr. Boevey, who was Assistant Resident here. I was in his service when he went to Nowsaree last year. He returned from Nowsaree at the beginning of the rains. After my return from Nowsaree I remember going with the ayah Ameena to the Maharaja. According to my recollection that would be within eight days after my return. It was at about 8 o'clock in the evening. I and the ayah went from here in a garry. The ayah had desired me previously to call a certain garrywalla, a man named Sundul. I did so, and he brought the garry to a place near the school, where I and the ayah got into it. The ayah told the driver of the garry to go to Salim's house. I believe Salim is a jasood in the service of the Maharaja. When we got to within a short distance from Salim's house, Sundul, the driver of the garry, went to call Salim. Salim joined us, and got into the garry with us, and we all three went to the Haveli in the garry.

Q—What do you call the Haveli as distinguished from the other residences of the Maharaja?

Witness—It is near a place called the Mandvee in the city. It is close to the tower. When we got to the Haveli, Salim took me and the ayah upstairs to the Maharaja. We went up by the back of the Haveli through a door at the back of the Haveli. The Nuzzur Bagh adjoins the entrance through which we entered into the Haveli.

The Advocate-General—How do you get to this door at the back of the Haveli from the public street?

Witness—There is a haveli on one side and a haveli on the other side, and we go under a covered way, and passing through that covered way we get to the back of the Haveli and to the door through which we entered. Having entered by this door Salim took us upstairs. I know to what part of the Haveli we were taken. We went through two rooms, and we were told to sit in a third room, as the Maharaja was not there at the time.

The Advocate-General—Do you know on what story of the Haveli these rooms are situated?

Witness—I did not count the storeys. It was in the night time; there were two or three staircases, I think. The room in which we sat was situated on the storey above those two rooms through which we had passed.

The Advocate-General—And how was that room in which you were told to sit situated with reference the stair case? Did you go into the room direct from the stairs?—that is what I want to know.

Witness—I had to turn when I got to the top of the stairs to get into the room. When we were there on one came. I did not find any one there. I did not see the Maharaja on that occasion. The ayah remained with me all the time I was there. I remained there

about three-quarters of an hour. From that room I, the ayah, and Salim went to the Maharaja.

The President—Most likely it is in connection with the room downstairs that the witness has been speaking. It might be just as well to ask him again.

The Advocate-General—In which room was it that you saw the Maharaja?

Witness—When we got to the top of the stairs we saw the Maharaja sitting on a bench close to the stairs.

The Advocate-General—Where was this place where you had to turn on getting to the top of the stairs?

Witness—After we left that room or place we went up another flight. The place where we had to turn was between the place where we were waiting and the room in which we saw the Maharaja. When we got upstairs to the third room we found the Maharaja sitting on a bench. The ayah sat down and conversed with the Maharaja. I stood aside. I took no part in the conversation. No one else besides the Maharaja and the ayah joined in the conversation. There was no one there except the ayah, myself, and Salim. I I heard what the conversation was about. The ayah commenced speaking about the Nowsaree wedding. The Maharaja asked the ayah whether the saheb was angry with him on account of the marriage taking place. The ayah thereupon said, "I cannot say anything now, but when the madam saheb comes I will explain things to her." (Mr. Flynn—Meaning to talk her over. The word used is *samjao*.) The ayah further said that she did not go to the saheb's room at that time.

Mr. Melvill (to Interpreter)—He said, "She did not go to the saheb's room." There is nothing about "at that time" there.

Mr. Flynn—Yes.

Mr. Melvill—I did not catch it

(Question repeated.) Witness—She then said, "I don't go to the saheb's room. When the madam saheb comes I will speak to her and explain things to her."

The Advocate-General—Do you remember any further part of the conversation?

Witness—The Maharajah addressed me and said, "Do you explain matters to your saheb." I said, "My saheb does not or will not attend to anything I may say to him—in fact he does not mind anybody. He does what he thinks proper in his own mind." (A laugh.) I had no further conversation with the Maharaja. We were at the Haveli about an hour altogether. We then went downstairs, and we all came here to the Residency. The ayah told me on the following day to go to Yeshwuntrao, and that I will get a present on the occasion of the marriage. I knew Yeshwuntrao. Every fourth day he used to come to the Residency with a basket of fruit from the Maharaja's place as a present for the Resident. I went to Yeshwuntrao, as the ayah told me. Salim was there, and Yeshwuntrao was there—nobody else. I got a present. Salim gave me Rs. 200, and said to me, "Do you keep Rs. 100 for yourself, and give the ayah the other one hundred rupees as a present on account of the Nowsaree marriage." I kept the Rs. 100 for that night, and at 6 o'clock of the following morning I took the Rs. 100 with me and gave them to the ayah.

Cross-examined by Mr. Serjeant Ballantine:—

Shaik Kurreem cross-examined.

Q—Did you give these rupees to the ayah in the presence of her husband? A—Yes; in the presence of her husband.

Q—Now, after this attempt to poison, were you examined by Colonel Phayre? A—Yes; I was.

Q—That would be about the 13th November. I suppose there will be no disputes about these dates.

The Advocate-General—Oh, no.

Mr. Serjeant Ballantine—You were examined by Colonel Phayre? A—No; not by Colonel Phayre, but by Mr. Boevey.

Q—Was Colonel Phayre present? I suppose that would be the same thing? A—No; Colonel Phayre was in his office at the time.

Q—Was what you said read over to you by Colonel Phayre? A—No.

Q—And did you say nothing whatever to Mr. Boevey about these visits to the Maharaja? A—No; I didn't say anything to Mr. Boevey about that.

Q—Were you asked questions about Salim? A—Yes.

Q—Were you asked questions about the Maharaja? A—No.

Q—Did you tell Mr. Boevey that you were not on good terms with the Maharaja's Arab sowar Salim? A—Yes; I said that.

Q—Did you say that Salim once asked you, while the Commission was sitting, to give him information about Bhow Pooniker? A—I did tell Mr. Boevey that Salim had said to me that should I communicate what might pass I would be rewarded for it.

Q—Did you tell Mr. Boevey that you had told Salim that you would tell your master if he made any such overtures to you? A—Yes; I did.

Q—Did you tell him that since that time Salim had shown enmity towards you, and that when the Resident went to Muckenpoora he (Salim) would not let you sit in the bullock cart? A—Yes.

Q—Now, did you tell him, also, that you had had a quarrel with Salim on that account? A—Yes. I said that I had had a quarrel with him at Muckenpoora, and that it was on account of my not agreeing to furnish information as asked for by him.

Q—At the time you were giving this account to Mr. Boevey, why did not you mention these visits to the Maharaja? A—I was afraid that I should be accused of something in reference to the poisoning, and therefore I did not tell him.

Q—Are you in confinement now? A—Yes; I am.

Q—How long after you had given this statement to Mr. Boevey was it that you were put into confinement? A—About a fortnight after I made that statement. I don't remember the exact statement.

Q—Did you afterwards make a statement to Mr. Souter? A—Yes.

Q—When you made that statement, did you tell Mr. Souter all you knew? A—Yes; I told him all that I knew.

Q—Now, is this what you told him—"Last hot weather I accompanied the Assistant Resident to Nowsaree. A few days after his return to Baroda, the ayah Ameena, lately in the service of the Assistant Resident, accompanied me to see the Maharaja. We took a bullock shigram at the school, and started about 8 o'clock at night. We first went to the house of Salim sowar, who getting into the shigram took us to the Haveli, and we all three were conducted by the private entrace to the presence of the Maharaja, who was upstairs. The Maharaja, Salim, and the ayah talked privately together for about an hour. There was no other person present. We returned to the Residency about eleven o'clock?" A—Yes.

Q—Now, did you say one single word about having heard one single part of the conversation? A—I heard the ayah relate what I have stated as to the Nowsaree marriage.

Answer my question—Did you, when examined by Mr. Souter, mention one syllable of the conversation? A—I did.

Q—Did you mention to Mr. Souter what you now

say you heard pass between the ayah and the Maharaja? A—I did tell Mr. Souter.

Q—Have you been examined more than once by Mr. Souter? A—Only once.

Q—Was what you said taken down? A—Yes.

Q—Was it read over to you? A—Yes; and Mr. Souter asked me if it was correct, and I said it was.

Mr. Serjeant Ballantine (after speaking in a whisper to Mr. Scoble)—I was just asking my learned friend as to a question of practice out here. This (a copy of the witness's statement made to Mr. Souter) is in English. I cannot put it into witness's hands as I could in England, and therefore my only course is to have it read to him, and then have it translated, and then ask him the question.

Mr. Serjeant Ballantine (to Interpreter)—Tell him (the witness) that what I have put to him is that which has been taken down, and ask him whether he still persists in saying that he told this conversation to Mr. Souter. I have not referred to the money matter that appears in the last paragraph. I merely refer to the subject of this correspondence.

Witness—I did mention to Mr. Souter what passed between the Maharaja and the ayah regarding the Nowsaree marriage.

Q—And it was read over to you? A— Yes; he read over the statements I made.

Q—And the conversation between the ayah and the Maharaja?—that is the point I am on—the conversation that you allege you heard between the Maharaja and the ayah? A—No; I did not hear him read this out.

Q—Well, I don't know—it's useless enquiring. How came you just now to declare that you did; how came you to declare that Mr. Souter read out to you the conversation that was held between the Maharaja and the ayah?

The President—He did not say that; what he said was that he was examined by Mr. Souter and his statement was taken down.

Mr. Serjeant Ballantine—I think——

The President—(reads from his notes)—"I did mention the conversation between the ayah and the Maharaja to Mr. Souter. I was only examined once by Mr. Souter; it was taken down and read over to me."

Mr. Serjeant Ballantine—It is no use asking that question.

The President—It's rather a matter for comment.

Mr. Serjeant Ballantine—Simply a matter for comment. Just a word or two more. Have you seen Akbar Ali since yesterday, or Abdool? A—Akbar Ali is here.

Q—I know that as well as you do. I want to know whether you saw him to speak to since yesterday? A—No; there is no opportunity to speak to him, because the police are there. (A laugh.)

Q—Under Mr. Souter, Akbar Ali is the head of the detective branch of the police. I will just ask you this question—What took you to the Palace to see the Maharaja?—you were not friends with Salim, you know. A—The ayah took me there.

Q—But what for? A—In order to get a present paid to me on account of the Nowsaree marriage.

Q—You are Kurreem Naik, are you not? A— Yes.

Q—Well, now, I will tell you what the ayah says. She says that she went on this occasion because you and Salim asked her to go. A—Not so; we did not meet Salim.

Q—That is not the question. What I call your attention to is to what the ayah said—the ayah said yesterday that she went because you and Salim had asked her to go. A—That was not so. She is not a child for me to take her with me to the Palace. (A voice at the bar —"She is not a child by any means.") I went because she went.

Kurreem re-examined.

Re-examination by the Advocate-General—Have you spoken to the ayah since yesterday? A—These persons are kept separate from me.

Q—Have Akbar Ali and Abdool Ali, or either of them, spoken to you about the evidence the ayah gave? A—I have not seen either the ayah or anybody else to get the information.

The Advocate-General—I suppose the Commission will scarcely take another witness to-day. It is now 4 o'clock.

The President—No; I think not.

The Commission then rose for the day.

THIRD DAY, THURSDAY, FEB. 25, 1875.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, Shantaram Narayen, and Wassudeo Juggonnath, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esq., Bombay Civil Service.

Interpreters:—James Flynn and Nowrozjee Furdoonjee.

His Highness the Gaekwar was present, and occupied a position on the left of the Commission.

Colonel Sir Lewis Pelly, K.C.S.I., occupied a position on the right of the Commission.

The Court met at eleven o'clock.

Serjeant Ballantine brought it to the notice of the Commission that he had been informed that Mr. Flynn, the interpreter, did not give the full answers of witnesses, and he had to request that Mr. Flynn might give the exact words used by the witnesses in the course of their examination. He did not mean to cast any reflection upon Mr. Flynn, as he knew it was the custom of interpreters in England to give what they considered an answer, and not the entire reply of witnesses.

The President considered that Mr. Ballantine's request should be complied with.

The proceedings then commenced.

Sundul Bukhtiar Khan's examination. Sundul is the garrywan who drove the ayah to the Palace.

SUNDUL BUKHTIAR KHAN, examined by Mr. Inverarity—My name is Sundul Khan Bukhtiar, and am in the employment of Shah Mahomed Bhaka. I know Mrs. Boevey's ayah. I do not know her name. She is a woman. (Laughter.) I know Mr. Boevey's puttawalla Kurreem. I have driven these two people out towards the city from the maidan called Peer Pathar. It is near the place called Burra Pathar, the boundary between the Gaekwar's territory and British territory, and near the school. I drove to the city to the house of Salim. Kurreem Buksh told me to go to Salim's house and call him out. Salim is a sowar of the Maharaja's.

The President—Did he say Kurreem *Buksh*?

Mr. Flynn—Yes.

Witness—I know him because he was in the habit of coming to the Residency. Kurreem took hold of the

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reins of the garry while I went and called Salim. Kurreem, the ayah, and Salim went in the garry. Salim came when I called him and got into the garry with Kurreem and the ayah. We then drove to the Sircar Haveli. It is close to the Clock-tower. I drove the garry through a way between the two havelies, and stopped the garry near the staircase at the back, in the Nuzzur Bagh. When we got to the entrance of the Nuzzur Bagh, the ayah, Kurreem, and Salim alighted and went upstairs, while the garry remained there standing. I got out of the garry, and went to sleep on one of the steps of the staircase. (Mr. Flynn—Or he may mean "I lay down.") Salim, Kurreem, and the ayah—all three—returned, and when they returned the sentry awoke me. It was near twelve or one o'clock when I was awoke at night. I started from the Peer Puthar with the garry at half-past nine, and they got into the garry at ten o'clock. I drove the ayah and Kurreem back again to the Peer Puthar Maidan. I do not remember the time of the year when this occurred. I do not know whether it was in the monsoon season, or before, or after, but at the time I went it was raining a little. I don't recollect exactly, but it must have been eight or ten months ago. I think it was either eight or nine months, according to my memory. Kurreem Buksh paid me for the garry. He paid me at 6 o'clock in the evening of the following day. Mr. Beevey's peon is named Kurreem Buksh. (Mr. Beevey's peon brought into Court and shown to witness.) This is the same man.

Sundul cross-examined.

Cross-examined by Serjeant Ballantine—When did you first make your statement to any one? A—The Bombay Police came here and made enquiries to get information.

Q—Will you answer my question? When did you first make this statement to any one? A—I first made it in the presence of Mr. Souter.

Q—When? A—When the Bombay Police arrived here and were making inquiries.

Q—When? A—I am an ignorant person. I do not know how to write or read. I do not remember.

Q—Was it last night? A—No.

Q—Was it the night before? A—It was on the day on which the Bombay Police arrived.

Q—How long is that ago? A—About two or three months ago.

Q—You made it to Mr. Souter? A—I made the statement to Mr. Souter, but I requested he should not publish it, I being afraid of my life, and a resident in a foreign country. I requested him not to say anything about it in the Assembly or Council.

Q—Was it taken down? A—No.

Q—Were you put into confinement? A—No.

Q—Have you been in confinement? A—No.

Q—Are you in confinement now? A—No.

Q—Have you never spoken to anybody about it since that time? A—A saheb sent for me at night, and took down what I had to say. That is the saheb (pointing to Mr. Cleveland).

Q—Was that last night? A—Yes.

Q—Was anybody present beside Mr. Cleveland? A—No.

Q—Do you speak English at all? A—No.

Q—What language did you speak to Mr. Cleveland in? A—There was a havildar near him. I do not know in fact whether he was a havildar or not, but he explained to the saheb.

Q—Do you know Abdool Ali? A—No.

Q—How is it you remember that the time you took them from the Palace was either at twelve or one o'clock? A—Why should I not remember? I was paid my money.

Q—Which was it, twelve or one? A—I had no watch. It was either twelve o'clock or one o'clock.

Q—Cannot you remember within an hour when it was? A—No. I cannot remember. It was a dark night, but I believe it was either twelve or one o'clock. (Abdool Ali was here identified by witness as the man who interpreted at Mr. Cleveland's.) This man put questions to me, and what Abdool Ali said to Mr. Cleveland, Mr. Cleveland took down.

Q—What questions did Abdool Ali ask? A—I recognized him as a havildar. I did not know his name.

Q—What questions did Abdool Ali put to you? A—Tell us the conversation. He caused the saheb to take down all that I stated.

Q—What questions did he put? A—Abdool Ali said to me, the saheb wants to know who hired your garry.

Q—Did he tell you when? A—He did not say when, but it was either eight or nine months ago.

Q—Did he ask you who hired your garry? Did you ask him when he meant? A—Yes.

Q—What did he say? A—The answer he gave was this: "At the time when Kurreem Buksh and the ayah went in your garry."

Q—What did you say to that? A—I said it was either eight or nine months ago that they went.

Q—Had you known the ayah before? A—No.

Q—Had you known Kurreem before? A—Yes; I used to see him about the bazaar. I knew him.

Q—Had you ever driven him before? A—No.

Q—Have you seen Kurreem since? A—I have not seen him.

Q—Did you see him last night? A—No.

Q—Or this morning? A—No.

Q—Did Ali Abdoola tell you what Kurreem had said yesterday? A—No.

Q—Where were you last night? A—I slept at my own house.

Q—Are any policemen there? A—No.

Q—Do you mean to say you have never been in confinement? Remember you have already stated that you have not. A—I was never in confinement.

Q—Not at any time? A—No. (Recollecting himself.) Yes, one day. The first day that my statement was taken I was in confinement.

Q Were you liberated when you mentioned Kurreem Buksh? A—Yes. I was not actually in prison. I had my belt on. I and all came from the Residency, and Khan Bahadoor was present.

Q—As I understand you now, you did not mention Kurreem Buksh at first? A—I mentioned Kurreem Buk 's name afterwards, when I was told that what I said would not be published.

Mr. Melvill—I think the witness said, "If my depositions were not taken."

Interpreter repeated the question—I was unwilling to give evidence.

The Advocate-General (to Interpreter)—The witness made a significant sign with his hands. I wish you would ask him what he meant.

Interpreter put the question.

Witness—I was afraid of my life.

Mr. Serjeant Ballantine—As I understand, you made this statement some months ago? A—Yes, about two months or two months and a half ago.

Q—Was that made to Mr. Souter? A—Or two months and a half or three months ago.

Q—Never mind, was that made to Mr. Souter? A—To Mr. Souter.

Q—Was anybody else present? A—No one was present.

Q—Did you then tell Mr. Souter anything about your driving the ayah or Kurreem? A—I first made

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arrangement with Mr. Souter to save my life. I forced him to agree that he would not publish what I would state, so that he would not mention me or make me known.

Q—Did you upon that occasion mention the names of either the ayah or Kurreem? A—I mentioned the ayah's name. I did not mention Kurreem's name. I mentioned the ayah, but I did not mention Kurreem.

Q—What did you say about the ayah—how did you mention her? A—I merely said the ayah went to the city.

Q—But I thought you did not know the ayah? A—I know her now.

Q—But you did not know her then? A—Yes; I knew her then.

Q—Did you know who she was when you saw Mr. Souter? A—I knew at that time that she was Mr. Boevey's ayah.

Q—How did you know that at that time? A—Because she lived at Mr. Boevey's.

Q—Had you ever seen her there before? A—Yes; I had seen her.

Q—And did Mr. Souter then ask you if Kurreem had gone with her? A—No.

Q—Then, how came you to make a bargain with Mr. Souter? Was not he satisfied, or what? A—I was afraid of my life.

Q—Who were you afraid would take it? The ayah, or Kurreem, or who? A—My fears were with reference to the Gaekwar's side, I being a native of a foreign country.

Q—And then you were confined that night, were you not? A—No; I was not confined.

Q—Not at all? A—No; not at all.

Q—At any time? A—Not at any time. I was taken to Mr. Boevey's bungalow.

Q—Were you kept in confinement, sir, until you mentioned Kurreem's name? A—No.

(To interpreter)—Just remind him of what he said before, and tell him that he can give any explanation he pleases.) (To witness)—Now what you stated is, "I did not mention the circumstances about Kurreem, and was confined. I was released when I told about Kurreem." A—After I had made an arrangement about my life, I told my whole story.

(To Interpreter)—Ask him whether it is true, as he stated before, that he was confined until he mentioned Kurreem's name, and then he was released?

Mr. Scoble—Will your Lordship (the President) refer to the notes as to that?

The President—"I did not mention about Kurreem Buksh. I was liberated when I mentioned about Kurreem Buksh."

(Short-hand writer's notes referred to.)

Mr. Serjeant Ballantine—That is substantially what he said.

Cross-examination continued:—

Q—How came you to see Mr. Souter on the first occasion? A—When the Bombay Police came, enquiries were made with regard to this case.

Q—Did you go to Mr Souter, or did he come to you? A—When the Bombay Police came, enquiries were made regarding this case.

Q—Did you go to Mr. Souter, or did he come to you? A—I went to Mr. Souter.

Q—Did you go alone or did somebody take you? A—Syed Ountwalla, a camel man, took me to Mr. Souter.

Q—Who is he, is he a camel driver? A—He had a camel formerly, not now.

Q—Do you know that he is the man who made a charge against the Gaekwar? A—I don't know.

Q—What is the Syed's other name? A—Saaduk Alli

Re-examined by the Advocate-General—When you first went to Mr. Souter, you say it was with Syed, a camel driver? A—Yes.

Sundul Khan re-examined by Advocate-General.

Q—What passed between you and Mr. Souter when you went to see him with this camel man? A—I was asked what I had to state.

Q—Did you make a statement? A—Yes.

Q—What did you state? A—I said Kurreem came to me at 6 o'clock to hire my garry. Kurreem Buksh having come to hire the garry, it was taken to the Peer Puthar Maidan at half-past nine. I said that the ayah and Kurreem came, that they got into the garry, that the garry was driven to the city, that they went in the garry to Salim's house in the city, that when they arrived close to Salim's house Khureem Buksh desired me to go and call Salim, that I gave the reins of the garry into Kurreem Buksh's hands and went to call Salim, that Salim came from his house, and Salim, Kurreem, and the ayah got into the garry, and that they all went to the Sirkar's Palace.

Q—I am only asking now as to what you said to Mr. Souter on the first occasion. A—That is what I told Mr. Souter on the first occasion. I said that we went to the old Haveli, close to the Nuzzer Bagh, and that the garry was stopped near the staircase in the rear of the Haveli; that Kurreem, the ayah, and Salim alighted and went upstairs; and that when they left I went to sleep.

Q—You made all these statements to Mr. Souter? A—Yes.

Q—Tell me when you made your agreement with Mr. Souter about your statement not being published? A—About two months or two and a half months ago, when the Bombay Police arrived.

Q—I want to know, in relation to the statement you have just made, was it before or after you made that arrangement, that your statement was not to be published? A—After I had made my statement, I made the arrangement.

Q—How long after? A—This was at the same time.

Q—At the same interview?

Serjeant Ballantine objected to the question.

The President did not think it was necessary to put the question.

Re-examination continued:—

Q—Why did you make that arrangement with Mr. Souter? A—Because I was afraid of my life.

Q—And you say you were in confinement upon that day? A—No.

Q—Then when were you in confinement, if at all? A—I was not in confinement. I was brought from the Residency to Mr. Boevey's bungalow to point out the ayah and Kurreem Buksh.

Q—Was that before or after you made your statement to Mr. Souter? A—Afterwards.

Q—Did you point out the ayah and Kurreem? A—Yes.

Q—To whom? A—To Mr. Souter, Mr. Boevey, and the Khan Saheb.

Q—When you had pointed them out, what happened to you? A—I was allowed to go away.

Q—From that time to this you have never been in confinement at all? A—No.

Mr. Serjeant Ballantine stated that his clients were supplied some time ago with all the evidence that they understood the prosecution were going to bring forward before the Commission. But this witness's name was only given to them this morning, and under the circumstances he asked the Commission to allow him to put a few more questions to the witness.

Mr. Serjeant Ballantine again cross-examines Sundul.

Cross-examined by Serjeant Ballantine :—

Q—Is the person you call Syed the same man as Saaduk Ali ? A—Yes.

Q—D d he come from Ahmedabad ? A—I do not know.

Q—What had he to do with this case ? Why did he come to you ? A—He was sitting in his house and there was some talk as to the Bombay Police having arrived.

A—How came he to take you ? What had he to do with it ? A—I happened to say that I would point out.

Q—Point out whom ? A—That I would point out to Mr. Souter that such-and-such persons had gone to the Sircar's Palace.

Q—Did you tell Saaduk that you would point out Kurreem and the ayah ? A—Yes ; I said I would give the clue to the case.

Q—Attend to this question, and think a little before you answer :—Why, if you were afraid of your life, did you mention to Saaduk that you knew these persons and would name them to him. A—It was stated that no clue to this case could be got.

Q—Who stated that no clue to this case could be got ? Was it Saaduk ? A—Yes.

Q—Have you seen Saaduk lately ? A—No. (After a short pause)—Yes.

Q—Do you mean no or yes ? A—Yes ; I have seen him.

Q—When did you see him ? A—He lives in the Camp. I saw him fifteen or sixteen days ago.

Q—Have you seen him about this matter ? A—No.

Q—Do you know whether he is assisting to get up this case ? A—I do not know.

Q—Do you understand that you gave the first clue ? A—I told Saaduk Ali, and Saaduk Ali took me to Mr. Souter.

The President—We should like to know what you mean by saying you were afraid of your life. A—Because I was a resident of a foreign country. I had heard that Bhow Scindiah had been trampled to death by an elephant.

By Sir Dinkur Rao—As you say you are a resident in a foreign country, how is it you come to know Kurreem, and the ayah, and Mr. Boevey ? A—I have been a servant here for three years.

Q—How is it you know about Bhow Scindiah ? A—There was a court held, and gentlemen assembled, and I heard what had passed.

Q—Well, how is it that you were afraid ? A—When such a great man as that person whom I have mentioned was put to death, I, a poor man, thought I would have been at once rammed into a hole.

[Here Mr. Nowrzjee Furdoonjee relieved Mr Flynn of the duties of interpreting, Mr. Flynn feeling unwell.]

CHOTOO, sworn, and examined by the Advocate-General, deposed—My name is Chotoo. I am in the service of the ayah of the burra saheb. I mean Ameena, Mrs. Boevey's ayah. I have been in her service four months from this time. I remember going into the city with her upon one occasion. I think this was two or three months ago. I cannot fix the month or the date. It was in the month of Ramzan. It was in the night time, about nine o'clock, when I went with the ayah. I went in a garry belonging to a Mahomedan driver named Daood. I got into the garry near a banian tree on the maidan. Besides the ayah there was nobody but myself and the driver. The ayah's husband brought the garry. He was with the garry at the time we came up to it. The ayah and I got into the garry. We went to a place called the Arab Khana, a short distance from the Mundai and the Haveli. When we got to the Arab Khana we saw Salim. Salim is a sowar. I did not know him before. I know him now because during the time I was in the ayah's service he was in the habit of coming with the Sirkar's sowars to the Residency. He used to come to the ayah's room for the purpose of drinking water. We went into the Haveli in front of it. Near the Nuzzur Bagh. When we got there I don't know what became of the ayah, whether she went upstairs or downstairs. Salim took the ayah with him. I don't know where they went. They remained absent from the garry a short time, and after they left I went to sleep with the garry-driver. I was woke up by the ayah or Salim, and I went back with the ayah to her house. Before I went with the ayah on this occasion, I had been four or five months in her service. I fix the time I previously mentioned from this date.

The ayah's servant Chotoo, examined by Advocate-General.

Cross-examined by Serjeant Ballantine :—

Chotoo cross-examined by Advocate-General.

Q—Have you been in confinement ? A—No.

Q—Not at all ? A—No. A sepoy followed me, and I slept at the Khan Saheb Akbar Ali's. I do not know his name.

Q—Have you ever been followed by a sepoy before ? A—No.

Q—What does he follow you for ? A—Since all these persons were brought to the tent they are followed by sepoys.

[Here Khan Saheb Akbar Ali was identified by Chhotoo.]

Q—Who live in the tent beside yourself ? A—All the men.

Q—Do you mean the witnesses ? A—Yes.

Q—Are they allowed to associate together ? A—No. Since the day before yesterday they are apart.

Q—Were you all together before the day before yesterday ? A—Yes.

Q—Do you know why it was that you were parted the day before yesterday ? A—Because they were examined, or their depositions were taken.

Q—Do you know Rowjee ? A—I know that Rowjee who lives at our place.

Q—Does he live in the same tent ? A—He is separated from the witnesses.

Q—Is he with anybody ? A—He is with the Khan Saheb Akbar Ali.

Q—Is he always with him ? A—Ever since they have been taken up.

Q—When did you first make statements of your evidence ? A—When they were taken up.

Q—Two months ago ? A—Very likely two months ago.

Q—Have you had it read over to you since ? A—No.

Re-examined by the Advocate-General :—

Chotoo re-examined by Advocate-General.

Q—What witnesses are with you in your tent ? A—The garrywallas and we.

Q—Who are "we ?" A—The garrywallas and myself.

Q—What garrywallas are there ? A—Those that are here.

Q—What are their names ? A—I only know the name of of the garrywalla of the garry in which I went.

Q—Do you know the name of any other ? A—No ; I don't.

Q—You have said that since the day before yesterday the witnesses were apart ? A—Yes.

Q—Who have been kept apart ? A—The ayah and the two witnesses who gave their evidence.

Q—Do you mean that those who gave their evidence were kept apart from those who had not ? A—

I mean to say that those witnesses who have given their evidence have been kept apart from those witnesses who have not given evidence.

SHAIK DAOOD, sworn, and examined by Mr. Inverarity—My name is Shaik Daood. My father's name is Shaik Kail. I am a shigram-driver. I do not know Mr. Boevey's ayah well, but when I used to go to the Residency I saw her there and knew her by sight. I know the boy Chotoo. I do not know the ayah's husband well. I know him sufficiently to recognize him and make salaams to him. I have driven the ayah and her servant. I don't know the date. It was before the last Dewalee two or four days. I drove the ayah and Chotoo from a place twenty paces from Dadabhoy's shop. I stopped the garry near the banyan tree. Dadabhoy's shop can be seen from the Court House. I drove the ayah and the boy to the city, to the Arab Khana, where the Sircar's guard is stationed. The ayah said to me, "Go and call Salim." I then brought Salim who was close to the Arab Khana. Salim and the ayah went to the Haveli, which is on the right hand side of the old Haveli. The Arab Khana is contiguous to the Haveli. I stopped with my garry near the well and durgah. I took the cushion from the garry and rested on it and went to sleep. Salim awoke me. The ayah was with Salim when he awoke me. I got up and put the bullocks in the garry, which I turned towards the Camp. I drove the ayah and Chotoo back. I was told to bring my garry to Dadabhoy's shop by a butler who lived in the Resident's bungalow. I do not know his name. He was a Mahomedan. (Shaik Abdoola was here recognized by witness.) This was the man.

Shaik Daood, shigram-driver, who had driven ayah to the Palace, examined by Mr. Inverarity.

Cross-examined by Mr. Serjeant Ballantine :—

Q—Have you a sepoy in attendance upon you? A—No; I am living with my parents. With whom else can I live?

Shaik Daood, cross-examined by Serjeant Ballantine.

Q—Is there any police officer or sepoy with you? A—There is no policeman with me.

Q—Have you ever been in confinement since this matter has been going on? A—No.

Q—How did you come to give this information to any one? A—I did not give it.

Q—Whom did you first mention it to? A—I mentioned this matter in the persence of a man.

Q—The man has got a name, I suppose? A—Sundul is his name.

(Sundul produced.)—Is this the man? A—Yes; this is the man.

(Sundul withdrawn.)—Where were you when you mentioned it to Sundul? A—When he was sitting at his master's and when I went there.

Q—Who is his master? A—A baker.

Q—Do you know Saaduk Ali? A—No; I don't know him.

Q—How came you to mention it to Sundul? A—I met him one day on the road and he enquired——

Q—What did he enquire? A—He asked, "Who did you take that night?" I said the ayah and a lad a boy.

Q—Now, he could not have said, "Who did you take that night?" What were the words he said? What night? What persons did you take that night? A—I did not note down that particular night so as to be able to tell you what night it was.

Q—What night did he ask you about? A—The night on which I took the ayah.

Q—How did Sundul know that you had taken the ayah on any night? A—Because he had taken the bullocks from the garry and was giving water to the bullocks there at the cistern.

Q—How did Sundul know that you had taken the ayah on any night? A—I mentioned it to him, and then he came to know.

Q—How came you to mention it to him. How did Sundul come to know that you had taken the ayah on any night? A—He met me on the road.

Q—You mean that he met you on the road when you were taking her? A—Yes.

Q—Then he knew who you were taking, did he not? A—He must have seen, otherwise he would not have asked me.

Q—Was that the only time that you had any conversation with him about it? A—I had a conversation with him some twenty-five times, as we are carriage drivers.

Interpreter—He means generally.

Mr. Serjeant Ballantine—You cannot tell what he means unless you are a great deal cleverer than I am. Just ask him whether he had a conversation with him twenty-five times about his taking the ayah?

Witness—No; two or four times. Afterwards he did not enquire.

Q—Have you spoken to him three or four times about your carrying the ayah? A—Yes.

Q—Had you been looking after the drivers who drove the ayah from time to time to find out who drove the ayah? A—What object could I have in looking?

Q—But did you do it, that's all I want to know? A—I myself took the ayah.

Q—Did Sundul tell you that he had taken Kurreem? A—No. I did not take Kurreem.

Q—Did Sundul tell you whether he had taken Kurreem? A—Yes; he gave the clue or evidence, and then I also did the same.

Q—Did Sundul mention Kurreem's name? (A long pause.)

The President—He must answer the question.

Witness—Yes; on one occasion.

Q—That he had driven him? A—Yes.

Shaik Daood re-examined by Advocate General.

Re-examined by the Advocate General :—When was it that you first spoke to Sundul about these matters?

Mr. Serjeant Ballantine—I want to know whether I am under a correct impression as to a portion of the evidence? I think the last witness, Chotoo, said that there were three of these drivers in custody with him, and amongst them the one who drove him, and this man has sworn that he was not in custody at all, but was living with his father and mother, and he put me the question, "Where else should I live?"

The President signified that the learned Serjeant was correct.

The Advocate General—(to witness)—Where did you first have this conversation with Sundul about these matters? A—One day at about 8 o'clock.

Q—How long ago, how many weeks or months ago? A—About two months or two months and a quarter ago.

Q—Had you previously been acquainted with Sundul? A—We are fellow-servants of one and the same master, though we live separate.

Mr. Melvill (to Interpreter)—He said that his master and his (Sundul's) master are brothers.

Interpreter—Yes, while I was speaking to counsel he added that, and I did not catch it then.

The Advocate General—What is the name of your master? A—Shaik Chotoo.

Q—And Sundul's master? A—Shaik Shamed.

Q—Do they both let out garries for hire? A—Yes.

Q—Where do they keep their garries—in separate places or in the same place? A—In separate places.

Q—Where did they live—the masters? A—One

lives near a liquor-shop, and the other near the butchers' quarters.

Q—They both live in the Camp Bazaar ? A—Yes.

Q—Now you said that you met Sundul on the road when you were taking the ayah to the city ? A—Yes; he was giving water to the bullocks.

Q—Whose bullocks ? A—The baker's bullocks—Shamed the baker's.

Q—The bullocks he is in the habit of driving ? A—Yes.

Q—You said he was giving them water at the cistern. Where is the cistern ? A—On the Baroda road.

Q—From the camp to the city ? A—On the other side of a bridge called the Banda Bridge.

Q—Did you speak to him, or he to you ? A—He spoke to me.

Q—As you were going to the city, and while he was watering his bullocks ? A—He called out to me, "Daood, where are you going to ?" I said, "To the city."

Q—How long after you had taken the ayah and the boy to the city, was it that Sundul asked you who you had taken that night ? A—Five or seven days after he mentioned the matter to me, I said, "The truth will be out."

Q—Who said, "The truth will be out ?" you or Sundul ? A—I said that "The truth will be out."

Q—When was it that Sundul mentioned Kurreem's name to you ? A—One day, as we were speaking together at about 8 o'clock in the morning, he mentioned it to me.

Q—Was it on the same occasion ? A—And I also mentioned it.

Q—Was it on the occasion when he asked you whom you had taken that night, that he mentioned Kurreem's name to you ? A—Yes.

Q—And on that same occasion it was that you said "The truth will be out ?" A—Yes.

Q—Did you say in respect to what "The truth will be out ?"

Interpreter—That is a peculiar native expression, and it is very difficult to translate it quite literally. That expression, "will be out," might mean that "it cannot be suppressed."

Mr. Scoble—What made you and Sundul talk together about these matters ? A—He asked me, "Who did you take that night with you ?"

Q—Was there anything that attracted your attention to this topic at that time ? A—He asked me, "Whom did you take that night with you ?"

Q—Well, now, do you remember when the Bombay Police came to Baroda ? A—No; I don't know when the Bombay Police came.

Q—I don't want you to specify the day when they came, but do you remember the circumstance of their coming ? A—No; I don't know that. I don't see them.

Mr. Scoble—I would ask your Lordship to recall Sundul with regard to what this man had said, so that there may be no opportunity of any communication being made to him.

SUNDUL was thereupon re-called and was (after being reminded by the Interpreter that he was on his former oath) further examined by Mr. Scoble. :—

Sundul Khan is recalled and re-examined by Advocate General.

Q—Do you know the last witness, Shaik Daood ? A—Yes.

Q—In whose service is he ? A—I and he are in the service of two brothers. I am in the service of Shamed, and he is in the service of Chotoo.

Q—Did you have any conversation with Shaik Daood ? A—Yes, on one occasion. I was going from the railway station to the city, and I unyoked my bullocks in order to give them water at the river, and Daood was coming with his garry towards the city He went on, and, after giving water to the bullocks, I went after him. I saw his garry near the Sircar's Haveli, and then I returned home. I left a passenger at his place and then went home, and the next morning I asked him, "Whom did you take with you at night—last night ?" He said, "I took Chotoo and the ayah—that is all."

Further cross-examined by Mr. Serjeant Ballantine :—

Sundul further cross-examined.

Q—Did you mention Kurreem ? A—Yes.

Further examined by the Advocate General.

Sundul again examined by Advocate General

Q—What did you say about Kurreem to Shaik Daood ? A—As to the date he took a passenger in the month of Ramzan.

Q—You told my learned friend just now that you mentioned Kurreem to haik Daood ? A—No.

Q—No what ? I mention it as a fact that you told my learned friend that you mentioned Kurreem to Shaik Daood ? A—He heard this subsequently, when I mentioned this matter to counsel. I mean when I gave the statement to Mr. Boevey.

The President—I don't quite understand.

The Advocate General—Neither do I. (To Interpreter)—Just remind him that he told my learned friend, Mr. Serjeant Ballantine just now, that he mentioned Kurreem to Shaik Daood.

Q—To which saheb—this saheb (pointing to Mr. Serjeant Ballantine) ?

[Witness shakes his head.]

Mr. Melvill—That was the intention of the question, but it was not put in that way.

The Advocate General—My learned friend's question was, "Did you mention Kurreem to Shaik Daood," and he said, "Yes."

The President—Yes.

The Advocate General—Now, will you remind him of that, Mr. Interpreter, that he said he mentioned Kurreem to Shaik Daood.

Witness—No; I did not.

Q—Then, what did you understand when you were asked the question by my learned friend ? Remind him, Mr. Interpreter, as to what the question was and what his answer was.

Witness—I did not understand the English question.

The President—What does he mean by that ?

Witness—I am a poor labourer. I am not a learned man. I cannot read nor write, but I will take any person who pays me for the hire. (Laughter.)

The Advocate General—In his garry, I suppose.

Mr. Serjeant Ballantine—Not necessarily that.

The Advocate General—Then, you did not mention Kurreem's name to Shaik Daood ?

Witness—What business had I to do it ?

The President—He was asked whether he mentioned Kurreem with reference to the conversation which he had with Shaik Daood the next morning, and he said the next morning I asked him (Shaik Daood) "Whom did you take to the city," and he said, "Chotoo and the ayah, that is all." The question was put to him in cross-examination whether he mentioned Kurreem, and he said he did mention Kurreem. (To Interpreter)—Ask him particularly, whether at that time he did mention Kurreem or not ?

Witness—I did not.

The Advocate-General—Did you mention Kurreem to Shaik Daood on any occasion subsequent to the date of this conversation when you asked him whom he took into the city ? A—I do not remember if I did.

Q—Now, you began to tell me something about a statement you made to Mr. Boevey ? A—I don't know what that gentleman's name is, whether Mr.

Boevey or Mr. Souter (points to the latter). There he is sitting ; I know him by the name of Boevey. (Loud laughter.)

Mr. Serjeant Ballantine—He said he knew Mr. Boevey and Mr. Boevey's ayah, and now he mistakes Mr. Boevey for Mr. Souter.

The Advocate-General—Then, tell me whether Shaik Daood was present at any time when you made a statement to Mr. Souter? A—Yes. Daood was present ; he had been taken up and sent for there.

Q—When? A—On the day that I made a statement to Mr. Souter. On that occasion Daood had been taken up and sent for there.

Q—Was he present when you made your statement? A—He was present.

Mr. Serjeant Ballantine—I must be permitted to ask the witness a question on the new matter elicited,—at all events as to what he stated about Kurreem. Just one question about that. (To witness)—When you mentioned that you had driven the ayah, why did not you mention that you had driven Kurreem also? A—I might have done. All the names might have been asked of me, and I might have been driven away or beaten.

Q It was because you were afraid of your life? A—Even now I am afraid—(loud laughter)—even now I am afraid of my life.

Yes ; I understand you to say so.

SHAIK ABDOOLA, examined by the Advocate-General—My name is Shaik Abdoola. I am the husband of Ameena, the ayah, who has been examined in this matter. Last year I was in the service of Major Blakeman ; I was in his service seven months. Out of those seven months, I was for two months at Mahableshwur, and rest of the time I was here. We went to Mahableshwur in March—about the 28th or 29th of March. I returned from Mahableshwur to Baroda with Major Blakeman, and I remained with him at Baroda that month, and the next month I was discharged After I was discharged I lived at the Residency with my wife, and I have been living in Baroda ever since. I entered Major Blakeman's service in January of last year. Before January I was in Bombay. In the month of March last year my wife went with her mistress to Bombay. She remained in Bombay for more than a month. While I was at Mahableshwur, and my wife in Bombay, I received two letters from her at Mahableshwur.

Shaik Abdoola, the husband of the ayah Ameena, examined by Advocate-General.

The Advocate-General—Just look at those papers, and tell me whether those are the two letters you received from your wife when you were at Mahableshwur? (Looking at one)—This is one of them.

Look at the other?

This is not one.

The President—The Secretary will mark the one that the witness has identified.

The Advocate-General (hands another letter to the witness)—Did you receive that letter? A—No ; I did not get this letter.

The President—The Secretary must put some mark on them for the sake of identification ; the one that the witness says he received will be marked A, and the other which he has not identified may be marked with Mr. Jardine's initials.

[The Advocate-General shows another letter to witness.]

Witness—This is my handwriting. This is a letter I wrote to my wife. She was at Poona at that time.

The President—That had better be marked B.

Witness—I posted that letter.

Another paper shown to witness by the Advocate-General—This is also my letter to the ayah. It is in my handwriting. It was written from Baroda. That letter was also posted by me. (Exhibit marked C.) I was present when those letters were found.

The President—All three?

The Advocate-General—Yes. (To witness) Where were they found? A—They were found in a box in the room in which we lived, in Mr. Boevoy's bungalow, and the letter which I say I did not receive was also found at the same time in the same box.

The Advocate-General—I propose to put in evidence these letters. We shall take the first one first.

Serjeant Ballantine objected to the letters being put in as evidence. He assumed that this Court, although not constituted as an ordinary Court of Justice, was governed, or intended to be governed, by those rules of evidence which are followed in regularly-constituted Courts of England. In England, undoubtedly, these letters would not be receivable. The only question that arose was whether, under any provisions of the law in India, there was an alteration made from the law in England which would entitle his learned friend, the Advocate-General, to put them in. As far as he knew, and as far as he was able to learn from the assistance of his learned friends, to whom in all respects he was exceedingly indebted, the only section of the Evidence Act—and he was then quoting Mr. Norton's Edition of the Evidence Act—bearing directly on the question was the 157th section, in which it was provided :—

"In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved."

He apprehended that what his learned friend was bound to show was the fact which he intended to be corroborated. There must be a fact pointed out. That, he apprehended, was the preliminary point which his learned friend must establish, and having pointed it out, his learned friend must then show that the letters in question related to that fact, and were written at the time or immediately after the fact occurred.

The President—At or about the time.

Serjeant Ballantine concurred. As far as he understood the evidence at present, it seemed that the husband received one letter—the one they were now discussing—but that no date was fixed for the receipt of that letter. Moreover, it had not been shown to be in his wife's handwriting at present, and in the present state of the proceedings this must be another objection. The time of its being written and its relation to any fact were both left entirely in doubt. When the question arose about the husband's letters, he must say at once that he did not see anything in the Evidence Act that could allow them to be admitted. Taking the whole of the evidence he thought he was correct in saying that there was no particular fact to which her attention had been called, and had made no statement in writing to her husband. This letter was, he understood, written from Bombay, where nothing had occurred of which these letters could be a corroboration of what had taken place in Baroda.

In answer to the President, the Advocate-General said the first letter had been written from Bombay.

Serjeant Ballantine—That letter could not, by any human possibility, have been written upon any fact connected with this case.

The Advocate-General—I must differ from my learned friend.

Serjeant Ballantine—I do not think my learned friend will differ from me, if I am correct in my

proposition. I think she might have written from Bombay as to an occurrence at Baroda or anywhere else, but my contention is that the statements made must be written immediately or at the time of the occurrence.

The President—Not immediately ; at or about.

Serjeant Ballantine—What I understand from sec. 157 of the Evidence Act is that while a matter is fresh upon a person's mind, what that person writes or says at that moment is receivable in evidence. But I apprehend it has never been contended, and that your Lordship would not rule, that if a person wrote a letter a week after an occurrence, that would be such a circumstance as would satisfy the intention of this section.

The Advocate-General—In the first place, this Commission is not bound by the strict rules of evidence, and it is in the absolute discretion of the Commission to receive before it any statement or admit any document which it may think fit to receive or admit in regard to the illustration of the matters submitted before it for inquiry. The strict laws of evidence, I apprehend, will not apply to the proceedings of the Commission, and, therefore, the Commission can determine apart from any consideration of the Evidence Act whether or not it will look at the document which I now tender. The notification by which the Commission is appointed gives to the President full power to call for and receive or reject any evidence, documentary or otherwise, and I apprehend, therefore, that it gives the widest possible discretion to the President. But even supposing that the Commission were to consider this point, or the President, to whom the authority is more particularly entrusted, were to conceive himself bound to go according to the strict rules of evidence, then I think that confidential communications—such as these private letters, passing between parties who knew of the facts as the evidence shows—between this man and his wife—are clearly receivable in evidence. We do not at present know the date of these letters, but one of them is written from Bombay, and we have it in evidence that the ayah was in Bombay in March or April, and the date of that letter is the 10th of April 1874. The object for which I propose to read this letter——

The President—At present I am not sufficiently informed about this letter to be able to say whether it is admissible or not. You say it contains a statement of matters which occurred about that time. I want in the first place to know what you say it is.

The Advocate-General—It is a statement of the relations then subsisting between Salim, Yeshwuntrao, and the ayah. I propose to put it in to show the confidential relations which then existed between these three persons and the object for which that confidence had been established.

The President—What part of her testimony do you say it corroborates ?

Mr. Scoble—It is for the purpose of corroborating the statement that she makes that she was in communication with Yeshwuntrao and Salim.

The President—I should like to refer to that part of the evidence.

Mr. Scoble—I don't refer to any particular part, but to the general tenor of her evidence. She said it was Yeshwuntrao and Salim that got her to go to the Haveli to see the Maharaja.

Mr. Serjeant Ballantine—No ; I don't think so.

Mr. Scoble—She says that Salim had been after her for months, endeavouring to get her to go to the Haveli, and in one statement that she makes she says that Salim on the occasion of the second visit told Kurreem to go the next day to Yeshwuntrao's house, and that the next day Rs. 200 were paid to Kurreem which he said he got from Salim. It is in that way I intend to use the present letter.

The President—You have not got proper proof that she directed that letter to be written. You will have to show that.

Mr. Scoble—I do not propose to read it just now. I propose to put it in as a letter received by this witness from his wife. I shall presently show that it was written from the dictation of the ayah.

Mr. Serjeant Ballantine—Then we must discuss the matter again when the occasion arises.

The President—If I were to rule that it is admissible, the ruling would be subject to the Advocate-General proving that it was written at the direction of the ayah.

Serjeant Ballantine—According to my view of its admissibility a day might make a great difference.

The Advocate-General—My learned friend has not had his attention drawn to the 11th section of the Evidence Act, which is as follows :—

"11.—Facts not otherwise relevant are relevant

(1) If they are inconsistent with any fact in issue or relevant fact ;

(2) If by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable."

The President—At present, Mr. Advocate-General, all I say is that if I rule that the letter is admissible, it must be subject to your proving that it was written according to the ayah's instructions.

The Advocate-General—I do not ask for more.

Serjeant Ballantine—I am not anxious to re-discuss this particular matter. We all know, however, that in the case in which an injury has been done, or an assault committed, as the law stood, a person might give evidence that he or she made a communication on the subject, but that the particular communication made was excluded. It was very absurd.

The President—I should go further. I think the law was intended to go much further than that. When I am sitting in Court I should consider the law as going much beyond that.

Serjeant Ballantine—I should not wish to discuss a matter in which your Lordship has come to a decision in previous cases, because it would be scarcely respectful. Perhaps the easiest mode would be to hand these letters to your Lordship for perusal, and I am quite willing to accept your Lordship's decision if, after reading them and remembering the evidence given, you were to rule that they are admissible.

The Advocate-General referred to the evidence of Ameena respecting her first interview with the Maharaja at the time the Commission was sitting, in order to show the connection of Ameena with Yeshwuntrao and Salim. The part of the evidence read was as follows :—"Then the Maharaja said, 'Do you say something to the Madam Saheb on my behalf. . . . .' The Maharaja said, Should the Madam Saheb say anything at any time inform me through Salim or through Yeshwuntrao.'"

The President—I will give my opinion now. Taking the letter to have been written at the time you said, and to be what you stated, and to have been written by the direction of the ayah, I think it is admissible as corroborative evidence of the facts which you say the letter relates to.

The Court now rose for half an hour.

On the Commission re-assembling, the following business was done :—

Q—Have you ever spoken to Yeshwuntrao and Salim ? A—Yes.

Q—How did you make their acquaintance ? A—

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When Salim was in the habit of coming with the sowaree procession.

Q—Whose sowaree? A—The Maharaja's.

Q—Where to? A—To the Residency.

Q—Did Salim ever come to your quarters? A—He was in the habit of coming to Faizoo's room to drink water. I did not know him before.

Q—Was Faizoo's room near your wife's room? A—Yes.

Q—Are you aware of your wife having gone to the city with Salim? A—Yes, from her. She told me.

Q—When did she tell you? A—On the day after my arrival from Bombay, in the morning.

Q—In what month was that? A—It was in January.

Q—And what did she tell you on this occasion? A—She said the Maharaja had sent for her and Faizoo through Salim.

Q—Yes? A—And that she went in company with Faizoo.

Q—Did she say anything further? A—And that the Maharaja was making some inquiries.

Q—Of her? A—Of her.

Q—Did she tell you what those inquiries were? A—The Maharaja inquired whether she knew anything about the Committee.

Q—Did she tell you anything further? A—She told me that she answered that she did not know anything about the Committee.

Q—Did she say anything further? A—Yes, she said that the Maharaja said to her that she should *sumjao* her mistress in his favour. She further announced, "The madam saheb will not listen to anything she would say." She did not tell me anything further on this occasion. I did not know of my wife having had a subsequent interview with the Maharaja at that time, but I learned it when I was in the service of Major Blakeman of Baroda. I believe it was in the month of June she went. That was after my return from Mahableshwur. As to this second visit, my wife told me she had been sent for to the Maharaja and she went accordingly. She said she went in company with Kurreem Buksh. She told me the conversation that took place between her and the Maharaja. The Maharaja inquired if any allusion had been made to the Maharaja's marriage. She said no allusion was made to his marriage. The Maharaja asked her to impress something upon the madam saheb—*i.e.*, to *sumjao* her. She replied she was unable to impress anything on the madam saheb.

Sir Richard Couch suggested that the witness's meaning was "talk over" rather than "impress upon."

Re-examined—I know that my wife got money at or after this second visit. She got Rs. 100. She told me this. She told me how she had got it. She said she had been asked by Salim to get Kurreem Buksh to attend on the following day, and that Kurreem Buksh went on the following day and received Rs. 200. Kurreem Buksh kept Rs. 100 and gave the Rs. 100 to her. I know the fact that my wife did get the Rs. 100. Some time after this second visit my wife went to Poona with her mistress. I believe this was in the month of July. She remained at Poona a month or a month and a half. It was while my wife was at Poona on this visit that I addressed these two letters to her.

[Letters handed in.]

The Advocate-General—These letters relate to matters that occurred when the ayah was away, and your Lordship will notice that they give notice of the movements of Yeshwuntrao. I hand them in to show that the butler and his wife took an interest in the affairs of Yeshwuntrao.

The President—You can only corroborate by them the facts that may be given in evidence.

The Advocate-General—These letters show that these two persons were taking an active interest in the politics of Baroda at this time. It might be used as an argument by the learned Serjeant that persons in their position were not likely to take any interest in such matters, but these letters prove the fact. I do not propose to use the statements in these letters as proofs of the facts which the letters contain. I propose to show only the nature of the communications which passed between this man and his wife at the time when the one was absent from the other, showing that they did not write about the ordinary topics that a wife might be expected to write to her husband about, but about matters which have a bearing upon the connection between the wife and the Maharaja of which the husband was ignorant. That is the way in which I propose to use these letters. I don't wish these letters to be taken as proofs of the facts mentioned in them.

Mr. Serjeant Ballantine—I will save my learned friend the necessity of putting in these letters.

The President—You will admit that they were taking an interest in Baroda politics?

Mr. Serjeant Ballantine—I will admit that they were taking an interest, and that is all they want.

The President—If that is all you want, I don't think you should object to that.

Mr. Scoble—I wish to have it in a more definite form.

The President—We will take it down precisely. What words, Mr. Serjeant Ballantine, do you use?

Mr. Serjeant Ballantine—I say that they were taking an interest in what was going on—not in Baroda politics, that is too wide a word for it—if you put it on that ground. What I understood you to say was that you only wanted to show that they took an interest in certain matters, but politics is a very broad question—so broad a term that I cannot admit that. Supposing that they did take an interest in Baroda politics; is that a substantive fact that is open to proof?

The President—We cannot say that it is not. But supposing that you admit that the ayah and her husband were taking an interest in Baroda political affairs—do you object to that being taken down?

Mr. Serjeant Ballantine—I cannot object to it. I have had a very long experience, I am sorry to say, in Courts of Justice, and I know from long practice that if objections are raised to the admissions of documents, they raise perhaps a stronger presumption of their importance than their contents themselves warrant, and I would therefore a great deal sooner that these letters should be read from beginning to end than that any such inferences should be drawn, even if I succeed in excluding them. We will admit that these persons had an interest in Baroda politics.

The President (to the Advocate-General)—If that is all you want to prove, Serjeant Ballantine's admission may be sufficient.

The Advocate-General then asked that the letters might be put in.

The following letter was handed to the witness:—

No. 4.

No. 4 of 1875.

Oriental Translator's Department, 1st January 1875.

Translation of a Marathi Letter marked No. 4.

To Sonhagiawati Ameena Bi, Ayah.

(Writes) Sheikh Abdoola wallud Sheikh Adam, Butler, residing at Baroda.

Exhibit C. I am well by the favour of God and by your blessings. The cause of writing (this) letter is as follows:—

I have had no tidings of you since your departure from Baroda. This has made me very uneasy. You should therefore not act in this way. But it is the will of God, and there is no fault chargeable to you. It is my fate. What can you do? The Maharaja is much perplexed. He has received an order to the effect that the petitions presented by the ryots should be disposed of within fifteen months. Such an order has been issued, and the Dewan Saheb has been removed from office and prohibited from visiting the bungalow (*i.e.* the Residency). Let this be known to you. I receive no news whatever from you. You should send me news frequently. I am doing well here. Do not entertain any anxiety. The people in the bungalow send their compliments to you. Convey the same to the butler.

Yeshwuntrao Naik has gone to Bombay. Let this be known to you. Shabudcin is also to go, (but) I have no correct information. As soon as you see this letter, send a reply without fail. What more need be written? This is what I had to write.

My compliments to the reader, in case they have been omitted through oversight.

SHEIKH ABDOOLA, Butler,
His own handwriting.

Dated 16th August 1874.

VENAYEK WASSOODEW,
Oriental Translator to Government.

The Advocate-General to witness—In that letter there is something about a bungalow. What bungalow? A—I meant the Residency.

[The letter was then translated from Guzeratee into Hindoostanee, and read to the Commission by the Interpreter.]

Serjeant Ballantine asked the President whether he had received copies of these letters.

The President—No; I did not consider it right to receive a copies of anything until it was in evidence.

The President then directed that copies of the letters in English and Hindoostanee should be prepared for the use of the Commission.

In answer to the Advocate-General, the witness said that Yeshwuntrao was a jasood to the Maharaja.

The following letter, dated the 18th August, was put in :—

No. 3.
No. 3 OF 1875.

Oriental Translator's Department, 1st January 1875.

Translation of a Marathi Letter marked No. 3.

To SOBHAGIAWATI AMEENA BI, AYAH.

(Writes) Sheikh Abdoola Butle , Karel.

I am well by the favour of God and by your blessings. You should not entertain any anxiety. Colonel Phayre went to Poona on the 18th; he is to put up at Kirkee. Let it be known to you that the Dewan has been removed from office, and that no other person has yet been appointed (in his room). You should communicate what news there is, (getting the letter) written by a good writer. Make enquiries about the Hezrat, who was in Bombay, and bring him without fail at the time of (your) coming. You should write about him without fail. You should communicate (to me) news frequently. You have forgotten me since your departure to Poona. What can you do? It is my fate. It is the will of God. It is my luck. What can you do? You should not do so. Yesra (Yeshwuntrao) Naik has gone to Bombay. Let this be known to you. Abdoola Khan has accompanied the saheb. Pedro sends his compliments to you. Give my, as also Pedro's, compliments to your butler; the mestri (cook) and other people also send their compliments to you.—Dated 18th, 1874. Signed SHEIKH ABDOOL. (He) sends his compliments in case they have been omitted through oversight. Send a reply to this letter without fail. I anxiously await it.

What more need be written?

This is (my) request.

Address on the letter :—This latter should be delivered to Ameena Bi, the ayah of the Resident, Mr. Boevey, in the bungalow of the Revenue Collector, Mr. Oliphant, near the Post Office, Poona.

Not paid.

Poona.

To be deliverd to Ameena Bi, the ayah of the Resident, Mr. Boevey. Despatched from Baroda. Shaba*

VENAYEK WASSOODEW,
Oriental Translator to Government.

Exhibit B.

The Advocate-General to witness—In this letter you mention Yesra Nai . Who is he? A—Yeshwuntrao, jasoos.

Q—When did your wife come back from Poona? A—In the month of August. I do not remember the day.

Q—Do you remember whether, on your return, she paid any other visit to the Maharaja? A—Yes; she did in our Mahomedan month of Ramzan. It would be about the 16th or 18th of the month.

Q—Do you know who got the garry for her on that occasion? A—I did.

Q—Who was with her? A—A boy named Chotoo.

Q—Did your wife tell you what passed between her and the Maharaja upon this third visit? A—Yes. She told me on the following morning.

Q—What did she tell you? A—She said she had been asked to talk over the madam saheb in favour of the Maharaja, that the Maharaja asked, "Can anything or substance be given to be eaten in order to bring about a union of the hearts of the Maharaja and the saheb?"—that she replied, "Nothing should be given to the saheb logue to eat, and if you do, you will be ruined, or it might be very bad for you;" that she added, "Do not do anything of this kind."

Q—Do you know whether, after this third visit, your wife got any money from any one? A—Yes; Rs. 50.

Q—From whom? A—She said that Salim brought the money.

Q—Were you ever offered any service under the Maharaja? A—Yes.

Q—By whom? A—My wife mentioned to me that I would also be treated well.

Q—Did she say who would give you employment? A—No.

Q—Did she say what the employment was to be? A—No.

Q—Did any one else except your wife speak to you about your having employment under the Maharaja? A—No.

The Commission adjourned for the day at a quarter-past four o'clock.

* Some more letters here, which have been obliterated by the Post Office stamp.

FOURTH DAY, FRIDAY, FEBRUARY 26.

PRESENT.

SIR RICHARD COUCH (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter, for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, Shantaram Narayen, and Wassudeo Juggonnath, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esq., Bombay Civil Service.

Interpreter:—Mr. Nowrozjee Furdoonjee. Mr. James Flynn being absent owing to indisposition.

H. H. the Gaekwar was not present.

Colonel Sir Lewis Pelly, K.C.S.I., occupied a position on the right of the Commission.

The Court met at about eleven o'clock.

The President suggested that it would be quite sufficient if the witness was, instead of being re-sworn, reminded that he was on his former oath. The suggestion was acted upon.

Cross-examination of the witness Shaik Abdoola, by Mr. Serjeant Ballantine:—

Shaik Abdoola cross-examined by Serjeant Ballantine.

Q—How long have you been married? A—Ten or eleven years.

Q—Had you been in the habit of corresponding with your wife when you were separated from her? A—Yes.

Q—Were you in the habit of writing letters to each other about whatever occurred? A—If there was any news regarding our house we used to write.

Q—Or if there was anything of interest that had occurred? A—Yes.

Q—As far as you know, did your wife always write to you upon any matters of any importance? A—If it was necessary for her to write, she did.

Q—When any matter of any importance occurred, was she in the habit of writing to you? A—Yes.

Q—Mr. Nowrozjee Furdoonjee, in translating the word "importance," used the word "zaroorat." Mr. Serjeant Ballantine asked that a more correct word should be used.

The Advocate-General—They are both translated by the same word.

Mr. Serjeant Ballantine—I am told that it conveys a different idea. (To the Interpreter)—Follow my question, please. If anything of importance occurred, was your wife in the habit of writing to you and telling you about it? (To the Interpreter)—Use the word "importance," please, and not "necessary."

Sir R. Meade—*Sungeen* is the word for "importance;" use that.

The Interpreter—I don't think the witness will understand it. (Interprets the question, using that word.)

Witness—I don't understand the meaning of *sungeen*. (The word "importance" was then rendered as "kam ki bat.")

(Answer to question.) A—Yes; she was.

Mr. Serjeant Ballantine—Do you happen to have any other letters of your wife's except the one that has been produced?

The President—It was not written by his wife, but received from his wife.

A—Perhaps there are some amongst the papers.

Q—During the months of June and July 1873, were you and your wife together? A—Yes.

Q—Were you together in November and December 1873? A—No.

Q—Where were you and where was she? A—I was at Bombay.

Q—And was she at Baroda? A—Yes; at Baroda.

Q—Where were you in June 1874? A—For a few days at Mahableshwur.

Q—But your wife remained at Baroda? A—When I went to Mahableshwur, she was in Bombay.

Q—How long had your wife been ayah at Colonel Phayre's? A—About six or seven months.

Q—When did you hear of the poison in Colonel Phayre's glass? A—People mentioned the matter—talked about it at the bungalow when the occurrence took place.

Q—I suppose you knew nothing about it? A—No.

Q—Do you know at all—I suppose you don't—who were the people who would put poison in the sherbet? A—No; I don't.

Q—Now, I may take it you were examined by Colonel Phayre on the 13th of November as the correct date. Do you recollect being examined by Colonel Phayre? A—Mr. Boevey examined me.

The President—I must take that as being on the 13th November?

Mr. Serjeant Ballantine—Yes, my Lord.

Q—Did you mention on that occasion what you say your wife had told you? A—No.

Q—When did you first make that statement? A—When Mr. Souter sent for me and examined me.

Q—How came you not to mention it to Mr. Boevey? A—I was afraid, and therefore I did not mention it.

Q—What were you afraid of, your life, or what? A—I did not know who did it. How could I have said anything about it?

Q—You were not asked who did it—I ask you why you did not mention what your wife had told you about the charm, or something, to turn his heart? A—Because I was afraid.

Q—But what were you afraid of? What was there to be afraid of in saying that your wife had paid visits to the Maharaja? A—Because the saheb's orders were not to go there.

Q—Do you mean his orders to you? A—No; not to me, because I was not in his service.

Q—Had your wife told you that she had had orders not to go? A—Yes.

Q—When did she tell you that she had got those orders? A—Often; I don't remember when.

Q—How came you to tell Mr. Souter? A—He sent for me when I was in Mr. Boevey's bungalow.

Q—But how came you to tell him; if you were afraid to tell Mr. Boevey, why were you not afraid to tell Mr. Souter six days afterwards? A—That boy—that lad who was in my service—said that the garry had been hired and they had gone.

Q—How did you know that he had said that? A—When I was taken to the saheb, the boy came there.

Q—Do you mean Mr. Souter, or who, because you call Colonel Phayre the saheb? A—Yes; Mr. Souter.

Q—The boy was there, you say? A—The boy and the garry-driver.

Q—Nobody else? A—The Khan Saheb, the Rao Saheb, and the junior Khan Saheb—Akbar Ali and Abdool Ali.

Q—Now tell me—did you find all these people there when you arrived? A—No; did not see these persons there at that time.

Q—Who were there when you arrived? A—The Khan Saheb was there.

Q—The Khan Saheb is Abdool or Akbar Ali?

The President—By the Khan Saheb he means Akbar Ali and by the junior Khan Saheb Abdool Ali.

[Interpreter—Now he says they were both there.]

Mr. Serjeant Ballantine—Any one else? A—The Rao Saheb was there.

Q—Any one else? A—Nobody else.

Q—What did they say to you? A—First of all I was asked, "Did I know about this or what?"

Q—Know about this what? A—"Do you know anything about the quarters of the Raja's."

Q—What did you say? A—At first I did not say.

Q—What did you say in answer to that? Finish the conversation? A—I was first asked if I know in regard to the Raja or the place of the Raja.

Mr. Melvill (to Interpreter)—He did not say

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places but "kubber," "information about the Rajah"—nothing about "place" or "quarters."

Witness's answer now rendered thus:—"Do you know anything about that place or direction?"

Mr. Melvill—About affairs in that quarter? A—Yes.

Mr. Serjeant Ballantine—What did you say? A—At that time I said I did not know anything.

Q—What did they, or either of them, say upon that? A—The saheb said, "Do you tell the truth?" The saheb was not there at this time.

The Advocate-General—He said he went to Mr. Souter.

The President—He is speaking of the time when Mr. Souter was there. You had better ask him again.

Mr. Serjeant Ballantine—You told me that when you saw Mr. Souter, Chotoo, the boy, was there, and also the driver. Is that so?—A They were not there at that time.

Q—Was Mr. Souter there at that time? A—Yes; four persons were there.

Q—And Mr. Souter was one of them, was he? A—No; three persons named Khan Saheb, Rao Saheb and chota (junior Khan Saheb. (Interpreter—And now he adds Mr. Souter.)

Q—Now he said three persons, and three could not include Mr. Souter. That's quite impossible. Do you mean that Mr. Souter was present when you were asked the question? A—Yes.

Q—When you said you knew nothing about the affairs, or about the Palace, or about the place, did they ask you any other question? A—The saheb said, "Do you tell the truth; don't tell a lie."

Q—Mr. Souter is that saheb. What did you say to that? A—In the meantime the boy and the garry-driver were brought there.

Q—Who brought them? A—There was a havildar.

Q—And were you told that it was said that you had ordered the garry? A—It is a fact that I ordered the garry.

Q—And is it a fact that you were told that these people had said so—the garry-driver and Chotoo? A—It is a fact that I went for the garry.

Q—Is it a fact that Mr. Souter said anything of this kind? "These men say that you fetched the garry?" A—I went to get the garry.

The President (to Interpreter)—Cannot you make him understand the question?

Interpreter—I have put it to him three times, my Lord, but I will put it again. (Question again interpreted.)

Witness—Mr. Souter did not say that, but they said so.

Mr. Serjeant Ballantine—Who are "they"? A—The boy and the garry-driver.

Q—Where have you been since your examination by Mr. outer? A—When I was examined first, I was kept under a guard for three or four days.

Q—And after that? A—Afterwards I was released.

Q—Have you been living with your wife since? A—Yes.

Q—Were you present here on the day when your wife was examined? A—Yes.

Q—Were you with her that night and until the following day? —No. Since she was examined we have been kept apart.

Q—Did anybody tell you what she said? A—No.

Q—In one of your letters I see you mention a person of the name of Shahaboodeen. You say, "Yeshwantrao Naik has gone to Bombay. Shahaboodeen is also to go." Who is he? A—Cazee Shahaboodeen lives in the city.

Q—What is he? A—He was on some duty in the Gaekwar's establishment.

Q—Was he Sir Sooba? A—Yes. He was on that duty.

Q—What do you know about him? A—He is a native of the same city or country from where I came.

Q—Do you know he is now in the employment of Sir Lewis Pelly in the same occupation as he was before? A—I do not know.

Shaik Abdoola re-examined by Advocate-General.

Re-examined by the Advocate-General:—What time was it you made your statement to Mr. Souter? A—At the Residency.

Q—What part of the Residency? A—In a room on the western side on the ground-floor.

Q—Where was your wife at that time? A—She was unwell at Mr. Boevey's bungalow.

Q—Do you know whether she was under a guard at that time? A—At what time do you mean?

Q—When you made your statement? A—She had been taken to the hospital. When I was taken up and taken before Mr. Souter and examined by him that day, she was at Mr. Boevey's bungalow.

Q—After you made your statement, you say you were kept under a guard for three days? A—Not on the first day. A few questions were put to me, after which the saheb did not put any questions to me.

Q—On the first day, the saheb only put a few questions to you? A—Yes.

Q—Were you placed under guard then? A—No. I was living then in the room near the Khan's place.

Q—From the time when the saheb put a few questions to you and the time you made your statement, had you any communications with your wife? A—No.

Q—Did you see your wife while she was in the hospital? A—No. I went to her when I was released from having been under guard.

Q—Was she in hospital when you were released? A—Yes.

Q—Did you visit her in the hospital? A—Yes.

Q—Do you know how long she had been in hospital before you visited her? A—About five days.

Q—On the first occasion when you went to the hospital to visit her, did you see her? A—Yes.

Q—And spoke to her? A—Yes.

The Advocate-General gave the Court the dates upon which the ayah and the husband made their statements to Mr. Souter. The first statement made by the ayah was on the 18th December, and the next upon the 21st. The date of the husband's statement was the 18th.

The witness retired.

SYED ADBOOL RAHMAN, examined by Mr. Inverarity—My name is Syed Abdool Rahman. I am also called Rahim Saheb. I have known the ayah Ameena for a short time. I am a first-class peon in the service of the Bombay Post Office. I carry on my occupation in Bombay. Ameena is not a native of my country, but her husband is a neighbour of mine. I first made her acquaintance about six years ago. I saw her last year in Bombay. (Shown Ameena.) That is the ayah. The ayah said to me she had come to Bombay to see her madam saheb off to England. When the ayah was in Bombay I think I remember the ayah as ing me to write a letter—more than one, I believe, though I don't exactly remember. (Shown exhibit A.) This is in my handwriting. I wrote that letter by the ayah's direction. (Shown exhibit which had been marked for identification, and which Shaik Abdoola said he had not received.) This is in my handwriting. I wrote this letter by the ayah's direction.

Syed Abdool Rahman, who used to be employed by the ayah as amanuensis, examined.

Mr. Inverarity begged to tender this letter in evidence to the Court.

Mr. Branson objected. He apprehended that as yet his learned friends had not established a case sufficient to justify the putting in of these letters.

The President—As to letter A, it has been already disposed of.

Mr. Branson—But, my Lord, as to this last one, the ayah has not yet been examined upon it. If your Lordship thinks it admissible, I shall not oppose it; but I do not think a case for their admission has yet been made out.

The President—I do not understand your point that the ayah has not been examined. She says in her evidence that she told witness to write it.

Mr. Branson—But the ayah has not been examined upon the circumstances regarding which that letter was written.

The President—I suppose, from the fact that the learned Advocate-General desires the letter to be put in, that it relates to some facts given in evidence. If it did not, I assume that the Advocate-General would not ask for its admission as evidence.

Mr. Branson—My objection is that this letter is tendered as corroboration of statements made by the ayah, whereas my learned friends have not shown what those statements are.

The Advocate-General—It is on the same footing as the other letter—that is, showing the confidential relations that existed between the parties.

The President—There seems to be no real difference between this letter and the letter A admitted, except that this letter was not sent.

The Advocate-General—It was sent, but did not reach the butler. It has a post mark on it.

The President then decided that the letter might be admitted.

The letter was marked D.

Mr. Inverarity stated that the letter was dated the 29th March 1874, and that he proposed to read the English translation of it that had been made.

The following letter was read :—

No. 1 of 1875.

Oriental Translator's Dept. 1st *Jan.* 1875.

Translation of a Marathi letter marked No. 1.

To Hazrat Sheikh Abdoola,
Butler, residing at Baroda.

After compliments, I, Ameena Bi Ayah, now residing at Bombay, represent as follows :—I sent to you a letter affixing a postage label on it. I do not know whether it has reached you or not, and I am therefore under anxiety day and night. I trust you will, therefore, not act in this way, but will frequently communicate the news and thereby gratify me. If you wish that I should not go there, I am ready to undertake a voyage to England. If you wish it, I shall endeavour to obtain a situation of that kind. I am in doubt as to why no letter is received from you here; I await a reply from you. If you call me, I shall go there; and it will not matter (in the least). I wrote to you for (money for my) expenses, but nothing has been received from you. Convey my best compliments to the Cazi Saheb, my compliments to Salim, my best compliments also to Yeshwuntrao. Exhibit D.

Chotoo's mother owes me rupee one. You should deduct it from her son's pay, because she has not visited me since her arrival at Bombay. You should go to and make proper inquiries at the place there when I am coming to take up service. I hear that he has obtained an appointment in Rewa Kanta. If such a thing has happened, it is very bad. Write to say whether you have borrowed Rs. 5 from Vingorlekur Mahommad. He comes here and duns me for the (payment of the) same. Let me know whether this is true. I do not know whether or not you have delivered the note (chiti) enclosed in my last letter to the person for whom it was intended. I labour under anxiety on this account only. Give my best compliments to Nathiaba. Write to say whether or not you have received the two "firkees." What more need be written? This is my request.—Dated 29th March 1874.

I reside in Shetwadi in the same house as before.

Ameena Bi Ayah, Bombay.

A reply to be sent without fail.

Venayek Wassoodew,
Oriental Translator to Government.

Mr. Inverarity also read the following letter, dated 10th April 1874, addressed to Shaik Abooola :—

No. 2.

No. 2 of 1875.

Oriental Translator's Dept. 1st *Jan.* 1875.

Translation of a Marathi letter marked No. 2.

To Hazrat Sheikh Abdoola,
Butler, at present residing at Mahableshwur.

After compliments. Further. The cause of writing (this letter) is as follows. I have received your letter and understood its contents. I hope you will in like manner frequently communicate to me the news from that place through letters and thereby gratify me. Salim saw me on his arrival here, but as that is a "Raj Darbary" matter (State matter), it will be done leisurely as opportunities offer. I am a little better. I have sent a letter there stating that I would attend on the 20th, and it is my intention to go there accordingly. I have now also commenced taking medicine. There is also less strength in my hands. Five rupees have been paid to Vazir Ma. You gave to me the letter received by you from home and then left. On reading it I found its contents as follows :—"The house of your father-in-law is to be attached. What place, then, should be fixed for residence?" I can give no reply about this. Formerly I told her to reside in (our) house, but she did not mind this, and lived there at her father's house. She has sent for Rs. 5 for expenses, and a black sari.* Even when she has money in her hands, she sends for it here. I am, therefore, thrown into difficulties on all sides. Every one secures his or her object, and at last I am likely to be disgraced. If a single pot, out of the pots, &c., which are in the house is lost, you will be responsible for it. You write to say that you will send Rs. 10 for me. It will be well if you send the same soon, that is before the 18th. If not, it is your pleasure; I have no force on you. From Alisha Jemedar have been received Rs. 25 on account of himself, Rs. 25 on account of Raheem Saheb, and Rs. 10 on account of Sha Saheb—in all Rs. 60. Rs. 40 remain (to be recovered), for which it is in contemplation to get a fresh bond executed. Rs. 20 due to a Marwari should be paid off soon. After the payment thereof, I am to proceed thither. By (my) taking one month's leave, I have been subjected to a heavy loss. But what can be done? Owing to my illness, I could not help (doing so). Exhibit A.

I had been to Yeshwuntrao's house. He has gone to Pandharpur on fifteen days' leave. He spoke to me as follows :—"On my return I shall have arrangements made about you. The Maharaja twice or thrice inquired when the ayah would come." Salim was invited to my place of residence here. He was shown attention so far as my poor circumstances would permit. Let this be known. What more need be written?

* A piece of cloth worn by women.

Raheem Saheb Dilhao (? Dilawur), Baba Matkar and others send their best compliments to you.

AMEENA BI AYAH, residing at Bombay.
Dated 10th April 1874.

VENAYEK WASSOODEW,
Oriental Translator to Government.

Mr. Inverarity (to witness)—Do you remember writing any other letter besides these two for the ayah? A—Yes. I do not remember about these two letters, but about the third remember. I remember that the third letter was addressed to Shaik Abdoola Butler. That letter was written by the direction of the ayah. I remember the fact of having written that letter, but I do not remember the details.

Q—In writing the third letter, did you put any enclosure in it?

Mr. Branson objected to his learned friend putting any leading questions.

The President suggested the desirability of carefulness in such matters.

Witness—In the third letter there was a note written in the name of the Maharaja. I do not remember the name. I think it was Mulhar Rao Gaekwar. I mean that the letter was addressed to him.

Cross-examined by Mr. Branson:—

Shaik Abdoola cross-examined by Mr. Branson.

Q—You understand English, do you not? A—A little; not well.

Q—Have you not understood every one of Mr. Inverarity's questions before they were translated to you? A—I can understand English, though I cannot speak well.

Q—Where do you live in Bombay? A—In Khetwady.

Q—How long have you lived there? A—I have been living in my last house three or four years.

Q—Where was the ayah living in Bombay? A—In the same house, but in a room adjoining mine.

Q—Do you know Akbar Ali? A—Yes.

Q—And his son Abdool Ali? A—Yes.

Q—Did you see them both before you came up here? A—They belong to the Bombay Police. They lived there.

Q—Did you see them shortly before you came up here? A—No. I am engaged night and day at my duties.

Q—Who sent for you here? A—They first sent for me.

Q—Where did you first see them in connection with this case? A—They came to the Kalkadavee Post Office to see me first.

Q—Why did you tell me two minutes ago that you had not seen before you came up here? A—At first I came here on 6th of last month (January), and on the 7th Mr. Souter examined me.

Q—Do I understand you to say that both Akbar Ali and his son came to you in Bombay to bring you here? A—They came. I did not see them.

Q—Did you or did you not see them when they came to summon you to Baroda? A—No. I did not see them. But I saw a Police Subadar named Ahmed Ali.

Q—He is a relation of Akbar Ali's, is he not? A—He may be. It appears so.

Q—Do you believe so? A—I do not know well.

Q—Did Ahmed Ali tell you that you were said to have written a letter to the Maharaja? A—No. This is the reason I remember it. In all my life I have only written one letter to the Maharaja by my hands.

Q—This is your reason? A—I will explain the whole matter. First of all these persons inquired about me.

Q—What persons? A—The detectives.

Q—What detectives? A—I was at the office, I was not at home.

Q—Then inquiries were made at your house during your absence? A—Yes. They went to my house first.

Q—I do not want to know how they hunted you down, but will you tell us what Ahmed Ali said when he came to you? A—Ahmed took me to the police.

Q—What did Ahmed Ali say? A—Ahmed did not say anything to me, but Khan Bahadoor made inquiries of me.

Q—Where was that? A—He made inquiries regarding me, but I was not found.

Q—Did you not say just now that Khan Bahadoor had asked you questions in Bombay? A—Yes.

Q—That was in Bombay? Then confine your great mind to that point. When Khan Bahadoor examined you, who else was present? A—He and I.

Q—No one else? A—One or two other persons were present. That was when I went to the Khan Bahadoor's house.

Q—At Oomercarry Chowkey? A—No; to his house. Did Khan Bahadoor say it was said you had written a letter to the Maharaja? A—No; he inquired, "Did you write anything for the ayah, or what?"

Q—Did he mention any one's name? A—Yes; Ameena's.

Q—Did he ask you to whom you had written anything for her? A—Yes. I said she caused a letter to be addressed to her husband, a butler.

Q—Did he take down your statement in writing? A—I do not remember.

Q—In what month did you write the letter to Shaik Abdool Ali, butler, with the enclosure you have spoken of? A—I remember the fact of having written that letter, but I do not remember in what month it was.

Q—In what year was it? A—Very likely last year.

Q—What season of the year? A—It was before this letter (the letter which he had identified), but I do not remember the date upon which I wrote.

Q—How long before? A—It is a fact that I wrote it before this letter (pointing to same letter), but how many days I do not remember.

Q—Was it before or after the Hoolee? A—I do not remember; what have I to do with the Hoolee?

Q—You are a Mahomedan, and know the festival of the Buckra Eed, was the letter written before or after the Eed? A—I do not remember.

Q—You know the Shaba-ba-Rat. Was it before or after that festival? You say you had a particular recollection of writing it because it was the only one you had written to the Maharaja. Was it written before or after the festival I have mentioned? A—I remember the fact of having written it, but I do not remember the day on which I wrote it.

Q—Will you swear it was not after the Shaba-ba-Rat? A—I cannot say that, because I do not remember.

Mr. Branson (to the Court)—The Buckra Eed is on the 29th January, and the Shaba-ba-Rat on the 29th December; so I think I have given the witness a fair margin.

Cross-examination continued:—

Q—Where did you write the letter? A—She came to my house, to my room, to cause that letter to be writen.

Q—Was anybody else present? A—People who lived there would be coming and going there.

Q—At the writing of the letter? A—Mahomedans were in the habit of coming to my house to smoke hookahs or drink water.

Q—Then the probability is that there were people there? A—Yes.

Q—And the ayah dictated this letter to the Maharaja before a number of people? A—First a letter

was caused to be written to her husband. In that letter there was a note enclosed to the Maharaja.

Q—And you say that the ayah dictated this to you in public? A—People are in the habit of coming there.

Q—To the best of your recollection other people were present when this letter was written? A—They might have been present for a time, but they did not continue sitting there the whole time.

Q—At all events there was no privacy in your room? A—No; there was no privacy.

Q—No dreadful State secrets were stated in your presence or discussed by the ayah? A—No. But she caused the note to be written to this effect: "You will greatly oblige me if you send some money for my expenses. There was a dinner given at the Governor's, where I made some enquiries. Do you not be apprehensive."

Re-examined by the Advocate-General :—

Shaik Abdoola re-examined by Advocate-General.

Q—If there was anything else in the letter, state it to me? A—There was nothing else.

Q—You were asked about Mahomedan festivals. Can you tell me if this letter, in which the enclosure was contained, was written during the same visit to Bombay of the ayah in which you wrote the other two letters? A—Yes; at the same visit.

Q—How long have you been in service at the Post Office? A—More than three years.

Q—What pay do you get? A—Rs. 28 a month.

The ayah AMEENA was re-called and examined by the Advocate-General :—

The ayah Ameena is recalled and examined by Advocate-General.

Q—Do you know the witness who has just left the box, Syud Abdool? A—Yes; I used to know him before.

Q—Were you living in the same house in Bombay? —Yes.

Q—Did you ever get him to write any letters for you while you were in his house in Bombay? A—Yes; as I stated before.

Q—Do you remember how many letters you got him to write? A—It was some time ago. I do not exactly remember, but to the best of my recollection three letters were written: two addressed to Baroda and the third to Mahableshwur.

Q—On what visit of yours to Bombay was it that you got these three letters written? A—When I went to Bombay in company with Mrs. Phayre last year.

[The witness was shown letter marked D, written in Marathi.]

Q—Do you understand this letter? A—I am not familiar with these characters.

[Syud Abdool, the writer of the letter, was re-called and read the letter.]

(The Interpreter—That is substantially consistent with the English translation.)

The Advocate-General to witness—Was that letter written by your direction? A—Yes.

Q—You desire your compliments to be given to Cazee Shahabbudeen, Yeshwuntrao, and Salim. Who are these persons? A—The Cazee was in the habit of coming to visit a reverend gentleman at the Residency, and on these two occasions he used to come to my room to drink water.

Q—Do you know in what place he was Cazee? A—In the towns or villages of the Deccan—Chundool, I believe.

Q—Who were Salim and Yeshwuntrao? A—Salim was the man who used to come with the Maharaja.

Q—Is this the Maharaja's jasood that you spoke of the other day? A—Yes.

Q—Are Salim and Yeshwuntrao the two jasoods of the Maharaja? A—Yes. The Maharaja's jasoods or naiks.

Q—You also write that you sent a letter, affixing a postage label upon it? A—Yes.

Q—You also say in another part of the letter—"I do not know whether or not you have delivered the note enclosed in my last letter for whom it was intended?" A—Yes.

Q—Who wrote that letter and enclosure? A—The Raheem Saheb.

The President—Is that the letter D?

The Advocate-General—Yes.

Examination continued :—Who was the person for whom the letter enclosed was intended? It was written to Salim to be delivered to the Maharaja. I wrote that because Salim had mentioned it to me to write.

Q—For whom was the letter intended? A—For the Maharaja.

Abdool Rehman, recalled, read the letter marked A, dated 10th April, from Ameena.

The Interpreter said that the English translation of the letter was substantially accurate.

Examination continued :—This letter also was written by my suggestion.

Q—You say Salim saw you on his arrival here? A—Yes; I refer to his arrival in Bombay.

Q—Is this Salim who saw you in Bombay the same Salim that was mentioned before? A—Yes.

Q—Did he come to see you while in Bombay? A—No; I met him at Yeshwuntrao's house, where I went. I did not know Yeshwuntrao's house, but as I was going to Bhau Daji's house Yeshwuntrao met me, and I went with him to eat some pan-sooparee.

Q—On that occasion did you see Salim? A—In the letter it is written, "Salim saw me on his arrival here, but as that is a Raj Durbar e matter, it will be done leisurely as opportunities offer?" A—Yes.

Q—What are the durbaree matters to which you refer? A—I asked Salim when will you give me the reward or present. I said I had not got it yet. He said, this is a large durbaree or great affair; it can be done leisurely.

Q—You also write in the letter that Yeshwuntrao spoke to you as follows :—"On my return I shall have arrangements made about you. The Maharaja twice or thrice inquired when the ayah would come." Is it true that Yeshwuntrao spoke in that manner when you saw him in Bombay? A—Yes; I won't tell a lie.

Q—It is also true that you invited Salim to Bombay, and showed him such attentions as were suited to your circumstances? A—Yes; I gave him tea and pan-sooparee.

Q—You also say in the letter—"I have sent a letter there stating that I would attend on the 20th, and it is my intention to go there accordingly?" A—That was with reference to going to Nowsaree in the service of Mr. Boevey.

Mr. Jardine's Purbhoo clerk read out aloud and in the hearing of the witness in the vernacular the letter marked B, the Interpreter meanwhile checking its English translation, which he said was substantially correct.

The Advocate-General—You have heard that letter read. Do you remember receiving it? Witness—Yes; I received it at Poona. I was then in Mrs. Boevey's service.

(The letter marked C was read out in the same way as the letter marked B.)

The Advocate-General—You have heard that letter read. Did you receive that from your husband?

Witness—Yes. I was at Poona when I got that letter.

Ameena re-cross-examined by Mr. Branson.

Cross-examined by Mr. Branson—Where have you been since you were last examined? A—Near the Khan Bahadoor's house or with the Khan Bahadoor.

(Interpreter—It may bear both these translations.)

Q—You have seen the Khan Bahadoor since you were last examined—have you not? A—Yes; where I am in custody.

Q—And his son? A—Yes.

Q—And the Rao Saheb Gujanund Withul? A—No. (Interpreter—At first she said I don't know him.) I have not seen him.

Ameena re-examined by Advocate-General.

Re-examined by the Advocate-General—You say you have seen the Khan Bahadoor and his son since you were last examined. Have you had any conversation with either of them? A—No.

The President—Have you done with her?

The Advocate-General—Yes, my Lord.

The President—You had better let her husband stand there.

The Advocate-General—Call Shaik Abdoola.

Shaik Abdoola re-called and examined by Commission.

SHAIK ABDOOLA re-called accordingly, and examined by the Commission.

The President—Did you get a letter with an enclosure in it addressed to His Highness the Gaekwar?

Witness—Yes.

Q—What did you do with the enclosure? A—When I was about to go to Mahableshwur, I gave that note together with other letters to my wife.

Q—By a note he means the enclosure?

Interpreter—Yes, my Lord.

Q—How long had you kept that enclosure before you gave it to your wife? Witness—It remained with me I think three or four days.

Q—Where were you then when you received it? A—I was at Baroda in the service of Major Blakeman.

Q—Do you mean that you gave it to your wife three or four days after you received it? A—Yes. I do mean that.

Q—It came to you from Bombay? A—Yes; from Bombay.

Q—Then how soon did your wife go to Baroda? Where did you give it to your wife? A—At Bombay.

Q—Did you take it with you to Bombay and give it to your wife there? A—Yes; on the eve of my departure to Mahableshwur.

Q—Why did you take it back to Bombay? A—I had no time here, and I did not meet with the man—I mean Salim.

Q—Do you know what has become of the enclosure now? A—I gave it to my wife.

The Advocate-General reminded his Lordship with reference to the witness's statement—"on the eve of my departure to Mahableshwur"—that a person going to Mahableshwur would have to pass through Bombay in order to get there.

The President took a note of that, and the witness then withdrew.

Pedro de Souza, Colonel Phayre's butler, examined by Mr. Inverarity. Pedro says he accepted money from the Maharaja, but never visited the Palace.

PEDRO DE SOUZA sworn, and examined by Mr. Inverarity—My name is Pedro de Souza. When Colonel Phayre came to Baroda as Resident I was in his service, and I remained in his service until the month of November last. Colonel Phayre came to Baroda about the month of March 1873. During that period and between March 1873 and November 1874, I was in Baroda, with the exception of some days, when I went to Nowsaree. I went to Goa lately on leave. I know and used to salaam to Salim sowar. He used to come to the Residency twice a week. He used to say, "If you come to the Maharaja, it will be well for you. There will be a garry sent for you." I told him I would not go. I received some money. I was about to go to Goa. I said to Salim I am about to go to Goa. I asked him to give me some money for the expenses of my journey, and he brought me a sum of money and gave to me. I have deposed to particulars in my deposition. When I asked Salim for the money I said I was about to proceed to my country, and he brought me some money.

Mr. Melvill—Pardon me, Mr Interpreter, but I understood him to say, "I told him that I was going to Goa, and I asked him to send me a present of money." That is what he said last. Ask him again.

Witness—I told him, "I am going to my native country. Will you ask the Maharaja to give me some money for the expenses of my journey. Salim often sent for me, and he also said that money was got there."

Mr. Inverarity—From where?

Witness—Salim brought the money and gave it to me.

Q—How long was it after you asked Salim for the money, that he brought it to you? A—About ten or twelve days after, he brought sixty rupees of the Baroda coinage, which is equal to fifty Bombay rupees, to my room at the Residency. He said, "The Sircar has given this for the expense of the journey." The Sirkar was the Maharaja. I accepted the Rs. 60. I was a servant in the house. I was a butler. I was head servant in the house. I used to wait at table. I had been in Colonel Phayre's service twenty-six years, and for fifteen or sixteen years of that time I was butler.

Pedro cross-examined by Serjeant Ballantine.

Cross-examined by Mr. Serjeant Ballantine:—

Q—Your deposition, I believe, was taken at Bombay, was it not? A—Yes.

Q—Before a gentleman of the name of Edginton? A—Yes; Mr. Edginton.

Q—Did you tell Mr. Edginton what you knew upon the subject? A—Yes.

Q—Salim was the only person who ever asked you to go to the Gaekwar? A—Salim was the only person.

Q—How long had you known Salim? A—Since I came to Baroda. He was in the habit of coming twice a week to the Residency with the Maharaja.

Q—Did Salim tell you why he wanted you to go to the Maharaja? A—He said, "It would be well for you to go there"—he did not say why.

Q—And you declined, and never did go? A—Besides that I was very busy.

Q—But is it a fact that you never went? A—I never went.

Q—Tell me where you have been staying since you gave your evidence to Mr. Edginton? A—I was in the service of my master when I gave my deposition.

Q—Have you remained in that service? A—It is a month and eight or ten days since I have been brought to this place. (Interpreter—Meaning Baroda.)

Q—Are you being taken care of by anybody? A—I am near the Khan Saheb, or with the Khan Saheb, in the tent.

Q—Do you know a man named Rowjee? A—I know him as a servant at the bungalow.

Q—Rowjee bin Rama, that is his name? A—I know him by the name of Rowjee.

Q—How long have you known him? A—Since he came to serve at the bungalow.

Q—Were you intimate with Rowjee? A—He was not at the bungalow when I came.

Q—Were you intimate with Rowjee? A—No, on speaking terms with him—no particular friendship

Q—Did Rowjee ever ask you to go with him to see the Maharaja? A—No.

Q—You say he never asked you; then I hardly need ask you whether you promised to do so. Did you promise to do so—whether you were asked or not—that is, to go to the Maharaja's Palace? A—I did not promise.

Q Did you yourself ask Rowjee to go with you to the Maharaja? A—I did not say anything to Rowjee except as to the payment of the Rs. 60 that I received.

Q—Did Rowjee and you ever arrange to go and see the Maharaja? A—No; not I.

Q—Did you and he accompany Salim to see the Maharaja? A—I never went.

Q—Did you see Yeshwuntrao at the Palace? A—How could I see him when I did not go there at all?

Q—I am obliged to put it in this way—Did Yeshwuntrao conduct you to the Maharajah? A—Never.

Q—Did the Gaekwar ever speak to you in Rowjee's presence? A—No; I never went and he never said anything to me.

Q—I understand you to say that you never did go to the Palace, and never did have any communication with the Maharaja? A—Never.

Q—Then if Rowjee says that you have done so, that is not a fact? A—It is not true.

Q—Supposing that Rowjee had said that you and he went together on two or three occasions, it is not true? A—It is not true; I never went.

Q—Did you go to Goa at any time? A—Yes; on one month's leave.

Q—When you returned, did you go with Rowjee to the Palace to see the Maharaja? A—No; I did not go.

Q—I must ask you this question—Did you ever receive a small paper packet or any packet from the Maharaja? A—How could he give me anything when I did not go to him?

Q—As a matter of fact, you never saw the Maharaja, nor had any communication with him?

The President—A witness like this cannot understand why the questions are put to him when he says he never went.

Mr. Serjeant Ballantine—Neither is it very necessary that they should be put.

The President—I think you have put it sufficiently.

Mr. Serjeant Ballantine—I think I have put it quite clear. [To witness]—Were any of these questions put to you when you were examined by Mr. Edginton? A—What he asked me and what I answered have been taken down.

Q—Did Mr. Edginton enquire of you whether you had ever seen the Maharaja? A—Yes; he asked me, and I said I never went to him.

Q—You gave him the account as you have given it us to-day? A—Yes; I said I did not go.

Q—Do you know Akbar Ali? (Witness not answering.)—He does not seem to know him by his name.

The President—Does he know the Khan Saheb?

Witness—I know the Khan Bahadoor.

Mr. Serjeant Ballantine—Has he asked you any questions since the time you were examined by Mr. Edginton? A—First of all I made a statement to the Khan Bahadoor.

Q—Was that the statement you have made to-day? A—According to what is put down in my deposition.

Q—Were you asked whether you had been to the Maharaja's? A—Yes; by the Khan Bahadoor I was asked.

Q—Was anything said to you, that it would be better if you were to tell the truth? A—I was told to tell the truth, and that was the truth.

Q—Were you told that it would be better for you if you told the whole truth? A—I was told to tell everything that was true.

Q—Were you told that it would be the worse for you if you did not? A—No; I was simply told to tell the truth.

Q—Were you told what Rowjee had said, or that Rowjee had said something about you? A—No; by nobody.

Q—Do you know that Rowjee has said something about you? A—No; I don't know.

The Advocate-General—It is agreed to, that the deposition of this witness was taken on the 5th January 1875 in Bombay, and if my learned friend does not object, I will put in deposition now.

Mr. Serjeant Ballantine—I have no objection at all.

The President—Is it taken down in English?

The Advocate-General—Yes, my Lord.

Mr. Serjeant Ballantine—I will admit anything to which Mr. Edginton's signature is attached.

The Advocate-General puts in the deposition which is marked E.

The President—Let the Secretary read it.

Mr. Jardine, the Secretary, here read the deposition, which runs as follows:—

"Pedro de Souza, native Christian, states—I am about thirty-seven years of age, and have for more than twenty-five years past been in the service of Colonel R. Phayre, the late Resident at Baroda. I have been serving that gentleman as his butler for the last fifteen or sixteen years, and before that I filled several situations of different kinds in his household. When Colonel Phayre was appointed to the office of Resident, at Baroda, which was, I think, in the month of March 1873, I accompanied him to that place, lived in the Residency, and served him there from that time until the month of September last, when I obtained leave of absence from him, and proceeded to Goa, my native country. I left Baroda on the 3rd October last, went to Goa, remained there about a fortnight, and returned to Baroda on the 3rd November, one month after my departure. I know one Salim, a Mahomedan, who resides at Baroda, and is a 'jasood' in the service of His Highness the Gaekwar. I have known this man Salim from the time I first went to Baroda with Colonel Phayre, as above stated. He used to come to the Residency twice a week regularly during all the time I stayed there. The Gaekwar always came twice a week, on Mondays and Thursdays, to pay a sort of official visit to the Resident; and on these days Salim always preceded His Highness to give notice of his coming. Salim always brought with him, on these occasions, a tray of fruit as a sort of 'nuzzerana' or tribute of respect. In the month of August last, when I first thought of obtaining leave from my master to go to Goa, I was short of money; and on seeing Salim at the Residency one day I said—'I am thinking of going to my native country for a month, but am badly off for money, my wife is pregnant, and the expenses on her account and for travelling will be heavy; will you entreat the Maharaja to give me some money for this purpose?' Salim replied that he would speak to the Maharaja and bring the money. No particular sum was named by either of us. I made this request to Salim, because I had heard that the servants of previous Residents had obtained similar favours from the hands of the Gaekwar. Salim him-

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Sen had told me this many times before I made my said request to him. About a fortnight after I had so spoken to Salim, he came to me in my room at the Residency, and said—'The Maharaja has sent you these rupees. I told him what you said.' I thanked him very much, took the rupees he offered me, and he went away. I counted the rupees as he gave them to me and said—'Here are sixty rupees of Baroda currency, which are equal to fifty Bombay rupees.' Two or three days after this, or on his next visit to the Residency, Salim met me in the compound of the Residency and said—'You come and see the Maharaja. If you will agree to come, I will bring a carriage to take you.' On hearing this I said—'I will never come to the Haveli' (*i. e.* palace). He replied, 'If you cannot come now I will bring a carriage for you whenever you wish to come.' To this I again said—'I will never come!' After my return to Baroda from Goa I never saw Salim, except in passing, and I had no speech with him other than to say 'salaam.' I positively declare that I never received any other gift from the Gaekwar than this one of Rs. 60 sent to me through Salim, and that I never had any conversation with Salim about my own affairs or in connection with the Gaekwar, excepting on the occasion mentioned. I never went to the Haveli or spoke to the Gaekwar, and I never had any correspondence with him, either directly or indirectly, than that above detailed. Further I say not.

The mark X of
PEDRO DE SOUZA.

Taken on oath and duly acknowledged and signed by Pedro de Souza in my presence, this fifth day of January 1875.

A. EDGINTON, J.P.,
Deputy Commissioner of Police, Bombay."

Mr. Serjeant Ballantine here drew the attention of the President to the word "entreat" appearing in the deposition for which the Interpreter used another word.

The Advocate-General (to witness)—Do you understand English?

Witness—I don't understand it at all.

Mr. Jardine—There are one or two corrections in this deposition opposite to which Mr. Edgington has placed his initials.

Colonel Phayre examined by the Advocate-General.

COLONEL PHAYRE, examined by the Advocate-General, and sworn, deposed—My name is Robert Phayre. I am a Colonel in the Bombay Army, and a Companion of the Bath and aide-de-camp to the Queen. I arrived at Baroda first on the 18th March 1873. I arrived as Political Resident here. The Baroda Commission commenced its sittings at the beginning of November 1873, and continued to sit until about the 24th December. In March 1875 Mrs. Phayre left Baroda for Bombay on her way to England. Her ayah, Ameena, attended her. I also accompanied her. I returned to Baroda from Bombay three or four days after that occasion. The ayah had leave for a month, and she was left behind in Bombay. When I was in Bombay on that occasion I stayed at the Adelphi Hotel. I do not recollect whether Mrs. Phayre and I paid a visit to Government House on that occasion. I left with His Highness the Gaekwar for Nowsaree on the 2nd April. I now recollect that Mrs. Phayre and I did go to Government House to tiffin. Mr. Boevey, Assistant Resident, did not accompany me to Nowsaree. He was down in the Nowsaree districts on boundary duties, where he had been for some time. His camp was at Nowsaree. He joined me afterwards. I remained at Nowsaree until the 16th of May, when I returned to Baroda. I came ahead to make preparations for His Highness's reception here. He came a day or two afterwards. I remained at Baroda from the time I returned from Nowsaree until I was relieved by Col. Sir Lewis Pelly, with the exception of a short absence on duty. His Highness the Gaekwar also remained in Baroda during that time. It was the habit of his Highness to visit me officially at the Residency twice every week—that is, on Mondays and Thursdays. After the Commission he used to visit me accompanied by Govindrao Mama or Rao Saheb Bapoobhaee, and after we came back from Nowsaree he came alone. Sometimes one and sometimes the other accompanied him. He used to be attended by outriders or sowars. By sight I knew the outriders or sowars who always attended His Highness. When Yeshwuntrao was present in Baroda he accompanied His Highness. Another was Madharao Kali. The third was the Arab sowar Salim. There was also a son of Yeshwuntrao. I had frequent opportunities of seeing these men with His Highness. They were his habitual attendants in Nowsaree as well as in Baroda. My private office in the Residency was in a building detached from the main block of the Residency. This building was on the west side of the Residency, and is connected with the main body of the house by a covered verandah. In this detached building there is an ante-room (in which my native assistant used to sit), and an inner-room which I used as an office room. Adjoining that private office was a bath-room which I was in the habit of using. The ante-room is separated from the covered verandah by a dwarf wall, and being on lower ground you must descend several steps to reach it. Any one standing in that verandah could see over the dwarf wall and at once into my ante-room and into the office if the door if it were open. The peons or puttawallas of the office used to sit on a bench placed at right angles with the dwarf wall which separates the verandah from the ante-room. The peons usually in attendance upon me were Rowjee Havildar and the Jamadar Nursoo. They never attended anywhere else, and their post would be on this bench. Kurreem was also there, as he was always in attendance on Mr. Boevey. My private office was in charge of Govind Balloo hamal, whose particular duty it was to see that water and so forth were placed all right in the room. I used to dress in the office-room. I used to go in the early morning for a walk or a ride, and on my return it was my habit to take a glass of sherbet prepared from pummelows. It was the duty of one of the house servants—Abdoola generally—to prepare this sherbet for me. Abdoola is a chobdar. It was generally placed for me on the wash-hand stand in my private office. This wash-hand stand was in the far corner of the room to the right front as you entered. The wash-hand stand was in such a position that it could be easily seen from the verandah when the door was opened. Previous to the 9th November last year I had been ailing one way or another from about the middle of September. I remember particularly that about the time of the Gunputee festival I was suffering just as if I had a bad cold in the head, and I had a bad boil on my forehead at that time. I did not get rid altogether of the boil for, I should think, nearly three weeks altogether. My medical attendant at this time was Dr. Seward, the Residency Surgeon, who used to dress the boil every morning. He used to put the plaster he used on a dressing-table, and there was a side-table on which sometimes it remained, and I think I shifted some of it on to a little clock-stand above the dressing-table in my private office. After this boil I had slight fever at one time, my eyes watered a good deal,

and I had a feeling of fullness in the head. I tried to account for this in various ways. I used to sleep out at night, and I thought I had caught malarious fever, and I thought that perhaps this was the cause. I had puzzled myself about the circumstance, and tried to account for it in the way I have mentioned, when I also began to wonder whether the pummelow sherbet was made with proper pummelows. It would be about the end of September or the beginning of October that I began to wonder this. I remember Govindrao Rory. On the 6th of November I went to an adoption ceremony at his house. I think I arrived at his house at about five o'clock in the afternoon. On the morning of that day I did not take the whole of the sherbet. I took a sip or two of it and threw the rest away. On that day I did not feel at all well. I was writing a good deal with Mr. Boevey, and about the middle of the day I felt a fullness in the head such as I had previously experienced, and sleepiness. During the day I went into an armchair when Mr. Boevey was away and slept heavily for about half an hour or three quarters of an hour. This was not a usual thing for me to do unless I felt very tired. On the morning of Saturday the 7th I took a little of the sherbet just the same as before. In the course of the day I felt very much the same symptoms as had I felt on the previous day—great fullness in the head and unfitness for work. I think I was a little worse on this day. I did not call in the doctor. Dr. Seward had spoken to me some time before about not looking well, and I said it might be fever. On the 9th November I left the house a little before six in the morning, and returned at five minutes so seven. As I was coming up the approach to the Residency from the compound, Rowjee came along the verandah, and made me two or three salaams. It was unusual for him to come and meet me in that manner. Generally at that early hour no one was present. I did not see anybody else about, except Rowjee, who came out that morning to meet me and then went back again. There was no one in or about my office when I got there.

In answer to the President :—

The witness deposed that when he was met by Rowjee, instead of going through the covered verandah to his office he went into it by a large door which leads into the detached building from the compound. He had come up the walk on the west side of the verandah and turned directly into his private office.

Examination continued by the Advocate-General :—When I went into the office room, the pummelow sherbet was placed on the wash-hand stand, and to the right-hand corner from me as I approached it. As far as I can recollect, the tumbler was near the basin and was in such a position as to be visible from the verandah if the door were open. I also would be visible from the verandah as I walked to the wash-hand stand. On that morning I went up to the wash-hand stand, took the tumbler of sherbet in my hand, and took two or three sips. I placed the tumbler again on the wash-hand stand, and then went to the writing-table to write a letter which I wished to despatch by the mail that morning. I wrote for about twenty minutes or half an hour and then felt a sudden squeamishness, as if I was about to be sick. The thought occurred to me all at once, "It must be the sherbet which has always disagreed with me;" and I got up, went to the wash-hand table, took the tumbler in my hand, and tried to throw away its contents in order that I might not be tempted to drink it. The window through which I pitched the sherbet opens on a chunam verandah, which is rather wide, and then comes the grass of the compound. As I was replacing the tumbler on the wash-hand stand I saw a dark sediment collected at the bottom and a part that was then pouring down the side of the tumbler. I held up the tumbler and looked at it, and the thought occurred at once to my mind that it was poison, and from that moment in my mind all my previous sensations and illnesses were accounted for. When I saw the dark sediment in the tumbler, I put the tumbler down and wrote a note to Dr. Seward. That would be about half-past seven, or five and twenty minutes to eight. I could not say to whom I gave the note, but I called out, and somebody took it, and I told the person, whoever he was, to take it to the doctor. Until Dr. Seward's arrival I sat waiting for him. I felt a sort of dizziness in my head, and as if my head were going round slightly. It might have been half an hour or three quarters of an hour before Dr. Seward came. On his coming to me I made over the tumbler and the remains of the sherbet in it to him, with a request that he would analyse it and report to me about it. I described my symptoms to Dr. Seward. He might have remained with me for about ten minutes. He took away the liquid, and I told him to conceal the tumbler and not let anybody see it, as I was not sure that it was poison. After Dr. Seward had gone, I went and dressed so as to be ready for the Maharaja. This was the day of his usual visit. The Maharaja came about half-past nine, I think—his usual hour. Between the time of my giving the remains of the sherbet to Dr. Seward and the Maharaja's arrival I had received no communication from Dr. Seward. I had not mentioned my suspicions of poisoning to any one but Dr. Seward. When the Maharaja came I went out to receive him as usual, and led him into the drawing-room, and he sat down. I asked after His Highness's health, and he said he had not been very well; that there was a good deal of fever about; and that he thought he must have eaten too many of the sweetmeats usual at that time (the Dewalee). He also mentioned that he had had a slight headache and pain in his stomach, but that he was better now. The interview was not a long one, and when I got into the verandah to escort His Highness to his carriage, there was Yeshwantrao with the usual tray of Dewalee sweetmeats, and His Highness pointed out to me the particular kind of sweetmeats which he considered had disagreed with him. I then took leave of His Highness and went back to my room. After breakfast I wrote to Dr. Seward.

The President—Was that before or after His Highness came?

The witness—After His Highness came I went into my room, and then went to breakfast, which we had about ten o'clock. After breakfast I wrote to Dr. Seward.

The Advocate-General represented to the Court that as he would have a good many more questions to ask Dr. Seward, this would be a convenient time to leave off for the day.

The President concurred, and the Court rose at about 4 o'clock.

FIFTH DAY, SATURDAY, FEBRUARY 27.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence :—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, Shamsram Narayen, and

Wassudeo Juggonnath, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission :—John Jardine, Esq., Bombay Civil Service.

Interpreter :—Mr. Nowrozjee Furdoonjee. Mr. James Flynn being absent owing to indisposition.

His Highness the Gaekwar was present, and occupied a position on the left of the Commission.

Colonel Sir Lewis Pelly, K.C.S.I., occupied a position on the right of the Commission.

The Court met at about eleven o'clock.

Scindia is absent unwell.

The President—Mr. Advocate-General, His Highness the Maharajah Scindia is unwell and will be unable to be present to-day, but I shall take care that he is furnished with a copy of all the evidence.

Mr. Serjeant Ballantine, on behalf of himself and the Advocate-General, expressed regret at hearing of His Highness's illness.

The President—The evidence of Colonel Phayre had better be interpreted to His Highness the Gaekwar as the examination proceeds.

The Advocate-General explained that a number of lengthy documents had to be put in, and that it would be impossible to translate them.

The President—We shall see to that as we proceed.

Colonel Phayre's examination continued.

COLONEL PHAYRE, examined by the Advocate-General—After the visit of the Maharaja on the 9th November, and before I had heard from Dr. Seward, I had mentioned my symptoms to Mr. Boevey. I saw Dr. Seward again on that day when he returned between eleven and twelve o'clock, but I had written him a letter in the meantime. (Shown letter purporting to be written at 11 A.M. on the morning of 9th November.) This is the letter.

(Letter put in as Colonel Phayre's statement of his symptoms to his medical adviser and marked F.)

The President requested that the letter should be read.

The Advocate-General then read the following letter marked "Confidential" :—

Confidential.

Baroda, 9th November 1874, 11 A.M.

Exhibit F put in—letter from Colonel Phayre to Dr. Seward, dated 9th Nov., and describing the symptoms felt by Colonel Phayre.

MY DEAR SEWARD,—With reference to the circumstances which I mentioned to you this morning, together with the symptoms which I described to you, and the contents of the tumbler which you took home with you, I should feel much obliged if you would kindly give me a professional opinion as to the nature of the contents of that tumbler, whether poisonous or not.

Although I only took two or three sips of the pummelo juice which the tumbler contained, I felt within about half an hour, as I described to you, a most unusual sickness of stomach, accompanied by dizziness in the head and of sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth with slight salivation such as I have never experienced till within the last few days, and which I attributed partly to a slight attack of fever, which had, however, quite gone off, and partly to an idea that the pummeloes from which the juice daily placed on my table had been extracted were not fresh ones. I now, however, attribute all of these symptoms, especially that of this morning, to entirely different causes. In fact, I now believe that for the last few days small doses of poison have been introduced into the juice, and that had I drunk the whole tumbler off to-day I should have been very ill indeed.

The confused state of my head has often surprised me of late, because for the last six weeks I have abstained *in toto* from wine and beer, &c., except once or twice when friends dined at the Residency, and have found myself all the better for it.

My general health is, as you know, most excellent, and therefore the symptoms which I have described to you are, I feel sure, the result of unnatural causes. I never dreamt of poison, otherwise I should not have thrown away so much of the contents of the tumbler which I gave you this morning. It was only after doing so, and when I was replacing the tumbler on the table, and saw the sediment at the bottom, that I for the first time suspected foul play.

Believe me, &c.,
(Sd.) R. PHAYRE, Colonel.

Examination continued :—I saw Dr. Seward about half-an-hour or three-quarters of an hour, or an hour after writing this letter. This would be between eleven and half-past eleven and twelve. Dr. Seward had not seen the letter when he came to me, as he had missed it on the way. When Dr. Seward came, he communicated to me the result of his examination of the contents of the tumbler. He told me he had detected arsenic in it more than sufficient to have killed me had I taken it all. Upon receiving this information from Dr. Seward I gave orders to ascertain who had been to my room that morning. I then commenced an inquiry amongst the servants at the Residency. I telegraphed to Government at once that an attempt to poison me had been made. (Shown draft telegram addressed to Private Secretary, Governor of Bombay.) This is my original draft, and is in my handwriting.

The Advocate-General read the telegram as follows, and it was marked G :—

"*Telegram.*

"From Colonel Phayre, C.B., Resident, Baroda, to the "Private Secretary, Gunnesh Khind, Poona.

"Baroda, 9th November, 1874.

Exhibit G put in—Colonel Phayre's telegram to Government announcing the attempt to poison him.

"Bold attempt to poison me this day has been providentially frustrated. More by next post."

Examination continued :—After Dr. Seward had communicated his opinion I despatched this telegram—probably about one or two o'clock. I kept the inquiry quite secret after I had heard Dr. Seward's opinion. The servants generally in the Residency knew it, but I did not allow any outsiders to know it. On that day I think some persons were placed in custody. If I saw the proceedings I could tell you. (Shown proceedings.) I know that I put under arrest Rowjee Havildar, a peon, on the 9th, Govind Baloo, hamal, Yellapur, hamal, and Luximon, peon. When these persons were placed under arrest it must have been in the evening. The other servants remained at large. As a matter of fact I know it was known in Camp, on the evening of the 9th, that an attempt to poison me had been made. After I had seen Dr. Seward I gave directions that the remainder of the liquid handed to him should be sent to the Chemical Analyser to the Bombay Government. I continued my inquiries with a view to ascertain the persons by whom the poison had been introduced into my sherbet. This inquiry lasted several days. We carried it out steadily for the first four days—that is, from the 9th to the 12th. Mr. Boevey assisted me in making these inquiries. After I had seen the Maharaja on the 9th I saw him on the following Thursday (the 12th), which was his

usual day for making his call. When he came on this day, he was accompanied by Mr. Dadabhoy Nowrojee, his minister. It had not been, as a rule, usual for His Highness to be accompanied by Mr. Dadabhoy Nowrojee. On the 12th His Highness remarked that he had heard a report that an attempt had been made to poison me. I understood him to say he had only heard on the previous day (the 11th) that an attempt had been made to poison me, and that he had resolved to speak about it to me that morning. He then remarked that I had said nothing to him about it on the previous Monday when he visited me. I told him I had not, and then described what had taken place on that day. Mr. Dadabhoy Nowrojee observed that he had first heard the report on the 10th, but did not believe it, but that on hearing it repeated with greater force on the 11th he did believe that the attempt had been made. I remember the Maharaja expressing his surprise that I had not taken an emetic when Dr. Seward had recommended it to me. Nothing further passed. I think it was on that day that Mr. Dadabhoy asked me if I was making an inquiry, and I said "yes;" to which he replied that he hoped I would be successful in finding out who had made the attempt. I afterwards received a yad from the Durbar regarding this matter, but this was at least three or four days afterwards. I mean that I received it at least on the Saturday night following. (Shown yad.) I cannot read this, but I believe this to be the yad. There is an endorsement on the back: "Received 14th November in the evening at 5 P.M." That endorsement is in the handwriting of my native assistant. This is my signature. (Yad put in, marked H.) I mentioned yesterday that I threw away the greater part of the contents of the tumbler out of the window on the verandah. Afterwards, at the request of Dr. Gray, I scraped up a portion of the chunam from the surface of the verandah on which I had thrown the sherbet. This request, I think, was addressed to Dr. Seward (shown letter). I know this was addressed to Dr. Seward.

Exhibit H put in—a yad from Baroda Durbar officially taking notice of the attempt to poison Colonel Phayre, and only despatched on the 6th day after the attempt was known.

The Advocate-General—I shall read this letter presently: I only now refer to this passage:—"Is it possible to obtain any of the pummelo juice, or any part of the ground upon which the pummelo juice was thrown?"

Witness—In consequence of that letter, I myself went and scraped up as much chunam as I could possibly get and sent it to Dr. Gray. Others were with me. As far as I recollect I made up the packet containing the chunam, but you can see from the correspondence—it was scraped up by a puttawalla in my presence. The matter so scraped up I sent to Dr. Gray with (shown exhibit I) this original letter, which states everything.

No. 502—A.

Baroda, 16th November, 1874.

To the Chemical Analyser to Government, Bombay.

SIR,—In consequence of the opinion expressed in your demi-official of the 13th instant to Dr. Seward's address (received on the evening of the 14th instant), I yesterday morning scraped together from the chunam floor of the verandah as much deposit as could be found on the spot where the contents of the poisoned tumbler fell; and I enclose the said scrapings herewith in the hope that they may be useful in leading you to a decision as to the other ingredients which were contained in the poisoned tumbler besides arsenic.—I have, &c.,

(Sd.) R. PHAYRE, Resident.

Exhibit I put in—a letter accompanying despatch of verandah scrapings to Dr. Gray for analysis.

Either I or my native assistant sealed up the packet—that was done in the office. (Shown Dr. Gray's answer to Colonel Phayre, dated the 19th November 1874.) This is the letter I received from Dr. Gray regarding the packet.

The Advocate-General—It is in these words:—"I have the honor to acknowledge receipt of your letter which was sealed with the seal of a bird." (To witness) —That would be your seal?

Witness—That would be my seal.

The Advocate-General—I do not propose to read the rest of the letter now. I will wait until Dr. Gray is called. It may now be marked with the letter J.

That letter reads as follows:—

No. 401 OF 1874-75.

19th November, 1874.

SIR,—I have the honor to acknowledge the receipt of your letter of the 16th instant and also of the small packet enclosed. The letter was sealed, the seals unbroken, and the crest a bird.

Exhibit J put in—Dr. Gray's acknowledgment to Colonel Phayre of the verandah scrapings.

The packet contained a small quantity of moist earthy matter of a brown colour mixed with glittering particles. A chemical examination of this earthy matter revealed the presence of arsenic. I failed, however, to detect in it the slightest trace of any mineral poison other than arsenic. Many of the glittering particles appear to be of the same nature as those seen in the powder sent me by Dr. Seward, namely, diamond dust; other glistening dark-coloured particles in the earthy matter proved to be oxide of iron, being in fact the same substance that is commonly used as sand for drying ink.

I have, &c.,

(Sd.) W. GRAY, Surgeon,
Ag. Chemical Analyser to Govt.

Witness—As far as I recollect, I myself, on the 16th November, made a statement regarding the inquiry I had made during the week. (Statement shown to him.) This is it.

Exhibit K put in—Colonel Phayre's Statement regarding the attempt to poison him.

The Advocate-General—I put this in, my Lord.

The President—You don't object to this, Mr. Serjeant Ballantine?

Mr. Serjeant Ballantine—No, my Lord.

The Advocate-General—Then this will be marked K—I don't propose to read this now, my Lord. It is substantially the same statement as Colonel Phayre has made here.

The statement referred to is in these words:—

Appendix C.

Statement by Colonel Phayre, C.B., Resident, Baroda.

Baroda, 16th Nov., 1874.

The attempt to poison me was made on the morning of Monday, the 9th November 1874. The small quantity of poisoned sherbet taken by me was swallowed at about 7 A.M. At about twenty minutes or half-past 9 A.M., the Maharaja paid me his usual visit. After some common-place remarks H. H. observed that the weather was not healthy, that there was a good deal of fever in the city, and that he himself had been suffering from purging and headache and fever from eating the usual Dewali sweetmeats, but that he had recovered. I made no remarks, but it occurred to me that H. H. had led the conversation to the subject in order to elicit some remarks from

fact. I have since learnt from the evidence that H. H.'s confidential Arab sowar Salim was at the Residency earlier than usual on that morning, that when I sent a note to summon Dr. Seward between 7 and 8 o'clock, the Arab sowar stopped the peon Mahomed who was carrying it and asked him to buy him some biscuits in the bazaar, which extraordinary occurrence I can only account for by a desire on the part of Salim to divert the peon's attention from his proper errand to summon the Residency Surgeon.

By about noon on Monday, the attempt to poison me began to spread in the camp and city. Next day, Tuesday, 10th, several people from the city came to call, or sent to enquire after my health, but no one came from the Maharaja. Wednesday, the 11th, passed in a similar manner without any inquiry on His Highness's part.

On Thursday, the 12th, H. H. came to pay his usual visit, and on this occasion, for the first time, he was accompanied by Mr. Dadabhoy. Usually His Highness comes alone. His Highness opened the conversation by saying that he had heard on the previous day (11th) that some one had poisoned me and asked how I was, remarking at the same time that I showed no signs of having been poisoned when he called on Monday the 9th instant. Previous to this remark by His Highness, I had not mentioned the hour at which I was poisoned, but I afterwards told him. How the Maharaja knew that I had been poisoned when I came to receive him on the Monday morning is not apparent.

Mr. Dadabhoy said that he heard the rumour first on Tuesday, 10th, but did not believe it, that the rumour was repeated so strongly on the 11th that he believed it, and that he intended to speak about it next day (12th). He asked me if I was making enquiry into the matter, and I replied that I was, and he expressed a hope that I should succeed in discovering the perpetrator of the crime.

On Saturday, the 14th instant, after dark in the evening, 5-45, I received the following yad from the Durbar:—

Durbar yad to the Resident No. 2057, dated 14th November 1874.

At a personal interview with you the day before yesterday I learnt from you the particulars about the attempt made by some bad man to poison you, for which I am very sorry. But it was the favour of God that his cruel design did not meet with success.

If it becomes necessary for you to obtain my assistance in proving the criminal's guilt the same will be given. This is written for your information.

(True Translation.)
(Sd.) R. Phayre, Resident.

It will be observed that in this yad H. H. alludes only to having heard of the matter from me personally on the 12th instant, whereas the report had spread everywhere by the evening of the 9th November, and it is not reasonable to suppose that H. H. has not heard of it immediately, as everything is reported to him at once by his spies.

Moreover, he himself told me on Thursday, the 12th, that he had heard of it the previous day and had resolved to speak regarding it on his next visit that morning. The delay of H. H. in not taking notice of the occurrence till Thursday the 12th, and afterwards in writing the yad, offering assistance on the evening of the 14th, the sixth day after the event, are remarkable.

(Sd.) R. Phayre, Col. Resident.

Witness—In the month of September I was, as I said yesterday, suffering from a boil on my head. That boil was dressed with collodion. I did not understand how to apply it at first, and I made a plaster of it with lint. This stuck so hard on to the boil that I began to think I had done wrong in puting it on; it pained me. I got some hot water and began to try to get it off. After a considerable time I got it off. I then told Dr. Seward about it. When I was taking it off I was standing near the table where the collodion was—near the washhand-stand table. I took it off in the morning between eight and nine o'clock when I was dressing—a time when sepoys and servants were about and standing outside my office.

Colonel Phayre cross-examined by Serjeant Ballantine.

Cross-examined by Mr. Serjeant Ballantine:—I want to get two or three dates from you, Colonel Phayre? I believe it was on the 18th of March, was it not, that you came to Baroda to take the position to which you were appointed?—Yes; the 18th March 1873.

Where had you been previously to that?—I had just come from Palanpore.

Were you holding any official appointment there?—Yes.

Is that in Sind?—No; it is in Northern Guzerat.

What was your position there?—Political Superintendent.

How long did you hold that?—A very short time; six weeks, I think.

Had you held any official appointment before that?—I had held a great number of appointments before that.

What was the previous appointment?—Political Superintendent in Upper Sind, and Commandant-in-Chief of the Frontier Brigade.

When did you quit that office?—I quitted that office to go home in the latter end of 1872 on leave for six months.

Does that imply, Colonel Phayre, that you quitted it of your own accord?—How do you mean?

You say that you were going home on leave?—Yes; I certainly put it upon that ground.

Did you ever return to it?—No.

Was your appointment cancelled, or what?—No; it was not cancelled.

I used an improper word, perhaps?—Pray use the words that come into your mind? I have nothing to conceal at all.

It was an appointment under the Government of Bombay, was it not?—Yes; under the Government of Bombay.

Have you in your possession the document terminating that appointment?—I do not know whether I have or not. I may have (recollecting himself). Yes; I have in my possession the final resolution of Government exonerating me and defending my conduct in the whole matter.

Have you the document removing you from that appointment?—I don't know whether I have. I may have it. I do not know. It is not here at all events.

I shall have to ask you presently whether you were aware that the Gaekwar was in possession of that document or of a copy of that document?—No; I was not aware of it.

Or his minister? It is the same thing, by the Gaekwar I mean his minister?—No; his minister. It was a Government document, and I do not see how they could come into possession of it honestly.

But, honestly or not, you say you did not know he was in possession of it?—I did not know that he was in possession of it; and I add that he could not have honestly come by it.

The President—Allow me to suggest to you, Colonel Phayre, that you should answer only the questions put to you.

Witness—Very well, my Lord.

Serjeant Ballantine—I can assure you that there is no wish on my part to give you any offence——

Colonel Phayre (interrupting)—I do not want any apologies, sir. I do not require them.

Serjeant Ballantine—As you make that observation, I must ask the Court to prevent you from making these observations. Honestly or not, it is not for you to decide. Now, sir, honestly or not, did you know they possessed such a document ?—It would have come through the Resident, if it had come properly.

The President—We are again getting away.

Serjeant Ballantine—At all events for my purpose, you were not aware that the Gaekwar was in possession of that very document ? Have you never heard that he was ?—No.

Colonel Phayre is asked whether Gaekwar knew of the existence of the Government resolution removing him from Sind; and on being further asked to verify a copy of the resolution handed to him (Col. Phayre) by Serjeant Ballantine, an argument arises as to whether the Commission has any power to deal with such a matter.

Have you not heard that it was shown by his minister to Sir Lewis Pelly ?—No.

Will you cast your eye down that paper and tell me whether you believe that to be an accurate copy of the communication you received from the Bombay Government removing you from the office you held ?

The Advocate-General—I would ask your Lordship whether this is a matter before the Commission. The Commission is not here to enquire into what Colonel Phayre did in the capacity of Political Superintendent in Upper Sind, and whether or not the Gaekwar is in possession of documents relating to that subject. That is a matter which, I apprehend, is immaterial to this enquiry. But I am entirely in the hands of the Commission, and if the Commission think it desirable so far to travel out of the record as to go into matters of this kind, I have not a word to say.

Mr. Serjeant Ballantine—I have not asked these questions without due consideration and without considering also the grounds upon which I shall put them in the event of their being objected to, as I contemplated it would not be improbable they would be. I propose to prove that the Gaekwar had full knowledge of the terms used by the Bombay Government, and I propose hereafter to argue, from that knowledge, the great improbability that the Gaekwar should commit the act imputed to him; that it was the natural element of his mind to conceive that the particular course he took would meet with the approbation of the Bombay Government; that he believed he would be successful in the course he was then adopting in relation to Colonel Phayre; and that there was not, therefore, in reality, the slightest obligation or necessity on his part to commit the act imputed to him. It is on that ground that I put it. I might have put it on another ground as your Lordship is well aware; but I did not wish to put it without I had a purpose more direct in view than a mere question as to what could be the only matter that could ever arise in discussing the conduct of Colonel Phayre, namely, whether or not he was a discreet man in his relations with the Gaekwar. I did not wish to put it upon that ground alone, although I apprehend that also is a ground upon which I might ask to be allowed to proceed with this cross-examination.

The Advocate-General—I would call attention, my Lord, to the terms under which this Commission is appointed. In the Viceroy and Governor-General's Notification it is said, the "Viceroy and Governor-General in Council hereby declares his desire that you shall not extend your enquiry to other matters than the offences imputed to His Highness Mulharrao Gaekwar as aforesaid; and that you shall not permit any such other matters to be submitted to you for consideration or enquiry." It was upon that part of the Notification that I dwelt in saying I left it entirely to the Commission to say whether or not any matters of this kind should be gone into.

The President—I think Serjeant Ballantine is entitled to go into it for the first purpose of showing what knowledge the Gaekwar had of these resolutions of the Government of Bombay. I put it upon that ground.

Serjeant Ballantine—And upon that ground simply I intended to argue it. I would not have asked it upon any other ground. I need not say that I deem it to be very important in the argument which I shall have to address to you hereafter

Serjeant Ballantine arguing that he wished to show that if the Gaekwar had knowledge of the terms used by Government towards Colonel Phayre, therefore the Gaekwar would not be likely to take the trouble to remove Col. Phayre by poison, the cross-examination is allowed to go on.

Cross-examination continued :—Colonel Phayre, I will only ask you whether or not, as far as your memory goes, this is a correct copy of the document you received ?—This is marked "private," and I never saw a private document.

Do you or do you not believe that this is substantially a correct copy ?—I do not.

Can you tell me in what you would say that it is inaccurate ?—I don't recognize it at all. If I saw the printed Government Resolution I should recognize it, and the complete reply that I gave to it.

I have no doubt that you could do it effectually ?—I know that.

I am going now into the matter of what the Gaekwar knew, which of course may be untrue ?—I will give you every information.

It may be an utter delusion from beginning to end, but it is what the Gaekwar believed, and that is what we have got to do with ?—So far from wishing to conceal or withhold anything, I wish to give you everything.

Inasmuch as you were completely cleared afterwards, of course you can have no objection to do so ?—I know that.

During the time that you were in Sind, did you in point of fact advise a prosecution of various persons for gross frauds ?—Yes; I did for certain frauds.

I am obliged to read this to you, as you do not seem to recognize it. Now, let me ask you, Colonel Phayre, because it may save you time, pain, and trouble. Can you put your hand on the original document ?—I could not here. But when you have said frauds, I should like to know if you refer to the Barron frauds, or the extensive system of frauds which have been brought to light in the High Court of Bombay, that I may know to what frauds you refer ?

Will you kindly answer this question. Can you within a reasonable time obtain the original document ? If you can, all I want is that you should produce it ?—I could not use any Government paper without the sanction of Government.

You could do so with the sanction of this Commission. —With the sanction of this Court I shall be delighted to produce the papers in the whole of the Barron frauds.

The President—All that you are asked is, whether you can procure this document ?—Which, this single document ? I do not know where it is, my Lord, but I have the one resolution dated the 5th May, and I have the final decision of the Bombay Government.

The Advocate-General—We will undertake to telegraph to Bombay for this document. I may say that we have had no notice whatever from the other side to

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produce these files, nor has Colonel Phayre them in his possession.

The President—Can you get these original documents ?

The Advocate-General—I will just ascertain from Colonel Phayre. (To Mr. Serjeant Ballantine)—What is the date of this document ?

Mr. Serjeant Ballantine (referring to the copy in his hand)—This purports to be dated the 4th May 1872, and is numbered 1023.

The Advocate-General—We will send for the whole files.

Mr. Serjeant Ballantine—The files will be more important than anything I can say. (To Colonel Phayre)—I shall be sincerely glad if it turns out that you were quite correct ?—It is so.

I have not the least objection to your saying so, and I am very glad to hear it. In November 1873, a Commission commenced sitting in Baroda. I think I am accurate about the date ?—Yes ; November 1873.

To enquire into certain charges of maladministration on the part of the Gaekwar ?—Yes.

I believe that General Meade was the President of that Commission. Is that so ?—Yes.

And it ended on the 24th of December in the same year ?—Yes.

And subsequently an elaborate report appeared ?—Yes.

Was the Gaekwar married on the 7th May 1874 ?—Yes.

And I believe I may take it that there was some unpleasantness between you and His Highness upon that subject, and that he complained of what he deemed to be want of respect on your part ?—A khureeta was written.

There were certain forms he insisted were due to him, and that you did not consider it proper to carry out ?—No.

At all events, he made some complaints ?—The real cause was that the Government had directed me *not to go* to the marriage.

The President—The question is, did the Gaekwar make complaints of want of respect ?

Colonel Phayre—The Gaekwar made a complaint which is couched in a khureeta, and the whole correspondence is with the Government of India. There is a decision of the Government of India upon it.

Mr. Serjeant Ballantine—He admitted, did he not, that you were bound to obey the Government of India, but that you might have received his messenger notwithstanding ?—There was nothing personal in the matter. It was entirely connected with my official position towards Government. His Highness continued to visit me privately all the same.

Are you aware of the fact that there was a khureeta from the Gaekwar to the Viceroy on the 17th May or about that time ?—Any khureeta that went from the Gaekwar would go through me.

I mean a khureeta promising reform ?

The Advocate-General—I must ask my learned friend, if he is going to rely upon any of the khureetas, to put them in the regular way.

Mr. Serjeant Ballantine—I am only asking now as to the dates—most likely I shall put in these kureetas.

The Advocate-General—We must have the whole contents, if they go in at all.

Mr. Serjeant Ballantine—I have not the least objection to the whole contents being given from beginning to end, but it does not appear to me that it is necessary to do so.

(Question repeated to Colonel Phayre)—Yes.

Do you know of a khureeta from the Viceroy of 25th July, in answer to the one from the Gaekwar ?—I do.

And was the effect of that khureeta to give the Gaekwar an opportunity of reformation until the end of the year 1875 ?—Yes ; progress being reported upon by me to Government whenever I thought it necessary.

Serjeant Ballantine (to the commission)—Of course, asking about these matters, I am bound to put them in ; but I think it more convenient to place the salient points before the Court than if I were to read a mass of unintelligible matter.

Had there been any question between you and the Gaekwar about the appointment of Dadabhoy Nowrojee as his minister ?—There had been no question between me and the Gaekwar. His Highness asked me my opinion about his minister.

And you disapproved of him ?—I informed His Highness what my opinion was.

Very well, was that adverse ?—It was adverse to Mr. Dadabhoy, but that according to His Excellency the Viceroy and Governor-General's orders, His Highness was to judge for himself exclusively.

That gentleman continued to act as minister ?—He was minister.

He was appointed by a khureeta ?—No ; he was appointed by His Highness. He was confirmed in fact.

And continued to act ?—He had been minister for nine or ten months previously. He was then confirmed.

Now, I believe that you were in constant communication with Mr. Dadabhoy for some months after that date ?—From what date ?

From July 25th, say, up to November ?—From about the 10th or 12th August 1874, my communications commenced with Mr. Dadabhoy as minister. Before that Mr. Dadabhoy had carried on the administration himself.

Now, without going into the question who was right or who was wrong, were there any complaints made by Mr. Dadabhoy as to your conduct in the matter ?—I don't know of any complaints.

I mean to yourself ?—To me ?

To you personally—did he complain about your hurrying matters on ?—I did not hear any. We met daily and discussed matters, but I heard nothing about complaints. I made complaints to His Highness the Gaekwar, and His Highness summoned Mr. Dadabhoy.

I only want to come up to November 2nd, 1874. We are near the scene of action now. Was there a khureeta sent by the Gaekwar on that date to the Viceroy ?—Yes. It was on the same day that I sent in my first Progress Report that he sent in a khureeta.

You sent a Progress Report and he a khureeta—so you do not seem to have been on very pleasant terms with each other ?—All in the way of business. I propose to put in the khureeta of the 2nd November 1874, and I think that is a document that I should desire to have read.

The Secretary then read the khureeta as follows :—

To His Excellency the Right Honourable Thomas George Baring Baron Northbrook, G. M. S. I., Viceroy and Governor-General of India, Calcutta.

MY HONOURED AND VALUED FRIEND,—From the events which occurred prior to your Excellency's khureeta of 25th July 1874, it is plain that the administration of this state cannot be carried on and the necessary reforms introduced without the cordial support of the Resident. It had occurred to me, among other matters I desired to say in reply to the above khureeta, whether I should not solicit your Excellency's attention to the position which the present Resident, Colonel Phayre, had all along taken up towards me, and to sub-

Secretary reads Gaekwar's Khureeta to Viceroy, dated 2nd November, complaining of Colonel Phayre's obstructiveness.

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mit for your Excellency's consideration whether, with the want of sympathy which existed between us, I could expect an unbiassed and fair treatment at his hands in future. I, however, refrained from troubling your Excellency, owing to the confidence expressed by your Excellency in Colonel Phayre, and in the hope that, seeing the course I resolved to adopt on receipt of your Excellency's advice, he would forget the past and assist me with his active sympathy in the difficult work of introducing a reformed regime. But I deeply regret to say from the experience of the past three months that this hope has not only been not realized, but that on the contrary Colonel Phayre has evinced, if anything, a more determined and active opposition towards me and my administration than before.

From the very commencement he had expressed a strong opposition to the selection of the minister of my choice. The assurance of support subsequently given by him to my minister, however, raised hopes in me, but they have not been realized.

On the receipt of your Excellency's khureeta, I at once took the necessary steps as far as practicable, and have been endeavouring all along to give effect to the advice contained therein. Among other things I have to replace the executive machinery of Government with able and experienced men, to satisfy on some equitable basis, the demands of the Sirdars and others which had received attention from the British Government, and to inquire into and revise the existing land revenue settlement throughout the whole territory. No one, however, can know better than the Resident what difficulties each of these subjects present, especially when all this is to be effected in a very short time. But when, owing to his former attitude even Colonel Phayre's presence alone would have been enough for a continuance of the unsettled state of the mind of the people, unless he gave me open and cordial support, the difficulties of my work become vastly increased by the course of open opposition he has been lately pursuing. I am therefore driven to appeal to your Excellency, which I do most reluctantly to decide whether under such circumstances I can have a fair trial.

I may mention here one or two instances in support of my complaint. A charge of defamation was some days ago preferred by my father-in-law against a silladar by name Chanderao Kadoo. My Dewan himself in the presence of Chanderao read over the proceedings of the preliminary investigation, and in order to give both parties the benefit of an impartial trial, I directed the Chief Magistrate, Mr. H. A. Wadia, to try the case instead of the Senaputtee, who is my relative. The accused suddenly left Baroda and, I was informed, went to the Camp. What he did there I cannot say. But soon after several other Silladars and some Sirdars, with their retainers, some hundred and fifty in number, assembled, armed, in the house of one of them, openly defying the Durbar authority and threatening armed resistance. They told the Durbar officials, who went to serve the summons on Chanderao, that the case in which his attendance was required was a caste concern, and that they would defend him with their lives if attempts were made to enforce his attendance. They then escorted him to his house and remained there armed to guard him. I sent the Dewan to represent the matter to Colonel Phayre, in the hope that he would use the influence he had over them and uphold the Durbar authority. But to my astonishment the Dewan found the Resident prepared to justify their conduct on the very same plea, and almost in the very same words the Silladars themselves had used. He refused to persuade them to disperse, saying that they would do so only if the criminal proceedings were withdrawn. On the joyful occasion of the birth of my son I resolved to give up further proceedings against Chanderao when I sent the Chief Justice of the High Court to explain to the assembled Silladars that further criminal proceeding would not be taken against Chanderao, and to ask them to return to their houses. They refused to do so, and substituted in place of Chanderao's case a new plea for resistance, that unless the grievances of one and all of them were redressed they would not separate. The Resident at the same time addressed me a yad with reference to this assemblage, putting me the very same question, viz., what steps had been taken by me towards settling the grievances of the Sirdars, showing a remarkable coincidence of views.

As another instance, I beg to enclose copy of a letter received from the Resident, dated 20th October 1874, and translation of a petition to the Government of Bombay which accompanied it. The petition is from certain Sindee Mahomedan cultivators complaining that they were prevented from c[illegible]ing their crops and were mohosalled, &c. Your Excellency will observe the threat of an appeal to arms which is contained in the petition. On enquiry I find that these petitioners had not made any complaints since the commencement of the last rainy season either to the talooka authorities, to the head of the Revenue Department, or to the Dewan. The petition, further, on the very face of it, shows that it has been drawn up under the inspiration of designing persons. Colonel Phayre, however, without making any enquiry from me, at once addressed me the above letter. This letter is enough to show the spirt in which the Resident acts towards me. Such proceedings on the part of the Resident cannot but have the effect of encouraging the turbulent propensity of such a class of Mahomedans, and disloyalty generally.

These two instances which I have taken as representative ones can hardly give an idea of the harassing and vexatious treatment I am at present receiving at the Resident's hands.

This attitude on the part of the British representative has naturally become a source of serious anxiety to me, especially as in such times persons are not wanting who for their private ends take advantage of this state of things to misrepresent me and to instigate continuous resistance to my authority among my subjects. The result will be a great loss of revenue this year and a continuance of the unsettled state of the minds of the people. How seriously this state of affairs must embarrass and obstruct me in my intended reforms, it is not difficult to conceive.

Your Excellency knows well the extent and nature of the work before me, and I owe it to myself and those whom I have engaged for that work to submit how hopeless any efforts on my part would be if Colonel Phayre were to continue here as representative of the Paramount Power with his uncompromising bias against me and my officials.

I beg it to be understood that I do not impute other than conscientious motives to Colonel Phayre. But he is too far committed to a distinct line of policy and to certain extreme views and opinions, and he naturally feels himself bound to support all and everything he has hitherto said or done. He makes no allowances. He forgets that till the officials I have asked for came, I could not make much progress in mahals, and continues to lend a ready ear to complaints against me, thus defeating the very object which he says he has in view of helping in the arduous task before me; Colonel Phayre has been my prosecutor with a determined and strong will and purpose, and that he should now be made to sit in judgment upon me is, I must submit, simply unfair to me. From only three months' experience, it is clear that

he has prejudged the case, and I cannot expect an impartial report from him. I leave myself into your Excellency's hands. Your Excellency has asked me to stake my all on this trial, and I must therefore request your Excellency to place me in a condition in which I can really have the fair trial your Excellency has given me.

I may mention here that I have made some progress in the various reforms recommended by your Excellency, which will be communicated to Government in due time. As to what I have already done, and what I propose to do, in the matter of the claims contained in the Commission's report, and upon which Government have given advice, I shall shortly send in a complete statement. For the reduction of assessment I have already fixed upon my arrangements, and I am only waiting for the Government officials I have asked for to carry them into effect.

As I cannot enter, in a khareeta like this, into all those incidents which make up my present troubles and anxieties, I request that my minister be permitted to visit your Excellency with the Resident. I shall feel highly obliged by your Excellency granting this permission by telegram.

I beg to express the high consideration and esteem I entertain for your Excellency, and subscribe myself

Your Excellency's sincere Friend,

(Sd.) H. H. MALHARRAO MAHARAJA GAEKWAR SENA KHAS KHAL SHUMSHERE BAHADOOR.

Baroda Palace, 2nd November, 1874.

Mr. Serjeant Ballantine—I will put that in under No. 1. (To witness)—Now I believe the answer to that came on the 25th of the same month. Am I right about that?—I do not think it was given as an answer to that khareeta. I don't think the khareeta was quoted at all.

Document No. 1 for the defence put in—the Khareeta just read.

I will read it, and I will put this in also (reads it) :—

To His Highness Maharaja Mulharrao Gaekwar Sena Khas Khail Shumshere Bahadoor, Baroda.

Fort William, the 25th November, 1874.

MY HONOURED AND VALUED FRIEND,—I have received through the Bombay Government your Highness's khareeta, dated 2nd November 1874.

The Viceroy's reply to the khareeta of the 2nd November 1874, announcing that in order to give the Gaekwar the fair chance he demanded, Colonel Sir Lewis Pelly should be deputed to Baroda, and Colonel Phayre removed.

I deem it unnecessary to discuss with your Highness the reasons you have given for desiring a change in the Baroda Residency. But after a careful consideration of the circumstances that have taken place, and, moreover, in pursuance of the determination of the Government of India to afford your Highness every opportunity of inaugurating a new system of administration with success, I have made arrangements to depute an officer of high rank and of wide experience in political affairs to be the representative of the British Government at your Highness's Court.

Accordingly I have appointed Sir Lewis Pelly, K.C.S.I., my Agent for Rajpootana, to be my Agent at Baroda, and he will present this khareeta to your Highness.

In giving to your Highness the great advantage of the advice and assistance of an officer of such high distinction, who has filled important political functions with great ability and to my entire satisfaction, I have now done everything in my power to aid your Highness in the efforts which, I am glad to be informed by the khareeta under reply, are being made to reform the administration of your Highness's territories in consequence of the khareeta addressed to your Highness on 25th July 1874.

I shall await with anxiety the reports which I shall receive from Sir Lewis Pelly from time to time of the progress of the measures which your Highness is taking with this object.

I beg to express the high consideration I entertain for your Highness and to subscribe myself

Your Highness's Sincere Friend,
NORTHBROOK,
Viceroy and Governor-General.

That was an answer to it?—Yes; that did not come through me.

The President (to Mr. Serjeant Ballantine)—Did you read the original?

Mr. Serjeant Ballantine—No, my Lord, from a copy.

The President—We must have the original produced. Where is it?

Mr. Serjeant Ballantine—We got this copy upon inspection, as the whole of His Highness's papers were seized and are in the hands of the Police.

Colonel Phayre—That must have come through me.

The Advocate-General—We will have the original produced.

Mr. Serjeant Ballantine—There is one other date that may not be unimportant hereafter. Were you aware of the birth of a child of this marriage on the 16th October 1874?—Yes. His Highness was married on the 7th or 9th May 1874, and the child was born on the 16th October 1874.

Still it was after the marriage?—Yes; after the marriage.

That of course involves a question of law that I at all events do not now propose to discuss. That it was after the marriage is sufficient. Now in the months of September and October preceding the date of this attempt to poison you, you say that you were suffering from a boil on the forehead?—Yes. Dr. Seward was then attending upon me.

From the commencement he supplied the plaster that you used?—He both supplied and applied it.

And it was at that time, I understand you to say, that you had slight fever; a sense of fulness about the head and watering of the eyes?—Yes; about that time and subsequently.

Can you tell me whether these sensations existed before or after the plaster?—I am speaking of the period. It was unconnected with the plaster. It commenced before the plaster and lasted after the plaster. In fact, I imagined the boil was the cause of the giddiness.

And then at that time you began to wonder whether the sherbet was made with proper pummelo?—Yes.

At that time used you to drink the whole of it?—I used sometimes to drink the whole of it and sometimes not. I used generally to drink the whole of it.

You were not prevented by any opinion of its badness from drinking it?—Sometimes I threw it away and sometimes not. I said something to my servant, Abdoola. I asked him why he did not make it properly. He brought me two pummeloes and said they were bad, and therefore he did not make it. That was on one or two occasions.

You did not at that time enter into any investigation about the pummelo juice?—Oh, no.

If I understand you correctly, Colonel Phayre, it was on the 6th November that you noticed a peculiar taste?—In what?

In the pummelo juice?—Oh dear, no.

That is quite sufficient. I think that you said you took a sip or two and then threw the rest away?—Do you mean on the 6th?

Yes—Yes.

And upon that day you did not feel well ?—Yes, afterwards.

Heavy about the head, and I think you used the expressions "much as you had felt in September and October ?"—Yes.

On the 7th you did not drink the sherbet ?—I did not drink the whole of it.

I noticed in my learned friend the Advocate-General's examination that he did not question you about the 8th. Did you try the sherbet that day ?—No. It was Sunday, and I felt so ill that I did not take anything.

Then we have heard your account of what took place on the 9th, and you have told us that you threw the contents, or a great portion of the contents, of the tumbler out of the window ?—Yes.

What quantity do you suppose was left in the tumbler ?—There was no liquid scarcely. It was all a dark substance.

Would you describe the residuum as being a damp substance, or was there any liquid ?—I saw a dark substance at the bottom of the tumbler and some liquid pouring down the side of it—a very small portion.

How much do you suppose altogether there was after the liquid had deposited itself at the bottom ?—It covered the bottom of the tumbler. I should think there was a couple of tea-spoonsful—There might have been a little less, perhaps a tea-spoonful and a half.

How much of this did Dr. Seward see ?—He saw the whole of it; I never touched it.

You say it had a dark appearance. Can you illustrate that expression in any way ? I have seen pummelo juice ?—This that I saw was not pummelo juice; it was another substance.

Was it another colour ?—Certainly; pummelo juice is red.

I should have thought it was brown. I take it, then, that it was a perfectly different colour ?—Yes.

Now I hold in my hand, Colonel Phayre, what purports to be a copy of a letter from you. I believe it is referring to your demi-official letter of the 13th November. The last paragraph in that is—"Previous to the receipt of your letter under reference I had received secret and confidential information that the poison administered to me did consist—first, of common arsenic; secondly, finely powdered diamond dust; and thirdly, copper ?"—Yes.

From whom did you receive that information ?—I received it from persons who generally give me information. I could not tell exactly who gave it.

Serjeant Ballantine thought it desirable to read the whole of the letter. The letter was marked No. 3.

No. 501 of 1874.

Dated 13th November, 1874.

From the Resident, Baroda, to the Chemical Analyser to Goverment of Bombay.

SIR,—Referring to your demi-official letter to the address of the Residency Surgeon, Baroda, dated 11th, sent relating to a small packet of poisonous matter forwarded to you for examination by Dr. Seward, I have the honour to request that you will be kind enough to favour me with a formal official report as to the contents of the poisonous matter above referred to.

Serjeant Ballantine reads a letter dated 13th November 1874 from Colonel Phayre to the Chemical Analyser, Bombay, in which the Colonel says he had received secret and confidential information that the poison consisted of arsenic, diamond dust, and copper; and the Serjeant proceeds to cross-examine as to who gave Colonel Phayre this information, the Colonel alleging that he does not remember exactly.

2. With reference to the statement made in your letter that the powder forwarded to you consisted partly of common white arsenic and partly of finely powderd silicious matter which, under the microscope appeared to be either powdered glass or quartz, being most like the former, I should feel much obliged by your kindly informing me whether in your opinion the silicious matter referred to can possibly be powdered diamond.

3. Previous to the receipt of your letter under reference I had received secret and confidential information* that the poison administered to me did consist of a mixture of (1) common arsenic; (2) finely powdered diamond dust; (3) copper.

* Please do not mention this at present.
(Sd.) R. P.

The importance of verifying, if possible, this information is obvious.

I have, &c.,
(Sd.) R. P[illegible]RE, Resident.

Serjeant Ballantine added—There is a marginal note upon it: "Please do not mention this at present." You say, "From persons who generally gave you information." What do you mean by that ?—A great number of persons gave me information.

Do you mean upon the subject of the government of Baroda or what ?—Upon all subjects connected with the grievances of the people and with all matters which were under consideration at the time. In fact, I could scarcely go out of the compound and on the public road without being met on all sides by people with complaints. Petitions and petitioners also were a source of information.

Just tell me, were there any persons attached to the Residency who were in the habit of giving you information ?—There were none attached to the Residency in particular, but a number of persons used to come to the Residency and give me information, and I could give you a roll of their names.

Did they receive any money ?—No.

Never ?—Never.

You never paid at all for that information ?—No; I had plenty of information without paying for it. A broken-hearted people do not require to be paid.

Don't make a speech about broken-hearted people. This is a serious political trial, Colonel Phayre.—So it is.

And the reference to a broken-hearted people is not required. If I wish to indulge in such language I might just as well talk about a persecuted prince. So be kind enough not to repeat it. Now be good enough to answer the questions I put to you, Colonel Phayre. Have the persons who have given you such information received money, to your knowledge, for such information ?—No.

On any occasion ?—Never from me, nor do I know that they have.

What is your belief upon the subject; do you believe that they have, or have not ?—I believe that they have not.

And now, sir, to run back to this letter, you know you have described this as if you thoroughly knew the parties who gave it. "I have received secret and confidential information." Am I to understand that you can give the Commission no clue to the secret and confidental information that led you, among other things, to suggest copper ?—I can give no information. Amongst the persons who gave me the information, it was one or the other amongst them, but which particular person it was I could not say without enquiry. I can give a list of all the persons who used generally to give me information, and it was one or other among them.

Wait a moment. You are writing this to Dr. Gray,

and you are telling him that the importance of verifying the information is obvious. You know this is written four days after the supposed attempt to poison you, and is written with the object of governing the analysis of the chemist ?—I had no such object, sir.

You say, "The importance of verifying this information is obvious." What do you mean ?—Certainly not to govern the analysis of the Chemical Analyser or anybody else.

That is not the question. You say the importance of verifying the information is obvious ?—Of course, the importance of verifying whether it contained diamond dust or not. And it did not matter, because the answer came to me before that letter was received.

The reason I call your attention to this letter is, that it occurs to me that, written at that time, and under the peculiar circumstances, it is odd that you do not remember who your informants were ?—I have told you I will give you a list of my informants, and try and tell you who it was.

You examined several persons. Why, if anybody told you, or gave you reason to suppose, that you had been nearly poisoned with arsenic, diamond dust, or copper, did you not take down his evidence and make a memorandum of his name ?—I did not think it necessary. I wanted to ascertain correctly from the Chemical Analyser. There is the correspondence. I wanted to get the evidence of a proper person.

Colonel Phayre, I must remind you that you assert a most important and vital fact, that "Secret and confidential information had been given to you;" and that a portion of the poison was at all events copper. I ask you to give any good reason to the Commission why you did not examine this person, make a note of his name, and produce him before the Court ?—Because it was secret and confidential information, and I did not think it was right, and according to the evidence it has turned out that a portion of it was not correct.

Of course you know Bhow Pooniker ?—I do.

Was it he ?—I do not know. It may have been.

Now, Colonel Phayre, was it Bhow Pooniker or not ?—It was either Bhow Pooniker or another man. I will inquire.

No, Colonel Phayre, you shall not inquire until you have answered my question. Was it Bhow Pooniker ?—I cannot say. It was either Bhow Pooniker or the other man.

To the best of your belief, was it Bhow Pooniker ?—To the best of my belief, I cannot say.

Colonel Phayre says it was either Bhow Pooniker or Bulwuntrao who gave him the information, but offers to make inquiries—an offer which is refused.

Who is the other man ?—The other man I referred to is named Bulwuntrao, a moonshee. But there is a list of persons.

I won't have a list of persons, sir. I shall just have your evidence. Was it Bhow Pooniker or the other man you mentioned ?—I tell you I cannot say.

Was it one or other of them ?—So I believe.

Was Bhow Pooniker the person who in the course of the Commission which sat in Baroda took a very active part against the Gaekwar ?—How do you mean ?

Really I think my language is plain enough. Did he take an active part against the Gaekwar ?

Colonel Phayre (to the President).—I wish it to be explained, my Lord, in what manner.

Serjeant Ballantine (to witness).—If you were told to take an active part against anybody, I think you would understand ?—If you mean that Bhow Pooniker gave me information, that is perfectly true. I had put his name down as an honourable person, who had given me a great deal of useful information in the cause of reform, and who was an honourable and perfectly reliable person.

Serjeant Ballantine—That is your opinion ?—That is my opinion.

Then I accept it as your opinion simply. Was this extremely useful information given by this highly honourable person in favour of reform also adverse to the Gaekwar ?—He was never adverse to the Gaekwar that I know of. In representing the grievances of the people in representing matters that were wrong, he gave information.

I do not think you are dealing quite fairly with me, Colonel Phayre. You know that gentlemen of your high position and education must understand this very simple question—Was the character of the information given by Bhow Pooniker adverse to the Geakwar ?. Whether just or unjust is not the question. He may have been a true patriot, and the Geakwar a great tyrant. Was he adverse to the Gaekwar ?—If he had had anything good to say about the Gaekwar, he would have said it.

The President—Colonel Phayre, allow me. That is not an answer to the question.

Colonel Phayre—Very well, my Lord. Often I received information which was the very reverse of adverse. I was not against the Gaekwar myself. I was for him.

The President—Cannot you answer the question the learned counsel puts to you, Colonel Phayre ? Was it adverse to the Gaekwar ?

Colonel Phayre—I don't wish to say that Bhow Pooniker's evidence was at all times adverse because it was not.

The President—Was it adverse sometimes ?—In cases where it would be adverse he was adverse to the Gaekwar——

Mr. Serjeant Ballantine—I shall not occupy the time of the Commission by constant questions, but I must ask you, Colonel Phayre, as an officer and a gentleman, whether in your judgment Bhow Pooniker was not adverse to the Gaekwar ? That is a question a gentleman and a man of honour can thoroughly understand ?—Yes ; I have given you my answer.

Give it to me again—say "Yes" or "No" ? (To the President)—I think, my Lord, you will hold that this question is capable of a "Yes" or "No" answer ?—Not always.

Was he, as a general rule, adverse to the Gaekwar ?—Not as a general rule.

Did not Bhow Pooniker, as a matter of fact, get up cases against the Gaekwar before the Commission ?—He gave information regarding many of the cases, but not all of them.

Amongst other cases, in which you say he gave information, was the complaint of Saaduk Ali, the camel driver, one of them ?—No. Saaduk Ali gave it himself.

Now, I ask you, Colonel Phayre, to your perfect knowledge, did not Bhow Pooniker get up or manage the case of Saaduk Ali ?—Get up or manage ? I received it first from Government to report upon it.

I ask you, Colonel Phayre, whether to your knowledge Bhow Pooniker did not get up or manage the case of Saaduk Ali before the Commission ?—He did not get up the case for Saaduk Ali before the Commission as far as I know.

Did he manage it ?—He did not manage it in the full sense of the term. He may have got up information about it ; it was a case got up long before. He may have helped Saaduk Ali, but I don't know. I have no doubt that he gave Saaduk Ali advice. The

Case was got up long before. I have no doubt that he gave Saaduk Ali a little assistance.

What did Bhow Pooniker or the other man (one of those two men) tell you about the copper ?—As far as I recollect, he told me that he had heard that the ingredients to be put into that tumbler were arsenic, diamond dust, and copper. That is the information as I got it—so much and no more. I have never asked about it since.

Mr. Melvill—Bhow Pooniker or the other man ?—Yes, whoever it was, I did not put down the name. That was what we call kutcha kubber.

Interpreter—That means imperfect information.

Witness—Kutcha kubber is gup ; it comes in daily.

Mr. Serjeant Ballantine—But you see, this was upon an important subject. Did you ask him what his grounds were for supposing that those ingredients would be put in the tumbler ?—No ; I did not go into the matter at all ; I was engaged about other matters. It just came in as kutcha kubber.

Are you in the habit of calling kutcha kubber "secret and confidential" communications ?—It depends on where it comes from, and on the nature of it.

Did you consider this as mere kutcha kubber ?—I did at the time.

Why did you call what you thought at the time was kutcha kubber "secret and confidential" information ?—Because I did not wish to speak about it. There are many things which you get as kutcha kubber that you don't like to speak about.

Then why did you call it "secret" and important ?—Because it was secret and confidential information for the doctor to verify. I sent it to the doctor to enquire about it, to see whether it was right or wrong.

You said previously, didn't you, that there was a copper taste in the liquid that you had ?—No ; I said to Dr. Seward that there was a copper taste in my mouth after drinking it.

Which you had not before ?—No.

But that is very much like saying that it is in the liquid ?—No ; I understand you to mean that there was a copper taste in the liquid. I did not taste it in the liquid, but in my mouth afterwards ; that was a considerable time after drinking it, you know.

You tasted it in your mouth afterwards ?—Yes, afterwards ; a considerable time after drinking. I experienced that coppery taste when I was speaking to Dr. Seward. I said to Dr. Seward, "I feel it even now."

That would imply that you had felt it before ?—I said that I had got a sort of coppery taste in my mouth with a tendency to salivation.

When did you experience it—immediately after drinking ?—No, not until that time ; that would be, three-quarters of an hour.

You had taken nothing in the interval ?—Yes ; I might have smoked a cigar or something of that sort.

I suppose that would not have given you a coppery taste in your mouth ?—I don't know. Acting on the arsenic and so on, I don't know what the effect might be, or might not be.

Very well ; if you did not experience a coppery taste at the time, what was it that was disagreeable to the taste ? You say you put it aside after one or two sips in consequence of the taste. What was the taste ?—I did not say anything of the sort, sir. That has been put into my mouth twice, that I put it aside in consequence of the taste.

On the contrary ; it may have been put to you, but not into your mouth. (Laughter.) Did you or did you not feel any taste that led you to throw away the liquid ?—No ; it was not in consequence of the taste that I put the tumbler aside, but in consequence of the effects I felt. I did not feel the effects until twenty minutes or half an hour after.

Am I to understand then that you did not throw away the contents of the tumbler for twenty minutes or half an hour ?—Certainly, if you are alluding to the ninth ?

Yes. Then the feelings which you experienced twenty minutes or half an hour afterwards was what induced you to throw away the liquid ?—It was that.

Now upon the 6th and 7th November, when you did not continue drinking the liquid, did I misunderstand you when you said that you had a taste in your mouth then ?—No ; I had not.

Did you have any taste ?—No.

Then why did not you continue drinking it on the 6th and 7th ?—I cannot account for it except that by the mercy of God I was protected from drinking it ; that is all.

In courts of justice we look for human causes. Was there anything that induced you not to drink it except the mercy of God ?—There was no reason. There it was, I took it up and took a sip or two, and threw it away under the impression that I did not want it, or something of that sort.

Then there was no reason patent to your mind for throwing it away ?—No ; none whatever.

No feeling and no taste ?—There had been——To which of those are you alluding to ? On the 7th I had been unwell after drinking that on the 6th, and therefore on the 7th I might have been influenced by the feelings of the previous day.

First of all, tell me what prevented you from drinking it on the 6th ?—The reason of that I have already given. I have no other. I know I simply took it up and put it down again and threw it away. I can give no other reason, so far as I know.

Was the reason that you did not drink it on the 7th because you had been ill on the 6th ?—On the 6th I was not well—I cannot say what the actual reason was—but I daresay that that had an influence upon me—because I had been unwell the day before. I had doubts about the sherbet.

That was not from any taste in the sherbet at all ?—No ; not from the taste of the sherbet, but from the effects upon my health that I have described before.

But that was not from any taste in the sherbet ?—Not from the taste of the sherbet, but from the effects upon my health.

Amongst the persons that you examined, was Rowjee bin Rama one of them ?—Yes ; Rowjee Havildar.

Did he say, among other things, "I suspect Faizoo because he has for a long time past been engaged in all kinds of intrigues both in the time of Colonel Barr and Colonel Shortt ? In Colonel Shortt's time he used to go with Colonel Shortt's butler to the house of Rahoorkur, Nana Saheb, and others for the purpose of giving them information. I have myself seen Faizoo go with Colonel Shortt's butler and others to the city for this purpose."—Yes ; he did.

[The Commission here adjourned for tiffin.]

After tiffin,—

H. H. the Gaekwar was absent.

Mr. Serjeant Ballantine put in the authorized copy of letter No. 2.

Cross-examination of Colonel Phayre continued by Mr. Serjeant Ballantine :—

Had Bhow Pooniker access to the Residency ?—When do you mean ?

During the time when you were there ?—Yes.

Had he access to this private office of yours ?—Yes.

In your absence ?—No ; in my presence. Many others had access to it.

I did not ask you that. Do you mean that you never found Bhow Pooniker in your office when you came

back?—I never found him in that office when I came back.

Now, Colonel Phayre, am I to take it that you answer with deliberation?—I am answering with deliberation; I never found Bhow Pooniker in that private office when I returned from being out.

Not at any time?—Very often I may have had to go into another room during the time that he had been there, and on such occasions I may have found him when I came back with others.

Does that imply that you never found him there, when you did not leave him there?—I never found him there in the morning.

That is not an answer to my question? I beg your pardon for assuming that you did not understand what was perfectly plain. Have you never found Bhow Pooniker in your office on any occasion when you had not left him there?—Never.

In no instance?—In no instance that I know of.

Then am I to take it that such was not constantly the case? I am assuming that it was not frequently the custom of Bhow Pooniker to come to your private office, and if you were out to wait until your return?—Certainly, never in my private office; he may have been in the ante-room with the native assistants or clerks.

Or he may have been alone?—No; not that I know of.

If he were in the ante-room, would he not have access to your private office?—Yes; but not without other persons seeing him.

That again, sir, I did not ask you. Did you hear from Bhow Pooniker that the khureeta of the 2nd November was about to be sent in to the Government of India?—I did.

When did you hear that?—I cannot say exactly. It may have been on the day or the day before, but I heard it, I know.

What is the best of your recollection upon the subject, Colonel Phayre?—It was either on the day or the day before, or some time about that time, I cannot say exactly.

How did Bhow Pooniker know anything about it?—I do not know.

Did you ask him?—No.

And he told you, then, of a private khureeta about to be sent to the Viceroy and Governor-General of India some time before you knew anything of it officially?—No; he mentioned that such a paper, or the "jawab," was under preparation.

Did he tell you where he had learned his information from?—No.

Did he tell you the nature of it? No; not that I am aware of.

Not that you know of? Pray be cautious, Colonel Phayre. Did he tell you the nature of it?—No.

What did he tell you?—He merely said that a letter was under preparation to the Governor-General. I tell you as far as I know.

Was that complaining of you?—I did not know what it was, but that is what I tell you.

Complaining of you, Colonel Phayre? I repeat, you must tell me, Colonel Phayre, whether you know of the contents of a private letter that was being prepared by the Gaekwar?—I swear positively that I do not.

That you do not what?—That I did not learn the contents of the khureeta.

Did you learn generally the nature of the contents?—I did not.

Did you learn that it was a general complaint against you?—I did not, so far as I know.

I won't put it to a gentleman in your position and with your education that you are upon your oath. But will you state that you did not know that this khureeta being prepared was a complaint against yourself?—I did not know, although I had formed an idea that it was such a thing.

Was Bhow Pooniker, then, a spy upon the Gaekwar, or what was he?—He was an agent of one of the nobles of the State, Meer Ibrahim Ali.

Then how came he to give you information; was he constantly at the Residency giving you information?—He came upon business often. The first time I saw him he came on business connected with the Nawab Meer Zool Fakeer Ali.

Then you did not ask him where he got his information?—I did not.

Now just tell me, Colonel Phayre, when had you seen Bhow Pooniker after you had taken the pummelo juice, and you thought you had been poisoned?—I really cannot say; he was there that day.

I almost know as much myself. What time was he there that day?—I remember him after breakfast on the 9th; that was the time he usually came.

Did you tell him about this circumstance?—No.

Are you quite sure?—Yes, I am quite sure I did not tell anybody until after I had seen Dr. Seward.

When did you tell Bhow Pooniker?—I really cannot tell.

If he was the person who told you about the copper, when did he tell you?—I think it was upon the 12th or 13th; my letter is on the 13th.

Have you seen Bhow Pooniker lately?—Yes.

When did you see him?—I saw him since I left this Court.

Have you conversed with him?—Yes; I asked him whether he had given me the information about the diamond dust and the copper, and he says he did give me that information.

Colonel Phayre re-examined by Advocate-General upon matters not connected with the Government of Bombay's resolution of censure—that matter being reserved.

The Advocate-General wished, with the permission of the Commission, to reserve his re-examination until the files called for from Bombay had arrived and his learned friend had concluded his cross-examination upon them.

Mr. Serjeant Ballantine—There is only one point that turns upon that file, and that is simply the document that conveys a reprimand from the Bombay Government to Colonel Phayre.

The President thought that the re-examination had better be gone on with, and intimated that the Advocate-General should send for the necessary papers from Bombay, and on their arrival he could examine upon them.

The Advocate-General then said that he must ask his learned friend, Mr. Serjeant Ballantine, to put in those other documents in regard to which he had been examining Colonel Phayre.

Mr. Serjeant Ballantine replied that he considered they had all been put in.

The Advocate-General said there were a number of letters and khureetas wanted. For instance, the learned Serjeant had asked Colonel Phayre in regard to a khureeta written on the 9th of May 1874 by the Gaekwar making a complaint about him (Colonel Phayre). His learned friend had commenced by asking Colonel Phayre about the marriage of the Gaekwar on the 7th May, and he had then proceeded to refer to the khureeta making the complaint.

The President—Yes. A khureeta was written complaining of want of respect. Then on the 17th of May there was a second khureeta, but I did not understand the learned serjeant to say that a khureeta had been written on the 7th or 9th May.

Mr. Serjeant Ballantine—I only asked whether complaints had been made about the time, but did not say that a khureeta was written.

The Advocate-General—Your Lordship has just read the note which I referred to.

The short-hand writer was then called upon to read his notes, which he did, when it appeared that, in answer to a question whether the Gaekwar had been married on the 7th May, Colonel Phayre had himself referred to a khureeta.

Re-examined by the Advocate-General:—

Your answer was that the khureeta complained of want of respect. Now, Colonel Phayre, in reference to the marriage of the Gaekwar at Nowsaree, did you act entirely in conformity with the orders of Government?—I acted entirely in conformity with the orders of Government.

Was your action approved of by Government?—My action was approved of by Government entirely.

And did you communicate the orders of Government to His Highness the Gaekwar in respect to your action in regard to this marriage in a yad?—I did.

Will you just tell me whether this is the draft of the yad, which you so communicated?—That is the draft yad, dated 29th June 1874.

Mr. Serjeant Ballantine—I understand that these documents are in a somewhat different position from the other documents relating to this case. For reasons which were, I daresay, satisfactory to themselves, they refused us inspection of these documents. I will not object to their being put in, but I ask that the entire correspondence, instead of isolated matters, be put in.

The Advocate-General—I only propose to show that Colonel Phayre acted under the orders of Government. I will take it merely that he communicated such orders on the 29th of June 1874. (To witness) —Your action was approved of by Government, was it not?—Yes; the Government of India.

You were asked, Colonel Phayre, in regard to the appointment of Mr. Dadabhoy as Dewan to His Highness, and you stated that the Gaekwar asked your opinion on the subject?—Yes; not himself personally at first, but through his karbharees.

Will you tell me whether on the 27th of August 1874 you addressed a yad to His Highness the Gaekwar, in regard to the appointment of Mr. Dadabhoy?—Yes (looks at document). That is about Mr. Dadabhoy.

I will put in this yad, or rather an English translation of it, is dated the 29th August 1874, and is in these terms:—

No. 1612.

27th August, 1874.

Exhibit L. (Colonel Phayre's letter to Gaekwar consenting to Mr. Dadabhoy Nowrojee's nomination as Dewan.)

YOUR HIGHNESS,—Having been consulted by His Excellency the Governor in Council regarding the present situation of affairs at Baroda, His Excellency has desired me to acknowledge the promptness with which your Highness has attended to the advice of the Government of India in the matter of removing certain officials from office, and with reference to your Highness's yad No. 1435, dated the 14th instant, I am instructed to say that the Government, while refraining from pronouncing any opinion on the qualifications of Mr. Dadabhoy Nowrojee, desire to offer no objection whatever to that gentleman's appointment as Dewan, should your Highness in the exercise of your independent discretion think proper to appoint him.

It will be my duty to afford Mr. Dadabhoy every assistance he may need, and accord to him the usual military honours.

(Sd.) R. PHAYRE, Colonel, Resident.

Baroda, 27th August 1874.

That will be marked L.

We will have a copy of this made, with your Lordship's permission, to put in (showing it to witness). This is the English letter which you wrote, and which was translated?—Yes; it was translated into Marathi for communication to His Highness.

And this is an English copy of the yad you sent to the Gaekwar?—Yes.

Did you, Colonel Phayre, from the time that Mr. Dadabhoy was appointed as Dewan of His Highness, give him all the assistance in your power in the discharge of his duties?—I did.

Were any complaints ever made to you by Mr. Dadabhoy that you did not give him that assistance?—No; on the contrary, Mr. Dadabhoy more than once acknowledged the assistance I had given him in the matter of the Sirdars' cases.

You stated that certain persons were in the habit of giving you information. Were those persons employed by you, or did they voluntarily come and offer you information?—They voluntarily came.

Did you at any time pay or authorise payment to be made to such persons for the information so given to you?—Never.

I don't propose to take you through the khureeta of the 2nd November 1874. You will remember that in that khureeta you speak of the charges, first, in regard to some business of Chunderao Cadoo, and, secondly, in regard to some Sindee cultivators. I will not go into those cases, but I wish to ask you generally whether those facts are correctly stated?—The facts in regard to the case of Chunderao Cadoo, Sirdar, and the petition of some Sindee cultivators, are not correctly stated in that khureeta.

Had you at any time any conversation with His Highness the Gaekwar with regard to that khureeta of the 2nd of November?—Yes; I had.

Let me ask you this. All these khureetas are translated and sent to you?—All are sent through me, and copies are given for my information.

When did you have your conversation with His Highness in regard to this khureeta?—The first day that he came after I received it. It was on Monday the 5th November—no, it was Thursday the 5th November.

Will you tell us what the conversation was, or the substance of it?—I merely mentioned to His Highness about the khureeta, and I expressed my extreme regret to think that such a khureeta had been sent, and the conversation was to the purport that the allegations were not correct.

What did the Gaekwar say in regard to that?—The Gaekwar said that it was Mr. Dadabhoy Nowrojee, his minister, who had written it; and he was responsible for it. I then explained to His Highness that the object of allowing him to select his own minister was that he was to be responsible for all communications made to His Excellency the Viceroy and to the Government of Bombay—that the Gaekwar himself was to be responsible.

With regard to the transactions of the 9th of November, Colonel Phayre, from the time when you took two or three sips from the tumbler that you spoke of, until the time when you threw away the greater part of its contents, after having noticed the dark sediment at the bottom of the tumbler, had any one access to that tumbler?—No.

From the time that you first noticed this dark sediment at the bottom of the tumbler until the time when you handed the tumbler to Dr. Seward, had any one access to that tumbler?—No one came into the room. There was only myself in the room until I gave it to Dr. Seward. No one had access to the tumbler.

You said that the sediment or substance which you

noticed in the tumbler was of a colour different to that of pummelo juice. Was there anything in the colour of the sherbet generally to attract your attention that morning ?—No ; it did not attract my attention. The upper part of it, at all events, was quite pure. It did not attract my attention. The upper part of the sherbet was as clear as possible. This sherbet is nothing but the juice of the pummelo.

Mr. Serjeant Ballantine—May I ask your Lordship to put this question to the witness—whether in regard to this khureeta he made a communication to the Government of India giving his own views upon it ?

The President- You may put the question yourself, Mr. Serjeant Ballantine.

The question having been accordingly put, the witness answered—I did so to the Bombay Government when I forwarded the khureeta as usual.

DR. SEWARD, examined by Mr. Inverarity—My name is George Edwin Seward. I am a Surgeon-Major in the Bombay Army, and am Residency Surgeon at Baroda and Cantonment Magistrate. I was in Baroda during the months of September, October, and November 1874. I attended Colonel Phayre some time during the months of September and October. I attended him regularly in September or October with reference to the suppuration of the boil on his forehead ; I am not certain, but I can easily tell from the prescriptions. I think it was in September. I prescribed some simple applications for him during that time. I invariably, I believe, dressed the boil myself, except towards the latter end of that month when Colonel Phayre used to do so. I gave him at first a little adhesive plaster to put on his forehead, and afterwards I think some carbolic acid with cotton and oil, and afterwards collodion to contract the wound. I perfectly remember the morning of the 9th November. I remember receiving a note from Colonel Phayre on the morning of that day. That would be—but I cannot exactly tell—between half-past seven and half-past eight o'clock, but I cannot speak of that with certainty. I cannot tell what I did with that note. I believe I tore it up and threw it away, as I have not seen it since. The note merely asked me to see Colonel Phayre on my rounds. The Residency peon who brought me that note I now know to be Mahomed Buksh. On receipt of that note I at once walked over to the Residency. On coming up to the house I do not remember seeing any Residency servants outside of the house, as I did not make any particular observation. Before I saw Colonel Phayre I saw two of the Residency servants at the end of the verandah between the main building and the detached block in which Colonel Phayre's office is. I saw two men. I saw Nursoo Jemadar, whom I knew, and another man whom I did not know then. I have since learned that his name was Rowjee.

Dr. Seward, Residency Surgeon, who analysed the sediment found in Colonel Phayre's glass, is examined by Mr. Inverarity.

Mr. Serjeant Ballantine—Rowjee need not be called into Court for identification. I will admit him.

Witness—I saw them at the end of the verandah near the dwarf wall described by Colonel Phayre. When the men saw me, Nursoo unusually avoided me. I was in the habit of saying, " Well, Nursoo, how are you," and so forth ; and he used generally to make me many salaams, and seemed pleased to see me ; but this time he looked grave and looked straight down the verandah. He made his salaam, but not to me. There was something odd in the man's manner. I noticed it at the time, and I remember this oddness of manner afterwards. Rowjee came forward with great alacrity and took my hat and umbrella. That was a very unusual thing for him to do. He never showed so much civility to me before. He did not say anything. I may have asked if his " burrah saheb " was in the office, and he may have answered yes or no—I do not remember. I presume that the servants at the Residency, and amongst them Rowjee and Nursoo, knew that I was the Residency Doctor. I saw Colonel Phayre in his private office ; he was dressing. That is the room described by Colonel Phayre with the wash-hand stand. When I saw him he went to the wash-hand stand, as far as I remember, and he took up a tumbler and pointed to the bottom of it, showing me the sediment, and said, " What's that ? " There was a very small quantity of liquid in the tumbler. There would probably be something less than a dessert-spoonful of liquid and of sediment. I should say there was about five grains in weight of sediment, though that is merely an estimate ; it may have been more and it may have been less. I looked at the glass. A little powdery film rose out of the sediment as I shook it and inclined the glass. I added a little water from a goblet or some vessel that was near. I then observed the play of colours upon the glistening part of the sediment, and a separation between the glistening part and the non-glistening part. After this, Colonel Phayre and myself began to suspect the presence of some poison. Colonel Phayre then said that he had suspected foul play, and that he had heard of these things, and that he had heard that foul play would be attempted against him, but that he had not suspected foul play up to this time. He then described to me the symptoms he then felt.

Mr. Serjeant Ballantine—Colonel Phayre has already described the symptoms himself.

The President—I don't understand you to dispute the accuracy of what Colonel Phayre said as to the symptoms.

Mr. Serjeant Ballantine—No, my Lord ; and it is unnecessary to go into them again.

Witness—He described the symptoms. He said, as I understood him, that he had taken his sherbet only half an hour ago. He said that he had a nausea and a sense of soreness, making a motion with his hand from his head downwards which was very expressive (laughter)—a sense of soreness from the throat to the stomach —he did not say why, and I think he told me also that he had to abandon writing on account of the confusion in his head.

The President—You understood from his action that he had a sense of soreness from his throat to the stomach ?

Witness—Yes, my Lord ; and he described it to me subsequently. Colonel Phayre pointed out to me the place on the verandah outside where he had thrown some of the contents of the tumbler. I and Colonel Phayre went to see the place. There was a portion on the flags, and a little on the weeds or sand beyond ; evidently some liquid had been thrown there. One or two of what I would call flocculæ, like pieces of white cotton, which it would be very difficult for me to define, and which you would not expect to find in sherbet, seemed to be there. Colonel Phayre told me he had suffered on previous occasions from colicky pains and nausea. I believe I took away the tumbler to analyse by mutual arrangement. I was anxious myself. I did take it away, and I was not to show it to any one. I took it, and on my way out I again saw the peons Nursoo and Rowjee. I had a little pea-jacket on at the time, and I carried the tumbler away in my breast pocket. I put my handkerchief over it to conceal it. When I came out of the private room or office Rowjee was very officious. He immediately brought my umbrella and topee and looked at my face, scanned my person, and his

demeanour was altogether different from that of the usual passive puttawalla of the Resident. Nursoo looked very grave, and his manner was unusual. I returned to my house on foot. On my way back I met the peon who had brought the letter to me from Colonel Phayre originally—that is Mahomed Buksh. I met him at the bridge, called the Ranee's bridge I think. That is on the middle of the Maidan between the Residency and my house. He was coming towards me. I spoke to him.

Mr. Inverarity—Just tell us what passed between you.

Mr. Serjeant Ballantine—I don't know that this can be evidence.

The President—It is a conversation between Dr. Seward and Mahomed Buksh.

The Advocate General—I propose to ask this question because we shall show eventually that between the time of this man's starting from Colonel Phayre's office to deliver the note to Dr. Seward, and the time he delivered it, he had had a communication with Salim.

Mr. Serjeant Ballantine—Then you must bring him and prove it; you cannot get that from this witness second-hand.

The Advocate General—I don't wish to show now what passed between Mahomed Buksh and Salim.

The President (to witness)—You met Mahomed Buksh, and had a conversation with him?

Witness—Yes, my Lord. He made a communication to me, not of its own accord, but in reply to a question put by me. I met him immediately at the bridge, so that he must have come from the direction opposite to the eastern side of the Residency. After I got over the bridge I saw two Gaekwaree horsemen coming towards the Residency. I recognised one of them. His name was Yeshwuntrao—the same man who used to accompany the Gae-war on His Highness's visit to the Residency.

Mr. Inverarity here remarked that the point as to the analysing of the tumbler had been reached. It would be convenient to break off here, and after Mr. Scoble explained that it would take another hour at least to conclude Dr. Seward's examination-in-chief, and Mr. Serjeant Ballantine had explained that he could not finish with Dr. Seward to-day, the Commission rose at a quarter-past four o'clock.

SIXTH DAY, MONDAY, MARCH 1.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland and Lee-Warner, Solicitors in this matter, for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, Shantaram Narayen, and Wassudeo Juggonnath, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esq., Bombay Civil Service.

Interpreter:—Mr. Nowrozjee Furdoonjee.

His Highness the Gaekwar was not present in the forenoon. His Highness was present in the afternoon.

Colonel Sir Lewis Pelly, K.C.S.I., was absent.

The Court met at eleven o'clock.

Dr. SEWARD, examined by Mr. Inverarity, deposed:—When I got to my house with the tumbler I put the sediment still in the tumbler into my book-case on the cupboard in my dressing-room. It was kept there until I got the apparatus for testing the sediment. I then procured some fresh wood charcoal, but before I did so I put a little of the sediment under the microscope on a glass slide. There was a white opaque granular substance which struck me as being like ground alabaster; that was my impression. There was a white crystalline substance intermixed with it which was transparent. There were one or two dark gritty particles. These were all the appearances presented by the sediment. The sediment which was on the glass slide I put into a little glass mortar, which I had very carefully cleansed. I then rubbed this sediment with a little of the charcoal. I then introduced this mixture into a little test-tube which was new and unused. This I heated in the flame of a spirit lamp. At first there was a little moisture deposited from the upper part of the inside of the tube. I removed that moisture with a little blotting-paper without touching the mixture. I again heated the mixture in the flame. On removing the tube from the flame I observed a metallic ring. I have the tube with me. Perhaps I might have called the metallic ring a deposit within the tube. (Tube produced, and metallic ring pointed out. Tube marked exhibit M.) On heating the tube again a little, and withdrawing it from the flame, I observed what was evidently a crystalline deposit upon the tube both above and below the ring in this case. Under the microscope the crystals were seen to be lustrous and octahedral. These appearances indicated arsenic. The charcoal and the tube I experimented with that day were sent to me from my dispensary. That morning I made no further experiments, as I had no chemicals. I remember receiving a letter from Colonel Phayre that morning. (Shown exhibit F.) That is the letter. I sent no reply to that letter. That letter either reached me as I was going into my tonga to start, or missed me on the road. I did not answer it, but went straight to the Residency. I saw Colonel Phayre and I told him the result of my analysis. On my return to my own house I did not write this letter. (Shown letter from the Residency Surgeon to the Resident, dated 9th November.) I wrote it in Colonel Phayre's office, and his assistant, Mr. Boevey, was present. (Letter put in, marked N, and read as follows:—)

Exhibit M put in—a tube with a metallic ring deposit, used by Dr. Seward in his first set of experiments with the sediment.

Experiments with the tube indicated arsenic.

Baroda, 9th Nov. 1874.

From the Residency Surgeon to the Resident.

Sir,—In reply to your letter just received (1 P.M.), I have the honour to report that so far as my chemical appliances allow me to pronounce an opinion upon the quality of the sediment which you this morning entrusted to me for examination, that sediment is arsenic.

Exhibit N put in—Dr. Seward's letter to Colonel Phayre announcing presence of arsenic in sediment.

The quantity was sufficient to allow of its being tested by reduction with charcoal and the result I have shown you.

The metallic ring deposited upon the tube in rich profusion, and the octahedral crystals also deposited, point almost certainly to the presence of arsenic.

I purpose despatching the remainder of the sediment by to-morrow's mail train to the Government Analyser.

The quantity of the sediment would almost assuredly have proved fatal had it been swallowed.—I have, &c.

(Sd.) G. Edwin Seward,
Residency Surgeon.

The sediment that remained in the tumbler I threw into a piece of blotting-paper made into a filter. Some portion of the sediment remained in the tumbler. I poured some water into the tumbler and passed that also through the blotting-paper filter. By that means the sediment remained on the blotting-paper after the water passed through. I dried the blotting-paper by putting it near the chimney of a lamp, so that it might come within the influence of the warm air, and when the filter was sufficiently dried, I folded it and put it in an envelope. (Shown envelope.) That is the envelope. This is my seal upon it. I sealed it with my seal. (Shown blotting-paper.) I presume that this is the blotting-paper filter. I put it into the envelope. This is my writing on the back of the envelope. That was written, as far as I remember, on the morning of despatch. I sealed the envelope at night. I despatched it to Dr. Gray, Chemical Analyser, by registered letter-post. In doing so I put the envelope containing the blotting-paper in another large envelope. (Shown envelope.) This is the envelope. I did not write to Dr. Gray upon this occasion, but I enclosed Colonel Phayre's letter. (Shown exhibit F.) This is the letter. In forwarding that letter I made this red ink endorsement on the back: "Forwarded for the information of the Chemical Analyser to Government; he will kindly return the original—G. Edwin Seward. November 9th, 1874." I sealed the large envelope with the same seal I had used for the small envelope. (The small envelope containing the blue blotting-paper was marked O, and the larger envelope was marked P.) Subsequently I received this reply from Dr. Gray, dated November 11th, 1874, from Dr. Gray to Dr. Seward.

Exhibits O and P put in—envelopes sent to Dr. Gray enclosing sediment and blotting-paper filter.

(Letter marked Q, and read as follows :—)

Grant College Laboratory, Bombay, 11th Nov. 1874.

My Dear Seward,—I have duly received your letter and its enclosures, viz., a demi-official from Colonel Phayre, and a small packet which contained a few grains of greyish-coloured powder mixed with numerous gritty glittering particles.

Exhibit Q put in—a letter from Dr. Gray to Dr. Seward, announcing discovery of arsenic and powdered siliceous matter in the sediment.

I have examined this powder and find it to consist partly of common white arsenic and partly of finely powdered *silicious matter*. This silicious matter under the microscope appeared to be either powdered glass or quartz, being most like the former. Some of the particles had a purplish or rose-coloured tinge, which fact may perhaps furnish you with a clue as to its source. If you wish an official reply in addition to the present, I shall send it.

Herewith is returned Colonel Phayre's letter. I shall keep the remains of the powder in my possession till I hear further from you.—Believe me, sincerely yours,

(Sd.) W. Gray,

Acting Chemical Analyser to Government.

Some days afterwards I think I made some further experiments with the sediment in my possession. I removed the mixture from the tube and threw it upon the surface of some water, and I allowed the heavier particles to fall to the bottom, and poured off the floating particles. After repeating this process several times I collected the sediment and placed it on some glass slides which I now produce to the Commission. (Slides produced, and punkahs stopped in order that the sediment upon them might not be blown away.) I placed this sediment on these glass slides under a microscope and saw that they consisted mainly of these lustrous crystalline fragments. (Glass slides put in and marked R.) I then passed a clean glass slide over the sediment on one of the slides in that box, and found the clean glass slide, after rubbing it on the other slide, to present the appearance it now does—that is, scratched—and I may state that those scratches were not there before. (Scratched slide shown to the Commission and marked exhibit S.) The conclusion I drew from this experiment was that whatever the nature of the sediment might be, it was not glass. I thought probably it might be the diamond dust of which I had heard, because the particles were so very lustrous—I should rather have said from what I had read either in the papers or Dr. Gray's letter as to the diamond dust. I remember receiving certain information which I communicated to Colonel Phayre on the 10th November. (Shown letter.) That is the formal letter in which I communicated that information. I sent a short note besides to Colonel Phayre.

Exhibit R put in—Glass slides on which Dr. Seward placed crystalline fragments found in the sediment.

Exhibit S put in—a glass slide scratched in Court by a portion of the sediment.

Mr. Inverarity—I will put in this letter of the 10th November 1874 from the Cantonment Magistrate to the Resident, to be marked for identification.

Mr. Serjeant Ballantine—I fear lest there may be some mistake about these letters. It is very desirable not to have these documents until they are proved. It may be that there are a great number of these documents.

The Advocate-General—We will call Dr. Gray and then put them in.

Mr. Serjeant Ballantine—There are so many of them; if there was only one I should not mind.

The President—You had better not put marks on them at present.

Mr. Inverarity (to witness)—You said yesterday that in Colonel Phayre's private office, on shaking the tumbler, a thin film came to the surface. Is that appearance an indication of arsenic?

Witness—This is known as one of the indications of arsenic. From the time I received this tumbler containing the sediment from Colonel Phayre until the time I concluded my experiments, and communicated my opinion to Colonel Phayre, no one had access to the tumbler, or the sediment, or the apparatus, except myself. I remember the ayah, Ameena, being under my care. She came under my care either on the 17th or 18th of December. I believe it was on the 18th. She had fever when she came under my charge, was in much pain on the right side, appeared to have congestion of the liver and the base of the right lung, and some of the bronchial or wind-tubes were affected. I examined her with the stethoscope. I considered her illness a serious one. I had seen her before she was sent to hospital in Mr. Beevey's compound in one of the out-houses there. It was quite by my advice that she was removed to the hospital from Mr. Beevey's compound. When she was in the hospital I had a conversation with her.

A thin film on the surface of liquid an indication of arsenic.

Dr. Seward deposes to seeing the ayah Ameena in hospital.

Tell us what it was?

Mr. Serjeant Ballantine—I object to that question. I don't think the objection requires any argument.

Witness—The ayah appeared very ill and restless, and I thought she might have had something on her mind. I told her if he had any burden of that nature it might be better for her, and help to her recovery, if she unburdened her mind. She then said something to me—it was scarcely a message—and it was in consequence of what she said that I went to Mr. Souter. After I had seen Mr. Souter, I do not know whether he went to the hospital. I have no knowledge of that. I do not remember what day I went to Mr. Souter. I have no note that I can refresh my memory by, but it could not be more than two or three days after the 18th December, I think.

Mr. Serjeant Ballantine—We have got that date.

Mr. Inverarity—We have only got the date when Mr. Souter went to the hospital.

Witness—It can scarcely be said that she gave me a message.

Dr. Seward cross-examined by Serjeant Ballantine with regard to the ayah.

Cross-examined by Mr. Serjeant Ballantine:—Had you known that the ayah had been examined by Mr. Souter before she came to the hospital?—Yes.

Had you learned from Mr. Souter what the nature of her communications were?—Not a syllable.

Of course you knew what the nature or purport of the enquiry was?—Yes.

And you say that when she was in hospital she was uneasy and restless?—That was so.

She had a blister on, had she not?—I don't know whether she had at that time. She was not blistered by me.

Did you know whether she had a blister on?—I do not know.

She says she had one on about that time?—I do not know; all I ordered was an application of belladonna. I know nothing about a blister.

Her liver was queer, was it not?—It was. She was then under Dr. Lewis's care.

And you attributed the restlessness and uneasiness that she exhibited to some mental depression?—I did.

You did not think it was her liver?—No.

Then it was a kind of mental disturbance?—Yes.

Differing from the appearance that would be created by physical pain?—Yes. She had been much relieved by the treatment she had received from me.

But still there was a depression of her mind, and a painful appearance upon her countenance?—Yes.

As if her conscience was at work?—It so struck me.

What hospital was she at?—At the hospital of the 22nd Regiment.

Is that what you call the regimental hospital?—It is the regimental hospital or staff hospital.

Are you the regular attendant at the hospital?—No. Surgeon-Major Lewis is the attendant there.

I may take the liberty of asking you how it happened that you were put in attendance upon her?—attended her because she was the ayah of a friend of mine, and I liked to do it.

Is it perfectly regular that you should have gone like that?—I had an interest in the ayah, and as Surgeon-Major Lewis was a personal friend of mine, I thought I might take the liberty to go and see her and examine her.

So you went to see her because you had an interest in her?—Yes. In that sense, no more.

Did you communicate with Dr. Lewis before you did so?—I did not, because it was not necessary.

I did not ask your reason. You did not, in point of fact?—No.

Am I to understand that you prescribed for her without seeing Dr. Lewis?—I am not aware that I did prescribe for her.

You prescribed a plaster at least?—That was outside.

But don't you call that a prescription?—That was when she was outside the hospital.

Oh, I thought you meant outside of her. But when she got inside am I to understand that you did nothing for her?—If you will call the hospital assistant——

No, no, I won't call the hospital assistant. I have such respect for you, Dr. Seward, that I prefer asking you. Do you mean to say that you did nothing for her?—If you will be good enough to call the hospital assistant you will find out properly.

You have given us a minute account on minor points, and you might tell me this?—I cannot tell you, or I would tell you at once.

Then it occurs to me to ask you what you went for?—I have already told you—out of interest for her.

Not to prescribe for her?—Not to prescribe for her.

On noticing her apparently troubled state, you assisted her in unburdening her conscience?—It was so.

Tell me, did you and the ayah understand each other's language?—Yes.

Did she speak to you in her own language?—Yes, in Hindustani, and I understood her.

You had no interpreter?—No.

Is your memory clear upon that subject?—I had no interpreter. There was a policeman there.

It was sure to compose her mind, if the policeman was there. Who was the policeman?—Heaven knows; I don't know.

Never mind saying that. We cannot ask heaven anything on the subject?—You ask me a question as to what I know nothing about. I have no idea who it was.

Do you know Akbar Ali?—I do know him.

Was it he?—No.

Or Abdool Ali?—I don't know.

There was a policeman standing there?—Yes.

What was he doing in a sick room?—I believe she was under police surveillance at the time.

Was that at the time you advised her to unburden her mind when there was a policeman in her room?—Whether he was in the room or standing at the door, I don't know.

With all respect to you, Dr. Seward, I must ask you whether it was in accordance with medical practice for you to visit the patient of another doctor without communicating with him?—I know nothing about what the usual medical practice may be, but I am very friendly with Surgeon-Major Lewis, and I went to see her because she was the ayah of a friend of mine, and I took an interest in her.

I ask you, Dr. Seward—I am sure you cannot misunderstand me—was it in accordance with the usual rule of your profession, that you should visit the patient of another medical man without communicating with him? Is it usual or is it not? A "Yes" or "No" answer is all I want?—It is not. But you forget the circumstances.

I don't forget any circumstance. But I ask you whether that is the usual practice?—It may or may not be; it depends on the relations of the medical officers concerned.

Am I to understand by that that you mean, that if you feel you are on friendly terms with a medical officer you may visit his patients without communicating with him?—No.

Then please convey your idea on the subject to me?—I tell you, Mr. Ballantine, simply what occurred in the matter. I have nothing to hide.

The President—You can surely say whether it is usual or not. You will have an opportunity afterwards of explaining the circumstances.

Witness—With a private patient it would not be etiquette.

Mr. Serjeant Ballantine—And with a patient in an

hospital—you would never presume, would you, of visiting a patient there ?—Not usually.

Very well. Do you know a person named Bhow Poonikur at all ?—I have seen him once, but I cannot say that I know him.

When was it that you saw him ?—It was after the departure of Mr. Boevey from Baroda.

You had seen him before ?—Not as far as I know.

Yes, that is all I can ask you. Have you seen him since ?—Since what occasion ?

You said that you had only seen him once ?—Yes; that was at my house, so far as I know. I have not seen him since.

When did Mr. Boevey go away ?—I cannot say.

Well, that there may be no mistake about the matter, I ask you again, are you quite sure that you have not seen Bhow Poonikur since that occasion ?—To the best of my belief and knowledge I have not.

That is quite sufficient. And now, Dr. Seward, in relation to this conversation with the ayah and to her message, and what you said to her, am I to understand that it was a conversation between you and the ayah, and nobody was there ?—As far as I know, it was simply a conversation between myself and the ayah.

Do you mean that this policeman who was present did not interpret ?—To the best of my belief he did not.

That is rather apart from what I asked you. Did the policeman interpret ?—I cannot tell you.

Well, I shall be obliged to press that question ?—You may press me, sir, from this time until doomsday, sir, but I persist in saying that I cannot tell you, because I do not know.

I shall not do that ?—You will.

Not unless something which I don't anticipate or wish should take place. Do I understand you to say that the policeman did, in point of fact, interpret ?—I have told you, sir.

Then tell me again ?—I tell you again.

That you don't remember ?—I don't remember.

May he have done so ?—It is possible.

Do you think he did ?—I don't know whether he did or not. I tell you it may be possible, but I don't remember.

I ask you, Dr. Seward, whether you did not get every single word of her message out of the mouth of the policeman ?—I really do not know. I will swear I did not. You are asking me about a matter in which I have not the least reason for being a go-between between this woman and Mr. Souter. It is apparently your intention to make me a go-between between Mr. Souter and the ayah.

If you were always as right in your medical diagnosis as you are in finding out my intentions, you might often be very far wrong. Now, did you or did you not get the substance of her message from the policeman ?—I cannot tell you.

Now, don't be angry. What do you think ?—I think nothing of it. I simply cannot tell you. I don't know myself.

What is your belief ? (To the President)—My Lord, I have no other reason. (Witness here appealed to the President and said that he would have to ask for the protection of the Commission if the questions were pressed further.)

The President—Mr. Serjeant Ballantine has a duty to perform, and he is entitled to ask you what your belief is. If you know, you can tell him, and if you have no belief on the subject you can say so ?—I have no belief upon the subject.

Mr. Serjeant Ballantine—Do you understand Hindoostanee ?—I talk it, but not fluently.

I will now take you to the events of the 9th—Unless I am mistaken, Colonel Phayre said that he had had some intimation that probably he might be poisoned. I am referring to your examination ?—That must be a misstatement of mine. He told me that his life had been threatened.

Colonel Phayre told you that he had heard that attempts would be made ?—Against him ?

Yes, against him, "that he had heard that foul play would be attempted against him ?"—Yes.

Did he tell you from whom he had heard this or what he had heard ?—To the best of my belief, he only said that his life had been threatened, but that, up to that time, it had never been attempted.

When you got to the Residency, you saw the tumbler in which was contained a little of the liquid and the sediment ?—Yes.

When you saw it, was the sediment in solution, or did it appear at the bottom independently of any liquid ?—I saw it in the lower part of the tumbler.

Was it mixed with the liquid, or was the liquid independent of it at the time ?—It was a sediment not diffused in the liquid.

Was there sufficient sediment to exhaust the liquid so as to make it merely damp, or did it, when shaken up, get into solution ?—There was just a liquid—it would be difficult to give any accurate description of what there was—but there was a liquid.

Colonel Phayre has said that the sediment was at the bottom, and that the liquid was trickling down the side of the glass. Was the sediment at the bottom, or attached to the side of the glass ?—There was some dripping down.

Now, Colonel Phayre has stated that this was of a darkish brown colour. That would not be consistent with its being diamond dust or arsenic ?—It would not be dark brown, as you say.

You can answer my question ?—It would not be consistent with arsenic or diamond dust.

So that there must at all events have been some additional element to either of these two, supposing it to have had a dark colour ?—I can give you no opinion upon that.

The first question I put to you was whether a dark colour was not inconsistent with the presence of arsenic and diamond dust, and I ask now, must there not have been some other element ?

The question was referred to the President.

Witness (to Commission)—I can only tell Mr. Ballantine what I did see. Anything beyond that does not come under my cognizance.

The President took a note of Dr. Seward's answer.

Cross-examination continued :—I decline to give my opinion as to whether there was something else.

Now, I suppose that what you mean by its not coming under your cognizance, is that it did not come under your observation by analysis ?—I saw no dark brown sediment in it.

Then how will you describe the sediment you saw ?—It appeared to me to be a fawn colour—something like some sea sand.

Would you call it—I don't ask whether you have done so, it is merely my recollection of the evidence—a pale grey ?—I think that might be a very fair description of the colour.

I then understand you that you mixed a little water with it ?—Yes.

I take it for granted, Dr. Seward, that you had not the means and did not analyse that water before you put it in ?—I did not analyse that water.

I suppose, Dr. Seward, I may take it that an analytical chemist analyses all the substances which he works with for the purpose of his analysis, as a general rule ?—As a general rule.

And there are instances—I was going to say numer-

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ous instances—are there not, in which the very poison supposed to be present had come from the tests the analyst used ?—There are such instances.

Now, you said that in the liquid there was about, I think you said, three-fourths of a dessert-spoonful ?—I said about a dessert or tea-spoonful of the liquid as far as I remember, of what remained of the sherbet.

And I think you said five grains of powder ?—That was an estimate.

What did you do with the liquid ? You added some water to it, and what became of the remainder after you had added the water ? I mean on the morning of the 9th ? Keep now in Colonel Phayre's room up to the time you departed. What was the next thing done ; you added some liquid. What did you do ?—I did nothing more. After that I took it home.

How did you take it home ?—I took it home in my pocket.

Then you eliminated the powder ?—I took the whole of it in a tumbler—in the very tumbler.

Yes, you are correct, because I remember you said that it was the size of the tumbler that attracted a man's attention, as you suppose ?—Yes.

You then used the charcoal test ; they call that testing by reduction, don't they ?—Yes.

Which eliminates certain portions that can subsequently be re-converted into their original element ? I am right about that, am I not ?—Yes.

So that what you suppose to be arsenic upon this metallic ring, you could actually show to be arsenic ?—Undoubtedly.

You can bring out the actual salt of the arsenic completely ?—Yes, in combination with other things.

Then I suppose that that ring, supposing your tests were correct, although it shows the presence of metal, does not prove that that metal is arsenic ?—So far as the appearance of these octahedral crystals is concerned they are regarded as an almost conclusive sign of arsenic.

And are those the crystals that exist in the tube ?—They are.

Would not some other mineral substance produce exactly the same appearance ?—Other mineral poisons would not produce similar crystals, I think, under the microscope.

Might not corrosive sublimate have produced the same appearances upon the tube ?—No ; they would not stand the test of the microscope.

Tell me where you got the charcoal from ?—It was sent to me by my hospital assistant, together with the other apparatus.

Brought to you or sent ?—I think that he brought it to me himself.

Did you test the charcoal at that time ?—No.

Did you test the remainder of the charcoal afterwards ?—I did not. Afterwards, it was tested by Dr. Gray.

I take it, then, that you yourself did not test the charcoal that you used ?—Yes.

Very well, I suppose you tested both the liquid and the sediment ?—I had no chemicals with me, and I did not test the liquid. I merely tested the sediment.

Very well, the sediment ?—Yes, the liquid was thrown away.

Then you eliminated the sediment from the liquid, and tested the sediment only ?—That is so.

Did you ever hear of such a course being taken before, namely, to throw away a part of what was supposed to be poison ?—That may have been an omission of mine.

That is quite sufficient. You only tested for arsenic, did you ?—Only for arsenic.

There are poisons, are there not, the foundations of which are copper ?—Yes.

What do they call them ?—I believe they are called verdigris.

Have you no test for copper ?—No.

Was there anything to indicate the presence of copper at all ?—Nothing.

I suppose the liquid would have told at once ?—I think the liquid would have done so.

From anything that you discovered from your analysis, did you find anything that would account for the coppery taste that Colonel Phayre describes as having experienced ?—No.

What is the specific gravity of arsenic in relation to water ?—I do not know.

Is it not 3½ to 1 ?—I am not prepared to answer that, Dr. Gray will tell you at once.

But I suppose you can tell me this, it is very much heavier than water ?—Yes, it is ; but some of it will float and some of it will sink. It is a peculiar property of arsenic.

Supposing a quantity of arsenic has been mixed and shaken up in a bottle and thoroughly mixed, and then poured into a tumbler, would it ever get to the top ?—I cannot say.

Is this the first time you have made the test for arsenic ?—Not quite. I have tested it in England and elsewhere under Hauffmann.

Well, have you made experiments since by sending for arsenic ?—Yes ; I have made one experiment.

Did you weigh the sediment to ascertain how much there was ?—I did not.

How much in proportion to the whole did you experiment upon ?—About a third.

Rather more than a grain ?—Yes. I think it must have been a grain or two.

" A grain or two " is rather a wide expression, and you must know that a grain or two is rather important in a question of poison. Was it a grain and a half ?—It was between a grain and two grains.

I understand your first process perfectly, but I did not understand your second process by which you bring out these things that exhibited glittering globules Did you use the same materials that you used before ? Did you use the whole that you had got of the sediment ?—Yes.

And this brought out the metallic ring ?—Yes.

Was there any residuum from your experiments with the arsenic ?—There was not.

Assuming that you experimented upon an amount between one and two grains, did you use it all ?—Yes ; I took the whole of that into the reduction tube.

You used it all up ?— I cannot say I used it all up, because I brought out certain appearances.

You brought out certain appearances which we have seen upon the tube, and you say that subsequently you brought out something else upon the slides ?—Yes.

Upon what did you operate to bring out something else upon the slides ?—That which I had already operated upon through the tube after subjecting it to heat. I did not say I had worked all the arsenic out of it. I merely detected the presence of arsenic and ceased the experiments.

Supposing you are right in supposing that that tube is really coloured by arsenic, is that more than an eighth of a grain ?—I cannot say.

May there be more than the sixteenth of a grain ?—I won't venture to estimate. The tube is there.

Very well, then, you know nothing about it, and the tube is here for the purpose of inquiry. Now, was the residuum left in the tube a powder or a liquid ?—It was the dry charcoal and whatever mixed with it. I took out the whole for further experiments.

How much was there of what you took out for your further experiments ? How much charcoal did you use ?—I did not weigh it.

Am I to understand that you did not weigh the quantity of charcoal upon which you experimented ?—There was no necessity for it.

Am I to understand that you did not do it ?—I did not do it. I have already said so.

Were your last experiments made upon a pinch of the dust that you took out of the tube ?—I cannot say how much charcoal I took out.

And you say that by the process you adopted you brought that out, and what I call—my eyes not being microscopic—colouring on the slides ?—I brought out a crystallised appearance on the slides.

I suppose, if you were correct about this, the scratch indicated on the slide would come by a renewal of the same experiments with other slides ?—Yes.

In a letter from Dr. Gray to you it commences: "My Dear Seward,—I have duly received your letter and its enclosures—viz., a demi-official from Colonel Phayre, and a small packet which contained a few grains of greyish-coloured powder;" and so on. That implies that there was a letter besides. Did you write any letter ?—The letter referred to is, I think, Colonel Phayre's.

The extract I have read implies the existence of another letter. Was there one ?—Perhaps it refers to what was written on the outside of the envelope.

But that was your first communication with Dr. Gray, was it not ?—Yes, it was.

You did not write to him the result of your analysis ?—I do not remember what I wrote upon the envelope. The envelope will show. (Shown exhibit D.) That is the only communication I made so far as I know.

Is arsenic used in the manufacture of glass ?—I believe it is in some varieties of glass.

Is there any other substance than diamonds that might scratch glass ?—I think corrundum will.

What is corrundum ?—I think it is a metallic oxide, but Dr. Gray will give you the information at once.

You have given an account of noticing certain peculiarities about Rowjee and Nursoo on the morning of the 9th, and you said that Rowjee offered you an umbrella, a thing which he had never done before. Am I right ?—Yes.

Now, until Rowjee had said that he had put this stuff into his master's glass, did you ever mention that fact, or your opinion in relation to these persons, to any human being ?—Yes; to Mr. Boevey.

You mentioned the demeanour of the servants ?—Yes.

When did you mention it to him ?—I cannot tell.

It is rather important to know. Can't you tell ?—It was before Mr. Boevey left Baroda.

I am told that Mr. Boevey left about the 25th December ?—I do not know exactly. I must have mentioned it shortly after the enquiry. I can only undertake to say it was before the 25th.

At Mr. Serjeant Ballantine's request Dr. Seward then took a clean piece of glass and scratched it with sediment as he had scratched the piece of glass marked exhibit S.

This terminated the cross-examination.

Re-examined by the Advocate-General :—

Dr. Seward re-examined by Advocate-General.

The ayah, I understand, had been your patient before she went into the hospital ?—Yes.

Do you remember how many days she had been under treatment by you before her removal to the hospital ?—Only one day.

Was it part of your duty as Residency Surgeon to attend the Residency servants ?—Yes; in serious cases.

What reason had you for having her removed to hospital ?—Because she appeared to me to be too seriously ill to remain where she was without attendance in Mr. Boevey's compound.

Was your visit to her in the hospital for the purpose of prescribing to her ?—I went to ascertain how she was. I examined her lungs, but did not prescribe. My visit to her in the hospital was not to prescribe for her, but I took an interest in her because she was Mrs. Boevey's ayah.

In the hospital was she in a separate room, or in a general ward with other patients ?—In a separate room.

Whereabouts was the policeman when you went in ?—I think he was either standing or sitting at the door. I made no particular note of the circumstance.

Did anybody come into the room when you were there upon this occasion ?—I think I remember one of the hospital assistants coming in. I do not remember which hospital assistant.

You say you do not remember who the policeman was that you saw. Can you describe him ?—Was he a Bombay policeman or a local policeman ?—He was a Bombay policeman. There are no local policemen.

Serjeant Ballantine—If you can tell us who he was, we shall accept the fact.

The Advocate-General—I do not know who he was. I only want to show that he was an ordinary police sepoy.

Examination continued;—The sepoy seemed to be an ordinary police sepoy rather shabbily dressed, without any ornaments upon him.

You say you speak Hindoostanee, but not fluently ?—Yes.

Do you speak it well enough to dispense with an interpreter in ordinary conversations ?—Yes.

Would it be an ordinary thing for you to ask for the assistance of an interpreter in an ordinary conversation with a native ?—I frequently get one if I find myself unable to carry on a conversation.

Now we come to the 9th November. You say that to you the sediment in the tumbler appeared of a dull fawn colour or pale grey ?—Yes.

Did you notice the colour of the liquid when you first saw the tumbler ?—Yes, it was a dull pink colour.

About how much water did you add ?—Possibly about a table-spoonful.

Do you remember from what vessel you took that water ?—It was from a vessel standing on the wash-hand-stand. I think it may have been from a water goglet, but I have no distinct remembrance.

But you took the first water that came ?—Yes.

On your going home, you say, you got some charcoal and your apparatus brought by your hospital assistant ?—Yes.

Who is he ?—A man named Ebrahimjee, a Jew, who has now left Baroda. I do not remember whether I sent a note for him or whether he was called.

Did you communicate the purpose for which you wanted the charcoal or the apparatus ?—I did not do so to Ebrahimjee, nor to any one else.

You were asked by my learned friend whether, if arsenic had been shaken in a small bottle before being poured into a tumbler or other vessel in which it was to be administered, that would make it sink to the bottom, and you said you could not say ?—Yes; I cannot say.

Would a preliminary shaking of arsenic in a small bottle before pouring it into a tumbler have the effect of diffusing the arsenic more thoroughly over the liquid in the tumbler ?—It might have.

Diamond dust, I suppose, would naturally sink to the bottom if any length of time elapsed ?—Yes.

You say that when you detected the presence of arsenic you ceased from further trial ?—Yes.

What was your reason for that ?—I had no apparatus.

You say you believe corrundum would scratch glass as well as diamonds ?—Yes.

And you think it is a metallic oxide ?—Yes.

Would chemical tests be available to discover the presence of corrundum ?—I am not sufficiently acquainted with chemistry to say.

Very well. We shall reserve that question for Dr. Gray. When was it that you noticed the film you spoke of ?—I observed it before I added any water.

By Sir Dinkur Rao—In your opinion, was the poison arsenic or diamond dust ?—Arsenic.

Sir Dinkur Rao questions Dr. Seward.

If diamond dust is administered to a person, can he digest it without a poisonous effect ?—I have no knowledge of that.

The Commission here adjourned for tiffin.

On the Court re-assembling after tiffin,

DR. GRAY sworn and examined by the Advocate-General, deposed—My name is Wellington Gray. I am a Surgeon in the Bombay Army, and Acting Chemical Analyser to Government. On the 11th November I received a registered packet or cover from Dr. Seward, the Residency Surgeon at Baroda. (Shown exhibit P.) This is the outer envelope of the packet. When the packet reached me the seal was perfect. The envelope contained a small packet and a letter. (Shown exhibit F.) This is the letter. (Shown exhibit O.) This is the envelope of the packet. Envelope marked O was sealed when I received it, and the seal was perfect. The envelope bore the endorsement in Dr. Seward's writing, which it now bears. In this envelope O I found a piece of blue blotting-paper folded. Inside the blotting-paper I found some powder, a grain and a half in weight. It was of a greyish colour. I noticed that it contained glittering particles. I analysed the powder by the usual process for the detection of arsenic. The first experiment I tried was not the reduction process. I heated a little of the powder in the test-tube, and found a white sublimate on the side of the tube. I next examined that sublimate under a microscope and found it to consist of eight-sided crystals. I examined these crystals further, and I concluded, as the result of my examination, that they were crystals of white arsenic. I came to that conclusion by first boiling them with a little water. I then took part of the watery solution, and added a drop of solution of ammonio-nitrate of silver, which produced a pale yellow precipitate. I then took another part of the watery solution, and added some ammonio-sulphate of copper, and the result was a pale green precipitate. I then added some muriatic acid to the remainder of the solution, and passed some sulphuretted hydrogen gas through the acid solution. I should say that I boiled the acid solution first. The result of this experiment was a bright yellow precipitate. I tested these three precipitates. I added ammonia to all three, and they all dissolved. I added the ammonia only to part of the last yellow precipitate. I kept part of it for another confirmatory test—which was that I boiled it with strong muriatic acid, and it did not dissolve. All these tests satisfied me that it was arsenic. Of the powder I received I employed about a sixth part of it in these experiments. I made experiments with regard to the remainder in connection with the arsenic. In the second class of experiments I boiled a little of the powder with water and muriatic acid. I then put in two pieces of clean copper foil, and continued to boil it, and in a few seconds the copper foil became covered with a grey metallic deposit. I took out one of the pieces of copper foil. I dried it and heated it in a test-tube, and a white sublimate formed on the side of the test-tube. I examined that sublimate under the microscope and found it to consist of eight-sided crystals. I ascertained by test what these crystals consisted of. I went through exactly the same course of tests that I have just described, and with the same results. I then, on part of the powder, tried the test by reduction with charcoal, and I have the test-tube showing the result of that experiment. (Shown test-tube.) I here point out on this tube the deposit called the metallic ring. This metallic ring is one of the signs of the presence of arsenic. That metallic ring may be reduced again to white arsenic by heating. I did not make that experiment. (Test-tube put in and marked T.) The tubes I have in the bottle with me contain some of the results of the experiments I made. All these results do not belong to the powder. Besides those experiments on the 11th, I made several others, but not any upon arsenic. I had not previously made any experiments regarding the glittering particles, which were not affected in any way by the experiments I had made regarding the powder generally. On the 11th, however, I examined some of these glittering particles under the microscope. That was the only examination made of them on the 11th, and from that examination I thought they might be powdered glass or quartz. I communicated the results of my experiments to Dr. Seward on that day. (Shown letter Q.) That is the letter. On the following day I made a further examination regarding the powder. On the 12th I opened the piece of blue blotting-paper, and on looking at the powder I was struck by the brilliancy of some of the particles.

Dr. Gray is examined by Advocate General, and details the experiments he made with the sediment sent to him by Dr. Seward and the verandah scrapings out by Colonel Phayre. He is of opinion arsenic was present in both these parcels.

By Serjeant Ballantine—Was this powder received from Dr. Seward ?—Yes.

Examination continued :—From that examination I was led to the conclusion that the particles were diamond. First of all I made a simple inspection. I then tried to dissolve them with all the ordinary acids, and with alkalis. These particles were not soluble. As to the results of the experiments I made I wrote this (shown letter) letter to Dr. Seward.

The Advocate-General—This letter is dated 13th November 1874, from Dr. Gray to Dr. Seward, and is as follows.

The Advocate-General read the letter as follows :—

Grant College Laboratory, Bombay, 13th Nov. 1874.

MY DEAR SEWARD,—In continuation of my letter of the 11th I write to tell you that a still closer examination of the gritty powder leads me to think that part of it at least is diamond dust. The lustre of some of the particles seems to me too great for anything else, and they are besides exceedingly hard and quite insoluble in any acid. This opinion, however, is based only on ocular inspection. I am not in possession of any means here to test the substance chemically, should it be asserted that it is diamond dust, and, besides, the quantity sent is exceedingly minute.

How do you account for the metallic taste described by Colonel Phayre ? Can it be copper ? Arsenic is tasteless or nearly so. I failed to find any compound of copper in the powder you sent in, but as all its salts are very soluble, it is possible that if put into the pummelo juice it may have been all thrown away when the tumbler was emptied. The early appearance of the

symptoms may be due to the fact that he took the arsenic in solution, or rather suspended in the pummelo juice, on an empty stomach. He may also have taken a comparatively large proportion of what was in the tumbler, as arsenic, unless well mixed, has a habit of floating on the top of a liquid. Natives have a firm belief in the deadly properties of diamond dust or powdered glass, but the fact is that neither of them possess any deleterious qualities.

I shall be happy to examine anything else you may require done. Is it possible to obtain any of the pummelo juice or any part of the ground or other place upon which it was thrown? If so, we might be able to detect copper if present.

Believe me, sincerely yours,

W. GRAY,

Acting Chemical Analyser.

When the Advocate-General was about to read the latter portion of it, in which Dr. Gray referred to the opinion of the natives regarding the deadly properties of diamond dust,

Serjeant Ballantine objected to any portion being read that was not simply a refresher to Dr. Gray's memory on some scientific point. He did not consider it necessary to hear Dr. Gray's opinion of what natives think regarding the qualities of diamond dust.

The President thought that Serjeant Ballantine's objection was quite right, but he did not apprehend that it mattered much whether or not the whole of the letter were read.

The Advocate-General remarked that the matter was not new, as he had already drawn the attention of the Commission to the opinion expressed by Dr. Chevers.

Serjeant Ballantine—If I were to discuss the value of Dr. Chevers's opinion, I might differ with everything he has said. It is a mere assertion, and not founded, upon anything. However, I agree with his Lordship the President, and do not object to his whole letter being read, as it might not be of much importance.

The Advocate-General then put in the letter, which was marked exhibit U.

Examination continued:—At the time I wrote this letter I had received no communication from Baroda mentioning the possibility of the presence of diamond dust. The opinion I had formed as to diamond dust was entirely the result of my own independent inquiries. In answer to that letter I received a further packet from Baroda. I received this packet (produces packet) on the 17th November. It is a registered packet, bearing the crest of a bird. The seal was perfect when that packet reached me, and I found in the envelope a small packet and a letter (shown exhibit I). This was the letter I received on the 17th. In the small packet I found some earthy matter. Seventeen grains was the quantity the packet contained. I examined the earthy matter, and found that it contained arsenic. It also contained sand and glittering particles. Those glittering particles were similar to those I had received in the previous packet which had been sent to me. I ascertained the presence of arsenic in this earthy matter by the same tests as I had employed in the former case. I have with me the tube which shows the metallic ring produced from the second packet. (Tube produced and marked V.) I formed the same opinion as to the nature of those glittering particles as I had on the glittering particles in the former packet —namely, that they were diamond dust. I did not detect the presence in either of these packets of any other poison than arsenic. In the first packet sent to me I found altogether one grain of arsenic, and in the second one grain and a quarter. A fatal dose of arsenic for an adult is about 2½ grains, under favourable circumstances for its action.

By Serjeant Ballantine—What do you call favourable circumstances?

Dr. Gray—An empty stomach, for instance.

Examination continued:—In the majority of cases the effects of taking arsenic would show themselves in from half an hour to an hour. The usual symptoms of arsenical poisoning are dizziness, faintness, then nausea followed by vomiting, with a burning pain in the stomach, and purging. Chronic arsenical poisoning, or the repetition of small doses of arsenic, will produce an effect upon the eyes. It makes the eyes water, and makes them feel sore. If arsenic is applied to a sore, or a wound, it may produce injurious and even fatal effects. I cannot say whether the admixture of diamond dust with arsenic before putting it into water would have any effect in diffusing the arsenic through the liquid. If it were shaken up in a bottle before being poured into the tumbler from which it was to be administered, that would, I think, have the effect of diffusing the arsenic through the contents of the tumbler.

The Advocate-General—Dr. Seward says that when his attention was called to the sediment in Colonel Phayre's office, he saw, on shaking the liquid about, a sort of film rise to the surface of the water. Would that show the presence of arsenic in the tumbler?

Witness—It would, to a certain extent.

On the 30th of November I received a third packet. I received it from Mr. Souter. It contained another small paper packet. The outer packet was an envelope. I examined the contents of that packet and found that it contained seven grains of white powder. That powder was white arsenic. (Shown envelope.) This is the envelope I received. The paper of the enclosed packet is here also; there was also a piece of thread in the packet. With the exception of the arsenic, the envelope I hold in my hand contains all that was sent to me. (The envelope put in and marked W.) The whole of the powder was white arsenic. There was no mixture. At Dr. Seward's request I also examined some charcoal which was made over to me. I received the packet on the 30th January 1875. I tested the charcoal with the result that I found it free from arsenic.

In one of your letters you express the opinion that diamond dust is not poisonous. Has it any injurious properties?

Witness—According to the best authorities, it has none.

Dr. Chevers in his *Medical Jurisprudence* says regarding diamond dust——

Serjeant Ballantine objected this line of examination.

The Advocate-General—I am only going to ask Dr. Gray whether he concurs with Dr. Chevers.

Serjeant Ballantine—Even if Dr. Gray concurred Dr. Chevers's opinion would not be evidence.

The Advocate-General—But I apprehend that the opinion of professional men as to matters of this kind would be admissible as evidence.

The President—Their opinion would be admissible on scientific matters, but not as to what the natives of India think.

The Advocate-General—But in all matters likely to prove injurious to human beings the opinion of medical men would be admissible as evidence.

The President—That is not the question. You are referring not to medical opinion, but to the opinion of the natives of India.

The Advocate-General—I apprehend that this would be a matter of general science rather than of medical science particularly, and should come within the

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range of what a medical man would know from experience.

The President—Dr. Gray might give an opinion upon a scientific point, but as to stating what the natives of India think, I do not think he is more competent to do so than anybody else.

The Advocate-General—Except, my Lord, that he might have more means of knowing what would be injurious than people wholly unconnected with the medical profession.

The President decided that as Dr Gray's opinion upon what he thought on what Dr. Chevers had said regarding the opinion of the natives of India about diamond dust could not be called a scientific opinion; the question which the Advocate-General proposed to put to Dr. Gray was inadmissible.

The Advocate-General—As your Lordship please.

Examination continued.—Do you know whether the question, whether or not diamond dust is a poisonous substance, has been discussed by medical men?—It has.

And what is the result of that opinion?—That diamond dust given as a poison is harmless.

This concluded the examination-in-chief.

Serjeant Ballantine asked if his Lordship, the President, desired the cross-examination to commence then, as it was four o'clock. He mentioned that personally he would prefer the cross-examination adjourned, as his throat was pained.

The President—Very well, we shall adjourn. We have no wish to press you unduly on.

The Commission then rose.

SEVENTH DAY, TUESDAY, MARCH 2.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esq., Bombay Civil Service.

Interpreter:—Mr. Nowrozjee Furdoonjee.

His Highness the Gaekwar was not present in the forenoon, but His Highness was present in the afternoon, when the witness Rowjee bin Rama was examined.

Colonel Sir Lewis Pelly, K.C.S.I., was absent.

The Court met at eleven o'clock.

Dr. GRAY, re-called, and cross-examined by Mr. Serjeant Ballantine:—

Dr. Gray re-called, and cross-examined as to sufficiency of tests used to discover poison, and effects of taking arsenic.

I did not gather, Dr. Gray, from your evidence whether you had actually eliminated the arsenic, or whether you had only come to the conclusion without having actually extracted the arsenic?—I don't understand you.

Have you extracted the arsenic itself bodily?—From a part of the powder.

Which part, the second lot, or the first?—The powder.

Some part of the powder?—You mean the estimation of the quantity?

We have seen the metallic ring you have described; have you used any further process upon that, so as to make it more clear?—None. I examined it with the microscope; that is all.

It is possible, is it not, to go further?—Yes; it is quite possible.

And to produce the actual arsenic?—Yes.

Now, there are several salts of copper, are there not, that are poisonous?—Yes.

Sulphate of copper is?—Yes.

If sulphate of copper were mixed with any liquid, would it, to a person drinking it, produce a strong metallic taste?—It would.

I believe so strong that it has been remarked that it is a poison rarely, if ever, taken by mistake?—Yes; it is tasted the moment it touches the tongue.

And would the taste continue for some time?—Yes; it would.

Would one of the effects of taking sulphate of copper be a constriction of the throat? What would be the effect?—It has a constringent or astringent effect.

Would it cause colicky pains?—It would.

And an increase of saliva?—No; not until it began to affect the stomach.

That would be within half an hour or so?—Yes; sulphate of copper will act on the stomach in less than half an hour.

And I suppose that depends, as with other poisons, upon the state of the stomach at the time?—More or less.

nd then, when it has commenced to act upon the stomach, it will produce an increase of saliva?—Yes; the moment nausea begins, there is an increased flow of saliva.

I am not aware, sir,—although I treat your opinion with the greatest respect,—that arsenic in a single dose was ever known to salivate, although I believe that arsenic, taken continually, does cause salivation? It is not a symptom that you look for necessarily?—No.

But have you ever known an instance of a single dose of two and a half grains—as you say—kill a person?—Yes. Two grains and a half will kill a person.

And you know Colonel Phayre has described certain symptoms, and apparently he suffered no subsequent inconvenience, the stomach pump was not used, whatever it was remained in his stomach; so that if he took arsenic at all it must have been a very small quantity?—A very small quantity.

In your experience, Dr. Gray, would such a quantity as he could have taken, considering all the circumstances, be likely to produce an increase of saliva, or salivation as Colonel Phayre called it?—Yes; it was sufficient to produce nausea, and the nausea would produce salivation.

Then would you say that there would be the same effect produced as with copper in relation to salivation?—Yes.

Oh, very well.—Salivation is always one of the first symptoms of nausea.

I need hardly ask you, Dr. Gray, as an experienced analyser, whether the addition of water to something that has to be analysed afterwards is a thoroughly improper thing to do—to make an addition of water to the substance to be analysed without, first of all, analysing the water. I allude to what Dr. Seward said he did—he added water to the substance in the glass, you know?—Well, I cannot say that is a very improper thing.

No; I don't say that it was a wicked thing, or anything of that kind; but I mean to say that you are apt to find other substances in water than you contemplate?—It is possible.

Now, I think—if I am not right you can tell me—it

was ten or twelve days after your analysis that a second batch of the powder was sent to you which is said to have been scraped up from the verandah ?—Six days afterwards.

Re-examined by the Advocate-General :—

Re-examination of Dr. Gray.

You said, Dr. Gray, that you extracted the arsenic bodily from parts of the powder—that would not be in connection with the test by reduction, but with another test, was it not ?—Yes ; by the test called the sublimation test.

Did you find any trace of copper in either the first or the second packet that was sent to you ?—None.

We know from a letter of Colonel Phayre that your attention was directed to the possible presence of copper in the substance sent to you for analysis—did you direct your experiments to discover whether copper was there or not ?—I did.

If Colonel Phayre took doses of arsenic at the time of these symptoms that he has described, it must have been in small quantities, I think you said, to produce the effects that were described ?—Yes.

Let me ask if arsenic is called an accumulative poison ?—No.

It passes off with the natural secretions of the body ?—Yes.

You were asked about a metallic taste,—is that at all produced by taking arsenic ?—There is a diversity of opinion upon that subject.

What is the result of your own experience or inquiries upon the subject ?—Well, that, I suppose, raises the whole question whether arsenic has a taste or not.

The President reminded Dr. Gray that the Advocate-General wanted to know his opinion upon the subject.—Well, I have tried to taste arsenic, and I found it perfectly tasteless.

The Advocate-General—You took a very small quantity, I suppose ?—No ; I took quite enough, but I have attended a person suffering from poisoning by arsenic who did complain of feeling a metallic taste.

Mr. Serjeant Ballantine—I don't like making objections to questions that are asked, but of course if this witness is asked what is his judgment or opinion from the fact of his having once attended a person suffering from poison by arsenic, that would necessitate our requiring to know the whole history of the case.

The Advocate-General—Dr. Gray's opinion can only be founded on experience.

Re-examination by the Advocate-General proceeded with :—

Witness—In the course of my experience as analyser, regarding arsenical poison, a metallic taste is often said to have been present as one of the symptoms.

I will ask, with the permission of the Court, a question which I intended to have asked yesterday. Did your analysis enable you to determine whether or not the arsenic which you received in the third packet from Mr. Souter was of the same description as the arsenic found in the other two packets received from Colonel Phayre ?—Yes ; it was description of the same.

Mr. Serjeant Ballantine—I will ask you a question upon that point. Arsenic is arsenic. You ought always to find it the same—ought you not ?—No ; in the physical characters there are varieties.

And did you really extract enough to be able to say that the arsenic was identically the same ?—I only judged from ocular inspection by means of the microscope.

Would you like to say that with that certainty which I am sure you would wish to characterise your answer ?—The physical characters of both were exactly the same.

The physical characters under the miscroscope ?—Yes.

You used the term "metallic" taste. Do you mean a copper taste ?—No.

By H. H. the Maharaja of Jeypore—Is arsenic soluble in water or not ?—It is with difficulty.

By Sir Dinkur Rao—Is there any other substance besides arsenic which, if taken once in a small quantity, would prove fatal ?—Yes.

ABDOOLA KHAN called and sworn.

Abdoola Khan, one of Colonel Phayre's servants, examined.

Examined by Mr. Inverarity :—My name is Abdoola Khan wullud Mahomed Khan. When Colonel Phayre came to the Residency from Pahlunpore I came here after him. I have been in Colonel Phayre's service for many years. When I was a little boy I was in his service and he and his lady were in the habit of going to England occasionally, and, excluding these intervals, have been in his service for fifteen years. In November last I was in his service as second servant. Colonel Phayre was in the habit of having a glass of sherbet prepared for him every morning. It was the second servant's duty to prepare that sherbet, but in the case of my absence, on account of sickness, it was the duty of the butler to prepare it. I remember Monday the 9th November. That morning Colonel Phayre's sherbet was prepared by me. I used to prepare it in the dispense-room. Having prepared it, I immediately took it to the dining-room. I took a plate or saucer, a plantain, a knife, and two or three oranges, and at once proceeded to the saheb's private office-room. I placed the tumbler on the washing-stand, where it always used to be put. When I put this tumbler of sherbet there it was two or three minutes before half-past six in the morning. When I put the tumbler down there were two hamals in the room—one called Govind, and I think the other's name is Yellopa. One was sweeping the room, and the other cleaning the things. When the tumbler was put down on the washing-stand, I took out clothes for my master and left the room. Before Colonel Phayre returned I had not returned to the room. That morning I made the sherbet from pummelo. I did not put anything in beside the juice of the pummelo. I cut up the pummelo, took out the seeds, and strained the juice through a piece of muslin. Before straining it through the muslin I put it in a soup-plate and pressed it with a spoon. The spoon was a large silver table-spoon belonging to the saheb.

Abdoola Khan cross-examined.

Cross-examined by Serjeant Ballantine :—

There was a verandah to this private room, was there not ?—Yes.

I mean the room in which you placed the pummelo juice ?—Yes. There is a verandah that leads from the inside as well as the out side.

Used that verandah to be cleaned every day ?—The inner verandah used to be cleaned every day, but I do not know whether or not the outer verandah was cleaned every day.

Was not the outer verandah cleaned daily ?—I do not see to that. That is not my business.

Whose business was it ?—The hamal's.

Re-examined by the Advocate-General :—

Did you notice any one cleaning this verandah on the morning of the 9th when you took in the sherbet ?—No.

The witness retired.

GOVIND BALOO called and sworn.

Examined by the Advocate-General :—My name is Govind Baloo. I am a hamal employed at the Residency. I have been employed at the Residency since Colonel Walker went to England on two years' leave about five or six years ago. It is part of my duty to clean the Resident's private office. I remember the morning of Monday the 9th November last. When I went on duty on that morning I was engaged in cleaning Colonel Phayre's private office. When I went into the room that morning it was not quite seven o'clock. I went into the room about half an hour or quarter of an hour after the saheb went out for an airing. I remained in the room about a quarter of an hour, half an hour, or thereabouts. While I was in the room Abdoola came into the room. Luximon sepoy was outside cleaning the inkstand. First of all Yellopa, who is another hamal, went into the room, cleaned it, and then came out. While I was there Abdoola took out the saheb's clothes. Abdoola, after having taken out the saheb's clothes and cleaned his boots, went out of the room. Rowjee havildar also came into the room after Abdoola had gone out. When Rowjee came into the room he said, "Let the torn papers be removed from this basket to that basket." In the office-room there were torn or waste papers in a basket where they used to be kept. That basket was placed on this morning close to the saheb's writing-table. There were two baskets, one inside and the other outside in another room, which leads out of the private office. He brought the ante-room basket into the private room and emptied into it the contents of the private room basket. Rowjee was in the private office for about five or six minutes. He did not stay long.

Govind Baloo, a Residency hamal, examined.

Mr. Branson—Did he not say that Rowjee put in the papers and went away ?

The Interpreter—I did not hear him.

Examination continued :—I know the wash-hand stand in the saheb's private room. I used to clean it and provide fresh water. On the table there is an earthen coojah and a gindy. On the 9th November I supplied fresh water for these. I got the water from an earthen pot that was outside. To fill that earthen pot is the bheesty's duty. That pot is for house use or for the saheb logue. That morning I did not notice Abdoola bring in Colonel Phayre's sherbet. It was about seven o'clock when I went into the dining-room to clean it. I did not see the saheb return.

Mr. Serjeant Ballantine—I have nothing to ask this witness.

The witness then left the Court.

The President—Mr. Melvill suggests to me that you did not ask exactly where the earthen pot was kept outside. I should like to ask that.

GOVIND BALOO was re-called.

Advocate-General (to witness)—Tell me whereabouts outside the house the earthen water-pot was kept ?—Outside the dining-room and near it.

At the back of the house or the side of the house ?—There was a door and a wall between where the pot was and the dining-room.

Was the dining-room that you speak of at the back of the house or on the west side of the house ? —In front is the visiting-room, and near it is the dining-room.

Going through the visiting-room towards the compound at the back of the house, you also pass through the dining-room—is that so ?—Yes ; just in front or just opposite.

And this "mutka" was in a covered place, which is at the back of the dining-room ?—Yes.

The Advocate-General (to the President)—I think, my Lord, that the arrangements of the Residency have been somewhat altered since those days. At the present time the dining-room is not the same as it was at the time the witness speaks of.

The President—You do not wish to put any question to the witness, Mr. Serjeant Ballantine ?

Mr. Serjeant Ballantine—No, my Lord.

The President—I will make a note of that, that you ask no questions.

The Advocate-General—I propose to call Yellopa, another hamal, as I don't know whether my learned friend wishes to ask him any question.

Mr. Serjeant Ballantine—No ; I do not want to ask him anything.

The President suggested that Yellopa should be called.

YELLOPA NURSOO, solemnly affirmed, and examined by the Advocate-General, deposed—I was a hamal employed at the Residency. I was engaged with the last witness, Govind Baloo, in cleaning Colonel Phayre's private office-room on the morning of th e 9th November.

Yellopa, hamal, examined.

Mr. Serjeant Ballantine—I don't desire to ask the witness any questions.

The witness then retired.

LUXMON DARYAVA SINGH called and affirmed.

Examined by Mr. Inverarity :—My name is Luxmon Daryava Singh. On the morning of the 9th November I arranged Colonel Phayre's writing materials in his private office. After I had done so I went and took my seat in the place allotted for the sepoys to sit called the *devri*. I don't know what happened after this. After I left the devri I went to take a note to the Post Office, which was given to me by the saheb. This was about a quarter or half-past seven. When I was going with the note I did not meet any one, nor did I see any one before I started with the note. When I was returning from the Post Office, I saw some one on the road. I saw Salim. This is the same Salim who used to come to the Residency with the Maharaja. When I saw him he was near a nullah near the Residency. He was riding. He was going towards the Residency. On my return to the Residency that morning after having delivered the letter, Salim was at a place near the Residency, where there are a number of English trees. That is about eight or nine paces fr m the Residency. When I saw him he was standing there. It took me more than a quarter of an hour to go to the Post Office and get back to the Residency. I did not see where Salim went to. When I saw him he continued standing there.

Luxmon, Residency sepoy, examined.

Serjeant Ballantine declined to cross-examine the witness.

The witness retired.

JUMOO MEER called and sworn.

Examined by the Advocate-General :—My name is Jumoo Meer. I am kotwal of the cantonment here. I remember the 9th of November last. On that morning I received some information from a man called Nuthoo Jugga. I communicated that information to Dr. Seward. On that day I remember I heard a report in Camp that an attempt had been made to poison Colonel Phayre. I first heard of that attempt about two o'clock that day. Dr Seward mentioned it

Jumoo Meer, Cantonment kotwal, examined.

to me. I did not mention it to others. Not at that time. Afterwards I spoke to Nuthoo Jugga about it. I mentioned it to him between three and four o'clock or thereabouts. I received the information from Dr. Seward, and then mentioned it to Nuthoo. After I——

Mr. Melvill—The witness says—This is after I had told Nuthoo Jugga what Dr. Seward said to me.

You had your conversation with Nuthoo Jugga before Dr. Seward mentioned this attempt to poison the Colonel ?—It was after Dr. Seward mentioned it to me. I received information from Dr. Seward, and I afterwards mentioned it to Nuthoo Jugga.

I want to know whether you mentioned it to Nuthoo before or after Nuthoo mentioned something to you ?—It was after I received the information from Dr. Seward that I spoke to Nuthoo. First of all Dr. Seward mentioned to me that there had been an attempt to poison Colonel Phayre, and then I spoke to Nuthoo with a view to inquiry in regard to it. I in the first instance told Nuthoo what Dr. Seward had told me.

Cross-examined by Mr. Serjeant Ballantine :—

When you told Nuthoo what Dr. Seward told you, did Nuthoo tell you something ?—Yes.

Jumoo Meer cross-examined.

Did you see Dr. Seward after that ?—Yes; the next morning.

I may as well get it. Did you tell him what Nuthoo had told you ?—I did.

Did Dr. Seward tell you to make any enquiries, or did he give you any directions ?—Yes; he told me to make enquiries.

And did he tell you you may repeat what Dr. Seward told you ?—He said, " A man has given some poison to Colonel Phayre, but who has given the poison is not known. Therefore do you make enquiries about him."

About whom ? About the man who did it ?—Yes.

Is that all that Dr. Seward told you ?—That is all.

You are quite sure about that, are you ?—Yes.

Did not he mention any name ?—No; he did not.

Why were you to make enquiries—what had you to do with making enquiries ?—I am the kotwal of this locality, the chief constable.

NUTHOO JUGGA called and affirmed, and examined by Mr. Inverarity :—He said—

Nuthoo Jugga, bazaar muccadum, examined.

My name is Nuthoo Jugga. I am bazaar muccadum and attend to the cleanliness of the bazaar. I remember Monday the 9th November. I know Salim the Gaekwar's sowar. I saw him on the 9th November at about eight o'clock in the morning. At that time I was causing a place to be cleaned near a place called Camateepoora. Salim was then going to the bazaar on horseback. He was going fast. The horse was running. He was coming from the direction of the city bridge. The bazaar he was going to is the Suddur Bazaar, which is in the Camp. I know Rowjee and Jugga, servants in the Residency. They live in the Sudder Bazaar. On that morning I saw Salim go to the bazaar, and come back shortly afterwards. I saw him coming back five minutes after I first saw him. I saw the direction in which he went as he came back. He went towards the city. He was still on horseback. He went running and returned running. The horse was not going very quickly, but a little fast. When he was coming from the Suddur Bazaar I asked him, where did you go to ?

Mr. Serjeant Ballantine—You cannot have that.

Mr. Inverarity—Well, you spoke to him ?

Witness—Yes; and he spoke to me. I told the Kotwal Jummoo Meer what I had seen that day.

Cross-examined by Mr. Serjeant Ballantine :—Just tell me, was Salim riding quickly or slowly. I think you said neither the one nor the other ?—On his return he wss going slower than when he went. He went faster then when he came.

Had Salim's name been mentioned to you at all in reference to this matter previously ?—No.

The witness Rowjee was then about to be called, when Mr. Serjeant Ballantine said—We are anxious that H. H. the Gaekwar should hear this witness give his evidence.

The President—Then we will wait until His Highness arrives.

Mr. Serjeant Ballantine—If your Lordship pleases. It was His Highness's own wish.

The Advocate General—There is another witness we can call in the meanwhile.

MAHOMED ALI BUKSH was then called and affirmed, and examined by Mr. Inverarity :—

I am a peon employed in the Residency. I remember the 9th November. I know Salim, the Gaekwar's sowar. I saw him on the morning of the 9th November. I saw him at the Residency. I first saw him there that morning about half-past six or seven o'clock. It was before Colonel Phayre returned from his morning walk. At first I did not speak to him. I was sitting on a box, and he was standing, having the bridle of the horse in his hand. The box where I was sitting is a place called the devri.

Mahomed Ali Buksh, Residency peon, examined.

On which side of the Residency was the box on which you were sitting ?—Witness—On going forward it is on this side. It is just opposite as you go from here. It is on the left hand side of the steps going to the house. I remember seeing Mr. Boevey return that morning. I did not see Salim at that time at the Residency. I remember taking a note that morning from Colonel Phayre to Dr. Seward. As I was taking the letter I had some conversation with Salim. He took out and gave me a rupee, and said, " As you are going with the letter towards the bazaar, if you can get any biscuits for me, pray bring them." First I delivered the letter to the saheb, and then I went for the biscuits. I could not find any biscuits. When I came back to the Residency, I did not notice or see Salim. Salim has never asked me for the rupee back nor for the biscuits. Afterwards I was prevented from speaking. By " afterwards " I mean the second or third day. The saheb gave me orders not to speak to anybody. On my return from the bazaar to the Residency I remember meeting Dr. Seward. I salaamed him. The saheb asked me, " What have you brought ?" He did speak to me and I spoke to him.

Cross-examined by Mr. Branson :—You were examined by Colonel Phayre, were not you ?—I was examined by Mr. Boevey.

Mahomed Ali Buksh cross-examined.

In Colonel Phayre's presence ?—No; Colonel Phayre was sitting separate.

Did you sign your statement in Colonel Phayre's presence ?—No; he was not present.

It is an extraordinary thing. Did you tell Mr. Boevey that " on your return from the bazaar I told Salim that the biscuits were not ready ?"—Yes; I said so to him from a distance.

Two or three minutes ago, you told my learned friend that you had not seen Salim at all on your return—where did you see Salim ?—As I was returning from the Doctor's bungalow, and passing by the schoool—this was about half-past seven or a quarter to eight or threabouts.

And you had not seen Salim on that morning ?—Yes, I saw him; he came to the bungalow.

Re-examined by the Advocate-General :—

When you saw Salim by the school as you were returning to the bungalow, what was Salim doing ?—He was going towards the city.

On horseback or on foot ?—On horseback.

How long after that was it that you saw him at the Residency ?—It was at about nine o'clock, or half-past nine o'clock.

Had you any conversation with him at that time?—No.

By Sir Dinkur Rao—Was Salim in the habit of going to the Residency every day, or did he go on that day only ?—He used to come on Mondays and Thursdays. This was the second day after the Dewali—it was a Monday.

His Highness the Gaekwar having now entered the Court,

ROWJEE bin RAMA was called and sworn.

Examined by the Advocate-General :—Rowjee Rama deposed—My name is Rowjee bin Rama. I was a havildar of peons employed at the Residency. I was so employed about a year or a year and a quarter. Colonel Phayre appointed me. I lived in the Suddur Bazaar in the Camp. No other of the Residency servants lived with or near me. I know Salim sowar in the employment of His Highness the Maharaja. I made his acquaintance since he used to come to our bungalow—I mean the Residency. He has made propositions to me. He first made a proposition to me two months before the sitting of the Commission about the complaints of the cultivators which were preferred by Colonel Phayre. That was about a year and quarter ago. Two months before that Salim made a proposition to me. Salim said, "The Maharaja has sent for you. He wants to have some conversation with you." I said to him, "can't come just now ;" and he was after me very much. He said the same thing to me five or six times. I eventually said, "I will go." I went on a Sunday. I cannot remember the month. It was about two months before the Commission assembled at Baroda. I left my house in Camp to go at seven o'clock on the Sunday evening. I went first to the house of Yeshwuntrao, a jasood of the Maharaja's. He also was in the habit of coming to the Residency with the Maharaja. Yeshwuntrao's house is near the new bazaar in the city. When I got to Yeshwuntrao's house I found Salim sowar sitting there. Yeshwuntrao was also there. From Yeshwuntrao's house I was taken to the Maharaja's Haveli by Salim sowar and Yeshwuntrao. I was taken to the Haveli, where the Maharaja lived in the city. I went into the Haveli from a way in the rear near the Nuzzur Bagh. There is an entrance at the rear of the Haveli near the Nuzzur Bagh. When I entered the Haveli, I was taken upstairs accompanied by Salim sowar and Yeshwuntrao. When we got upstairs I sat down. I sat down in a room. Salim sowar sat by me, and Yeshwuntrao went aside to report to the Maharaja, and Yeshwuntrao brought the Maharaja there. I knew the Maharaja by sight, and recognized him very well when he came in with Yeshwuntrao. When the Maharaja came into the place, I made salaams to the Maharaja and sat down. The Maharaja said to me, "If you can get any news or information from the bungalow (meaning the Residency) let me know it." I said, "Very well." The Maharaja said, "I will give you many presents, and will gratify you and please you. Do you continue to give me news or information relating to that direction." I said, "Very well." The Maharaja then asked, "Are you friendly with the jemadar ?" He said Nursoo jemadar, the Residency jemadar. I said, "Yes." The Maharaja said, "You should bring him with you to me." I said, "Very well." The Maharaja inquired about matters relating to here and there.

Rowjee bin Rama, havildar of peons at the Residency, examined. Deposes that he paid frequent visits by night to the Gaekwar at the palace in the city, sometimes with Nursoo, jemadar of peons, sometimes with Pedro butler; and that the Maharaja asked them to bring news, and gave a packet of poison to Pedro to put in Colonel Phayre's food.

The Advocate-General asked for a clearer interpretation

The Interpreter—I have given you a literal interpretation, but the witness simply means that he had an unimportant conversation.

Examination continued :—

I then took my leave, accompanied by Salim and Yeshwuntrao. They went to their respective houses, and I went to the Camp. I told about this interview with the Maharaja to Nursoo jemadar on the morning of the following day when I went to my duty. The jemadar said, "At present I have no time to go." Before the Commission sat I had gone to see the Maharaja three or four times. When I went from the Camp I went alone. Afterwards I met Yeshwuntrao and Salim, and I accompanied him to the Maharaja's. I used to meet them at Yeshwuntrao's house, and then proceed to the Maharaja's. I used to inform the Maharaja about the persons that used to come to the Residency.

Here the Commission adjourned for tiffin.

When the Commission resumed after tiffin at three o'clock, the examination-in-chief of Rowjee bin Rama was resumed.

Witness—While the Commission was sitting, I went on visiting the Maharaja. I visited him three times during the sitting of the Commission. On those three occasions I used to go alone to Yeshwuntrao, and from his house I used to go with Yeshwuntrao and Salim to the Maharaja. I saw the Maharaja on all those three occasions at the same Haveli that I have described to you. I spoke to him when I saw him. I used to tell him, or rather give him information about what occurred here at the Resident's bungalow. I got information of what occurred at the Residency from complainants who used to come to the Residency and people who used to appear before the Commission. I heard the conversation those people had. I heard what they said, and what they said I repeated to the Maharaja. About this time I had spoken to the Maharaja about my intended marriage, and he paid me Rs. 500 for the expenses of that marriage. I spoke to the Maharaja about this during the sitting of the Commission. When I spoke to him about my intended marriage, the Maharaja called Yeshwuntrao, who was standing near him, and said, "You (Yeshwuntrao) must remind me of it." The money was not paid to me then.

The President—You had better ask when the money was paid.

The Advocate-General—Yes ; I am coming to that, my Lord. (To witness)—When did you next hear in reference to your application to the Maharaja about your wedding ? Witness—Yeshwuntrao came to the bungalow, that is, the Residency, when he accompanied the Maharaja and spoke to me.

How soon, after your visit at which you had spoken to the Maharaja, was it that Yeshwuntrao came with the Maharaja to the Residency, to the best of your knowledge ?

Witness—My visit was on Friday, and Yeshwuntrao spoke to me again on Monday. Monday was the Maharaja's usual visiting day. On that Monday, Yeshwuntrao spoke to me in the morning. He said, "I have brought and kept with me Rs. 500 for you ; you can come and fetch the amount." After

this I went and got the money from Yeshwuntrao. I believe I did so in the evening of the same day on which Yeshwuntrao spoke to me. A Residency punkawalla named Jugga went with me. I met Yeshwuntrao. I got money by the hands of Yeshwuntrao's carkoon. I got Rs. 500. His carkoon and Jugga were present. I saw no one else present. Yeshwuntrao was upstairs in his house. The carkoon's name is Dulput. I spent Rs. 400 of that money on my marriage, and I deposited Rs. 100 with Jugga, with instructions that I would draw the money from him from time to time as I required it. With the Rs. 400 I bought some clothes, made some ornaments, and sundry other expenses. Dajeebhoy Kureea got the ornaments made for me. My marriage took place during the sitting of the Commission. I do not remember what month. Two or three days after the Commission left Baroda I remember seeing Salim again. He said, "I have brought over the jemadar, and have spoken to him." He said, "He has promised to come. Do you come with him to the Maharaja's." I said, "Very well, I will ask him." I spoke to the jemadar about this on the evening of that very day. The jemadar said to me, "I will go with you on Sunday." I do not remember what month this was in. It was eight, nine, or ten days after the sittings of the Commission were over, so far as I remember. It had been arranged previously that we should meet at Yeshwuntrao's house, and I found him there on the Sunday night. As far as I remember Jugga or Kabhai was present. Kabhai was a punka-puller employed at the Residency. Now he is unemployed. I don't know his father's name. He is not the same man as the cart-walla. One of these two was with me. Besides the jemadar, I found Salim sowar at Yeshwuntrao's house. Yeshwuntrao was also there. From Yeshwuntrao's house I went to the Maharaja's Haveli. I went through a lane which is in the direction of Nuzzur Bagh, and Yeshwuntrao went into the Haveli by the entrance from the public street where the sentries are. Salim went with me, and Kabhai or Jugga, so far as I recollect. We all went upstairs. The jemadar was with us. We all went up the first flight of steps—that is myself, jemadar, Salim, and Kabhai or Jugga. We were made to sit or wait at the first flight of stairs. Salim alone went up a further flight of steps, and afterwards Salim came downstairs and called me and Nursoo jemadar. Kabhai or Jugga remained sitting down below. I and the jemadar went upstairs with Salim. When we got upstairs, we were conducted to the bench on which the Maharaja was in the habit of sitting, and where there was a bath-room. Yeshwuntrao, myself, jemadar, Salim sowar, and the Maharaja were there. I and the jemadar had some conversation with the Maharaja. I don't remember the conversation. Eventually the Maharaja said to the jemadar, "You should report to me the news or information from the Residency. As you are living in Baroda you should bring the news every day." The jemadar said, "Very well." The Maharaja said, "The news should be regarding those Sirdars who are in the habit of coming to the Residency. You are an old servant, and should know the Sirdars." The jemadar said, "I will give the news, so will Rowjee, and the news will be communicated through Salim." The Maharaja said, "Very well; you should send the news, and if it is very important you should commit it to writing and bring it from the bungalow." These written communications were to be brought to Salim, when the jemadar left the Camp to go to his house. The jemadar lived in the city. At that interview, when I and the jemadar were there, the jemadar said, "My brother's pension has been stopped. Do you be pleased to make some arrangement about that." The Maharaja said, "I cannot make any arrangement about that. You must send a petition to the saheb, and if he speaks to me, I will immediately make an arrangement." The jemadar's brother was in the service of the Maharaja. There were two brothers—one a commandant and the other a jemadar in the Rissala. Nothing else took place at this interview. We left and came away. Between this visit and the Maharaja's going to Nowsaree, the jemadar and I went to see the Maharaja four or five times about the time of his going to Nowsaree. On these occasions we saw the Maharaja and conversed with him. The jemadar and I took information as to what had been going on at the Residency. I went to Nowsaree with Colonel Phayre. Nursoo jemadar also went. We remained in attendance on Colonel Phayre during the time he remained in Nowsaree. The Maharaja also came to Nowsaree. I saw Salim accompanying the Maharaja, but I don't think I saw Yeshwuntrao. Yeshwuntrao's son lived in the Resident's bungalow—I mean he lived in a small tent in the compound. All Colonel Phayre's servants lived in the bungalow, and there was a tent and rowtie for the peons and sepoys. Yeshwuntrao's son lived in the rowtie. Salim also lived in the rowtie within the compound. While at Nowsaree I went once to the Maharaja's. I was introduced to the Maharaja's presence there by Salim.

Upon that occasion did you take any papers?

Mr. Branson objected to the question.

The Advocate-General—Then I will not put it. (To witness)—Tell us what occurred?

Witness—I had some conversation. The Maharaja inquired about Bhow Pooniker and others who used to come to the Resident's bungalow and about what conversations they had. I know a man named Damodhur Trimbuck or Punt by name, but not personally. I know him by sight. He was at Nowsaree with the Maharaja. After my return from Nowsaree I did not, for the most part, continue my visits to the Maharaja at the Haveli. (Correcting himself.) I have made an omission. After my return from Nowsaree I went thrice to the Haveli with Pedro the butler. I went with the jemadar also to the Haveli. After my return from Nowsaree I went altogether to the Haveli some twenty or twenty-five times.

The Interpreter (to the Commission)—Perhaps the witness does not understand the limited time meant by the Advocate-General. He means altogether, I think.

The Advocate-General repeated his question—How many times after you returned from Nowsaree, did you visit the Haveli?

Witness—Thrice in company with Pedro, and four times in company with the jemadar. I have not gone to the Haveli at the same time with both Pedro and the jemadar. Just I and Pedro and Salim went. When I came back from Nowsaree Pedro asked me, "Would you go with me?" I asked, "Where to?" He answered, "Salim sowar has told me that we should go to the Maharaja's." I said, "Very well, I will go with you when you ask me to go." I did go with Pedro. I left the Camp and waited at the bridge whilst Salim sowar was bringing a garry from the city. Salim made the garry stop there, and went to the bungalow to call Pedro. I mean the bridge near the school on the road to the city, and just at the corner of the maidan. Pedro came with Salim, and Pedro, Salim, and I went to the city together. This was past ten o'clock at night. Having got to the city we went to the Maharaja's Haveli. At the Haveli I met Yeshwuntro jasood, and saw the Maharaja. On this first occasion that Pedro and I saw the Maharaja, the Maharaja asked, "When your saheb sits at the table, does he make any reference or allusion to me?" Pedro said to the Maha-

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raja, "The saheb says what is good for you." Pedro butler said to the Maharajah, "It would be good for you if you lived on amicable terms with the saheb." The Maharaja said, "I am all right, and behave well, but the saheb gets angry." Pedro added that the junior madam saheb is very kind to you.

The Advocate-General—Would "well disposed" not be a better interpretation?

The Interpreter—It is too mild for that.

Mr. Melvill concurred in "kind" being the interpretation.

Examination continued:—

Pedro also said, "If you behave well, the saheb will also be very kind to you." The chota madam saheb was Mrs. Boevey, Colonel Phayre's daughter, who lived in the Residency. The Maharaja said, "You should send news and information through Salim;" because he (Salim) was in the habit of going to the butler's house. I remember the butler going to Goa on a month's leave. This first visit was before the butler went to Goa. Before he went to Goa, he and I paid three visits to the Maharaja. After the butler's return from Goa I went once to see the Maharaja with him. I went four times altogether to the Maharaja's with Pedro the butler. On the visit to the Maharaja after the butler's return from Goa, Pedro had some conversation with the Maharaja. I heard it. The Maharaja asked, "When did you return from Goa," and Pedro said, "Two or three days ago." The Maharaja then said to the butler, "If I give you something, will you do something?" He says, "If it is possible for me to do it, I will do it."

Mr. Branson doubted whether "possible" was the interpretation of what the witness said.

Interpreter—"If I can do it" might be an interpretation.

Mr. Melvill thought the interpretation given was correct.

Examination continued:—Then the Maharaja spoke to Yeshwuntrao, who was present. Yeshwuntrao had a packet in his hand, which he delivered into the Maharaja's hands. The Maharaja put this into the hands of Pedro. Pedro then asked, "What is it?" The Maharaja said, "It is poison." Pedro said, "How should I do with this?" The Maharaja said, "Do you give it in some food to the saheb." Then Pedro said, "If the saheb dies all of a sudden, I shall be taken up and will be ruined." The Maharaja said, "Nothing will happen all of a sudden, but after two or three months the saheb will die." The Maharaja added—"Nothing will happen suddenly to the saheb. Don't you be alarmed." After this conversation took place I left and went to the Camp. Pedro went to the bungalow; I went home. I believe Pedro kept the packet in his possession. Pedro told me that Salim sowar had paid him a sum of money. How much I don't know. Pedro told me this at the time of his going to Goa.

The Commission now rose.

EIGHTH DAY, WEDNESDAY, MARCH 3.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esq., Bombay Civil Service.

Interpreters:—Mr. Nowrozjee Furdoonjee and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

His Highness the Gaekwar was present in the forenoon, but His Highness was absent in the afternoon.

Colonel Sir Lewis Pelly, K.C.S.I., was again absent.

The Court met at eleven o'clock.

ROWJEE bin RAMA re-called, and examined by the Advocate-General:—

Rowjee's examination continued. Witness deposes that the Gaekwar asked him and Nursoo jemadar to put poison in Colonel Phayre's sherbet, and sent a packet of powder through Salim to the jemadar, which the jemadar gave to witness. In the packet witness found two powders, of which he mixed portions, and put them in the sherbet. The remainder of one powder he left in his belt. Afterwards received through Nursoo a second packet, the whole of which he put in the sherbet on 9th November.

After my return from Nowsaree I went to visit the Maharaja with a person named Jemadar Nursoo. This was about two or three days after my return to Barod from Nowsaree. A punkawalla named Kabhai also went with me. About fifteen days after my return from Nowsaree Rs. 300 were paid to me by Nursoo jemadar. After receiving that money, I again went to visit the Maharaja. About four or five months after I received the money—I guess it would be about that time—Nursoo jemadar went with me then. On this occasion I went from here (the Camp Bazaar) at seven o'clock in the evening; I went first to Yeshwuntrao's house, where I met Salim sowar. Nursoo jemadar was also seated there. Beside myself, Nursoo, and Salim, Yeshwuntrao was also there. From Yeshwuntrao's house we went to the Maharaja's Haveli. We went into the Haveli by the entrance situated on Nuzzur Bagh side. I saw the Maharaja on that occasion. He was seated in his bath-room. It was upstairs. When I went to the Maharaja, I and Nursoo jemadar sat down, and Yeshwuntrao and Salim were standing near the Maharaja. Then the Maharaja said to us, "The saheb practices great *zoolum* (oppression) on me. I will tell you something; will you listen to it?" Then I and the jemadar said, "Yes, we will listen." Then the Maharaja said, "What is the saheb in the habit of eating?" I then said, "He does not eat anything in my presence, but he drinks juice *(rus)* sherbet." Then the Maharaja said to us, "If I give you something, will you put it in" *(dalna)*. Then we said, "What will be the effect of it?" *(Kya hoega.)* Nursoo it was who said this. Then the Maharaja said to us, "I will send a packet by the hands of Salim sowar." I thereupon asked the Maharaja—"What will be the effect of it?" [Interpreter explains that the word "pudi," which he interpreted by the word "packet," may also mean powder.] When I asked what substance is it (or rather thing)——

Mr. Serjeant Ballantine—Then the correct rendering of the word must be "packet," because he says "what thing"?

The Advocate-General—A thing is not necessarily a substance in the ordinary sense of the term.

Witness—Then the Maharaja said, "It is poison" *(zahare)*. I then said to the Maharaja, "If I put it in, and if anything happens to the saheb all of a sudden, what then?" The Maharaja said, "It will not produce any immediate effect, but will produce an effect in the course of two or three months." Then the Maharaja said to us, "I will give you a present of a lakh each if you will do this thing, and I will employ you *(asami)*

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or give you service, and I will protect your children and family. Do not entertain any apprehensions." I myself asked the Maharaja, "In what way or manner shall I put this in?" Then the Maharaja said—"Take a small bottle or vial, put some water and the powder in it, shake it well and put that in." Then I asked the Maharaja—"If I put the powder thus, what will be the effect?" The Maharaja said—"If, without shaking it, you put it in the juice, it will come to the top; therefore you should shake it before putting it in." Then Salim sowar and Yeshwuntrao both said—"It will be good for you if you do this job; do not have any apprehensions." The Maharaja said, "Make three powders of this, and finish them in three days." At that time no powder was shown me; nothing was shown me then. The Maharaja said—"I will send to the jemadar's house by the hands of Salim or Yeshwuntrao." I said, "Very well." Nothing more occurred. After the Maharaja said this, we left. I cannot fix the day on which this conversation took place. I don't remember the day of the week or month, nor what season it was. I don't remember the 9th of November. I remember when Colonel Phayre found out the attempt to poison him. It was before this discovery that I had had this interview with the Maharaja. It would be about fifteen or twenty days before. After this interview with the Maharaja the jemadar brought a packet and gave it to me. The above-described interview with the Maharaja took place at seven o'clock in the evening—not morning. When the jemadar gave me the packet, it was, as far as I remember, on the day following that on which I had had the interview with the Maharaja. I opened the packet he gave me, and found it contain two powders, one white and the other rose-coloured. [The quantity in these powders he tried to illustrate with his fingers.]

By Mr. Serjeant Ballantine—I do not think there was quite a tea-spoonful.

By the Advocate-General—I did not form any estimate of the weight. [Shown a sand-box used for drying ink.]

The witness divided the sand into two separate parts, and said that the portion he meant to represent the white powder should be a little more than the other. The sand that had been used for illustration was handed to the Secretary to the Commission.

Examination continued:—When Nursoo gave me these powders he spoke to me. After I got these two powders from Nursoo I divided them into three portions, taking more of the rose powder and less of the white. Of the white powder I used only a little, so that some of it was left. To make up the three mixtures I took a pinch of the white powder, and a good deal remained. I don't remember whether I used half of the white powder, but I used up the whole of the rose-coloured powder. When these three mixtures were made up I kept them in the pocket of my putta or belt. The remainder of the white powder I put on one side of my belt—I mean the lower part of it. It was put in the same pocket of the belt as I put the three powders, but in a separate division. The three packets that I had thus mixed I threw into the saheb's sherbet. I threw the three packets into the sherbet, not at one time but at different times. I put these powders in on alternate days, although I do not remember the particular days. I put the powders in a bottle.

Mr. Melvill—He did not say powders. He only said one.

Question repeated and examination continued:—I put one powder into a bottle, leaving the other two. I put some water in the bottle and shook it and threw the contents in the glass—I mean the glass which contained Colonel Phayre's sherbet. When I speak of the glass of sherbet, I refer to the glass of sherbet that used to be placed in Colonel Phayre's private room every morning. I adopted the same practice in regard to each of these three powders. The bottle I used I got from the Maharaja. That was about the time when the saheb had a boil on his head. The bottle contained some white liquid like water. I was at the Maharaja's Haveli when I got this bottle, and Nursoo jemadar was with me on that occasion. When the Maharaja gave me this bottle I asked him, "What does this bottle contain?" He said, "It contains something which you ought to throw into the saheb's bathing tub or gindy." I took the bottle with me. I tucked the bottle up in my drawers, and it produced a wound, or sort of swelling.

Mr. Melvill—He said he put it between his strings.

The Interpreter—His meaning is that he put it between the strings of his drawers and the drawers.

Examination continued:—The injury was like a boil.

Interpreter—I think he means a blister.

Witness (asked for explanation)—It was a boil; when a man gets a burn it produces that kind of thing. The wound was here (showing his stomach). As it produced a boil on me, I thought it would produce some great injuries on the saheb, and therefore I threw it away. I threw away the medicine which the bottle contained. The mouth of the bottle was stopped with cotton which was covered over with bees' wax, not sealing-wax. I got the bottle about a month or a month and a quarter before I got the powders. I took the bottle with me to the Residency. Nursoo jemadar asked me, "Did you put it in?" I told him I had put it in. I said to Nursoo jemadar, "Look here. I have been burned here" (pointing to my stomach). The bottle I kept in the Residency underneath a box belonging to the saheb kept near a form on which the jemadars used to sit near the saheb's office. This box was near the form on which I used to sit. After I put the three powders into the sherbet, as I have described, I saw the Maharaja about eight days afterwards. After that the Maharaja used to come to the Residency to see the saheb, and perhaps he thought that nothing had happened to the saheb. The Maharaja sent a message to me through Salim. I and Nursoo jemadar both went. This was at night. To the best of my recollection no other person went with me on that occasion. I first went to Yeshwuntrao's house. When I got there Nursoo jemadar was there, as well as Salim sowar, who was sitting there. Yeshwuntrao was also there. I went to the Maharaja's Haveli with Yeshwuntrao, Nursoo jemadar, and Salim sowar. I saw the Maharaja at the Haveli, in his bath-room, in the same place as I had seen him on previous occasions.

Tell us what took place between you and the Maharaja on the occasion of that visit?

Witness—The Maharaja gave me coarse abuse and said, "You did not do anything." I said to the Maharaja, "I did it, but I cannot account for its not happening." Then the Maharaja said, "I will give you another thing which you should put in." I said, "Very well." As I was about to go, Salim stretched forth his hand, but I did not see whether he gave anything to the jemadar or not. He did not say anything at that time—no one said anything at that time. I did not hear anything then. I and the jemadar went away from there. On the next day, when the jemadar came from his house, he gave me something—it was a packet. I opened and examined the packet. There was some black or dark-coloured substance in it. (Interpreter explains that it may mean either one or the other.) The colour of the Interpreter's coat is too dark. I think the colour was like this (pointing to a drab-coloured helmet on the table). That is about

the colour. This powder I kept by me for one day. I went on Friday, and it was brought by the jemadar to me on Saturday. The next day was Sunday, and I did not go to my duty that day. I went to my duty on the Monday following. I am speaking of Monday, the day on which the report about the poisoning was heard. On Monday I put the poison in the saheb's sherbet. I put in the packet that was sent to me by the jemadar from the Maharaja on the last occasion. I put the powder in a bottle, shook it, and put it in the glass of sherbet. I put it in the bottle which had been given to me by the Maharaja. I put nothing else in but the powder. I shook it in some water in the bottle. When I poured the contents of the bottle into Colonel Phayre's sherbet, no one was present. I put it into the saheb's glass at half-past six o'clock, when I went to my duty. This was about twenty-minutes or thereabouts, before Colonel Phayre returned. I saw Colonel Phayre return. I remember Colonel Phayre writing a note. He gave it into the hands of the jemadar, who gave it to me, and I gave it to a puttawalla. I do not remember what puttawalla. I remember telling him to take the note to the Doctor Saheb. Salim sowar was present when I told the puttawalla to take the note to the Doctor Saheb. I first saw Salim sowar that morning about seven o'clock. First Salim sowar asked me, "Did you do that job or not?" I said, "Yes, I did it." I said, "A note has this day been written and sent to Dr. Gray, and I think you will be disgraced."

Mr. Melvill demurred to the rendering of the witness's expression "fujaita" as "disgraced."

Interpreter—"Fujaita" is the word for "disgraced." That is a literal interpretation.

The President—Sir Richard Meade thinks the meaning is more ruin than disgrace.

President—You had better refer to the dictionaries now. (Shakspeare's Dictionary referred to and the meaning was found to be as given by the Interpreter.)

President—I think the expression sufficiently conveys the meaning.

Examination continued:—Salim said nothing to me when I told him this. I left him immediately afterwards. I told him about the note to the Doctor Saheb at the same time as I told him about my having given the poison. I remember the doctor coming. I was standing there. I remained on duty at the Residency all that morning. On that same day I was not placed under arrest. I was suspended on that day. I was desired to take off my belt and kept it there, and go home. I left my belt in the saheb's office. My belt has never been returned to me. On that Monday I was examined a little by Colonel Phayre, and Mr. Boevey was present on the occasion. I was placed in arrest on the following morning at seven o'clock. I remained under arrest on the night of that day. The next day at five o'clock in the evening I was released by orders of the saheb. I was not allowed to return to my duties. I have already told you about receiving Rs. 500 on the occasion of my marriage, and afterwards Rs. 300 from the jemadar. I did not receive any more money. How can I tell what the Maharaja gave to the jemadar? I had some ornaments made out of the money I received at the time of my marriage. (Ornaments produced.) These were the ornaments which I caused to be made. For these ornaments I paid about Rs. 500 or Rs. 550. I don't remember exactly what amount I paid. I told you yesterday that I had been requested by the Maharaja to communicate with him through Salim. I have communicated with the Maharaja in writing. I caused Jugga to write for me on one or two occasions. I know Jugga's handwriting. I can read Guzeratee a little, and I can write a little, but not well. (Shown letter.) This is in Jugga's handwriting. I don't think I can read this letter. Besides Jugga I didn't employ anybody else to write for me. I wrote myself on two or three occasions. These letters or communications that I caused to be written, and which I wrote, were all conveyed by the jemadar. I remember making a statement before Mr. Souter. The first day on which I made my statement to Mr. Souter was on a Tuesday, the 22nd, so far as I remember. I do not remember what month.

The Advocate-General—We take it, my Lord, as the 22nd December.

Examination continued:—My statement was not taken down by Mr. Souter on the 22nd. It was on a subsequent day. Early one morning, about five o'clock, Mr. Souter sent for me. On that morning I did not say anything to the saheb. He questioned me till about eight or nine o'clock that morning, but I did not confess anything correctly. I was then brought to the Residency. I saw Mr. Souter in Colonel Barton's bungalow. I was then taken to the Residency, and was desired to sit down in the garden of the Residency. I continued sitting there till five or six o'clock. Kureem and Faizoo were there. We began to discuss or argue amongst ourselves. Faizoo and Kureem said, with regard to themselves and the ayah, "We have told the truth; you had better tell the truth, and you also will be saved." They said, "We have stated that we have been there." Thereupon I sent for Mr. Souter's havildar, who was near there. I don't remember his name. I would know him if I saw him. (Shown havildar No. B-1130, Meer Imam Ally.) This is the man. I said to him, "Do you take me to the senior Khan Saheb Akbar Ali." Then I went to the senior Khan Saheb, and said to him, "I will tell before you the truth regarding the poison. If you save my life, and get a promise given to me by the saheb, I will tell you the truth." I did obtain a promise of free pardon if I made a full statement, and under that promise I made a full statement to Mr. Souter. From the time I first saw Mr. Souter at six o'clock until the present moment, I have had no communication with the jemadar Nursoo, with this exception—on the day Nursoo was taken up the Khan Saheb said, "Tell before Nursoo the truth that you have told."

A doubt was raised about the correctness of the interpretation of the answer, and the question was repeated, but no difference was found in the interpretation.

Examination continued:—The great Khan Saheb sent for me. He said, "Tell the truth before Nursoo and the Rao Saheb and chota Khan Saheb." I was then taken to near the jemadar, and addressing him I said, "I have told all that was to be told even up to my neck." That was all that passed between us, and he was taken away to the police guard-room. (Shown belt.) This is the belt that was taken away from me. (Shown pocket at the bottom of the belt.) This was where I put the three packets, and the remainder of the white powder that was not used was put in the pocket at the side. I was present when something was found in that belt. The Rao Saheb and Akbar Ali and Khan Bahadoor were present. On that occasion one powder or packet was found in my belt. The Khan Saheb asked me, "Where used you to put it?" I said, "In the pocket of my patta or belt." Then he asked, "Where is your belt?" I said, "It is in the possession of Bhoodur puttawalla." Mr. Souter's sepoy named Chand went and brought Bhoodur puttawalla there. When he came he was wearing it on his neck. The Khan Saheb took it off his person, and then Khan Saheb, Rao Saheb, and Khan Saheb junior began to search. Then the Khan Sahib senior

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produced his finger into the belt. (Illustrates the manner.) He found something hard, and then remarked, "There is something there." Then he left it as it was, and sent for Mr. Souter, who was in the room opposite. The saheb opened the lower part of the belt, took out the packet, and found it wrapped in a piece of white paper. The contents of that packet were poison—I mean a white powder. When the packet was taken out in the the way I descibed, I recognized it. The saheb asked me and I said, "I could identify it." I said, "This is the packet which was left with me by mistake or oversight." I said nothing more on this occasion. After this inquiry the saheb took some information from me, and then I left. I don't remember when this packet was found. It was about two days after I gave him my deposition. It was on the third day. One day had elapsed. I think the saheb was busy on the previous day.

The Commission here rose, it being then 2 o'clock.

The Commission resumed its afternoon sitting about half-past 2 o'clock.

H. H. the Gaekwar was not present.

Khan Bahadoor Cursetjee Rustomjee, Subordinate Judge of Surat, was sworn in as the second Interpreter to the Commission and proceeded to interpret.

The witness ROWJEE bin RAMA was re-called, and cross-examined by Mr. Serjeant Ballantine:—

Rowjee cross-examined by Serjeant Ballantine.

How long, did you say, you had been in Colonel Phayre's employment ?—I think about a year and a half.

Had he been a kind master to you ?—He was very kind to me.

You had nothing to complain of ?—No.

And yet you wanted all at once to murder him ?—Because the Rajah induced me by offering me money—a bribe.

You did not require a great deal of persuasion ?—I am a poor man, and he offered me a lakh of rupees.

And you being a poor man, and being offered a lakh of rupees, you wanted to murder a master who had always been kind to you ? Don't be ashamed of anything ; you don't appear to be—that is so ?—Yes ; I consented because he said——

You really meant to murder him?—I did not intend, but the Maharaja intended it.

Of course it is the Maharaja, but you intended by your own hand to murder him ? That's all I want to know ?—It was not my intention, but I was instigated by the Maharaja.

But being instigated by the Maharaja you meant to do it ?—Yes ; because I was a poor man and was instigated.

You had never had any quarrel with Colonel Phayre ?—No ; no quarrel.

And so you were ready to become a murderer for money ?—I am a poor man, and was instigated ; what do I know.

But being a poor man, were you ready to murder your master, who had been kind to you ?—Because I was instigated, and I consented.

Now, you never got your lakh of rupees ?—No ; nothing was given.

Did you ever apply to the Maharaja ?—I did not apply.

You know you were examined before Colonel Phayre after this attempt had failed. You remember that ?—Yes.

After that you were at liberty for nearly a whole month or more than a month, I think ?—Yes.

That is so ?—Yes.

Did you make any application to the Maharaja during that time ?—Never.

Did you ever see the Maharaja or get any message from him ?—I did not get any message, nor did I see him.

Now, as you were a poor man, and ready to commit murder because you were instigated, how was it you did not apply to the Maharaja for some money ?—I did not go. How could I go there ?

Why, you had been there often enough, you know ?—On the first occasion, not after I went home. (Interpreter explains that the witness means after he was dismissed.)

But, after you had done what the Maharaja had instigated you to do, why did you not apply to him to pay you ? Was it because you had not killed Colonel Phayre, because the attempt had failed, or some principle of honour of that kind ?—Because the affair was not successful, I did not ask for money.

I thought so. I thought it was an honourable sense of what was due, and you did not think it would be fair to apply to the Maharaja as you had not succeeded in killing Colonel Phayre—is that what you mean ?—I did not go, nor did I ask him for money.

But I want to know why, because you are a poor man, and ready to commit murder ; it is much easier to ask ?—I was not ready to commit murder ; it was the Maharaja.

I know it was the Maharaja who was ready to commit the murder—we all know that—but if you were so ready to be his instrument, what prevented you from asking him for money ?—I did not go ; how could I go and ask for money ?

Did you and Nursoo have any conversation together after your attempt to murder had failed ?—No ; I had not. I had not any conversation with Nursoo. I did not leave my house to go anywhere.

Do you know Bhow Pooniker ?—He used to come to the bungalow. I know him.

What used he to come to the bungalow for ?—He used to come to the saheb ; I don't know why.

Did he come to give information to the saheb of what was going on ?— I did not know that.

You heard him give information, did not you ?—I did not hear. Sometimes I used to hear, and sometimes I used to tell it.

Was it talked about among the servants at the Residecy that the Maharaja had made a representation, or sent a khureeta to the Viceroy ?—I do not know anything about a khureeta.

You must be carefut now in what you answer. Will you swear that you heard nothing about a khureeta about to be sent to the Viceroy ?—I do not recollect hearing anything about it.

Not from Bhow Pooniker ?—No ; I did not hear anything about a khureeta from Bhow Pooniker.

Did you get the boil that you have exhibited from contact with the bottle only, or did the contents of the bottle go on you ?—The medicine which the bottle contained caused the boil.

Did it get out of the bottle ?—It dropped through the cotton stopper.

And so you found it give you a boil ?—Yes.

And so you threw it away from fear it should hurt Colonel Phayre ?—Yes.

But it was given you to hurt Colonel Phayre ?—Yes.

Then why didn't you use it ? You found out, you know, that it did hurt, and yet you threw it away ?—I did not use it.

Why ?—Because it injured me, I threw it away. I was afraid I should be arrested at once.

But you know you administered poison. Why should you not have used the liquid as you were told ?—I did not.

But why ?—Because I was injured, I thought my saheb would be injured, and therefore I threw it away.

You told Nursoo that you had ?—Yes.

And that was a lie?—Yes.

Did you indulge occasionally in that luxury ?—Why should I tell a falsehood?

I want to know why you did. Why did you tell your friend Nursoo one?—Every day a sowar used to come from the Maharaja to inquire whether the thing was done or not.

Why did you tell Nursoo a lie?—Because he was after me.

Do you tell lies to everybody who is after you?—I will tell the truth; why should I tell lies?

Did you tell him lies because he was after you?—Yes.

Well, Mr. Souter was after you, and perhaps you told him not one lie but a hundred?—He was never after me.

So that what you told him was the truth ?—Yes, every syllable; not a difference of a single thing.

You are quite sure about that ?—Yes.

You would not deceive Mr. Souter?—No.

Did you tell Colonel Phayre the truth ?—Had I told Colonel Phayre the truth, how should he have believed the story of one individual?

Was that the reason why you did not tell him the truth?—Therefore I did not tell the truth.

You are sure you did not tell him the truth because you did not think he would believe it ?—Yes.

That was one thing ?—And I did not do it with a view to tell it.

But to Mr. Souter you told the truth in everything?—Yes.

Very well. Now I am going to tell you something that you told Mr. Souter. I am referring to the time when you got the two papers of powder. Upon that occasion you and Nursoo were promised a lakh of rupees each ?—Yes.

Who did you say gave you these two powders ?—Nursoo jemadar brought them to me and gave me them.

Did he tell you that equal parts of each should be administered for two or three days ?—He said, "Divide this into three parts, and use them in two or three days."

That is to say, mix the powders together and devide them into three equal parts ?—No; from each powder I took a little, because I had doubts that the white powder was more injurious.

Now I will read to you what you said to Mr. Souter —"A few days after this the jemadar gave me two powders and told me that equal parts of each should be administered for two or three days, and in such a quantity as to consume the whole in that time." And you say also—"This had been also carefully explained to me by Yeshwuntrao and Salim in the presence of the Maharaja." Then you go on to say—"I did not commence to administer the powders for two or three days, as no favourable opportunity presented itself for doing so?"—Yes; so I said.

Did you go on to say, "The packet of poison which the jemadar first gave me, I made into small doses, as directed?"—Yes; I made three pac ets.

"And kept the powders in the secret pockets of my cross-belt?"—Yes.

"And the powder taken from the secret pocket of my cross-belt this morning is one of the powders made up from the packet given me by the jemader?"—Yes.

Is all that true?—Yes.

Now, I want to go to the last packet you got. Who gave you that? The jemadar?—Yes.

Was that a different coloured powder from the other powders you had?—I think the colour of the powder was grey.

Then it was not the same colour as the white powder that had been given to you?—No; it was dark.

Was it a little darker?—It was little darker than the hat before me (pointing to a bluish-grey felt helmelt on the table).

You put the whole of that in?—Yes.

After mixing it in water?—Yes. I put it first in a bottle, and then mixed it and poured it out.

The whole of it?—Yes.

About how much was the quantity of the last powder?—So much (making a sign with his fingers).

Ink-drying powder was given to witness, who poured out a quantity on some paper, and said that this was about the amount.

Cross-examination continued:—

It (the powder) was perhaps a little more than what I have given you.

Was it as black as this?—No; a little lighter.

Did you see Dr. Seward on the morning that you attempted to murder your master?—I was at the bungalow and I saw him.

Where is Salim now?—I do not know where he is, but I hear that he is in imprisonment. I have been in imprisonment since several days.

And you believe Salim is in imprisonment?—Yes.

How many times did you say that Pedro went with you to the Maharaja's Haveli?—Three times after he returned from Nowsaree, and once after he returned from Goa.

Four times in all?—Yes.

And he knew all about this plan of poisoning, did he not?—He was told by the Maharaja the other day.

You heard him tell him?—Yes.

And you saw a paper given to him?—Which paper?

You saw a paper containing poison, or what you believe was poison given to him?—The packet was given into his hands in my presence.

But you heard the Maharaja say it was poison, did you not?—Yes; I heard him saying that it was poison.

On what occasion was that?—This was after Pedro's return from Goa.

That was Pedro's last visit?—Yes.

Can you give the date of it?—I cannot recollect.

As far as I calculate, it would be about the beginning of November that you received the powders?—First, the powder was given to him, and after two days I was called.

It was the jemadar who gave you the two powders?—First, he brought me two, and on another occasion one.

Was it before the two powders or the one powder that Pedro received the powder?—Before the one that was given to me.

Before the last one?—Yes.

And you received the last one two days after the paper had been given to Pedro?—Yes.

Did you ever hear what became of what was given to Pedro?—I did not hear. I do not know whether he did it or not.

You know you were all engaged in the same office, —that is to say to murder Colonel Phayre?—Yes.

Then how came you not to ask Pedro what he had done?—Why should I ask Pedro? I did not ask him. He should know his business.

So, as I understand you, you left Pedro to poison when he liked, and you poisoned when you liked?—The Maharaja was in great haste, and he gave it to me and to Pedro so as to make haste.

How do you know?—Because Salim sowar and Yeshwuntrao were persuading me.

That is how you learned that the Maharaja was in great haste?—Yes.

But you were told, were you not, that it would not take effect for three months?—Yes; I was told that.

And you never asked Pedro what had become of his paper?—No.

When did you first accuse Pedro of being a party to this murdering affair?—When I was before Mr. Souter.

Never before?—No.

You did not mention his name then, when you were examined by Colonel Phayre?—No; I did not.

Why?—Because I was afraid.

What were you afraid of?—If anybody does anything, does he do it for the purpose of telling it?

That is your reason, is it?—Yes.

Was this powder left in your belt by accident?—Yes; I had quite forgotten about it. By mistake I left it there.

You administered two of the doses, and then one remained by accident?—There were four altogether. I administered three, and one was left.

Then you did not divide them into three, but kept one?—Yes.

This is what you say in your statement to Mr. Souter:—"The packet of poison which the jemadar first gave me I made into small doses as directed, and kept the powders in the secret pockets of my cross-belt." Do you mean by that that they were equally divided?—The jemadar had given me two powders originally. I made three of them, and the white was remaining.

Mr. Melvill (to Interpreter)—What the witness said was that he made the rose-coloured powder into three portions, and put into each a little of the white powder, and that there was still some white powder remaining.

Cross-examination continued:—

That was not what you were told to do?—I was told to give it three times, and to make three portions.

I want to know why, instead of making three portions, as you were told to do, you kept back a quantity of white arsenic, making a fourth portion?—The white portion was arsenic, and if it was all given to the saheb, something would happen soon. So I did not use the whole.

And that is the reason you kept it?—By mistake it remained.

What do you mean?—I had kept it in the pocket, and then afterwards I forgot whether I had got it there or not.

But why did you not do what you were told and what you had engaged to do?—I was afraid that something might take place with the saheb all of a sudden.

Did you put in the whole of the darker powder at once on the 9th November?—It was little, and I put in the whole.

Didn't you think that would act at once, or what?—I did not know that it would take effect at once. I was told to make haste.

Did anybody know that you had any of these poisons left?—Nobody knew.

You had not told anybody?—I did not tell anybody.

Then I suppose that your accomplices thought you had used the whole of the powders you had received?—Yes. They thought that the whole was used.

Just a word or two about this wonderful belt. It was a policeman who found the powder. You say he felt something hard in it?—They first asked me where I kept my belt. I did not say anything about keeping the powder in it.

Did you remember at the time that there was some?—No; I did not. Had I remembered I would have taken it out and thrown it away.

Then you were quite surprised to see it, were you?—Yes; I was confused too. I was asked whether I recognized my powder, and I recognized it.

Then, if I understand your story aright, Akbar Ali asked you generally where you kept these things, and you said in your belt?—Akbar Ali asked me where I used to keep the powders, and I said, "In the pockets of the belt." Then he asked me, "With whom is your belt?" I said, "It is with Bhooder."

How came it to be with Bhooder?—A new Resident saheb had given it to him.

When was your belt given to this man?—It was given in my presence—on what day I do not recollect.

How long before the Police were so fortunate as to find the poison?—Several days before that, but I cannot remember how many days.

And it never occurred to you that this belt worn by somebody else contained the packet of poison of yours?—I had no recollection whatever about the powder.

Now, when you were examined before Colonel Phayre, were you asked who you had suspected of having administered poison to the saheb, and did you say, "I suspect Faizoo"?—Yes; to save my life I said I suspected him.

So that you first attempted to commit murder, and then accused an innocent man of doing so?—These people were also going to the Durbar, and they lived in the city.

And that is why you thought it necessary to save your life?—Yes; the saheb having asked me whom I suspected, I said Faizoo.

And so then you accused an innocent man of attempting to commit a murder which you yourself had attempted?—As they were all living in the city I said so. I did not accuse them.

Here is the question:—"Who do you suspect of having administered poison to the saheb;" and you answered, "I suspect Faizoo"?—I said Faizoo lives in the city, and there is a suspicion against him.

Did you not say, "I suspect Faizoo"?—Yes; I did.

And, of course, you had not forgotten that you had done it yourself?—Yes; I had done it.

And accused Faizoo?—Many persons were taking his name, or were saying so, and I kept quiet.

No; you did not keep quiet, because you said to the saheb, "I suspect Faizoo?"—Yes; I said it was him I suspected, and I said that as Faizoo lives in the city, and goes and comes from the Palace, thefore I suspect him. I know only of two powders.

What do you mean?—I suspected that a powder might have been given to him also. It was given to Pedro, me, and others, and I thought it may have been to Faizoo also.

That was why you accused him, was it?—Yes.

After you had been released by Colonel Phayre, what became of you?—I remained at my place. I had applied to the saheb to be re-employed, but the saheb had gone away.

And were you re-employed?—No; the saheb said that the saheb logue would come and make enquiries, and then I would be re-employed.

Did Bhow Pooniker interfere on your behalf or not?—I do not know.

Did you ask him?—I did not say anything. I was in my house. I did not go out.

And you mean to tell me whether he interfered or not?—I do not know.

Be a little cautious in what you are going to say. Do you mean that you have never been talking at all to Bhow Pooniker about this matter?—Yes.

You have never seen him about it?—I did not see him, but he used to go to the bungalow, and he used to see me.

Was that before you attempted to poison your master?—About the time that the saheb was about to leave this, Bhow Pooniker was at the bungalow, and I had seen him.

That was after your attempt at poisoning ?—Yes; afterwards.

Then I suppose that you and he talked about this poisoning ?—No.

Do you mean that you never talked with him at all ?—No; I do not recollect.

Well, I may be able to remind you. Do you not recollect anything passing between you and Bhow Pooniker about the Maharaja ?—There was no conversation between me and Bhow Pooniker about the Maharaja. I never talked with him about the Maharaja, nor did he talk with me about him.

Did he not ask if the Maharaja knew anything about this ?—He did not ask me, nor did I talk to him.

Do you mean that you never mentioned the name of the Maharaja to him, nor he to you ?—No; I never mentioned the Maharaja's name.

Had you seen Bhow Pooniker before you were examined by Mr. Souter ?—No; never.

Was Bhow Pooniker present at any of the examinations before Mr. Souter ?—I did not see him; he was not there.

You did see him about that time ?—I did not see him.

Am I to understand that what induced you to murder your master was the promise of a lakh of rupees ?—I being a poor man, a lakh of rupees was a great sum to me.

Then am I to understand that that was your inducement ?—Yes; a lakh of rupees was too much for a poor man.

Now, I ask you again, why, if that was your inducement, you did not make any application to the Maharaja for the money when you were set at liberty ?—, was afraid. I did not go. I did not leave my house nor did I go to any place.

You did not put any poison in the saheb's sherbet either on the Friday or the Saturday ?—I put it in on the Monday, the day on which the report was spread.

And that is the only day ?—That is the only day

The Advocate-General said that the Interpreter had not given the full answer, and that the witness's answer really was that that was the only day on which he had taken it out of the packet given him on the subsequent occassion.

Cross-examination continued:—With regard to the last packet, you used it all at once ?—Yes.

And if anybody attempted to poison the saheb on the Friday or the Saturday, you don't know who it was ?—No; on the Saturday the jemadar brought the packet to me.

Have you been to the Palace since you were examined by Mr. Souter ?—No.

You have not been to the Palace at all ?—No; how could I go ? I was confined from the day on which Mr. Souter examined me.

Had you known the Maharaja to talk to or speak to before he made the proposition to you about poisoning your master ?—Two months before that I knew him.

The Advocate-General again complained that the Interpreter had not given the full answer, because the witness had said that the Maharaja was in the habit of calling at the bungalow.

Re-examined by the Advocate-General :— On the first occasion that the Maharaja called you, did he talk to you about poisons ?—Two months before the Commission sat, I was called to see him.

On these early days that you paid visits to the Maharaja, did he speak to you about poisons, or did he speak to you only about getting information ?—Only about getting information.

What do you mean by *kubber-ki-bat* ?—Whatever I heard at the bungalow, I should tell him.

When was poison first spoken of between you and the Maharaja ?—About five months after my return from Nowsaree.

Well, now, after the Monday on which the poison was put in by you and discovered by Col. Phayre, you say you remained in your house ?—On that day I was suspended, and from that day I remained at my place.

Did either Yeshwuntrao or Salim come to you at your place ?—They never came to my place.

After your suspension ?—No; they never came.

Had you ever been to the Palace except with Yeshwuntrao or Salim, or both of them ?—I had accompanied them on many other occasions.

The President (to Interpreter)—Ask him whether he had ever been to the Palace without Yeshwuntrao or Salim ?

Witness—Before the Commission I used to go alone. Afterwards I never went alone.

The Advocate-General—Did you ever go to the Palace without Yeshwuntrao and Salim, or one of them ?—One or the other was always with me.

When you were taken to the Palace ?—Yes.

While you were living in your house, after you were suspended, do you know whether or not any watch was kept over you by the authorities here ?—I don't remember. I never left my house, and was in the Camp.

Now, you were asked by my learned friend about this mark on your stomach—is there any scar or mark of a boil ?—Yes; there is a scar. (Witness offered to show it.)

To the President—I will ask, my Lord, that the witness may be directed to be examined by a medical man, Dr. Gray or Dr. Seward, afterwards.

Mr. Serjeant Ballantine—He might have subsequently made the mark himself where he says he put the bottle.

The Advocate-General—That is a matter for observation. I am now only upon the fact. I see Dr. Gray is in Court. He might examine him and speak as to the marks at once.

The Advocate-General proposed to put in Rowjee's statements which he made before Mr. Souter.

Mr. Serjeant Ballantine objected to their being put in until they were proved, and

The Advocate-General said he had no objection to the course proposed by the learned Serjeant, but he had imagined, that, as he had allowed Pedro's statement to be put in, the same course would not have been objected to in regard to Rowjee's statements.

Dr. Gray and the witness, Rowjee, then retired into another room, and, on returning into Court, Dr. Gray was examined by the Advocate-General :—

You have examined the person of the last witness ?—I have.

Dr. Gray examined as to marks on Rowjee's body said to have been caused by oozing of arsenic through cotton stopper of a bottle concealed about him.

Did you find any scar ?—There are three marks on his belly.

Whereabouts ?—One inch and a half above the navel.

Is that anywhere near the place where the string of his drawers is tied ?—Yes.

Can you form any idea as to the cause of those marks, or what it was that produced them ?—It might have been caused by the action of caustic or a hot iron.

Are they such marks as a boil would be likely to leave ?—No.

Are they such marks as a blister would be likely to leave; a blister caused by some burning substance applied to the belly ?—Yes; they are.

Cross-examined by Mr. Serjeant Ballantine—What burning substance, Dr. Gray ? You have heard the story of this witness. I think you have been in Court the whole time ?—Yes; I have.

Dr. Gray cross-examined on this point.

He is supposed to have received a bottle waxed, stopped with cotton, and some of it came out and reached his stomach. Can you form any idea as to how these marks came?—White arsenic would cause them.

Do you mean without being rubbed in?—Yes; if arsenic is kept in contact with the skin it burns it.

Then I suppose that a person would begin to feel the irritation immediately, would not he?—Within an hour.

Do you think those marks could be made within an hour?—Yes; I think they could.

Out of the bottle in that way? Do you really mean to convey that as your deliberate opinion, Dr. Gray?—My belief is that if arsenic was placed in contact with the skin it would cause those marks.

As a professional man you would indeed have been entitled to remain in Court, and I avail myself of the fact that you have remained in Court and heard that man's evidence, and I ask you, do you pledge your professional reputation on the opinion that you believe those marks could be caused in the way that man states?—It is my opinion that they could, supposing that it was arsenic.

You are stating that, I hope, with the full recollection of what he said; you remember his account of the swelling; you have taken that into consideration?—Yes.

And he described it as something of a boil; you have taken that into consideration?—Yes. But I heard him describe it as something like a boil.

And am I really to take it that you believe that these three marks that you have seen could be accounted for by the bottle in which arsenic was dissolved being in his drawers in the way in which he stated, and a certain portion of it exuding from it upon an unbroken surface?—Yes. I believe those marks could have been made by arsenic upon an unbroken surface.

But taking the evidence that he has given, do you believe his story is within the range of credibility?—I say that arsenic would not cause a boil.

Are these wounds very much more like a cicatrix from a burn or something?—I am speaking of my own examination; not his.

What should you say if you had not heard the evidence of the witness?—If I had not heard the evidence of the witness, I should say that those marks I had seen were caused either by the application of a caustic or hot iron.

That is what you would have implied if you had not heard the evidence?—Yes.

I am told—I know nothing about these matters myself, but I daresay you can tell me whether I am right—that these marks are extremely common amongst natives, and that they use cautery upon the most trivial occasions?—They do.

Re-examined by the Advocate-general.

Is arsenic a caustic, Dr. Gray?—It is.

I understand you to say that in your opinion a solution of arsenic oozing through the stopper of this bottle on this man's belly would be capable of producing the marks which you now find upon him?—Solid arsenic suspended would.

Would arsenic suspended in water or some other liquid, and oozing through a bottle, be capable of producing such marks as you notice on that man?—It would.

Mr. Serjeant Ballantine—You remember the bees' wax and the cotton?—Yes; I heard him speak of that.

You have got that in your recollection fully?—Yes.

By Sir Richard Meade—You said that a boil would not have left that mark?—No.

Supposing caustic had been applied to a boil, which is a very common thing in this country, would it have left a mark like that?—It all depends on the age of the boil.

The witness ROWJEE bin RAMA re-called, and examined by the President:—

Examination of Rowjee continued.

What became of the bottle after you had used it in that way on the Monday?—I kept it concealed there.

Do you understand—after you had used it on that Monday morning?—I concealed it in the front of the verandah, where the carriages stand, near the wall.

Has it ever been found?—The Police came and searched for it, I pointed out the place, but it was not found.

Did any one know of your putting it there?—Nobody knew it.

How large was the bottle?—About the length of my finger, and about a quarter of an inch in width. It was a round bottle.

It being now past four o'clock the Commission rose.

NINTH DAY, THURSDAY, MARCH 4.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esquire, Bombay Civil Service.

Interpreters:—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharaja Gaekwar occupied a seat on the left of the Commission.

Sir Lewis Pelly, K.C.S.I., was present during a portion of the forenoon, and occupied a seat on the right of the Commission; but was absent in the afternoon.

The Commission was opened at 11 o'clock.

The Advocate-General—As a rule, my Lord, the Commission will not sit on Saturday.

The President—I was going to mention that next Saturday will be a Hindoo holiday, and we shall not be able to sit on that day.

The Advocate-General—Only next Saturday, I understand?

The President—Only next Saturday.

The Advocate-General—As your Lordship pleases.

NURSOO RAJANA affirmed, and examined by the Advocate-General:—

Nursoo Rajana, jemadar of peons at Residency, examined, corroborates Rowjee's story.

My name is Nursoo Rajana. I was jemadar of peons employed at the Residency at Baroda. I have been employed at the Residency from thirty to thirty-four years. I guess the period. I had been jemadar seventeen or eighteen years. My pay as such was Rs. 14 a month. Rowjee havildar used to get rupees ten a month. I lived in the city. My usual time for going to the Residency in the morning was eight o'clock. My time for going home in the evening was uncertain. I used to go sometimes at seven o'clock, sometimes eight o'clock, and sometimes, if the cutcherry was over early, at half-past six o'clock. I remember when the Commission sat at Baroda. A proposal was then made to me. Rowjee said something. He said, Yeshwuntrao and

Salim say, "You should go to the Maharaja's." I said, "I cannot go just now, as there is sickness in my house, and I am deeply engaged in my service." After the Commission had left Baroda this matter of going to the Maharaja's was again mentioned to me by Rowjee, and Salim also. I knew Salim. I came to know him since he began to come to the Residency, though I did not know him before. He began to come to the Residency after the death of Khunderao Maharaja. I was in the service of Jumnabaee, and after my return to the Residency I saw him coming there in the time of Colonel Barr. Jumnabaee was living at the Residency, where I was deputed to attend her, and also for two months more when she went to Poona. I was deputed by Colonel Barr and Mr. Tucker, who came here, to attend her. Beside Salim and Rowjee, Yeshwuntrao jasood spoke to me once or twice about going to the Maharaja's. On Mondays and Thursdays, when the Maharaja was in the habit of coming to the Residency, Salim often spoke to me. I eventually agreed to go to the Maharaja. I first saw the Maharaja about twenty-five days or a month after the Commission had left Baroda. Rowjee, Salim, and another man who went with Rowjee went with me. We went to Yeshwuntrao's, and from his house to the Maharaja's. I found these people at Yeshwuntrao's house; from Yeshwuntrao's house we went to the Maharaja's barra or Haveli. (The Interpreter explains that "barra" means quarters or court.) Rowjee, the other man who was with Rowjee, and Salim went with me. We went into the Palace from an entrance on the rear side, where a new garden has lately been laid out. I do not know the name of that new garden. Yeshwuntrao went by another road, and brought with him the Maharaja. He came with the Maharaja. Yeshwuntrao went from his house by himself, and may have gone in at the front entrance. He was not with us at the time. When we got into the Palace by this back entrance we went to a room upstairs. I at first sat down at a place some steps below the room. When Yeshwuntrao had brought the Maharaja there, Salim said to me, "Come upstairs." I and Rowjee went upstairs. Rowjee's companion remained downstairs. When I got upstairs I saw the Maharaja. Salim and Yeshwuntrao were with the Maharaja. When I was in the presence of the Maharaja I sat down, and then Yeshwuntrao and Rowjee began some conversation with the Maharaja. I had some conversation with the Maharaja. At first he expressed his anger with me. The Maharaja said, "This is a loocha or rogue, why did you bring him?" Rowjee said, "No, sir; he will not be roguish now."

The Interpreter refers to Molesworth's Marathi Dictionary, and states that "loocha" is rendered in English by the words "dissolute," profligate," "libertine," "unprincipled."

Rowjee, Yeshwuntrao, and Salim all spoke this way?—No; I heard what they said, and I said nothing. The Maharaja said, "Through Salim you will convey news and information of what occurs at the Residency." I said, "Very well." That was all I said. Nothing further occurred at this interview. I went to meet the Maharaja upon another occasion after the first, about a month or more or less after the first, though I do not quite remember. Rowjee and Salim went with me on this second occasion, and there was a man with Rowjee. The name of the man with Rowjee is Kabhai. On this second occasion I saw the Maharaja, and besides me Rowjee saw the Maharaja on this occasion, while Kabhai was made to wait down below. He was not allowed to see the Maharaja. Kabhai was a punkawalla employed at the Residency. On this occasion a conversation took place between Rowjee and the Maharaja while I remained sitting there, and if in the course of conversation they put some question to me I said, "Yes." These visits took place at night. We left this place at about eight or about half-past eight. I left this place at 8 o'clock. I reached the Maharaja's place at nine or half-past nine. On the second occasion also we went to Yeshwuntrao's house, and thence to the Maharaja's Palace. Salim and all the others went into the Palace together. In the intervals between these visits to the Maharaja I had seen Salim at the Residency, and we used to exchange salaams. I did not say anything to him on these occasions. Rowjee and Salim used to sit together. Yeshwuntrao and two or three sowars used to come to the Residency before the Maharaja came to the Residency, and it was on these occasions that Rowjee and Salim used to sit together. I remember going to Nowsaree with Colonel Phayre. The Maharaja also went to Nowsaree at the same time. Salim accompanied the Maharaja on this occasion, though Yeshwuntrao did not. In Nowsaree, Salim and Yeshwuntrao's son and two or three sowars lived in the same compound with Colonel Phayre. While at Nowsaree Rowjee caused a present to be given to me. Perhaps he caused it to be given because some mention was made between Salim and the Maharaja. From what Rowjee said to me, he said Rs. 250 have been given for you. I said, "What am I to do with the money here?" Rowjee left that money with Salim, and when Salim was about to return to Baroda, Rowjee said, "The money has been sent to your house." Salim, after having paid the money to my house, reported it through Rowjee to me. He said, "The money has been paid to your brother." I know, as a fact, that the money was received. I learnt this on my return. While I was at Nowsaree I did not go alone to see the Maharaja, though I went with the saheb on two or three occasions. I had no private conversations or interviews with the Maharaja while I was at Nowsaree. After my return from Nowsaree to Baroda I again went to see the Maharaja. I made this visit a month more or less after my return from Nowsaree, but I don't quite remember. Before going to the Haveli on this occasion I first went to Yeshwuntrao's house, where I met Rowjee, Kabhai, and Salim. Yeshwuntrao was also there. Yeshwuntrao said, "Go on, and I will follow." I went from Yeshwuntrao's house to the Haveli. I went into the Haveli from the garden side. On this occasion I saw the Maharaja after waiting for some time in the same room in which I had seen him previously. I, Rowjee, and Salim saw the Maharaja. Kabhai never went before the Maharaja, but Jugga once did. When Rowjee and I were admitted to the Maharaja's presence on the occasion of my first visit to the Maharaja after my return from Nowsaree Rowjee had some conversation with the Maharaja, and Rowjee used to write an account of the conversations that used to take place at the Residency and the persons who came. Yeshwuntrao, Salim, and the Maharaja were sitting there. Rowjee said, "The present is in honour or on account of the marriage." He alluded to the Maharaja's marriage, which had taken place. When Rowjee mentioned as to this present on account of the marriage, Yeshwuntrao said, addressing the Maharaja, "Maharaja, nothing has been given to these persons." The Maharaja then said, "Do make some arrangement with regard to these persons." (The Interpreter said the witness meant about making some arrangement about giving presents.) At that interview or time I did not receive any present, but ten or fifteen days afterwards I received Rs. 800, which was brought to me by Salim. Rowjee and I divided the money. Some money was also paid to Rowjee for the purpose of being paid

to the punkawalla. I paid the money to Rowjee, and Rowjee paid it to the punkawalla. I paid Salim Rs. 100 out of the Rs. 800. I got altogether about Rs. 300 to myself. In the depth of the monsoon Rowjee used to give the notes to me, and Salim used to get them from me. I remember getting twenty or twenty-five from Rowjee in this way to give to Salim—not on the regular days, Mondays and Thursdays, when he used to come to the bungalow, but on other days. These letters were written every day with the exception of Mondays and Thursdays. After receiving the present of Rs. 800, I next went to see the Maharaja about a month and a half, or two months afterwards; I do not quite remember. On this occasion I went first to Yeshwuntrao's house, and thence to the Haveli. Rowjeee, Kabhai, and I went together. Salim went first, and one of Yeshwuntrao's men also went with us. On this occasion I saw the Maharaja at the same place as usual. It is a small room where there is a bench, a mirror, some candlesticks made of brass for lights. The Maharaja sat upon a raised seat or bench. I sat down upon the floor with Rowjee. Those who were present were Rowjee and I: Yeshwuntrao and Salim were with the Maharaja. The Maharaja had some conversation with Rowjee, and I took a part in it. The Maharaja said, "The saheb now becomes very angry, and some endeavour should be made with regard to that." Yeshwuntrao said, "It is the intention of the Maharaja. The Maharaja will give you something. Do you try to put it in." The Maharaja said, "Yes; you should do something by which the thing should go into his stomach." I said, "With regard to the food, that does not lie within my province, and I shall not be able to do it." Thereupon Rowjee said, "If you like, I will put it in the pummelo sherbet which he drinks." The Maharaja said, "Very well. Try to do it." The Maharaja added, "I will send a packet which should be given to Rowjee." Yeshwuntrao and Salim said, "With regard to what the Maharaja has said, when he gives it to us, we shall bring it." The Maharaja said, "If the thing is done it will be good for you"—and Yeshwuntrao repeated the same thing. The Maharaja said, "You will be well provided for, so that it will not be necessary for you to serve, and you will be maintained." Yeshwuntrao and Salim also said the same thing. This interview with the Maharaja lasted ten minutes or a quarter of an hour. This interview took place in a month I don't remember. It took place about fifteen days, twenty or twenty-five days, or a month before Colonel Phayre discovered the attempt to poison him. At that interview no packet was given to me, but afterwards Salim gave a packet to me. It was on the next day that Salim gave it to me, and he gave it to me at my house. The length of it was so much (illustrating it by the length of his forefinger), and it was done up in Ahmedabad paper. When he gave it to me he said, "This is the packet to which the Maharaja referred. Give it to Rowjee." I did not open the packet; I kept it in the folds of my turban. When I came to the Residency at eight o'clock in the morning I gave it to Rowjee. After I had given this packet to Rowjee I saw Salim and Yeshwuntrao at the Residency on the fourth or fifth day. I did not see (Interpreter—He means "hear") the conversation they had with Rowjee.

Mr. Melvill—The witness said that he did not see Rowjee speaking to them.

Salim asked me about the packet, and I said I had given it to Rowjee. There was no other conversation. Rowjee went there, and I don't know whether he had any conversation or not. I had no conversation about this matter with Rowjee, though he and I used to be always together there. I went to see the Maharaja again after the Dusserah procession. Rowjee said, "Those persons are anxious; they say nothing has been done as yet."

Mr. Melvill—He used the words "takeed kurna"—that means "pressing."

The Interpreter—That would be a better rendering.

The answer was then taken thus—Yes; these people are pressing; they say nothing has been done as yet.

I said to Rowjee, "You should know whether you did it or not."

The Interpreter—The Dusserah was on the 20th October, but I do not know whether the Dusserah procession took place on that day.

Witness—Rowjee said, "As far as I am concerned I did put it." Nothing further occurred between Rowjee and me at that time. This was about eight or ten days after the Dusserah procession. It was about five or six days after this conversation that I went to see the Maharaja. It may be about seven or eight days before Colonel Phayre discovered the poison. On this visit I went, as usual, to Yeshwuntrao's house first. This would be about seven or eight in the evening. From Yeshwuntrao's house Kabhai, Rowjee, and Jugga punkawalla went with me to the Haveli. Salim, as usual, took me into the Palace. I and Rowjee saw the Maharaja at the usual room. Salim and Yeshwuntrao were with the Maharaja. The Maharaja said, using a word of filthy abuse,—"These are rogues." He said," You have not done anything as yet." I said, "Rowjee ought to know that."

Mr. Melvill—He says that Rowjee knows.

The President—It comes to the same thing.

Rowjee then said, "As far as I am concerned I did put it in. What can I do if your medicine is not good?" The Maharaja said to Rowjee, "Very well; I'll send another packet, and you do it well."

The Interpreter—He now adds, "Put it in well."

Then Rowjee said, "Very well." Yeshwuntrao and the Maharaja said, "It will be brought to-morrow, and you should give it to Rowjee. It will be brought to you by Salim." Nothing further was said. I then went away, while Rowjee waited there for a little while. Next day Salim gave me, near my house, a packet like the previous one. I brought it with me and gave it to Rowjee at the Residency at the place where we are in the habit of sitting. This would be about five or seven days—I don't remember exactly—before the Monday on which the attempt to poison Colonel Phayre was made. I remember that Monday. On that day I came on duty at eight o'clock. I saw Rowjee there sitting on the seat which we used to occupy in the Residency, and near the saheb's private office. I had no conversation with Rowjee that morning; but I had some conversation with him after the excitement caused by the discovery. I had this conversation after the Doctor Saheb had come and gone. Rowjee said, "The Doctor Saheb took a tumbler with him." Having said so, Rowjee went in front of the bungalow. I had no more conversation with Rowjee at that time. Rowjee said to me, "The Doctor Saheb took away the tumbler into which I had put it." When I came from home I found Salim sitting at the Residency. I had no conversation with him, and went on to the bungalow. On that day I was examined by Colonel Phayre. My written examination was taken either that day or the next. I was not suspended from my employment at all. I remained on duty at the Residency until I was arrested by Mr. Souter. I remember Rowjee being taken before Mr. Souter. I had no conversation or communication with Rowjee from the time that Rowjee was taken before Mr. Souter until I myself was arrested. After I was arrested I saw Rowjee seated at a distance from the place where I was examined. I do not remember whether before I made my state-

ment to Mr. Souter either Rowjee or any one else had told me what Rowjee had said. At the time of making my statement I did not know what Rowjee had said. Before I made my statement no promise of pardon was made to me. Before making my statement I saw Sir Lewis Pelly. He was sitting with Mr. Souter.

Did he say anything to you?

Serjeant Ballantine objected to the question. (To the President)—I must take your opinion upon this matter. I submit that nothing that passed between the witness and Sir Lewis Pelly can be given by this witness as evidence.

The President—I think that the question might be put either as to what Sir Lewis Pelly or Mr. Souter said to him just before he was about to be examined.

The Advocate-General (to witness)—Was anything said to you by Sir Lewis Pelly or Mr. Souter at the time you were going to be examined?

Witness—No; they did not. They heard all my statements.

The Advocate-General—Was anything said to you about pardon?

Serjeant Ballantine objected to the question, as the witness had already said that nothing had been said to him.

The President—Besides, he has already said that no promise of pardon was made to him.

The Advocate-General—Then, I will not put that question.

Examination resumed:—

Since my arrest I have been under a military guard at the Residency. For a short time it was a native guard, and latterly it has been European soldiers. On the very day that my statement was made and taken down, I remember going into the garden near the Residency. I fell into a well. After a long service this had happened, and I thought I could not show my face to any one after it. That was my fate. I had taken my meal, and after finishing it I saw a number of people near the well. I saw my fellow servants of old standing. I said, after my long service this is my fate. I fell into the well. I saw a number of people. My head turned and I fell into a well.

The Advocate-General asked the Interpreter to state the vernacular term for what had been translated "fell into a well."

The Interpreter—The expression was "coove me girpara."

Examination resumed:—

I remember Rowjee shewing me a scar upon his stomach. This was before this occurrence, but I cannot say when—I mean before the thing was thrown into the tumbler and the occurrence was noised about. It was a few days before—not many. He said he had received those scars from a small bottle he had placed on his stomach. The scar looked like a swelling and something burnt there.

Nursoo cross-examined by Serjeant Ballantine.

Cross-examined by Mr. Serjeant Ballantine:—

How long had you been in the service of the Residency?—About thirty-two years, or more.

You had had no quarrel with Colonel Phayre, or any complaint to make of him?—No. I regarded him as my patron, my ma-bap, my father, as the person who provided me with the means of maintenance. It was my bad luck that I listened to what these people said.

And whether it was your bad luck, or what it was, you were willing, for the purpose of gaining money, to poison your father or poison your best friend?—I was instigated by Rowjee, that was my luck, and my predestination.

But was it for money—was that the inducement?—As for the money, I did not receive it for this, but it was a reward or present in honour of the Maharaja.

Then what were you to get for this?—I was told it would be good for me; it would be better for me.

Did you understand by that that you would get money or get advancement?—Yes; so I understood.

So you understood that, and that is why you engaged in the affair? Very well: now we have got it. Of course, you are to get nothing for the statement that you have made to-day?—No.

I suppose you would not take money to perjure yourself?—No.

Would you take money to commit murder, but not perjure yourself?—What could I do? That was my luck, my fortune, my fate.

Now, there is a little matter I want to ask you about. You said that Rowjee used to take down notes of what passed at the Residency with a view to communicate them to the Maharaja?—Yes; and he gave me the notes, which I used to give to Salim.

On pieces of paper, or in a book, or what?—On pieces of paper, sealed up, and such letter was sent every day.

You don't happen to have one of them, do you?—No.

Do you know whether any of them are in existence?—These notes may be with Salim or with the Sircar.

Now I just want you to tell me about the room in which you first saw the Maharaja; just describe it to me, please?—It was a small room; there was a bench in the room.

Just describe the rest of the furniture in the room?—There were two mirrors and one clock. It was at night, and I did not observe what else there was.

Were you in the same room every time that you went, or in a different room on any of the occasions?—It was in the same room always.

Was there a bath in the room?—Perhaps it might lead to a bath; there were a number of rooms adjoining, and there were doors leading into several rooms.

Then there was no bath in this room, but there were doors leading to a bath-room?—Perhaps a door, if opened, would have led into a bath-room.

Did you see a bath-room?—No.

So you know nothing about it?—No.

You have never been to the Palace since, have you?—No.

Were you examined before Colonel Phayre, or in his presence?—Yes.

Then, I suppose that you told Colonel Phayre that you were telling the whole truth, so far as you know it?—I did, but I told him what was not true which he took down in writing.

Your conscience had not begun to work at that time?—No; I did not tell him what was really the case.

It was what you call your luck, I suppose, to tell him a parcel of lies, was it not?—That was my predestination, which had been written in my fortune.

Of what religion are you?—A Hindoo.

Among the falsehoods your predestination led you to state, just tell me whether this is a portion in connection with the attempt to poison the Resident—"My suspicion falls on Faizoo for reasons already disclosed?"—Yes; when I gave my deposition I did make that statement.

And you knew at that time that Faizoo was innocent of it?—Faizoo and a Mahomedan were in the habit of coming there, and Salim was in the habit of coming to Faizoo.

The Interpreter explains that the witness also said something about a Padre Saheb.

Mr. Serjeant Ballantine—Then what about the Padre?

Witness—A Cazee was in the habit of coming, and a Padre Saheb was in habit of coming to the Residency, and Salim was in the habit of coming to Faizoo's room and sitting there.

But what had the Padre Saheb to do with putting the poison into the cup?—Faizoo had a room in the compound of the Residency bungalow, and Salim and all those other persons were in the habit of sitting in that room.

So, that was the reason you charged Faizoo?—All the other servants caused Faizoo's name to be written in the depositions, and I did the same.

So that you and the rest of the servants might agree in the same story?—I heard that and also made this statement.

That you might agree with the rest of the servants?—Yes.

Although you knew it to be utterly false?—Yes; I caused a false story to be taken down in writing.

I suppose you and Rowjee agreed upon making Faizoo the victim?—No; I did not agree.

You knew that Rowjee had made the same statement?—Not only Rowjee but all the other servants.

The President called the Interpreter's attention to the question that Mr. Serjeant Ballantine had asked, and to the fact that it had not been answered.

Mr. Serjeant Ballantine asked Mr. Nowrozjee Furdoonjee to be good enough to repeat the question

[The Interpreter repeated the question.]

Witness—I did not make the statement simply from the statement that Rowjee made, but because all the others made the same statement.

The President (to the Interpreter)—He really must answer the question. Did he know that Rowjee had made the statement?—(Question repeated.)

Witness—No.

Cross-examination continued:—Did you and Rowjee talk the matter over before you made any statement?—No. Rowjee had been taken up, and confined before his examination.

How did you know that all the other servants charged Faizoo?—Abdoola, Pedro, the mussal, and other people caused their statements to be taken down in writing.

I suppose you knew that Rowjee and the other servants had agreed to charge the Maharaja?—I did not know that.

Did you know that Rowjee and the other servants had charged the Maharaja?—No. I did not know.

Will you swear that you did not know that Rowjee had charged the Maharaja?—With regard to this matter, a packet was given and brought to me, and I delivered it. There is no falsehood about that matter.

Everything you have told is perfectly true, you will swear that?—Yes.

And then do you know that Rowjee and the other servants had charged the Maharaja with inciting to poison?—No.

(To the Interpreter)—Did the witness understand the question?

The Interpreter—The question I put was, whether Rowjee and the other servants had agreed to charge the Maharaja.

Mr. Serjeant Ballantine—Ah! I thought you had put something that it would be perfectly illegal for me to ask. I will ask my question again. (To witness)—Do you know that Rowjee has given evidence charging the Maharaja with inciting to poison?

Witness—I do not know.

Mr. Serjeant Ballantine remarked that he had now an important branch of the cross-examination to enter upon, which he should like to proceed with uninterruptedly, and he thought, as it was two o'clock, the Commission might then adjourn.

The Commission accordingly hereupon adjourned.

The Commission re-assembled at half-past two.

Cross-Examination of the witness NURSOO RAJANA by Mr. Serjeant Ballantine continued:—

How many meetings had you altogether with the Maharaja?—Five or six.

Now the thing must be of sufficient importance to remember the number—give me the number exactly?—Perhaps five.

Be good enough to answer my question—how many? Don't say perhaps.—I think it was five times.

Yes; and so do I. And now upon the three first occasions, there was no mention of or allusion to poisoning?—No.

Then who—I know it has been given already, but let him give it again—was present on the fourth occasion?—Yeshwuntrao, Salim, the Maharaja, Rowjee, and myself.

And upon that occasion it was arranged that a packet of powder should be sent?—Yes.

Fix the date of that occasion as near as you can?—I don't remember the day of the month or day of the week.

Tell me—I don't desire to know the day of the month or day of the week—but tell me how long it was before the attempt that was made upon Colonel Phayre?—One packet was given about twenty-five days before, and the other five or seven days before.

Do you know——(To Interpreter)—I don't know your language, but I am sure you have not translated that.

The Interpreter—My senior (Mr. Nowrozjee Furdoonjee) is watching me. I have given the proper answer.

Mr. Serjeant Ballantine (to Interpreter)—I am speaking now of the fourth meeting. Ask him if he understands that I am speaking of the fourth meeting, when the poison was mentioned. Did he quite understand that the intention then was to poison the Resident?

Witness—Yes.

And was that the first time there had been any allusion made to any such intention?—For the first time in my presence.

For the first time in your presence that any mention had been made of it, and if I remember——

The Interpreter—The witness adds this: "If any conversation had taken place with Rowjee, I don't know.

Mr. Serjeant Ballantine—That is the first time you had known anything at all about it?—Yes.

You saw the Maharaja once again, did you not?—That was after the Dusserah holiday at the time of sending the packet

So that we have it quite clear that upon the fourth meeting there was a packet given, and upon the fifth meeting there was a packet given?—Yes; two packets.

And it was about the packet of the fourth meeting not having succeeded that the complaint was made by the Maharaja?—Yes, he became angry and gave another packet.

Now, I want you to tell me about how long before the attempt to poison Colonel Phayre this took place. The last meeting was the fifth. You said five or seven days, can you give me anything more accurate?—About five or seven days, I guess—I don't remember properly.

We will take it from five to seven days, you cannot tell us properly?—About five or seven days.

Did you ever ask Rowjee what he had done with the powder that he got at the fourth meeting?—Salim and others pressed me to know what had become of it. Rowjee then said, "I have put it in, but nothing happened. What shall I do?"

Did he tell you that he had kept any back?—I did not ask him, nor did he say so to me, neither did he tell me how many times he had put it in.

Did you make any remonstrance at this time about your master being poisoned?—Before whom?

Well, to Rowjee?

The Advocate-General objected to "tukrar" being the correct interpretation of remonstrance.

Mr. Melvill suggested the use of the word "shikayat."

(The question was repeated to the witness, using that word.).

Witness—No.

Mr. Serjeant Ballantine—You have been asked by my learned friend as to whether Rowjee showed you a boil, or something the matter with his stomach?—Yes.

And can you tell about what time that was?—I don't recollect.

Well, I will assist you as to the time. Was it after the last meeting?—It was about the last meeting, or after it; I don't properly remember.

Well, you saw the bottle given to him at the last meeting, did you not?—The bottle was kept under a box in our bungalow.

But did you see the bottle given at the last meeting by the Maharaja?—I do not know; something was given, whether it was a vial or some packet. I do not know. I was ahead and Rowjee was behind me.

Was it a bottle or a packet?—Whether it was a bottle, or a packet, or powder, I do not know.

Was it on the last occasion?—I am not quite sure, but as I was going down I observed something given to Rowjee.

Did you see what Rowjee did with it?—No.

But you asked him about it afterwards, did you not?—I don't remember having asked him, but he assured me that a bottle was given.

And that caused the boil upon his stomach?—Yes.

And this was in allusion to what you had seen passed to him on the last occasion?—Yes; it was with reference to the same thing; it must be the same vial.

Was that in relation to the bottle that you saw given on the last occasion?—I don't remember what I understood.

Well, try and remember?—Well, I think it was about the same bottle.

That is to say, the same bottle that you think was given on the last occasion?—I think it must be the same bottle; I cannot say for certain.

Did you ever see any other bottle?—No.

And it was after that last meeting you had that Rowjee pointed out the bottle?—Most likely; after the last meeting, but I cannot remember.

He told you, did he not, that he had used it, or poured it in?—Whether he said so or not, I don't remember.

Re-examined by the Advocate-General:—

Re-examination of Narsoo.

You have told my learned friend that "the bottle was kept under a box that was in our bungalow?"—Yes.

By "our bungalow" there, did you mean the Residency?—Yes.

Did you ever see that bottle?—I saw it myself.

Do you remember when you saw that bottle?—I saw it only once. I cannot remember properly.

Do you remember what the occasion was on which you saw it once?—He showed me that in this bottle; after shaking it, it should be put in the tumbler.

Who showed it to you?—Rowjee.

What was it that Rowjee pointed out to you? When was it that Rowjee showed you this bottle?—I do not remember properly.

How long before the 9th of November, the Monday on which the poison was discovered?—It was before that time.

How long before that time?—I don't remember.

You said you did not know that Rowjee and the other servants at the Residency had charged the Maharaja with inciting to poison Colonel Phayre?—No.

Do you know what persons have been examined before the Commission here?—I was under guard, and I have come out to-day for the first time.

Do you know what persons have been examined or not?—After two months, I have just been brought out into this place.

The President (to Interpreter)—He must answer the question. I notice that sometimes you allow him to give no answer to some of the questions that have been asked.

(Question repeated.)

Witness—No. I have been under guard.

The Advocate-General—Has anybody told you what evidence has been given before this Commission?—No. No one can come near me, they throw bread at me and I eat it.

By Sir Dinkur Rao—You are a servant of thirty-four years. Have you been in the habit of visiting the Maharaja from the time of the previous Commission or before?—From the time of the previous Commission I visited the Maharaja, but not previously. I never used to go before Khunderao except in kutcherry with the saheb.

Have you never gone to the Maharaja Khunderao's to ask for Dusserah presents?—Some minor Sirdars used to give presents, but it was not customary for the durbar to give presents. The Dewan Rao Saheb used to give directly, but there was no such custom in the durbar.

When the Maharaja instigated you to poison, this was a very bad thing. Did you make arrangements for the support of your family?—I did nothing. He said merely by words what was said through Rowjee.

The Advocate-General objected to the interpretation. He said that what the witness said was, "He gave me a verbal assurance."

Mr. Melvill—What the witness really said was, "He relied upon what the Maharaja said."

Sir Dinkur Rao—It is a very serious thing to poison one. Would anybody do such a matter in the presence of ten or twelve persons?—There were not ten persons. There were two of his servants and two of ours.

Was the quantity of poison used small or large, and was it administered three times?—In my life I have not given any poison. A packet was given to me, and I was told to give it to Rowjee, and I gave it to him. The arrangements as to how much to use and not lay with Rowjee.

What servants said that accusations should be made against Faizoo?—No one said so. They mentioned his name in the statements, and therefore I also caused it to be written.

Who mentioned his name?—Abdoola, Pedro, and the hamals—five or six persons altogether.

At the first meeting the Maharaja called you a rogue. How then did he come to trust you in such a serious matter?—Rowjee, Salim, and Yeshwuntrao took me and they assured the Maharaja.

Are you a Hindoo?—Yes.

What is your caste?—A Telingan Camatee.

Are you afraid of the Police?—Why? Why should there be fear for speaking the truth?

Do you yourself believe that you are guilty?—It is my bad luck. I also am concerned.

If you were granted a pardon, would you in the presence of God tell the truth?—It is not because I may get a pardon that I tell the truth. Whether or not the Sirkar gives me a pardon they are my parents.

Mr. Melvill—That is not a correct interpretation.

What the witness said was, "If I were offered a pardon, I would speak the truth. I am speaking the truth now."

(Question repeated.)

Witness—I know nothing more than this which is true.

The President—Sir Dinkur Rao's question, as I understand it, was, whether if the witness were offered a pardon he would tell a more truthful statement than he is now giving. Repeat that question.

(Question repeated by Interpreter.)

Witness—What was truth I have said. Beside that there is no other truth. The Sirkar may kill me if they like.

By Sir Dinkur Rao—You have served a person thirty-four years, against whom you have done basely. Now, as if you were in the presence of God, state the truth. Do not be afraid, whatever is in your mind state it without fear in the presence of God.—I have stated without fear what I had to say.

The President (to Interpreter)—Put the question in this way—In the presence of God will you tell the truth?

(Question repeated by Interpreter.)

Witness—In the presence of God I have stated what was the truth. I have not stated an untruth. I have stated the truth.

Witness then retired.

JUGGA, affirmed, and examined by Mr. Inverarity, deposed—My name is Jugga Bhugwan. I was employed as a punkawalla in the Residency. I knew Nursoo and Rowjee. I knew Salim and Yeshwuntrao, the Maharaja's servants. I have been to Yeshwuntrao's house, which is in the city. I and Rowjee havildar went there. I went with Rowjee on two occasions. At Yeshwuntrao's house I saw only his carkoon. That was on the first occasion. This was about seven o'clock in the evening. When I got to Yeshwuntrao's house, his carkoon, or clerk, gave me rupees. I got Rs. 500 altogether, of which Rs. 100 were given to me to be kept. The other Rs. 400 were taken away by Rowjee. Rowjee havildar gave me this Rs. 100 to be kept. Rowjee got the Rs. 400 and the Rs. 100 from Yeshwuntrao's house. This first visit, when I got the money, was about fourteen or fifteen months since this date. I did go on a second occasion to Yeshwuntrao's house seven or eight months after the first visit. It was between seven or eight o'clock at night that I went upon this occasion. I saw Salim, Nursoo jemadar, and Yeshwuntrao at the house. From there they three and Rowjee and I went to the Maharaja's Haveli. When we got to the Palace I was made to sit down beneath, while the other persons went upstairs. They went to the Haveli by the Nuzzur Bagh entrance. I waited until they returned. They were upstairs about two hours. When they came back Rowjee havildar and myself returned to the Camp. I was never paid money on any other occasions. (Shown document.) This is in my handwriting. (Witness told to read it to himself.) I have read it. I wrote this at the request of Rowjee havildar and Nursoo jemadar. Besides this note I must have written about two or three others. I wrote them at the request of Nursoo jemadar and Rowjee havildar. I wrote from what they told me, and when I had written them, they were given either to Nursoo or Rowjee. I used to write what they caused me to write. I wrote as they told me. They know the substance of the letters. The two or three others I wrote were of the same sort of thing as this letter.

Jugga, punkawalla examined.

The Advocate-General—With your Lordship's permission I shall put in this letter now. By and bye I shall prove that it was found in Salim Sowar's house.

The President—Very well. We shall put it in, subject to that condition.

Mr. Serjeant Ballantine.—My Lord, I believe I have the power of consent, and I do not object to this letter being put in.

The letter was accordingly put in and marked X.

Mr Inverarity read the following translation of the document:—

"This day the Pooniker said to the sahib that the Maharaja had made a new waudo,* that her name was Gangabaee, that her father was a washerman, that the Maharaja had caused a nuzzarana of rupees seven thousand to be paid to her from the Patan Mahal, and that those people had come to prefer complaints, but that no one listened to the same. Secondly, Bapoo Sahib Gaekwar had come. He (the Saheb?) inquired: "Well, how are you?" He answered that he was well by the Saheb's blessing. The Saheb then inquired: "Do you go to Dadabhai and Shabuddin for your business?" Then Bapoo Saheb answered as follows:—"There is no necessity for my going (to them). As long as you are here, it is not necessary for me to go to any one. What do these people know of the administration of justice, and what do they do? These people ask each other's advice, sit doing nothing, and enjoy themselves." Thirdly, the Pooniker said—"Sahib, all the people became glad on hearing the reports of a cannon, assembled together, and began to say that some great Saheb had come from Bombay to inquire into the cases of all. On account of this happy news all the people had collected." Then the Saheb said—"The gentleman is the General Sahib, who has come from Ahmedabad to review the regiment." Fourthly, Rakhmabaee's brother has presented a petition. He says that his sister should be made over to him. The Saheb became very angry with him. Fifthly, I shall come to-morrow, bringing with me Cowasjee. You should therefore send Salim."

Exhibit X. Letter written by Jugga, at instance of Nursoo and Rowjee, conveying Residency news to Maharaja.

(Shown other two documents.) These are not in my handwriting. I do not know who wrote them.

Serjeant Ballantine said he had no questions to ask the witness.

The witness then retired.

The Advocate-General—I may take this opportunity of making a statement to the Commission regarding the files which were referred to the other day. I telegraphed to Bombay for them, but there is some difficulty in the way of the files being brought, and I shall not be able to get them from the Government record. I shall therefore leave my learned friend to take what steps he thinks right in examining Colonel Phayre in the absence of these files.

Serjeant Ballantine—I am not anxious, my Lord to introduce anything during this inquiry that might cause unpleasantness. I therefore propose to supply my friend with a copy of the document in question, and if Colonel Phayre admits that it is substantially the same as the official document, it will not be necessary to examine him. If Colonel Phayre does this, the document can then be handed to the Commission without any further reference being made to it.

The President expressed his approval of this course.

KARBHAI, the punkawalla, was called and sworn.

Examined by the Advocate-General:—

Witness deposed—My name is Karbhai Amur Sung. I am a punkawalla. Last year (referring to Hindoo year) I was not employed at the Residency as a punkawalla. This year I have been employed as a punkawalla at the Residency. I do not

Karbhai, punkawalla, examined.

* This word signifies a house, and is used here to signify a wife.

know what month that was. I know Rowjee, havildar of peons. I have gone to the city with him by night. I went with him several times, but I remember going with him four or five times. I do not remember how long ago it is since I first went with him. It was in the last hot season that I first went. When I went into the city with Rowjee, I went by the road to Yeshwuntrao's house. All my visits were first to Yeshwuntrao's place, and there I used to see Yeshwuntrao, Salim, and Nursoo jemadar. From Yeshwuntrao's house we used to go to the Sirkar's Haveli. I went to the Haveli with Nursoo, Yeshwuntrao, and Salim. We went inside the Haveli. We had to go up three flights of steps, and were made to sit in a room. Rowjee, Nursoo, Yeshwuntrao, and Salim used to go somewhere. I used to remain sitting in the room until they returned. I remember going to the Haveli two or four times. I used to be kept waiting outside in the room for about half an hour.

Karbhai cross-examined.

Cross-examined by Mr. Branson—I have been a punkawalla in the Residency twice—on the first occasion about a month, and fifteen days on the last occasion. On the first occasion when I was employed as a punkawalla I was a substitute. This was last Hoolie, 2nd March in 1874. The second time I was employed was when the last punka season was nearly over.

That may convey a vivid description to your mind, but it dose not to mine. When was it?—Three months ago. Before I was first employed at the Residency. I knew Rowjee and Nursoo. I am prepared to swear that. Before the first time I was employed as a punkawalla I knew them.

And it was not through your employment that you became acquainted with them?—For the most part I became acquainted with them through my punka services.

Have you ever mentioned your going up three flights of stairs in the Haveli, and waiting while the others went away, before you mentioned it to-day?—I did not. (After a pause.) I did. (After another pause.) I do not remember.

Did you mention it to Mr. Souter?—Yes.

You must be careful, as I have your statements to Mr. Souter. I will read to you what that very careful gentleman, Mr. Souter, took down as your statement—"I used to go sometimes as far as the Haveli, where I waited below, and the others went upstairs." Did you say that?—Sometimes I used to go upstairs, and sometimes I stayed below.

Is what I have read to you what you told Mr. Souter?—I said to Mr. Souter that sometimes I remained below, and sometimes I went upstairs.

Then what I have read to you is not correct?—I do not know.

Have you been in custody?—Yes.

What for?—On account of this evidence.

What fault are you in prison for?—I stated what I had seen, and therefore I was kept under surveillance.

How long were you in custody before you made your statement to Mr. Souter?—Three days; but I used to go home in the evening.

Were you under the care of the Khan Saheb?—Yes.

For three days, and then you were taken to Mr. Souter?—Yes.

Did it take the Khan Saheb three days to elucidate from you what you told Mr. Souter?—I was not asked anything on one day.

But on the other two you were?—Yes. I was asked on two days.

Then, I say, it took the Khan Saheb three days to elucidate from you what you told Mr. Souter?—I do not recollect that.

Was Jugga kept with you under the eye of the Khan Saheb?—When I was taken up first I used to go home. Jugga was not kept with me. I was alone.

Did you see Jugga at all before you made your statement to Mr. Souter?—Yes; I saw him.

Was he in custody at that time?—Yes.

And you also?—At that time I used to go home.

Were you not under *nuzzurkaid*?—From the day following that on which the Maharaja was arrested.

Is Jugga still in custody?—Yes.

Re-examined by the Advocate-General—You say that on the first day you were not asked anything, and were allowed to go home?—On the first day I was asked in the evening and allowed to go home.

On the second day what happened? Were you asked anything?—No; nothing.

And you were allowed to go home?—Yes.

On the third day, did you make your statement to Mr. Souter?—Yes.

Since that time have you been under surveillance?—On that day I was allowed to go home.

Since what time have you been under surveillance?—From the day following the arrest of the Maharaja.

The witness retired.

It was now a quartar past four o'clock, and the Commission rose.

TENTH DAY, FRIDAY, MARCH 5.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esquire, Bombay Civil Service.

Interpreters:—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

His Highness the Gaekwar was not present.

Sir Lewis Pelly, K.C.S.I., was present during a portion of the forenoon, and occupied a seat on the right of the Commission, but was absent in the afternoon.

The Commission was opened at 11 o'clock.

DAJEEBHAI NURROTUM called and affirmed:—

Examined by Mr. Inverarity—My name is Dajeebhai Nurrotum. I am a bricklayer. I know Rowjee havildar at the Residency. He asked me to get some ornaments made for him about the time of the Dewalee before last. I went with him and pointed out the house of a goldsmith named Shivlall. The ornaments made on that occasion are mentioned and described in the goldsmith's book. This was about sixteen months ago, and I will tell you what they were so far as I remember. There were a pair of silver anklets called *toras*, a man's gold necklace called *kuntee*, one gold wristlet called *kungnee*, two gold finger-rings, weighing one tola, a boy's waist-ring of silver, a pair of small silver anklets for a boy. The making of these ornaments commenced in Kartuk (October and November), and the ornaments were taken away as they were ready, at different times. Two or three times I did not keep an account of these ornaments, but at the time the ornaments were made the goldsmith gave a

Dajeebhai Nurrotum examined.

writing in regard to them. (Shown paper.) This is the writing.

The Interpreter—He calls it a receipt.

It was given to me in the presence of Rowjee. I said to Rowjee, "Do you take away this receipt of yours." He said, "I will take it away to-morrow, or the day after." It eventually remained with me until I was called to the Residency, when I gave it to the Ahmedabad Fouzdar, Gujanund Vithul, who gave it to the saheb. (Account put in.)

Mr. Inverarity read it.

Mr. Serjeant Ballantine—Whose writing is it?

The Advocate-General—The goldsmith's.

Mr. Serjeant Ballantine—Then the goldsmith must be called to prove it. Nevertheless, if my learned friends are going to call the man who wrote it, I shall not object to its going in.

The Advocate-General—We are going to call the man who wrote it.

Mr. Inverarity reads translation of the writing as follows (Put in and marked Y) :—

Shri (Wealth).

The account of Duxni Rowjee Wagha for Sumvat year 1930 (1873-74), month of Kartick (1873 October and November) through Patell Dajeebhai Nurrotum.

Exhibit Y. Receipts for gold ornaments made for Rowjee.

Credit side.				Debit side.		
Rs.	a.	p.		Rs.	a.	p.
220	5	9	Cash received from himself (Rowjee).	114	2	0 One golden string, weight 5tolas 6 wals at Rs. 22 per tola.
				5	0	0 Charges for making a gold string.
				96	11	9 One anklet of silver, weight Rs. 75½ exchange at As. 4½.
				4	8	0 Charges for making one anklet.
				220	5	9

Shri (Prosperity).

The account of Duxni Rowjee Wagha for Sumvat year 1930 (1873-74), month Fargoon (1874 February and March), through Patell Dajeebhai Nurrotum.

Credit side.				Debit side.		
Rs.	a.	p.		Rs.	a.	p.
64	0	0	Ready cash (received) through Dajeebhai.	65	5	0 One gold bracelet called *kwagni*, in weight 5½ gudiana wals 3, at Rs. 22, through Dajeebhai.
22	0	0	Cash, 3rd of Jaith Vud (3rd June 1874).	3	0	0 Charges for making the above.
121	0	0	Ashad Sud 7th, Sunday (21st June 1874).	22	0	0 Golden rings, weight 1 tola, at Rs. 22 each.
207	0	0		0	8	0 Charges for making the ring.
6	0	0	Ready cash through himself.	19	7	6 Girdle of silver, total tolas 15 3/16th.
213	0	0		1	0	0 Charges in the month of Ashad Sud 11th (25th June 1874).
				96	11	9 One silver anklet, in weight Rs. 75½, at the premium of As. 4½.
				5	0	0 Charges of the above.
				213	0	3
				98	12	0 Coins called Putlies of gold, in weight 4½ tolas and 2 wals, including charges.
				16	0	0 Putlies of gold, weight tola 1, including charges, wals 4½.

This paper is produced by me to-day, dated December 29th of 1874.

Signature of Dajee Nurrotum.

(Sd.) J. B. Richey.

The 29th December 1874.

I know the fact of Rowjee's marriage, but I don't know in what month it was.

Cross-examined by Mr. Serjeant Ballantine :—How was it you were employed to get jewellery made for Rowjee ?—I was living in the city, and Rowjee said, "Do you know any man of your acquaintance ?"

Where does this goldsmith live ?—On the road-side near the pepul tree.

Is it not near where Rowjee lives ?—No ; this is in the city of Baroda.

SHIVLALL VITHUL affirmed, and examined by the Advocate-General :—My name is Shivlall Vithul. I am a goldsmith. I live near Gunputrao Mahadjun's, on the road-side, outside the city, and not within the Camp. (The Interpreter—He means without the limits of the city proper.) I know a man named Dajeebhai Nurrotum. He is an acquaintance of mine. He has got ornaments made by me for a puttawalla named Rowjee. That puttawalla was employed as a servant in the Resident's bungalow. That was stated. I made ornaments for this puttawalla at the request of Dajeebhai. I have not got my account-book, but it is here. (Shown book.) This is my book.

Shivlall Vithul, goldsmith, who made these ornaments, examined.

Is that book kept by you in the ordinary course of business ?—I am not a learned man, and I employed anybody who happened to come to me. I do not know how to read nor write at all. I first made a pair of anklets for Rowjee about the time of the Dewalee before last. Everything is written in this book. I cannot read nor write, and I do not know Rowjee's account. You had better find it yourself. I made one anklet first, not a pair. About the same time I made one anklet, one gold necklace called *dora*, one gold wristlet called *kungnee*, weighing three tolas. This was about the Dewalee, and as I made them from time to time I delivered them.

How many ornaments did you make again ?—A pair of necklets, one gold neck-chain called *dora*, one wristlet called *kungnee*, two finger-rings weighing one tola of gold, two child's (Interpreter—A little child's) wristlets of silver, &c., and also gave a number of gold coins called *putlies* or venetians. Sometimes I gave to Dajee and sometimes to Rowjee ; two or three times Dajee received the ornaments from me, and once or twice the other man. I do not remember whether, when I began to make these things, it was fourteen or fifteen days before or after the Dewalee, but it is all written down there. I did not make them all at the Dewalee. Some were made at the Dewalee, and some subsequently. (Shown ornaments and identified them.) The two anklets, venetians, gold wristlets, and two gold finger-rings were made by me. The neck-chain called *dora*, which I made, is not amongst these. (Putting his hand on the other ornaments.) The witness—These were not made by me. The total value of the ornaments I made for Rowjee was about Rs. 500 or Rs. 475—I do not remember the exact amount, but that is given in the book. I received full payment for the articles I made. Dajee came to me and Rowjee also, and I was paid the whole of the amount from time to time. To Dajee I gave a written account about these ornaments. I do not remember who wrote that particular account. Any person who came to me at the time I caused him to write. If I were shown that account I might remember it. (Shown exhibit Y.) This may be the paper.

Serjeant Ballantine declined to cross-examine.

DOOLAB MUNORDAS called and affirmed.

Doolab Munordas, goldsmith, examined.

Examined by Mr. Inverarity—My name is Doolab Munordas. I am a goldsmith. I know Rowjee, who is employed at the Residency. He does not live near me, but we both live in the bazaar. I have made ornaments for Rowjee. I have made four ear-rings—coorkee—of gold, and a gold chain to be attached tothem round the ear, and another gold chain round the ear. I have not got a regular account with Rowjee, but I have entered the sundry sums I received. I made these entries. (Shown book.) This is my account-book. I see an entry on the 11th Assud Sud. The year is not mentioned, but it was the last Hindoo year 1930. I see an entry for Rs. 7-8 for making a ring for Rowjee puttawalla. There is another entry of rupees four and a half in part payment of ear-chains that were to be made. On the 7th Assud Vud (6th August 1874) Rs. 20 were received. I see two items of Rs. 20, making a total of Rs. 40. Altogether, this comes to Rs. 60. This sixty rupees was paid to me for the purpose of making the gold ear-chains which I mentioned before. Altogether I received from Rowjee Rs. 79-8. (Shown ornaments.) These two rings, two ear-rings, and two ear-chains, all gold, were made by me.

Mr. Serjeant Ballantine declined to cross-examine this witness.

Dulput Govindram, Yeshwuntrao's servant, examined.

DULPUT GOVINDRAM called and sworn.

Examined by the Advocate-General—My name is Dulput Govindram. I know Yeshwuntrao, who is in the service of the Maharaja. I was in the service of Yeshwuntrao for the last year and three quarters. I used to keep the keys of his boxes, and do all such work as he directed me. I also served him as clerk. I had the key of his money-box. I should know Rowjee and Jugga perhaps if I saw them. (Shown Jugga and Rowjee.) These are the men. I have seen them on one occasion at Yeshwuntrao's house. This was about a year or forteen months ago. I saw them at night-time, about eight o'clock. I gave them something on that occasion. I gave them Rs. 500 (Baroda rupees) by Yeshwuntrao's directions. Yeshwuntrao was upstairs in his house when these men came.

Serjeant Ballantine declined to cross-examine the witness.

Chuggunlall Fouzdar examined.

CHUGGUNLALL FOUZDAR called and sworn.

Examined by Mr. Inverarity—My name is Chuggunlall Damodhurdas. I am Sheristedar to the Baroda Huzoor Fouzdaree Court. I know Salim, the Gaekwar's servant. I know his house. I remember a Gaekwaree Police guard being placed on his house. The guard was placed on or about the 23rd December. After that guard had been put on his house I went next day with Hormusjee Ardasir Wadia, the Huzoor Fouzdar, to make a search. There was a Bombay Police havildar with me. (Shown Meer Imam Ali.) That is the man. Hormusjee Ardasir Wadia was a servant of the Gaekwar's, being Chief Huzoor Fouzdar. I also hold my appointment under the Gaekwar. I saw papers found in the house. They were put up in a packet, and that again was put in a handkerchief, and taken to the Huzoor Fouzdaree Office. I took them to the office. Mr. Hormusjee and Imam Ali also went. At the Fouzdaree Hospital a label was put upon the packet, and seals of the Fouzdaree were affixed by me on the four corners of the paper. I did this by the direction of Mr. Hormusjee. This packet was carried in the same buggy in which I sat. After the packet had been sealed in this way, a memorandum was written on the label:—"This packet contains papers found in the house of Salim." The packet was delivered to Imam Ali havildar, who took it away with him (Shown handkerchief.) I do not quite know whether this is the handkerchief in which the packet was wrapped up. (Witness opens packet.) This is the handkerchief.

Serjeant Ballantine declined to cross-examine the witness.

Imam Ali examined.

IMAM ALI was called and sworn.

Examined by the Advocate-General—My name is Meer Imam Ali. I am a havildar in the Bombay Police, No. R-1130. I was present with Chuggunlall and Hormus ee Wadia when the house of Salim was searched. I saw some papers found there, which were afterwards made up into a sealed packet and handed over to me. I brought that packet to the saheb and kept it under guard. On the 29th December I handed it over to the Rao Saheb, Munibhai being present. Salim was brought there, and it was placed before him to be opened. It was opened in the presence of Salim and Mr. Munibhai. Between the day on which I received it and the 29th December, when it was opened, it was kept in our Police guard, and when it was produced to be opened before Salim and Mr. Munibhai, it was all quite perfect.

By the President—I mean last December.

Serjeant Ballantine declined to examine the witness.

MR. MUNIBHAI called and solemnly affirmed.

Examined by Mr. Inverarity—My name is Munibhai Jusbhai. I am native assistant to the Resident at Baroda. On 29th December last I was present when a bundle of papers was brought to the Residency by Imam Ally. There was a note inside and seals at each corner of the cover. They were the seals of the Fouzdaree Court of Baroda and the ink impression. On the note, I think, the words "Papers found in Salim's house" were written. Salim was present when the bundle was opened. I did not make a list of all the papers in the bundle; but of certain papers I made a list. (Shown exhibit X.) This was one of the papers taken out of the bundle. It bears my signature, which I put on it at the time. (Shown two papers.) These also were found in that bundle. They also bear my signature made at the time on the back. I have got the list that I made of some of the papers.

President of Commission refuses to admit in evidence papers found in Salim's house.

The Advocate-General—I propose, my Lord, to read these two papers.

The President—Are these fresh papers?—The Advocate-General replied affirmatively.

Mr. Serjeant Ballantine asked on what grounds it was wished to read them?—The Advocate-General said the letters were precisely of the same character as exhibit X, containing information of what was done at the Residency, and had been found in Salim's house.

The President—But exhibit X was proved.

The Advocate-General—We have not been able to trace the writer of these letters, but they are of the same nature as the other letters.

Mr. Serjeant Ballantine—I might have objected to what Rowjee has admitted, but I have not done so.

The President—Exhibit X was proved in a different way from this.

The Advocate-General—But I submit that these letters are admissible as evidence on this ground. Rowjee and Nursoo have said that they were in the habit of getting letters written upon that conversations took place at the Residency and who called there. We found in Salim's house a letter answering the description of the letters which Rowjee says he was in the habit of transmitting to the Maharaja through Salim. That letter has been identified and

put in. There can be no doubt that the letters I now submit were found in Salim's house, and being in the same handwriting as the one that has been identified, I think that this Commission should consent to receive them in evidence, unless it is to be contended that they are forgeries or were not found in Salim's house.

Mr. Serjeant Ballantine—My objection, my Lord, is very simple. You must connect your documents with the person under charge. That has not been done here. The writer of it has not been proved, and in the absence of such proof I apprehend that these letters are not receivable as evidence.

The Advocate-General—I believe that they do connect with the person under charge in the very way that has been suggested.

The President—The writing has not been proved, and I do not think they are sufficiently connected at present.

The Advocate-General—Then I understand your Lordship to rule that these letters are not admissible?

The President—I do not think they have been sufficiently connected with the person under charge to make them admissible.

The Advocate-General—I will ask your Lordship to take a note of the grounds upon which I made the application.

The President—I will take a note of it, but I am not compelled to do so. In this case there will be no appeal.

The Advocate-General—I am aware of that, your Lordship.

The President—Your objection was sure to have been on the record, and I think you ought not to have asked me in this way to take a note of it.

The Advocate-General—As your Lordship pleases.

BOODA NURSOO called and sworn.

Examined by the Advocate-General—My name is Booda Nursoo. At first I was employed as a puttawalla. Now I am a jemadar. I am employed at the Residency. I was promoted to be jemadar last month. Rowjee's belt was given to me. It was given to me on the 15th December. It was given to me by Mr. Blandford, the assistant in our office. After it was given to me I put it on, and it remained in my possession until the 25th December. It was in my possession during all the time between the 15th and the 25th, with the exception of when I used to dine or bathe, when I took it off and put it upon the devri, the place where the sepoys used to sit. On the 25th December the Khan Saheb asked me to produce it. He said, "I want to examine your belt;" and I took it off and gave it to him. (Shown belt.) This is the belt. I think there is one pocket here (pointing to the belt), but I don't know of any other. This pocket is not exactly a pocket; it is more a groove for a sword to go in. I did not know of any pocket.

Booda Nursoo examined. Deposes that he wore Rowjee's belt from 15th to 25th December, when Police examined it.

Serjeant Ballantine declined to cross-examine the witness.

AKBAR ALI called and sworn.

Examined by Mr. Inverarity—My name is Khan Bahadoor Akbar Ali. I am head of the Detective Police in Bombay. I have been in Government service since the month of April 1831. I accompanied Mr. Souter to make inquiries in this case. (Shown belt.) I remember making an examination of this belt. This was on the 25th December last. On examining it I found a packet or a powder. I came to make the examination of the belt in this way. I had asked Rowjee where he was in the habit of keeping the packets which he used. He made a statement that the packets which had been given to him by the jemadar he used to keep in his pocket. I thought I should be able to find some trace of something having been dropped from the packets into the pocket, and I asked him, "Where is your belt?" He said, "It is in the possession of a man named Booda, of the Residency." We four persons were present on the occasion. I, Rowjee, Rao Bahadoor Gujanund Vithul, and Khan Bahadoor Meer Abdool Ali. When this examination took place I was where Mr. Souter, the Commissioner, was in the habit of writing—that was in the Residency bungalow. When Rowjee told me that his belt was with Booda, I sent for Booda. When Booda came, Rowjee, pointing to the belt, said, "This is my belt." The belt was round Booda's neck, and tied round his waist.

Akbar Ali, head of the Detective Police of Bombay, examined.

The President doubted whether the belt was worn over the neck.

Serjeant Ballantine requested the witness to put the belt on.

(Witness puts on the belt.)

Examination continued:—This is how the puttawalla generally wore his belt. When Rowjee pointed to the belt, I asked Booda to give the belt to me. He took it off in this way (taking off the belt) and gave it to me. I began to search in it. I put my fingers in the front pocket first (showing a place called the "slide" open at both ends). Rowjee said, "No; not there;" and pointed to another place, into which I put my fingers. (Shows back pocket or secret pocket.) After I had put my fingers there I felt something hard. I could not take the thing out, therefore I tore open a part of it. When I saw the packet there I sent for Mr. Souter. In that pocket besides a packet there was on the upper part a dirty rag, and Booda said, "That is mine." Besides the packet in the secret pocket I think there was a bit of white thread. In my presence Mr. Souter opened the packet. I saw some white medicine. It was a powder like white flour. Mr. Souter kept the packet from that time.

Cross-examined by Mr. Serjeant Ballantine:—

Cross-examination of Akbar Ali.

You speak English, do you not?—No.

Do you swear you never speak English?—How can I speak it unless I know it?

The President—The witness must give a direct answer.

Witness—I do not. I do not know English.

Mr. Serjeant Ballantine—I ask you, do you never speak English? This is very easily answered surely?—Never.

The learned Serjeant then asked that the belt formerly worn by Rowjee havildar should be handed to him.

Is this the pocket in which you say you found the packet?—Yes.

And when you first had the belt the pocket was not torn?—No.

Just show me what portion of it you tore. You saw it before you tore it?—I tore it up in that way (suiting the action to the word). How much I tore I cannot say.

I am rather curious to know why you tore it?—Because I felt something hard, and I wanted to search and find what it was.

Yes; but recollect yourself, Akbar. You know you called Mr. Souter?—After I had seen the packet.

How did it happen, when you found there was a packet, that you felt it necessary to call Mr. Souter; you did not call him before tearing the belt?—I was not quite sure that it contained a packet.

But you knew it contained something. You had your fingers in, Akbar?—Yes; and I felt something hard, but what it was I could not tell.

But you knew it was something?—Yes.

But you knew no more what it was when you had torn the belt than you knew before?—I knew more after I tore; not before I tore.

Why should you have called Mr. Souter at all until you had ascertained what was in the packet; why did you call Mr. Souter at all?—Whether the packet contained a letter or not; he might come and see what it contained.

Medicine or what it contained he might come and see. But did you not think Mr. Souter would trust what you said on the subject?—Rowjee had made a statement to me.

I know that Rowjee had made a statement to you. What I want to know is, inasmuch as you poked your finger in and tore the belt, why did you not take the paper out and see what was in it?—Rowjee said that out of the packets that he had received some medicine had remained.

This is no answer to my question. Answer my question, sir. Why did you send for Mr. Souter before ascertaining what was in the packet? Why did you not take out the packet yourself?—When I heard this that I have just mentioned from Rowjee I did not take it out.

Well, wait. Do you mean that you found the packet and than that Rowjee said something?—No; after he and I saw the packet, we were both sitting near each other.

And then you called Mr. Souter?—Yes.

And now I have not yet had an answer to my question. Why did you call Mr. Souter?—In order that he might open the packet with his own hand.

Yes, in order, perhaps, that he might be present at the finding?—Yes.

(Interpreter—He now says, "I don't understand the question.")

You did not understand the question? Was not your motive to have a witness to your finding it?—As there was a chief quite close to me, therefore I sent for him. He was my chief. If he had not been close at hand, I would not have sent for him.

That was your only motive? You did not wish to have any witness to the finding?—As to witnesses, we were three witnesses.

Well, yes; but you know Rowjee was not a first-rate respectable witness?—I did not refer to Rowjee, but to Rao Bahadoor Gujanund Vithul.

Well, who were the others?—He is one, and Khan Bahadoor Meer Abdool Ali, and I was the third.

Very well. You had no idea of finding a parcel?—No; I thought there would be some trace or mark in there.

Then the paper quite surprised you?—Yes; when Rowjee made a statement to me.

Rowjee, you know, made no statement at this time. I mean when you found the paper?—I had no idea what it contained.

Had you no idea that there would be a paper parcel at all?—I felt something hard—I could not tell if it was a packet.

Well, now, did you not know it was a paper parcel without tearing up the belt?—I could not say whether there was a paper parcel.

Now, you have the credit of a good deal of sagacity; do you mean that you could not tell it was a paper parcel, Akbar Ali?—How can I? When I felt a hard substance, how could I tell it was a packet?

Did you know it was a paper?—Yes; I felt it to be a paper.

And did you feel that it was something wrapped up in a paper?—No; not something wrapped up in a paper.

Well, did you think it was a piece of loose paper?—I could not positively say if it was a loose paper or a tied-up paper.

Or a packet? And so, to ease your mind on the subject, you tore up the belt and had a look?—Yes.

Well, having done that and seen it, it was then you called Mr. Souter?—After Rowjee had made the statement to me that I mentioned to you.

Now look here, Akbar Ali—you tore open this belt and you found the parcel. Do you mean that Rowjee made any statement at that time?—Yes; just at that time.

What was it Rowjee said just at that time?—He said, "Out of the packets that I had received before, there was some medicine left, there was some remnant of the medicine left, and this is it."

There was some remnant of the medicine left, and this is it?—Yes.

So that before you called Mr. Souter you had learnt from Rowjee exactly what it contained?—Yes. If I had not learnt that from Rowjee I would have opened the packet.

But after that you sent for Mr. Souter that he might see what the packet contained?—Yes.

That was so, was it? But you knew yourself?—From the statement that Rowjee made.

You put such faith in Rowjee that you did not think it necessary to verify his statement by looking?—I did not open the packet because the saheb was close by.

Now, look here, Akbar Ali; had Rowjee ever said a word to you about having left a packet in his belt, or was it only your sagacity that led you to search the belt?—Rowjee had not mentioned it to me; he had simply stated, when I asked him, where he used to keep the packets.

Now, wait a moment. He had never told you then that he had kept back a portion and wrapped it in another packet and put it in his belt?—He did not say that to me—that he had kept a remnant in the pocket.

When was Rowjee given in your custody, or when did you take him first?—He was brought to me on the 22nd.

By whom?—I sent for him. I and Gujanund Vithul and Khan Bahadoor Abdool Ali.

Well, but who brought him?—A sepoy brought him. I sent a sepoy for him to fetch him.

Did he confess to you that he had been administering poison?—Not at first. He said something to Imam Ali havildar, who brought him to me.

How long had he been in your keeping before he made any statement to you?—From eight o'clock in the morning until evening—he remained with me.

Not in your company, I suppose, Mr. Akbar?—No.

Where did you deposit this valuable article Mr. Rowjee; where did you deposit him; where did you put him?—He was kept where all the other dismissed servants were kept.

Where is that?—In the garden within the compound of the Residency.

Then he was brought to you, and then he made a confession about this poisoning. Is that so?—Yes.

That is so. It all came from him, did it? You had no notion of it before?—Those servants began quarrelling amongst themselves.

That is not an answer to my question, Mr. Akbar, and you know it perfectly well. I ask you whether he made this confession himself, or whether you had heard something of the kind before, and asked him questions—that is what I want to know?—He made a confession to me of his own accord.

You had never heard a word about it, you had never heard a word implicating him before. Now, just be cautious, Mr. Akbar?—No; not that he was implicated. I heard that he had been squandering money.

Do you mean to swear that you had heard nothing else?—About what?

Well, about his being implicated in the poisoning?—I did not hear from anybody that he was concerned in the poisoning.

Did you hear from anybody that he had received poison before you had him brought up to you?—No.

Not heard a word about it?—Not that he had received poison.

Not that he had received poison. After he had made this statement to you, what became of him—did he go back, or was he confined with the other servants?—When he made that statement that I have mentioned before, he was kept in confinement.

Well, but was he sent back and kept in confinement with the other servants?—No, separate.

Now wait a moment. You say that this statement was made to you on the 22nd. Is that so?—Yes.

And do you swear that he has been kept separate ever since that time?—From the 22nd until the 28th he was in my charge.

That was not the question. Do you mean, sir, to swear that on the 22nd, after he had made the statement, he did not go back to the other servants?—He did not go to his house.

You know, Mr. Akbar Ali, I have never cross-examined an Indian policeman before, but I have met with these gentlemen in England. Just answer my question. After he had made this confession to you on the 22nd, did he go back to where the other servants were? It is a very plain question.—Not where the other servants were. He was in my charge.

Now, do you swear that he had no intercourse with the other servants that day?—Whether he saw any of the servants or not, I cannot tell, but he was by my orders kept under a guard of sepoys.

Then he might have seen the other servants, might he?—Not that I know of. How can I tell?

But he may have done so?—I have no grounds for saying so.

Have you grounds enough for saying that he did not?—My orders were that he should not be allowed to talk with anybody.

Now, do you swear that you ordered that he should not be allowed to talk with anybody?—Yes; I had given orders that he should not be allowed to talk with any of the prisoners. One circumstance happened——

Now, Mr. Akbar.

Interpreter—He's going to add something.

Mr. Serjeant Ballantine—If he is going to volunteer it, I don't know, but I may as well have it.

Witness—He was brought and confronted with the jemadar.

Who brought him and confronted him with the jemadar?—I and Gujanund Vithul ordered the sepoy to bring him up.

Where was the jemadar at that time?—Abdool Ali was also present.

Where was the jemadar at that time?—The jemadar was with me. I, Gu anund Vithul, and Abdool Ali—we three were present.

Now, attend to me, sir. You know that, after this confession that you speak of as having been made on the 22nd, you say you confronted Rowjee with the jemadar. How was that managed, I want to know?—Gu anund Vithul said to the jemadar that Rowjee had acknowledged to him everything that he had done.

Yes, go on.—Thereupon I sent for Rowjee. First of all, the jemadar was told that Rowjee had confessed everything that he had done.

Is that so?—Yes.

Did they mention what he had confessed?—No; not at all.

Then you sent for Rowjee, did you?—Gujanund Vithul said, "If you like, we will send for Rowjee." The jemadar said, "You may send for him."

Then Rowjee was sent for, was he?—Yes.

And I suppose you found Rowjee at home?—Not in his house, but where our people were.

And he was brought, was he?—Yes.

Well now, when these two were confronted together, what took place?—Rowjee said, "Baba (Interpreter—Friend, familiar friend), I have said everything up to my neck" (pointing to his neck).

And then it was after that the jemadar made a confession, was it?—Yes. He said, "I will tell you the fact."

And then did he tell you the fact the same evening?—Not to me.

To whom?—I said, "Don't make a statement before me, come before the saheb."

Did he make any statement to you then? Not at all.

Just tell me, Akbar Ali, how many persons have you in custody in connection with this charge at this moment?—I had witnesses in my charge; not prisoners.

Well, I suppose by witnesses in your charge you mean witnesses you would not allow to leave?—They were collected and kept for fear that they might go away, and we might not be able to find them again.

Then, how many prisoners and witnesses are there altogether in custody—that is what I want to know? There were no prisoners in my charge; only the witnesses.

Well, how many witnesses were in your charge?—Twenty or twenty-two. I have got their names if you want them.

No; I don't want them. Do you know a person named Nooroodin Borah?—Yes; I know him.

And Nuzoomoodin Borah. Do you know him?—Yes; I know Nuzoomoodin.

Are they both in prison?—Not in my charge; they are in jail.

They are both in jail, are they?—Yes.

Have they been in your charge?—How could they be when they are in jail?

That is not my question, you know. Have they been in your charge?—They were in the charge of Rao Saheb Gujanund Vithul. He brought them and kept them at the place were the other witnesses were.

But they were with the other witnesses, were they?—But separate.

But separate, yes. When did they go into the jail?—Khan Bahadoor Abdool Ali knows. He will be able to tell you. He has got a memo. of the dates and everything.

But tell me about when—how long ago?—Fifteen or twenty days ago.

Fifteen or twenty days from this time?—I cannot say whether it was fifteen or twenty or twenty-five days.

Up to that time, how long had they been with the other witnesses, or how long had they been kept as witnesses before they were sent to jail?—They were not kept with the witnesses, but they were kept apart.

For how long before they were sent to jail?—Abdool Ali knows the number of days; they were in his charge.

Have they ever been taken before any Magistrate?—I do not know.

Do you know that they have been, or before any gentleman, before Mr. Souter, or before anybody ?—Not in my presence.

Have you ever heard of their being ?—I would have told you if I had heard.

Well, did you try to get evidence from them, and when you could not get evidence from them, send them off to jail? Now, is that about the history of the transaction ?—As to their statements and their evidence Gujanund Vithul knows.

Oh, yes. But do not you know perfectly well that an endeavour was made for days and days to get evidence from them, and that it was not until you failed that you sent them to jail ?—Let me recollect.

(To Interpreter)—Let him recollect. (After a pause, to witness)—Now you have recollected ?—Damodhur Punt mentioned the name of Nooroodin's father.

I know all that, but I want to have an answer to my question. I know all about Damodhur Punt, but I want to know whether they were kept in charge of the Police as witnesses until you could get nothing out of them, and then, when you could not get anything favourable or according to your views out of them, did you not send them to Jail ?—I now recall to mind the reason why they were sent to jail. It was in connection with some arsenic that they were sent to jail.

Now that you have got your recollection perfect, what was it in relation to some arsenic ?—Damodhur Punt said that he had brought poison from a Borah's shop.

Precisely. Now that's it, and upon Damodhur Punt's statement were these two persons examined ?—Three Borahs.

What I want to know is, were they examined by the Police upon Damodhur Punt's making this statement ?—Yes.

Did they keep them in custody with the witnesses or as witnesses for some time ?—Yes, they were ; but in a separate tent.

Were endeavours made to get them to confirm this statement of Damodhur Punt's ?—That is a big affair, and that enquiry is to take place.

Will you be kind enough to remember that this is a big affair, and that the enquiry is taking place ?—This is one thing, and the other involves a great many things.

Now, Akbar Ali, was an endeavour made to get these two men to confirm Damodhur's statement ?—Yes ; and some endeavours are still being made.

That is to say, they are sent to prison ?—Yes ; but they are yet to be examined.

Re-examined by the Advocate-General :—

Take that belt, please. You say that you tore open this belt at the lower part there ? (Points to it.)—Yes.

Akbar Ali re-examined.

Was it fastened at that lower end ?—Yes ; it had been sewn up.

And you tore open the stitches ?—Yes.

You say that Mr. Souter was close by at the time. Where was Mr. Souter ?—He was about ten paces from there.

In the same room ?—No ; in a room contiguous, and separated by a chick.

In the Residency bungalow ?—Yes. Mr. Souter desired me to wait there until he had washed himself, and then Mr. Souter came as soon as he was called.

Who was it that first mentioned the belt. Did you first mention to Rowjee, or did Rowjee mention it to you ?—I mentioned it to Rowjee.

When did you mention this ?—I first mentioned the belt to Rowjee, when Rowjee told me that he was in the habit of keeping packets in the pockets of his belt.

Was that on the 25th ?—Yes.

And you sent for the belt as soon as he mentioned it ?—Yes.

Before Booda came with the belt on him, had you that belt at all in your possession ?—No ; I never saw it, and I did not know Booda.

When you found this packet in the belt, did you consider it your duty at once to send for Mr. Souter ?—Yes ; because he was my chief.

Now you say that Rowjee was brought to you on the 22nd ?—Yes.

At what time of day was he brought ?—About 8 o'clock in the morning.

Did you, when he was first brought to you, put any questions to him ?—Yes.

Did you send for Rowjee ?—Yes.

What was your reason ?—My suspicions and those of my saheb were raised strongly against him.

Why did you suspect him ?—Because we received information from all sides that he had been spending large sums of money, and the results of our inquiries were that he was the last person who had gone into the room where the sherbet was.

In the morning you say you put questions to him ; did he give you any information ?—Not at that time.

Did you see him again between the morning and evening ?—Yes ; about evening.

Did you speak to him between the morning and evening ?—I had no leisure during the interval to speak to him, though I saw him again.

On that day, the 22nd, was Faizoo in custody ?—No ; he was upon duty.

Upon what duty ?—As jemadar.

At the Residency ?—Yes.

Was Nursoo with Rowjee and the other servants who were in custody on the 22nd ?—No ; not at all.

And the servants were in your custody on the 22nd ?—They were not in my custody, but they were brought for the purpose of making inquiries. There was Faizoo, and Jugga, and Rama Bareek—a man who had been delivered into custody by Colonel Phayre.

You say that Rowjee was in your charge from the 22nd to the 28th December ?—Yes.

With the exception of the occasion on which you have said he was confronted with Nursoo, was he allowed to see or speak to Nursoo during that interval ?—In the interval, he was not allowed to see or converse with Nursoo, nor up to the present time. He saw him on the 24th, and that was all.

Did Rowjee say anything more to the jemedar then ? You have told us that he said, "Baba, I have told everything up to my neck ?"—He said nothing else.

Or did anybody say to the jemadar what Rowjee had said ?—Not at all.

Where has Rowjee been kept ?—Where we lived for a few days on the maidan near the Residency, that is outside the compound.

How was he kept ? With the other witnesses, or in a separate tent ?—In each tent, two, three, or four persons were kept in the custody of police sepoys.

And from the compound near the Residency where did you transfer yourself ?—To behind Colonel Barton's bungalow.

When did you remove to those quarters ?—Before the Mohurrum. That would be on the second or third of February.

Has Rowjee been kept there ever since ?—Yes.

Where was Nursoo kept ?—For a short time, he was under a native regimental guard, and for some days under a European soldiers guard.

Where ?—Within the compound of the Residency where the guard is stationed.

Has Nursoo ever been under your charge ?—No ; he used to be brought for the purpose of his deposition being taken down.

Have you anything to do with the matter in which the three Borahs are in custody ?—No ; Gujanund Vithul has to do with it.

You have told us that Rowjee spoke to the jemadar and said, "Baba, I have told everything up to my neck"—when Rowjee said this, did Nursoo say anything ?—No ; Nursoo spoke to me after Rowjee left.

By Sir Dinkur Rao—Who had power and authority to make enquiries in this matter—Mr. Souter or you ?—Through Mr. Souter I had authority.

For the purpose of searching for the packet of poison, did you send for the belt ? Why did you not open the belt in the presence of Mr. Souter ?—Because I did not know that it contained the packet.

The witness then retired.

The Commission here adjourned for tiffin.

On resuming at three o'clock, WUSHUNTRAO BICKARAM was called and affirmed.

Wushuntrao Bickaram examined.

Examined by the Advocate-General—My name is Wushuntrao Bickaram. Under His Highness the Gaekwar I had employment. I was employed in his shroff's shops at Bombay, Baroda, and Surat. In regard to these shroff's shops I was superintending the accounts. I was in the Treasnry Department, and I used to see him. I know a man named Yeshwuntrao, who was in the service of Mulharrao Maharaja as a messenger. I knew a man called Salim, who also was in the service of the Maharaja. They used to come sometimes with him, but they were not always with him. I know also a man called Damodhur Trimbuck or Damodhur Punt. He was in the private service, and was employed in making payments to sepoys and carkoons. I remember once being sent for by the Maharaja to read a paper to him. This was about eight or ten months ago. The Maharaja pointed out a note, and I read it. The note was lying on a bench, and I took it up by the orders of a khitmutgar. I read it. The Maharaja and servants were there. I read it just in the same way as I speak now. It was in Guzeratee. The khitmutgar (servant) told me to read out this note. I read it and kept it with me, and on the next day I gave it to Damodhur Punt. The Maharaja told me to keep it and give it to Damodhur Punt. I don't know what has become of that letter since I gave it to Damodhur Punt. I remember a little what that letter was about. There was no date at the top. The letter said, "Pooniker and the Nawab Sahib's carkoon are talking or having conversation with the saheb." I do not remember the further contents. There was no signature to this letter. I live in my own house. Every day I used to go to the Palace—I mean the old Haveli—and my place of business is in that Haveli. Behind the Palace there is a new garden called the Nuzzur Bagh, and to the Haveli there is an entrance at the back corner near the Nuzzur Bagh. There is a cutcherry above. This is an ordinary entrance for going and coming.

Cross-examined by Mr. Branson :—The ground-floor of the Palace is occupied by the piece-goods room, and the second storey is occupied by a cutcherry.

Are you in custody ?—Yes.

For the heinous offence of having read a letter to the Maharaja ?—Yes.

Since the 14th January ?—I have been in confinement since the time of the attachment. It was on Posh Sud 6th.

(The Interpreter said this was the 29th December.)

Re-examined by the Advocate-General—You say that the Gaekwar's cutcherry is on the second floor of the Haveli ?—Yes.

Is there anything on the third storey ?—Nothing.

Is there a third storey ?—There are three or four stories.

Do you know how the third storey is occupied ?—After passing through a small room, there is an entrance to go up further.

Is there a fourth storey ?—There might be—I have not counted the stories—I believe there is.

Do you know how this third, and possibly fourth, storeys are occupied ?—They are lying unoccupied.

Have you ever been up these storeys ?—Yes.

You say you were in custody. Where are you living ?—In the street near the Chumpa Durwaza in my own house.

But you are living there now and have been since Posh Sud 6th ?—After the 6th Posh Sud I am in confinement in the Senaputtee's cutcherry.

In whose custody have you been ?—In the custody of the sepoys.

Of the Gaekwaree Police ?—Yes.

The witness then retired.

MR. CRAWLEY BOEVEY called and sworn.

Mr. Crawley Boevey examined.

Examined by Mr. Inverarity :—My name is Arthur William Crawley Boevey. In November last I was Acting Assistant Resident at Baroda. I was living at that time in the Residency. I remember Monday the 9th November. On that morning I had been out early. I returned to the Residency about half-past eight that morning. As I came up to the Residency I saw Yeshwuntrao, Salim, and another sowar called Madhoorow Kalee. These three persons were in the veraudah of the Residency, and opposite the entrance door to the house. I mean the door leading to the drawing-room. To the best of my recollection I saw Faizoo talking to Salim. I heard first that something had been put in Colonel Phayre's sherbet when I came down from dressing about half-past nine, just after the Maharaja had left the bungalow. Colonel Phayre told me of this. I afterwards assisted Colonel Phayre in making enquiries among the Residency servants. I was present when Rowjee's belt was taken away from him. Rowjee himself hung it up on a peg in the office adjoining the room in which Colonel Phayre sits. I know Ameena, who has been examined here as a witness. She was my wife's ayah. She entered our service, I believe, in April or May 1873. I know that she was absent on several occasions, but I cannot remember what occasions. She was very seldom absent, and therefore I remember it.

Serjeant Ballantine—In fact, you say she was very seldom absent, and therefore you remember she was often away ?

Mr. Crawley Boevey—That is put into my mouth. I did not say so.

The Advocate-General (to witness)—Can you tell us when she was absent ?

Witness—I remember she was absent on one occasion on the death of Abdoola's child. I also remember she was absent on a later occasion, and not long before the attempt to poison Colonel Phayre was made. I remember the 16th of December. I remember when Mr. Souter went into the ayah's room. I accompanied him. I think that Gujanund Shastri and the two Khan Bahadoors were there. I was present when she said something to Mr. Souter. She appeared to be very sick then.

Do you remember what she said ?

Serjeant Ballantine objected to the question.

The Advocate-General—The ayah was cross-examined as to what she said on the first occasion that she saw Mr. Souter, and I wish to corroborate her evidence upon that point.

Serjeant Ballantine—I may accept that assertion. But even supposing it was so, how can my learned friend call any witness to corroborate what the ayah has said in her cross-examination ?

The President—You have cross-examined her, and I think a witness may be called to prove what she said.

Serjeant Ballantine—If my learned friend will tell me what he refers to I shall be obliged.

The Advocate-General referred to his notes and read from them.

Mr. Branson said that the short-hand writer's notes on this point were perfectly clear, and were opposed to the reading of the Advocate-General.

The President—She was cross-examined about all these matters, and corroboration is so far relevant.

Serjeant Ballantine withdrew his objection.

Examination continued :—The ayah said that she had been to the Maharaja's Palace and had received money. She made many other statements which I do not recollect, but these were the main facts. On that occasion Mr. Souter took her statement down in writing in my presence. In reference to this matter I had not seen the ayah before this occasion. I left Baroda on a Saturday—the 19th December last, I think.

Mr. Crawley Boevey cross-examined.

Cross-examined by Serjeant Ballantine—You know Bhow Poonikur, do you not ?—Yes; very well.

Was he a great deal at the Residency ?—He was constantly at the Residency.

Was he in the employment of the Residency in any way ?—He was on business here connected with the affairs of a British Government ward, and had been sent here by Mr. Hope, the Collector of Surat.

I want to know if he was in any employment at the Residency ?—He was not employed by the Residency ; he was employed by the Collector of Surat.

Then he had no employment direct from the Residency ?—No; he had no direct employment from the Residency.

He received no remuneration from the Residency ?—No.

Did you know of his providing information to the Residency as to what was going on regarding the Gaekwar ?—Yes. He often did so. There were other persons who did so.

Amogst these was there a person called Bhow Kherkur ?—No; he never gave information. He was not in Baroda.

Had you any arsenic or preparations of copper at the Residency ?—I have never seen them.

You never procured any yourself for any purpose ?—Certainly not. Not myself.

Was any procured by your order ?—Certainly never.

I mean, subsequent to this attempt being discovered, was there any poison secured for any purpose ?—Certainly not.

Re-examined by the Advocate-General :—

Mr. Crawley Boevey re-examined.

You say that Bhow Pooniker was employed by the Collector of Surat, and you said something about a British Government ward ?—Yes.

Was the ward Meer Zoolum Fickur Ally, who has estates in Baroda territory ?—Yes.

You say that by your order no arsenic or preparation of copper was procured after the discovery of this attempt. To your knowledge was any arsenic or copper brought into the Residency after this time ?—Certainly not.

Or was there, to your knowledge, any arsenic or preparation of copper before the 9th ?—Certainly not.

The Advocate-General said that the next witness would take a very long time.

The President thought that as it was past four o'clock, it would be better to adjourn.

The Commission accordingly rose.

ELEVENTH DAY, MONDAY, MARCH 8.

PRESENT.

Sir Richard Couch (President) ; H. H. Maharaja of Gwalior (in the forenoon only), H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence :—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission :—John Jardine, Esq., Bombay Civil Service.

Interpreters :—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharajah Gaekwar occupied a seat on the left of the Commission in the forenoon, but was absent in the afternoon.

Sir Lewis Pelly, K.C.S.I., was present during a portion of the forenoon, and occupied a seat on the right of the Commission, but was absent in the afternoon.

The Inquiry was opened at 11 o'clock.

DAMODHUR TRIMBUCK or PUNT called and affirmed.

Examined by the Advocate-General—My name is Damodhur Trimbuck. I am also called Punt. My father's name was Trimbuck. I am a Brahman by caste, and was in the service of His Highness the Gaekwar as Private Secretary. I became Private Secretary three years or three years and a half ago. As Private Secretary I used to pay the wages of sepoys and the allowances or wages to khusbeens, and to people who make *tumashas* (sports or plays), and also to persons employed in the Shikarkhana or hunting department, and such other work. I had charge of particular funds belonging to His Highness. Sums of money used to be drawn from the shroff for private expenses, and these were defrayed by me as His Highness directed. I resided in Rutnagherry formerly, but while performing my duties as Private Secretary to His Highness in Baroda, outside of the Lalipore Gate in Baroda, I carried on my duties at the Khangee Cutcherry or private court in the barra or Palace. In this private office some twenty-five clerks were employed, and the head clerk was Madhorao Ramcrishna. There was also a clerk called Nanajee Vithul, who used to be employed in the Javarekhana or jewel department. I know a clerk called Bulwuntrao Rowjee, who is employed in the cash department. He was employed under me in the Khangee or private department. Nanajee was in a separate department, though his dealings used to be under me. Abbajee Ramchunder was also a clerk employed under me. His duties were to write what it was necessary for him to write. Atmaram Raghoonath was employed in the jewel department, but received his salary from me from the private department. I attended daily at the Palace from seven o'clock in the morning until ten at night. At noon I used to go home for dinner. I know what rooms were ordinarily occupied by His

Damodhur Punt, the Gaekwar's Private Secretary, examined. Deposes that the Maharaja ordered him to buy packets of arsenic and diamond dust, which were given to Salim to be conveyed to Rowjee.

Highness. He used to live on the fourth storey from the ground-floor. Access was obtained to these rooms occupied by His Highness by the Durbar people by way of the Gadee.

Mr. Serjeant Ballantine (to Interpreter)—Ask the witness to look towards His Highness the Gaekwar, and to speak so loud that His Highness shall hear him. I can hardly hear him here, and I am sure His Highness cannot hear him.

Witness—The Gadee was on the first storey above the Khangee or private Cutcherry. From the outside of the Palace, Durbaree people used no reach the Gadee-room by the entrance called Moorgarsnass, which leads direct to the Gadee from the public road. Besides this entrance there was another entrance to the Gaekwar's Palace, from which people could go up to the fourth flour, where the Maharaja's apartments were. There is an intrance to them from the Nuzzur Bagh, and there is another from the Kothara door or gate. The most direct road to the Maharaja's apartments from outside is by the Nuzzur Bagh. I know a man named Yeshwuntrao, who was in the service of the Maharaja as jasood or messenger. I also know a man called Salim, who was a sowar in the service of the Maharaja. I have seen both Yeshwuntrao and Salim in attendance upon the Maharaja. They used not to be with the Maharaja night and day, but they came now and then as they were required. I remember at one time being directed by the Maharaja to give to Salim arsenic. This was, I think, about Badrapud, though I do not remember the exact time.

Interpreter—This began, my Lord, between the 26th September and the 10th of October 1874.

Examination continued :—The circumstances were these. The Maharaja said, "Get two tolas of arsenic for itch;" and he directed me to write a note to the Fouzdaree Department, which I did. (Shown note.) This is the note which I wrote. It bears my signature. Besides the note there is an endorsement upon the back of it which purports to be by the son of the Fouzdar, Bulwuntrao Gunputrao. I have not seen his handwriting up to the present time, but I speak from its purporting to bear his signature.

The Advocate-General—I will read the part of the note which is written by the witness.

To the Officer of the Huzoor Fouzdaree (Magistracy).

After compliments. Arsenic, in weight tolas two, is required for preparing a medicine for a horse. Please, therefore, send a pass to me.—Dated Bhadrapud Vadya 9, Sumvat 1931 (4th October, 1874).

(Sd.) Damodhur Trimbuck, Khangeewalla.

Witness—This is the date upon which I wrote the note.

The Advocate-General—The corresponding English date is the 4th October.

I mentioned in the note that the arsenic is required for medicine for a horse. This was written because I was directed to do so by the Maharaja. From the Fouzdaree I did not get any arsenic. Not getting any from the Fouzdaree, I directed that some arsenic should be brought from Nooroodin Borah's. Before I did so, I had a conversation with the Maharaja, in which I conveyed the Fouzdar's message. I said to His Highness, "Hormusjee Wadia says he would give it after asking you." Hormusjee Wadia was Fouzdar. The Maharaja said, "Send for it from the Camp." I said, "A pass is necessary to procure it from the Camp." The Maharaja said, "Try and get it somehow or other from Nooroodin Borah," the man who had formerly business with the Silikhana or arsenal.

Mr. Nowrozjee Furdoonjee's interpretation of Silikhana was objected to by the Advocate-General.

The witness was asked the meaning of the expression, and continued :—

Silikhana is a depository for medicines and other things. This Silikhana or dispensary was upstairs, close to where the Maharaja slept in the Palace. The Maharaja also said, "Get a tola of diamonds." This was said on a subsequent occasion.

The Advocate-General—Let us get through one interview at a time.

Witness—Upon that conversation with the Gaekwar I ordered Nooroodin to bring two tolas of arsenic. I saw Nooroodin. He had been sent for to the Palace, and I saw him there. I ordered Nooroodin to send two tolas of arsenic. He brought it and gave it. I don't remember whether he gave it on the day he was told to bring it, or the next day. The arsenic which Nooroodin brought was in a packet. I did not open the packet to see what it contained. When I got the packet I asked the Maharaja what I should do with it. The Maharaja said, "Give it to Salim. He will convert it into medicine for itch, and bring it." I gave it to Salim. So far as I remember, I gave the parcel to Salim about two or four days after I wrote the order upon the Fouzdaree. After I had got this arsenic, I was directed to get one tola of diamonds by the Maharaja. I do not remember when I received that order, but it would be about eight days after I got the arsenic. The Maharaja said, "Get the diamonds and give them to Yeshwuntrao" I got the diamonds in a packet from Nanajee Vithul, who is employed in the jewel department. I did not open the packet to see what kind of diamonds it contained. When I asked the Maharaja, he said, "Give it to Yeshwuntrao." After having asked the Maharaja, I gave the packet to Yeshwuntrao. After giving this packet to Yeshwuntrao I received another order from the Gaekwar. I do not remember how long it was after I gave the packet to Yeshwuntrao that I received this other order, but it would be about six or eight days afterwards. A small bottle had been received from Hakimjee, the doctor. That bottle was sent to my house by the hands of Goojaba, who is a servant of Nana Saheb Khanvelkur's. Nana Khanvelkur is the Maharaja's brother-in-law and present Pritinidhi. This bottle was brought at the night time, and I did not examine it.

Mr. Branson—The witness says he did not see it.

The Interpreter—He did, but I think his meaning is that he did not examine it, as the light was not near enough for him to see distinctly what it was.

Mr. Melvill asked the meaning of Pritinidhi.

The Interpreter—It means "minister."

Mr. Melvill—Then the proper translation would be that the Nana Saheb is the Maharaja's brother-in-law and head minister.

Witness continued:—This bottle was this length (showing about a finger and a half). This bottle contained some medicine. The Maharaja had asked me to pour the medicine into another bottle, which I did. The bottle I poured the medicine into was a bottle which belonged to me and used to contain otto of roses. This bottle was about this length (showing half a finger length). Goojaba poured the medicine into the smaller bottle, and I kept the small bottle at my place, and on the next day I gave it to Salim by the instructions of the Maharaja. I had seen the Maharaja in relation to this bottle in the morning, when I accompanied the Maharaja to the Haveli. I and the Maharaja went into a buggy. The buggy was like an ordinary buggy. It was a four-wheeled carriage, and I was in it with the Maharaja. I asked the Maharaja, "What should I do with that bottle?" He directed me to give it to Salim. I cannot fix the day on which this conversation took place. It was about the time

of last Dusserah (20th October). I gave the bottle to Salim the next day at half-past ten or eleven o'clock in the morning. Besides this, I received instructions from the Maharaja upon another occasion to get some arsenic. The Maharaja said, when directing me, "Get two tolas of arsenic, and one tola of diamonds." It was on another occasion that he told me to get the diamonds. I got the arsenic on this second occasion from Nooroodin Borah. I myself saw Nooreodin Borah, for it was he who brought it and gave it to me. Nooroodin said it was arsenic. I did not see it. As to this second supply of arsenic I gave it to Salim after having asked instructions from the Maharaja. As to the diamonds I have just spoken about, I was directed to get a tola of diamonds by the Maharaja, who said to me, as he gave me directions, "Get a tola of diamonds from the jewel-room." I do not remember whether this was before or after I got the second order for arsenic from the Maharaja. I got the diamonds from Nanajee Vithul. I did not open the packet of diamonds, but it contained three massas of diamond powder and nine massas of diamonds. I know this from what Nanajee told me. When I got these diamonds and diamond dust, I asked the Maharaja, "What should be done with that?" The Maharaja said, "Give it to Yeshwuntrao." He also said, "These diamonds are for the purpose of making a crown for the Swamee or high-priest of Akulkote" I gave these diamonds to Yeshwuntrao. I had conversation with Yeshwuntrao when I gave him this packet. I gave the diamonds to him at the private office or Khangee Cutcherry, outside the walls. I asked him, "What are you going to do with the diamonds?" Yeshwuntrao said, "They are to be made into powder and given to Colonel Phayre." I said, "This is not good; this is bad." Nothing further that I remember took place between Yeshwuntrao and me upon this occasion. I remember a report being spread that an attempt had been made to poison Colonel Phayre on the 1st of Ashvin Vud (corresponding with Monday the 26th October). It was on a Monday that I heard this report. It would be about five or seven days before I heard of this attempt that I gave the packet to Yeshwuntrao. The day on which this report was heard the Maharaja had come to the Camp, and he told me about it. On that day I went with the Maharaja's procession and got down at the Shrawak's dhurrumsalla. The Maharaja was going to the Residency in the Camp. The Shrawak's dhurrumsalla is on the road-side near the banyan tree, just outside the Camp limits. I had accompanied the Maharaja from the Palace as far as this place. The time would be about eight o'clock in the morning. I got down at the Shrawak's dhurrumsalla, because the Maharaja did not take me to the Residency. After I got down, I remained sitting there until the procession came back, and then the Maharaja took me into his carriage with him to my own house, where I was going to take my meal. As we were driving back, the Maharaja said, "There is a noise or a report at the Residency." I asked, "What for?" The Maharaja thereupon replied, "Nursoo was in the habit of coming every day. He did not come to day, and Rowjee made haste and put it." I said, "What was the cause of the haste?" The Maharaja said, "That Nursoo was in the habit of sitting outside every day, and if he saw anybody coming he used to whistle. Nursoo was not outside on guard for the purpose of whistling. That is the cause of the noise."

The President asked the Interpreter if the word he was interpreting "noise" might also mean "report."

The Interpreter replied in the affirmative.

Witness continued:—I had further conversation with the Maharaja upon this occasion. The Maharaja said, "Salim ran to Rowjee's house, where he went for the purpose of taking the packets, and throwing them into the fireplace, where the old woman was sitting making bread. Rowjee went to his own house, because he was not quite sure whether Salim would or would not throw away the packets."

The Advocate-General (to Interpreter)—It is the same word throughout, is it not, that you translate "packet" or "powder?"

The Interpreter—Yes.

Witness continues:—The Maharaja said, "Rowjee went to his house. I don't know whether he threw away the packet or not. This is a bad affair." I do not remember the Maharaja saying anything else, and I left the Maharaja at my own house. Before this drive with the Maharaja I very likely had had a conversation with the Maharaja about this business, but I do not remember now. On that Monday, after taking my meal, I went to the Haveli at eleven o'clock, where I saw the Maharaja. The Maharaja was sitting on Luxmibaee's bench and was speaking to Nana Saheb Khanvelkur. They were speaking regarding the noise about the poisoning. I did not hear what was said. I was at a distance. I took no part in the conversation. I was at a distance of five or seven cubits. Later on, I saw the Maharaja at noon of the same day. The Maharaja was then sitting on Luxmibaee's bench at noon. Then the Maharaja, and I, and Nana Saheb got into a carriage and drove to the Race-course, which is outside the city and on the other side of the railway. While in the carriage I had a conversation with the Maharaja, who said, "You should keep yourself well-informed about any inquiry that may take place in this matter;" alluding to the poisoning. This he addressed to both Nana Saheb and me. He also said, "When you receive particulars, you ought to communicate them to me." I made inquiries that night of several people who came, and I told the Maharaja the next day what I had learnt. No other person was present. I said, "Rowjee had not been found," meaning that he had not been arrested. The Maharaja said, "He is a very clever man and a liar." He said nothing else. On the next day (Tuesday) I saw Salim and Yeshwuntrao at the Palace in the presence of the Maharaja. While I was there the Maharaja desired them to made inquiries and obtain information about the case of poisoning. After this Tuesday I very likely had conversations with the Maharaja upon this subject, but I don't remember just now. I remember the Maharaja going to the Residency on the following Thursday. I accompanied him as far as the Shrawak's dhurrumsalla. I usually accompanied the Maharaja to the Residency as far as the dhurrumsalla. While Colonel Phayre was Resident, I never went into the Residency. I remember Colonel Pelly coming to the Residency to relieve Colonel Phayre. On the first occasion on which His Highness went to see Sir Lewis Pelly, I did not accompany him. On one occasion afterwards I accompanied him to the Residency to see Sir Lewis Pelly. I saw Sir Lewis Pelly. The Maharaja went to the Residency, and I was taken there to give evidence regarding some conversation which the Maharaja had had with Narayenjee Pandray. When the Maharaja came he had some conversation with Sir Lewis Pelly, and just as the Maharaja was about to return he introduced me to Colonel Pelly near the door of the Residency. After Sir Lewis Pelly had come I do not just now remember having a conversation with the Maharaja about the poisoning affair. I did not see Rowjee at all, except on one occasion, when I saw him at Nowsaree. I remember Mr. Souter coming to Baroda. I heard of his coming. After he came I had a conversation with

the Maharaja in relation to this poisoning affair. Rowjee had been arrested at first and afterwards released. Thereupon the Maharaja said, "The man with the proof (muda) has been released; now there is no cause of apprehension." I do not remember on what occasion the Maharaja said this, but it was after Mr. Souter came. I remember hearing that Rowjee had been again arrested. The Maharaja spoke about that. I said to His Highness that when Rowjee had been taken up again he had made a confession. The Maharaja said, "I too have heard so."

The Advocate-General—I want you to recollect, as near as you can, what took place.

Witness—If you ask me a special question I will answer it.

Mr. Branson—He wants to be led.

Witness—I don't remember anything more just now. After Rowjee had made his statement he got a certificate of pardon, and I had a conversation with the Maharaja in regard to that. He said, "If any inquiry takes place here, do not acknowledge or confess anything." He also said, speaking to Nana Saheb, Yeshwuntrao, and Salim, "None of you should acknowledge or confess anything." I do not remember whether the Maharaja said anything further on that occasion without being asked a particular question, so as to call it to mind. I remember Salim and Yeshwuntrao being arrested. This was on the 14th and 15th of Mhagsar Sud (corresponding to 22nd or 23rd December). Before they were arrested, the Resident had sent a note directing that they should be sent to the Residency. In reference to that note I saw the Maharaja. The Maharaja said, "He had sent Yeshwuntrao and Salim to the Residency." I do not remember on what particular occasion he said this, but it was on the same day in the evening that the note was sent. The Maharaja, when the note was received, did not say anything, but he spoke about it in the evening. He said, "I have cautioned these two persons not to say anything—not to acknowledge or confess anything." He did not say anything else. On that occasion Salim and Yeshwuntrao went to the Residency and were allowed to return. They were afterwards sent for again by the Resident on the same day that they returned. Before they went back again to the Residency I saw them upstairs in the Palace. Before they left the Haveli, Nana Saheb Khanvelkur who met me and said——

Mr. Branson—We can't have that.

The Advocate-General—Never mind what Nana Saheb Khanvelkur said. Was any one else present beside Nana Saheb Khanvelkur?

Witness—Nana Saheb Khanvelkur was not present. After Salim and Yeshwuntrao had been sent back to the Residency I again saw the Maharaja in the evening, when His Highness said, "I have cautioned these two persons not to confess or acknowledge anything." I do not remember the Maharaja saying anything further.

The Advocate-General—Now, next day did the Maharaja say anything to you?

Witness—Unless you put a specific question I can't call to mind. I was arrested on the evening of the same day that the Maharaja was taken up. I do not remember what day that was, but it was the day after the Shunkrant. On the day on which the Maharaja was taken up I went to the Haveli. At nine o'clock an attachment was placed upon the Palace, all the rooms were sealed up, and a guard placed over the Palace. I was arrested at eight or nine o'clock on the morning of that day. Captain Jackson and Gujanund Vithul said, "You should be present at your post. Your papers and monies and all other things are to be sealed up." I was present when seals were placed upon the Khangee Cutcherry and other places in the Palace. After the seals had been placed I went home and was immediately sent for again, and I was confined in the Commander-in-Chief's or Senaputtee's Cutcherry in the Haveli. I was confined there for two days under a guard of sepoys—not military—Purdeysee sepoys or watchmen. From the Senaputtee's Cutcherry, I was brought to the Residency by the sepoys of the Fouzdar of Baroda, and placed under a guard of European soldiers. For sixteen days I was under a European guard, and since then I have been under a guard of policemen. Since I made my confession I have been in charge of the Police, and up to that time I have been in charge of European soldiers. I made my confession because I was tired of being kept under a European soldiers' guard. One day, first of all, I was sent for to a tent in the rear of the garden of the Residency. There I saw the two Khan Bahadoors and Bulwuntrao, secretary, a carkoon who had been sent for from Ahmedabad, and a man named Bhow Khibbie, a carkoon in Baroda employed in this case, and policemen. The Khan Bahadoor said, "I want to examine the papers in your box;" and he sent for me in order that I might be present at the breaking of the seals. That box contained the Maharaja's private papers, and it had been sealed up in my presence in the Palace. On the occasion I am now speaking of it was produced in the tent. The seals were large seals, and were unbroken. It was opened in my presence, and the two Khan Bahadoors, Bulwuntrao, and Bhow Khibbie began to examine the papers. I remained in the tent examining the papers about half an hour. On this occasion I said nothing to the Police, but the Police said to me, "It would be well if you tell what is the truth." Nobody else said anything more to me on this occasion. From the tent I was put under a European soldiers' guard.

It being now two o'clock, the Commission adjourned.

On the re-assembling of the Commission, the examination of DAMODHUR PUNT was resumed.

Examination of Damodhur Punt continued. Deposes that he made a confession on being promised a pardon by Sir L. Pelly. Explains mode of keeping Gaekwar's private accounts, and traces payments made to Maharaja's confidential servants, Yeshwuntrao and Salim, for Residency servants.

The Interpreter mentioned to the Commission that the Mukkur Shunkrant mentioned by the witness corresponded with the 13th January 1874.

Witness—When I was in the tent, the Khan Bahadoor alluded to what other people had said about the matter.

What did he say?

Serjeant Ballantine objected to the question.

The Advocate-General said he would not press the question.

Witness continued:—Two days after this examination of the papers I made my statement. I made it before Sir Lewis Pelly, Mr. Richey, Captain Jackson, and Captain Segrave, the two Khan Bahadoors, and Gujanund Vithul, and Bulwuntrao, secretary. At the time I made this statement I had been promised a pardon by Sir Lewis Pelly. At thistime no one had told me what Nursoo jemadar or Rowjee had said.

Serjeant Ballantine—He said a good deal more than that.

Mr. Nowrozjee Furdoonjee—I beg your pardon. He did not.

Witness continued:—I was under a guard of soldiers, and who could communicate with me? No one did communicate with me while I was under a guard. On the day I got my certificate the two Khan Bahadoors and Gujanund Vithul were present, and Gujanund said, "If you tell the truth, you will get a

pardon." This was all that was said to me. They also showed me a book of rules. I told you some time ago that I saw Rowjee at Nowsaree. This was when the Maharaja went to Nowsaree. I saw Rowjee at the Maharaja's bathing-place. The Maharaja, Rowjee, and Salim were sitting there. This was ten or eleven o'clock at night. I had been sent for from my house. On my arriving there the Maharaja showed me a paper and said, "Read this." The paper was Jumnabaee's complaint to the Governor. Jumnabaee is the widow of Khunde Rao Maharaja, and she is staying at Poona, I believe. I read it and too a copy of it. After doing this, the paper was given bac to Rowjee, who too it back with him. I made a copy of that paper by the Maharaja's direction. I was in the habit of reading Marathi papers to the Maharaja. These papers were generally sent by different persons in the private department.

The Advocate-General—I want you to tell me in what way the Khangee accounts were kept. What books did you keep?

Witness—The accounts were kept on separate pieces of paper and not in books. Before any payment was made by me out of the Khangee treasury I was in the habit of taking a yad or receipt or memorandum from the person to whom the Maharaja had directed me to make a payment. I used to make an endorsement on this yad in my handwriting. That endorsement was made before the receipt was taken from the payee. Before making the payment I used to get the Maharaja's sanction to do so. I used to get the Maharaja's sanction verbally. (Shown yad.) This is one of the yads of which I have been speaking, and it bears my endorsement.

The Advocate-General read the following translation of the yad :—

Shri (*i. e.* Prosperity, &c.)

Brought to account in the 3rd lunar day, the month of Shawal, that is in the month of Margshirsh, the Sumvat (year) 1930 (24th November 1873).

Exhibit A 1.

MEMORANDUM.—From Bombay goods were caused to be brought to the Khasay through Yeshwunta, the son of Mahipati Yeolay, the Sirkar's courier. For the payment of the money for the same, the Sirkar's permission was granted. In accordance therewith what was paid in ready cash (was as follows :—) The Soor Sun (year) one thousand two hundred and seventy-four (the Mahommedan) lunar day the 3rd, that is the (Hindoo) lunar date the 4th (conjoined) with the 5th of Margshirsh Shoodhya, the Sumvat (year) 1930 [24th November 1873] Monday.

Machine-made (rupees) were purchased in the bazaar at the place of business of Parukh Govurdhun Dulput and were delivered. For the same the Babashai (rupees) together with (the amount of) exchange that were paid to Parukh were as below mentioned :—

Principal Surat [rupees]	1,000
For exchange at the rate of Rs. 18¾ per cent.....	187½
In all...	1,187½
Babashai (rupees) paid out of the treasury..... ...	2,000
	3,187½

In accordance with the above memorandum, the Shirkar's permission was granted for the payment of rupees three thousand one hundred and eighty-seven and a half. The lunar date, the 5th of Margshirsh Shoodhya, the Sumvat [year] 1930 [24th November 1873].

(The text of what follows is in Goozerati) :—

PAYMENT.—Nayek Anantrao Avlia Rs. 1,000 of the Bombay currency, Babashai Rs. 2,000, in all three thousand, have been received in full by the hands of Parukh Javer Lukhmidas, who received (the same) and went away.

[A true Translation.]

J. FLYNN, Translator.

Mr. Serjeant Ballantine—I don't object to this. I understand these yads are put forward as evidence to prove certain payments that were made to the servants of the Residency for certain purposes.

The Advocate-General—They were payments to the Gaekwar's servants—Salim and Yeshwuntrao.

Mr. Serjeant Ballantine—I don't understand how this can be made evidence at all, unless my learned friend can carry it further.

The President—It has already been read.

Mr. Serjeant Ballantine—But there are other documents ; this is a specimen of them ; and I ask my learned friend how he means to connect it with any of the charges which are the subject of this enquiry. This document is in, and there is an end of it.

The President—He has put this in to show what was the ordinary course of business in which these payments were made.

Mr. Serjeant Ballantine—So I understand, my Lord —and this document has gone in and there is an end of it—but if other documents are to be put in, I must ask my learned friend the Advocate-General in what way he means to connect them with the charges in the case.

The President—You had better wait until they are put in.

Mr. Serjeant Ballantine—I take this as a sample of the whole, and I ask him now with a view to whether I shall have to object to the others.

The Advocate-General—I propose to use them in this way. For my learned friend's information I am going to show that very large sums of money were from time to time paid out of the Khangee to Yeshwuntrao and Salim, that the money was paid to them for the performance of certain services which these accounts wrongly describe, and that many of these sums were paid on dates corresponding within a few days with the dates on which payments were made to the Residency servants, and that albeit these yads say that these sums were paid for certain specified purposes, such as for fruit, fire-works, goods, &c., they were really payments made for the purpose of bribery and other purposes connected with the charges the subject of this enquiry.

Mr. Serjeant Ballantine—That is a very general proposition, and I don't see the specific sums of money to which my learned friend refers.

The President—The Advocate-General proposes to show that large sums of money were being paid He may prove these facts, I think.

Examination continued :—[The paper put in and marked A 1.] I call the whole of this a yad or memorandum. There is first of all a statement of the amount of the money and the person to whom it is to be paid. What follows is my endorsement. (Shown endorsement.) This is my endorsement.

The Advocate-General to the President—My Lord, the endorsement begins with the words :—"In accordance with the above memorandum." That is the second part of the yad.

Witness continued :—The third part of the yad is the receipt. There was a daily, a monthly, and a yearly account prepared. This daily account was kept on a loose sheet of paper, and contained the amount credited and disbursed during the day. The monthly account was kept on several sheets of paper stuck together. The yearly account was also written on loose sheets of paper which were also stuck together. Bulwuntrao used to keep the usual daily journal, but we did not keep the usual Guzerati books of account. I used to put my endorsement, and Bulwuntrao used to do the rest of the business. I do not know the pay of Yeshwuntrao, because he was not in my department, but in that of the Furnevese. Salim was not in my department, and was not paid his salary by me. I have made payments to Yeshwuntrao and Salim out of the Khangee department. That yad I have just seen refers to one of these payments I look at the memo-

randum and see that it refers to goods brought from Bombay. No goods were received. Because payments were to be made to persons here, they were so entered. I mean by "persons here" servants employed at the Residency. I know that, because if payments were made for goods the Maharaja used to direct that they should so be entered, but if the payments were made for persons, then the Maharaja directed that they should be made in this way, that is like this yad. The accounts for goods received were written in the same way, but the name of the merchant and the memorandum of the goods received were entered. (Shown paper.) This is another yad from my Khangee record; it bears my endorsement, and is for a payment of Rs. 18 to Yeshwuntrao. It is dated the 29th November 1873. That is stated to be in reference to goods brought from Ahmedabad. This of the same nature as the other yad, and no name nor memorandum of goods is mentioned. [Paper put in and marked B 1.]

Shri (*i. e.* Prosperity, &c.)

Brought to account on the 8th lunar day of the month of Shawal, that is in the month of Margshirsh, the Sumvat (year) 1930 (November-December 1873).

Exhibit B 1.

MEMORANDUM.—In order that goods might be purchased and brought from Ahmedabad, the Sirkar's permission was granted for the payment of money for (his) expenses, to Yeshwunta, son of Mahipati Yeolay, the Sirkar's courier. In accordance therewith what was paid in ready cash (was as follows:—) The Soor Sun (year) one thousand two hundred and seventy-five, the (Mahommedan) lunar day the 8th, that is the [Hindoo] lunar date the 10th of Margshirsh Shoodh, the Sumvat [year] 1930 [29th November 1873] Saturday.

Machine-made [rupees] were purchased at the place of business of Parakh Govardhun Dulput in the bazaar, and delivered for the same. Babashai [rupees] were paid to Parukh [as below]:—

Principal Surat (rupees) by the hands of Gunputrao, corrected to Narayenrao, son of Bhikoba Shielkey, attached to the small Khas Paga	10	0	0
For exchange at the rate of Rs. 18-14 per cent	1	14	0
	11	14	0
Babashai (rupees) paid in ready cash...	7	0	0
	18	14	0

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees eighteen, and fourteen annas, to Narayenrao Shilkey Burgir of the small Khas Paga. The lunar date, the 10th of Margshirsh Soodh for the Sumvat (year) 1930 (29th November 1873).

In respect of the above memorandum, machine-made rupees [10] ten, and Babashai rupees [7] seven, were received in ready cash in full out of the treasury. By the hands of Narayanrao Shilkay the said [rupees] were received in full from Yeshwuntrao Yeolay. The handwriting of Krishnajee Ramchandra Kelkar.

[The letter attached to document marked B, as translated, is as below]:—

(Shri i. e. Prosperity, &c.)

To Rajeshri Bulwuntrao Rowjee, in the private service of the Sirkar.

Further, Narayenrao Shilkay is now sent. Do you therefore pay him machine-made rupees ten and (give him) a piece of jagannath (jacconet cloth) immediately out of the treasury; or pay him rupees seven for the purchase (of the cloth) in the bazaar, or cause it to be delivered by Choonilal. The lunar date the 10th of Margshirsh Shoodhya, the Sumvat (year) 1930 (29th November 1873).

DAMODHUR TRIMBUCK, Khangiwalay.

[A true Translation.]

J. FLYNN, Translator.

(Shown another paper.) This is also a yad from my Khangee record, and bears my endorsement. It bears date the 6th December 1873. It bears the receipt of Salim Wullid Ali Arab. No goods were brought from Ahmedabad.

[The paper was put in and marked C 1.]

Shri (*i. e.* Prosperity, &c.)

Brought to account on the 15th lunar day, the month of Shawal, that is in the month of Margshirsh of the Sumvat (year) 1930 (6th December 1873).

Exhibit C 1.

MEMORANDUM.—Goods were caused to be brought from Ahmedabad by means of Yeshwunta, son of Mahipati Yeolay, a courier in the service of the Khasay. The Sirkar's permission was granted for the payment to him of machine-made money for the same. In accordance therewith Surat money was to be paid. The same was purchased in the bazaar at the place of business of Parukh Govurdhun Dulput, and was delivered. In respect thereof the Babashai (rupees) were to be paid in ready cash. The 15th lunar day, the month of Shawal in the Soor Sun (year) one thousand two hundred and seventy-four; that is the lunar date the 2nd of the month of Margshirsh Vadya of Samvat 1930 (6th December 1873), Saturday.

Principal Surat [rupees] by the hands of Salim, son of Ali Arab, a sepahi, in the service of the large Khas Paga, employed in the message-bearing business of the Camp. Through Yeshwunta Yeolay, a courier	Rs. 200
For exchange at the rate of Rs. 19 per cent...	38
	238

In accordance with the above memorandum, the Sirkar's permission was granted for the payment of rupees two hundred and thirty-eight. The lunar date, the second of Margshirsh Vadya, of the Sumvat (year) 1930 [6th December 1873].

The said machine-made rupees two hundred, agreeably to the memorandum, were received in cash in full out of the Khangee [private] treasury. By the hands of Salim, the son of Ali Arab. The handwriting of Balkrishna Hari Kodilkar. At the said Salim's request (this) is given in writing.

[A True Translation.]

J. FLYNN, Translator.

(Shown another paper.) This also is a yad from my Khangee record, and bears my endorsement. It is for a payment of Rs. 300 for goods brought from Ahmedabad by Yeshwuntrao. The date is 14th December 1873. Salim received the money. No goods were brought in relation to that Rs. 300. (Paper put in and marked D 1.)

Shri (*i. e.* Prosperity, &c.)

Brought to account on the 22nd lunar day, the month of Shawal, that is in the month of Margshirsh of the Sumvat [year] 1930 [13th December 1873].

Exhibit D 1.

MEMORANDUM.—Goods were caused to be brought from Ahmedabad by means of Yeshwunta, son of Mahipati Yeolay, a courier in the service of the Khasay. The Sirkar's permission was granted for the payment of money for the same. In accordance therewith what was paid in ready cash [was as follows:—] The 22nd lunar day of the month of Shawal the Soor Sun [year] one thousand two hundred and seventy-four, that is, the [Hindoo] lunar date the 9th of the month of Margshirsh Vadya of the Sumvat [year] 1930 [9th December 1873], Saturday. Rs. 300.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees three hundred. The lunar date of the 15th Margshirsh Vadya, the Sumvat [year] 1930 [13th December 1873].

Babashai rupees three hundred [in respect] of the above memorandum were received in full out of the Khasgi treasury. By the hands of Salim, the son of Ali Arab, in the service of the large Khas Paga. The handwriting of Balkrishna Hari Kodilkar. At the request of the owner of the goods (this) is given in writing.

[A True Translation.]

J. FLYNN, Translator.

(Shown another paper.) This is another of my yads. It is from the private duftur, and bears my endorsement.

Serjeant Ballantine thought it unnecessary for the Advocate-General to go through the documents *seriatim*. He suggested that they should be taken altogether in the meantime, and if he thought it necessary, he would comment upon them hereafter.

The Advocate-General then handed a number of yads to the witness, and asked him if he identified them.

The witness—All these are yads out of my Khangee records, and bear my endorsement.

The Advocate-General then put in the following yads, the contents of which he summarised briefly as follows hereafter, and giving the dates of the orders for payment:—E 1 is dated 16th January 1874; is for Rs. 600 for goods brought from Bombay through Yeshwuntrao; payment is made to Salim. F 1 is dated 9th February 1874, Rs. 237-8-0 to Yeshwuntrao for goods from Bombay; payment made to Salim and Madharao Kali. G. I. is a yad dated 15th December 1873 for Rs. 100 to Salim for expenses of bringing goods from Ahmedabad; the receipt is by Salim.

H 1 is a yad of the 24th December 1873 for Rs. 356-4; paid to Salim for fireworks and other things brought from Bombay through Salim; the money is paid to Salim. I 1 bears date 25th January 1874 for Rs. 475 to Salim for bringing goods from Bombay; and the money appears to be paid to Salim. J 1 is dated 15th March 1874, Rs. 50 to Salim for expenses of going to Ahmedabad. K 1 bears date 24th April 1874 for Rs. 207 paid to Salim for the purchase of fruit; this money was paid at Nowsaree. L 1 bears date 25th April 1874—Rs. 1,000 paid to Salim for the purchase of fruit; this money also appears to have been paid at Nowsaree. M 1 is dated 15th May 1874, at Nowsaree, and is for Rs. 200 to Salim for bringing goods from Bombay. N 1 is dated 8th June 1874, and is for Rs. 1,000 paid to Salim for fruit brought from Bombay. O 1 is dated 3rd July 1874—Rs. 250 paid to Salim for fruit from Poona. P 1 is dated 2nd September 1874, Rs. 119½ to Salim for fruit from Ahmedabad. Q 1 is dated 13th October 1874—Rs. 200 paid to Salim for fruit from Ahmedabad.

The Advocate-General (to Interpreter)—Tell witnes that one of these yads relates to fireworks brought from Bombay through Salim.

Witness continues.—No fireworks were brought from Bombay by Salim, but on one occasion, last Ashwin or Kartuk of last year, I think Yeshwuntrao brought some fireworks. In the month of Posh Sud 1930 none were brought by either Salim or Yeshwuntrao. As to the other yads relating to payments to Salim for fruit brought from Ahmedabad, Bombay, or Poona, no fruit was received. A separate account is kept for the fireworks and fruit actually brought for the Maharaja, and it is kept in the names of those persons who really bring them. These goods must have been credited to the departments to which they were consigned. For instance, fruits were in charge of the Silikhana or Khangee department. Perhaps there is an account with Salim for fruit, but I cannot say without seeing the yad. All the money mentioned in these yads was paid to the persons mentioned as having received them, and their receipt is endorsed. Those payments were made by the Maharaja's directions, and it was by His Highness's directions that these various payments were entered as made for fruit and fireworks from Bombay, Poona, and Ahmedabad.

Shri (*i. e.* Prosperity, &c.)

Brought to account on the 30th lunar day, the month of Zilkad, that is in the month of Poush, the Sumvat (year) 1930 (19th January 1874).

Memorandum.—To the Khasay goods were caused to be brought from Bombay through Yeshwunta, son of Mahipati Yeolay, the Sirkar's courier. The Sirkar's permission was granted for the payment to him of Babashai money for the same. In accordance therewith what was paid in cash (was as follows :—) The 26th lunar day, the month of Zilkad, the Soor Sun (year) one thousand two hundred and seventy-four. The (Hindoo) lunar date the 13th, the month of Poush Vadya, the Sumvat (year) 1930 (16th January 1874) Friday. Rs. 600

Exhibit E 1.

In accordance with the above memorandum, the Sirkar's permission was granted while [the Sirkar] was in the Palace before, for the payment of rupees six hundred. The lunar date, the 13th of Poush Vadya, the Sumvat (year) 1930 (16th January 1874).

Rs. 600 [six hundred] (in respect) of the above memorandum I have received in ready cash in full out of the Khangee (private) treasury. By the hands of Salim Ali. The handwriting of Bhikajee Wishwanath Abetkar. At Salim's request (this) is given in writing.

[A True Translation.]

J. Flynn, Translator.

Shri (*i. e.* Properity, &c.]

Brought to account on the 21st lunar day, the month of Zilhez, that is, the month of Magh, the Sumvat (year) 1930 (9th February 1874).

Memorandum.—For purchasing and bringing goods from Bombay, the Sirkar's permission was granted for the payment of machine-made money, for expenses to Yeshwunta, son of Mahipati Yeolay, a courier in the service of the Khasay. In accordance therewith Surat [rupees] were to be paid. The same were purchsed in the bazaar at the place of business of Parukh Govurdhun Dulput and were delivered. For the same Babashai (rupees), together with exchange, were paid to Parukh in ready cash. The 21st day of the month of Zilhez, the Soor Sun (year) one thousand two hundred and seventy-four, that is, the (Hindoo) lunar date, the 8th of the month of Magh Vadya, the Sumvat (year) 1930 (9th February 1874) Monday.

Exhibit F 1.

Principal machine-made (rupees).....	200	0	0
For exchange at the rate of Rs. 18¾ per cent.	37	8	0
	237	8	0

The above machine-made rupees two hundred were paid to both these persons (namely) Salim, the son of Ali, a trooper, and Mahadoo Kalay, a trooper in the service of the large Khas Paga. By the hands of the persons abovenamed themselves.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of machine-made rupees two hundred. The lunar date, the 8th of Magh Vadya, the Sumvat (year) 1930 (9th February 1874).

In respect of the above memorandum, machine-made Rs. 200 I had received in ready cash in full out of the Khangee (private) treasury. By the hands of Madhavrao and Salim. The handwriting of Madhavrao Kalay.

(A True Translation.)

J. Flynn, Translator.

Shri (*i. e.* Prosperity, &c.)

Brought to account on the 24th lunar day, the month of Shawal, that is, in the month of Margshirsh, the Sumvat, (year) 1930 (Nov. Dec. 1873.)

Memorandum.—For bringing goods from Ahmedabad in accordance with the permission granted by the Sirkar what was to be paid for expenses to Salim, the son of Ali, a trooper receiving monthly wages, attached to the Khas Paga in the service of the Khasay (were as follows :—) The Soor Sun (year) one thousand two hundred and seventy-four. The lunar date the 11th of Kartik Vadya, the Sumvat (year) 1930 (11th November 1873), Rs. 100.

Exhibit G 1.

In accordance with the above memorandum, the Sirkar's permission was granted to the payment of Rs. 100. The lunar date, the 11th of Margshirsh Vadya, the Sumvat (year) 1930 (11th December 1873).

[The text of what follows is in Guzerati] :—

Rs. 100, namely, one hundred, in respect of the said note were received by Salimbhai, son of Ali, a trooper of the Khas Paga, attached to the large Khas Paga. The handwriting of Mathoor Ragoonath.—The mark (has been made) by the hand of the trooper himself. The lunar date the 11th of Magsar Vadh (15th December 1873).

[A True Translation.]

J. Flynn, Translator.

Shri (*i. e.* Prosperity, &c.)

Brought to account on the 3rd lunar day of Zilkad, that is the month of Poush, the Sumvat (year) 1930 (24th December 1873).

Memorandum.—Fireworks and other things were sent for (to be brought) from Bombay through Salim, the son of Ali Arab, a trooper attached to the large Khas Paga employed in the message-bearing business of the Camp. The Sirkar's permission was granted for the payment of Surat (*i. e.* machine-made) money for the charges thereof. In accordance therewith, Surat [rupees] were to be paid. The same were purchased at the place of business of Parukh Govurdhun Dulpat in the bazaar, and were delivered. In respect thereof Babashai [rupees], together with exchange, were paid to Parukh. The 3rd lunar day the month of Zilkad in the Soor Sun [year] one thousand two hundred and seventy-four. The [Hindoo] lunar date the 5th of the month of Poush Shoodhya the Sumvat [year] 1930 [24th December 1873], Wednesday.

Exhibit H 1.

Principal Surat (rupees) by the hands of the said Salim himself.....	300	0	0
For exchange at the rate of Rs. 18¾ per cent ...	56	4	0
	356	4	0

In accordance with the above memorandum the Sircar's permission was granted for the payment of rupees three hundred and fifty-six and four annas. The lunar date the 5th of Poush Shoodhya the Sumvat [year] 1930 [24th December 1873].

In accordance with the above memorandum, machine-made Rs. 300 I have received in full. By the hands of Salim. The handwriting of Madhavrao Kalay.

[A True Translation.]

J. Flynn, Translator.

Shri (*i.e.*, Prosperity, &c.)

Brought to account on the 6th lunar day the month of Zilhej, that is, the month of Magh, the Sumvat [year] 1930 [25th January 1874].

Memorandum.—For the purpose of bringing goods from Bombay the Sirkar granted permission to pay machine-made money to Salim Ali. In accordance therewith [the money] was to be paid. The 6th lunar day the month of Zilhej in the Soor Sun [year] one thousand two hundred and seventy-four. The [Hindoo] lunar date the 8th of the month of

Exhibit I 1.

Magh Shoodhya of Sumvat [year] 1930 [25th January 1874], Sunday.

Principal machine-made rupeees	400	0	0
For exchange at the rate of rupees 18¾ per cent.	75	0	0
Rs.....	475	0	0

In accordance with the above memorandum the Sirkar's permission was granted for the payment of machine-made Rs.400. The lunar date the 8th of Magh Shoodhya the Sumvat [year] 1930 [25th January 1874].

In respect of the above memorandum machine-made rupees 400 have been received in ready cash in full out of the Khangee [private] treasury. By the hand of Salim, the son of Ali Arab, attached to the large Khas Paga. The handwriting of Keshavbhat, son of Trimbakbhat Madvganay, at Salim's request [this] is given in writing.

[A True Translation.]

J. Flynn, Translator.

Shri (*i.e.*, Prosperity, &c.)

Brought to account on the 25th lunar date the month of Mohurrum, that is, in the month of Falgoon of [the year] S. [Sumvat] 1930 [15th March 1874].

Memorandum.—Salim, the son of Ali Arab, a sipahi, is going to Ahmedabad to bring goods; consequently the Sirkar's permission was granted for the payment to him of money for expenses. In accordance therewith ready cash was paid. The 25th lunar day of the month of Mohurrum in the Soor Sun [year] one thousand two hundred and seventy-four, that is the 12th of the month of Falgoon Vadya of the Sumvat [year] 1930 [15th March 1874], Sunday. Rs. 50.

Exhibit J 1.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees fifty. The lunar date the 12th of Falgoon Vadya [the year] S. [Sumvat] 1930 [15th March 1874].

Rs. 50 [in respect] of the above memorandum I have received in ready cash, in full, out of the Khangee (private treasury. By the hands of Salim, the son of Ali, a trooper attached to the large Khas Paga. The handwriting of Govindrao Kasinath Putvardhun. At the request of the said Salim, this is given in writing. The lunar date the 12th of Falgoon Vadya [the year] S. [Sumvat] 1930 [15th March 1874].

[A True Translation.]

J. Flynn, Translator.

Shai (*i.e.*, Prosperity, &c.)

Memorandum.—The Sirkar's permission was granted for the payment of machine-made money to Salim, son of Ali, a trooper attached to the large Khas Paga, for the purchase of fruit. In accordance therewith what was to be paid (was as follows:—) The 7th lunar date, the month of Rabioolaval, the Soor Sun (year) one thousand two hundred and seventy-four, that is, the 8th of the month of Waishakh Shoodhya (the year) S. (Sumvat 1930 (24th April 1874).

Exhibit K 1.

Mahine-made (rupees) for the purchase of fruit 200	
Babashai [rupees] for the wages of a sipahi	
* for the month of Chaitra (March-April)	7
	207

In accordance with the above memorandum, the Sirkar's permission was granted for the payment of machine-made rupees two hundred and Babashai [rupees] seven making together two hundred and seven. The lunar date the 8th of Waishakh Shoodhya [the year] S. [Sumvat] 1930 [24th April 1874] at Nowsaree.

In respect of the above memorandum machine-made Rs. 200 and Babashai Rs. 7, making together Rs. 207 [two hundred and seven] I have received in full. By the hands of Salim, the son of Ali, attached to the large Khas Paga. The handwriting of Wamonrao Jangli. The lunar date the 8th of Waishakh Shoodhya of [the year] S. [Sumvat] 1930 [24th April 1874], the day of the week, Friday.

[A True Translation.]

J. Flynn, Translator.

* Blank in the text.

Shri (*i.e.*, Prosperity, &c.)

Memorandum.—The Sirkar's permission was granted for the payment of machine-made money to Salim, the son of Ali, a trooper attached to the large Khas Paga for the purchase of fruit. In accordance therewith money was to be paid. The 8th lunar day, the month of Rabioolaval the Soor Sun [year] one thousand two hundred and seventy-four, that is, the 9th of the month of Waishakh Shoodhya [the year] S. (Sumvat] 1930 [25th April 1874], Saturday, machine-made Rs. 1,000.

Exhibit L 1.

In accordance with the above memorandum the Sirkar's permission was given face to face for the payment of machine-made rupees one thousand. The lunar date the 9th of Waishakh Shoodhya [the year] S. [Sumvat] 1930 [25th April 1874] at Nowsaree.

In respect of the said memorandum machine-made Rs. 1,0 0 0 [one thousand] I have received in full. By the hands of Salim, son of Ali himself. The handwriting of Anaji Narayen Pendsay. The lunar date the 9th of Waishakh Shoodhya [the year] S. [Sumvat] 1930 [25th April 1874].

[A True Translation.]

J. Flynn, Translator.

Shri (*i. e.*, Prosperity, &c.)

Memorandum.—The Sirkar's permission was granted for the payment of Babashai money to Salim * a trooper attached to the large Khas Paga, for bringing goods from Bombay. In respect thereof what was to be paid [was as below]. The month of Rabioolaval, the Soor Sun [year] one thousand two hundred and seventy-four, that is, the 30th of the month of Waishakh Vadya of [the year] S. [Sumvat] 1930 [15th May 1874], Friday. Babashai Rs. 200.

Exhibit M 1.

* The text of "son of Ali" is scored through.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of Babashai rupees two hundred. The lunar date† the 14th of Waishakh Vadya of the year [Sumvat] 1930 [14th May 1874] at Nowsaree.

† So in the original, the 14th being the same as the 30th of Waishakh Vadya.

In respect of the above memorandum Babashai Rs. 200 I have received in full. By the hands of [and] the handwriting of Madhavrao Kalay attached to the large Khas Paga. The date aforesaid.

[A True Translation.]

J. Flynn, Translator.

Shri (*i.e.*, Prosperity &c.)

Brought to account on the 22nd [Mahommedan] lunar day, the [Hindoo] lunar date the 9th of Jesht Vadia, the Sumvat [year] 1931 [8th June 1874.]

Memorandum.—Fruit was caused to be purchased and brought from Bombay through Salim, son of Ali Arab. The Sirkar's permission was granted for the payment of money in respect thereof. In accordance therewith ready cash was paid [as below]. The month of Rabioolakir, the Soor Sun [year] one thousand two hundred and seventy-five, that is, the 9th of Jesht Vadya [the year] S. [Sumvat] 1931* [8th June 1874], Monday. Rs. 1,000.

Exhibit N 1.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees one thousand. The lunar date, the 9th of Jesht Vadya the Sumvat [year] 1931 [8th June 1874].

In respect of the above memorandum Rs. 1,000 [one thousand] have been received in full out of the Khangee [private] treasury by Salim Arab. By the hands of the said Salim himself. The handwriting of Purshotam Hari. At Salim's request [this] is given in writing. The lunar date, the 9th of Jesht Vadya, the Sumvat [year] 1931 [8th June 1874].

[A True Translation.]

J. Flynn, Translator.

* *Note.*—On enquiry I learn that in the records of H. H. the Gaekwar, the new Sumvat year begins four months earlier, viz. in Jeth [May-June], and that it is called Mragsar. This date will, therefore correspond to 8th June 1874.

(Sd.) Nowrozjee Furdoonjee, Translator.

Shri (*i. e.* Prosperity, &c.)

Brought to account the 17th [Mahommedan] lunar day, the month of Jamadilawal, that is the intercalary month Ashadh [the year] S. [Sumvat] 1931 [2nd July 1874].†

Memorandum.—Fruit was caused to be brought from Poona through Salim, son of Ali Arab, a trooper attached to the Khasay. The Sirkar's permission was granted for the payment of money for the same. In accordance therewith ready money was to be paid. The [Mahommedan] 17th lunar day the month of Jamadi-oolawal the Soor Sun [year] one thousand two hundred and seventy-five, that is, the lunar date the 3rd of the intercalary Ashadh Vadya [the year] S. [Sumvat] 1931 [2nd July 1874], Thursday. Rs. 250.

Exhibit O 1.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees two hundred and fifty. The lunar date the 4th of the intercalary Ashadh Vadya [the year] S. [Sumvat] 1931 [3rd July 1874].

[The text of what follows is in Guzerati]:—

Written by Salim Ali agreeably to what is written above, Rs. 250 [namely, two hundred and fifty] have been received in full. By his own hands. The handwriting of Dalpatram Bapooji. At the desire of the party this has been given in writing.

[The text of what follows is in Marathi]:—

Nett machine-made	Rs.	250
For exchange at the rate of 19¼	,,	48¾
	Rs.	298¾

The above machine-made Rs. —— having been received from the Nowsaree Swari account have been paid, including the exchange [in respect] thereof, Babashai money was paid in ready cash to the Nowsaree Swari account. By the hands of Bhivba, son of Hanavant Rao Bacharay, Treasurer. The lunar date the intercalary Ashadh Vadya, 3rd, Thursday the [Mahommedan] lunar day the 17th (2nd July 1874).

[A True Translation.]

J. Flynn, Translator.

† *Note.*—On enquiry I learn that in the records of H. H. the Gaekwar, the new Sumvat year begins four months earlier, viz. in Jeth [May-June], and that it is called Mragsar. This date will, therefore, correspond to 2nd July 1874.

(Sd.) Nowrozjee Furdoonjee, Translator.

Shri (*i. e.*, Prosperity, &c.)

Brought to account the 24th lunar day the month Rajab, that is the month Shrawan, the Sumvat [year] 1931 [8th September 1874].‡

MEMORANDUM.—Through Salim, son of Ali, a trooper receiving monthly wages, attached to the large Khas Paga, serving under the Khasay. Articles [consisting of] fruit were purchased and brought from Ahmedabad to the Khasay. In accordance with the Sirkar's permission granted for the payment in ready cash of machine-made money as the price thereof, what was to be paid to the said Salim [was as follows] :—The lunar day* the month Rajab the Soor Sun [year] one thousand two hundred and seventy-five, that is the lunar date the 7th of the month of Shrawan Vadya, Wednesday [2nd September 1874]. Rupees [as follows]:—

Exhibit P 1.

* Blank in the original.

Nett machine-made.....	100
For exchange at —— per cent.	19½
	119½

In accordance with the above memorandum the Sirkar's permission was granted for the payment of machine-made rupees a hundred. The lunar date the 7th of Shrawan Vadya Sumvat 1931 [2nd September 1874].

[The text of what follows is in Guzerati] :—

Bargir Salim, son of Ali, agreeably to what is written above, machine-made rupees 100, viz. a hundred, have been received in full. By [his] own hands. The handwriting of Shah Atmaram Ramdas [written] at the desire of the party.

[A True Translation.]

J. FLYNN, Translator.

‡ *Note*—On enquiry I learn that in the records of H. H. the Gaekwar, the new Sumvat year begins four months earlier, viz. in Jeth [May-June], and that it is called Mragsar. This date will correspond to 8th September 1874.

(Sd.) NOWROZJEE FURDOONJEE, Translator.

Shri (*i.e.*, Prosperity, &c.)

Brought to account the lunar day the 1st of the month of Ashwin (the year) S. [Sumvat*] 1931 [13th October, 1874].

MEMORANDUM.—Through Salim, son of Ali Arab, a sipahi attached to the Khasay, fruit was caused to be brought from Ahmedabad. The Sirkar's permission was granted for the payment of the money from the same.

Exhibit Q 1.

In accordance therewith ready money was paid [as follows]:—The lunar day the 1st, the month Ramzan, the Soor Sun [year] one thousand two hundred and seventy-five, that is, the lunar date the 3rd of Ashwin Shoodh [the year] S. [Sumvat] 1931, Tuesday [13th October 1874]. Rs. 200.

In accordance with the above memorandum the Sirkar's permission was granted for the payment of rupees two hundred. The lunar date the 3rd of Ashwin Shoodh [the year] S. [the Sumvat] 1931 [13th October 1874].

Rupees two hundred [in respect] of the above memorandum. Given in writing at the desire of Salim. The handwriting of Keshao Balkrishna Boochkay now at Baroda.

The Signature of Salim.

[A True Translation.]

J. FLYNN, Translator.

* *Note*—On enquiry I learn that in the records of H. H. the Gaekwar, the new Sumvat year begins four months earlier, viz. in Jeth [May-June], and that it is called Mragsar. This date will correspond to 13th October 1874.

(Sd.) NOWROZJEE FURDOONJEE, Translator.

The Comission rose at a quarter-past four o'clock.

TWELFTH DAY, TUESDAY, MARCH 9.

PRESENT.

SIR RICHARD COUCH, (President); H. H. Maharaja of Gwalior (in the forenoon only), H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence :—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission—John Jardine, Esq., Bombay Civil Service.

Interpreters :—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharaja Gaekwar occupied a seat on the left of the Commission.

Sir Lewis Pelly, K.C.S.I., was absent.

The Inquiry was opened at about 11 o'clock.

DAMODHUR TRIMBUCK or PUNT'S examination was resumed.

Damodhur Punt further examined. States that after the attempt to poison had been discovered, he, by the Maharaja's order, had a false entry made in the accounts to conceal the purchase of diamond dust. Other entries of payments made to Salim were obliterated or falsified.

Examined by the Advocate-General :—

I told you yesterday about getting diamonds on two occasions from Nanajee Vithul. The arrangements for paying for these diamonds were made according to the instructions of the Maharaja, which instructions were communicated to me. I asked the Maharaja if the money for the diamonds was to be paid. The Maharaja said, "Yes, it should be paid."

Sir Richard Meade—Does he mean the value of the diamonds ?

Interpreter—He means that.

Witness—I arranged for the payment. Nanajee Vithul has the lighting department in his charge, and some money had been received from him for *kussa* or savings. I mean to say that Nanajee Vithul had those monies. I did not receive them. Entries were made in regard to these savings, the amount for *kussa* being credited. (Shown yad.) This is the yad received from Nanajee Vithul. It bears my endorsement to the effect that it should be credited, and the amount entered as disbursed for a feast given to Brahmins on account of Swamee Narayen.

The Advocate-General—I put in this yad in regard to these savings :—

Shri (Glory.)

MEMORANDUM.—From the Kamda of Roshnai [Superintendent of the Lighting Department] to Rajmanya Rajshri, Sircar Khangee officer [Private Treasury] that the discount for the Godra oil supplied through the Commissariat by Lallu Narrotum at Rs. 11-4-0 has been received; date for six months, Sumvat (year) 1930 from Margshirsh up to Waishakh. [December 1873 to May 1874]. Through. On account of [batta] discount on payment of.

Exhibit R 1.

	Rs.	a.	p.
Lallu Narrotum, as per payment note from Phadnis [for] rupees eight thousand six hundred and ninety-seven, annas twelve, pies nine.....	978	8	0
For Kasar (saving).....	878	4	3
Total..	1,856	12	3

Altogether Rs. 1,856-12-3, deducting from this Rs. 25 per month for the lantern on the Mandvi Tower—total Rs. 150 for six months. There remain Rs. 1,706-12-3 paid. Dated Margshirsh Vad 9th, Sumvat [year] 1931 [1st January 1875].

(Sd.) NANAJEE VITHUL BEDEKAR.

[*Endorsement*].—His Highness has ordered that the sum of Rs. 1,706-12-3, received from the Lighting Department, be credited as per said yadee. Dated Margshirsh Vad 10th, Sumvat 1931 [2nd January 1875].

(Yad put in and marked R 1.)

Besides the Rs. 1,706, savings on lighting account, other sums were appropriated by the direction of the Maharaja for payment of these diamonds. There is another yad also on account of the *kussa*. (Shown yad.) This is it. It bears my endorsement.

The Advocate-General—This, my Lord, is a memorandum from the Superintendent of the Jewel Department.

Paper put in and marked S 1.

MEMORANDUM.—From Jewel Department, to the Javhare Jamdar, Superintendent of the Purchase and Cash Department respecting mohurs and pullies [gold coins] part of the nuzzerana. The cash received is as follows, dated

Exhibit S. 1.

Summat Khamas Sabayin Mayatain and Alif; Mahomedan date. Sumvat [year] 1931 [1874-5]:—

	Rs.	a.	p.
Twenty mohurs [given to] Dadabhoy Nowrojee, the Parsee, at the time of his installation as Dewan, for presenting nuzzerana at Rs. 15 per mohur. Dated Bhadrapadum Shud 3rd [13th Sept. 1874.	300	0	0
To Javerlal Ranchod Bhattia Choksi, Putlies seven hundred and seventeen weighing tolas 125-1 at Rs. 13 per putli. Dated Margshirsh Shud 6th [Dec. 14th 1874].	1,626	1	0
Total	1,926	1	0

Altogether Rs. 1,926-1 to be paid. Dated Margshirsh Vad 7th [Dec. 30, 1874].

(Sd.) Nanajee Vithul Bedekar.

[*Endorsement*].—His Highness has issued an order that Rs. 1,926-1 be credited in the account of the Khangee Jamdar [private treasurer]. Dated Margshirsh Vad 8th, Sumvat [year] 1931 [Dec. 31, 1874].

The Interpreter—The word "hussa" means excess of profits, and sometimes means loss also.

The Advocate-General—Was any order issued by the Maharaja in respect of the disposal of these two sums —the one on the savings account and the other on the nuzzerana account?

Witness—If I see the yad I can tell you. (Shown yad.) This is the amount I alluded to before, and is an order for the payment of a feast to the Brahmins of Swamee Narayen. There is an endorsement upon this yad in my handwriting.

The Advocate-General reads it as follows :—

Shri (Glory.)

Exhibit T. 1. Memorandum.—The Sirkar [His Highness] made an order to pay to Rameshwar in cash the expenses for dakshina [distribution of money] and dinner to be given through Rameshwar to two thousanand five hundred Brahmins at the Swami Narayen's temple on account of His Highness's vows. Paid accordingly in cash in Summa Khamas Sabayin Mayatain and Alif, Mahomedan year; Sumvat [year] 1931 month Jilkad, corresponding to Margshirsh, Chandra 21, this day Vad 8th, [Dec. 31, 1874], Thursday, Rs. 3,632-13-3.

[*Endorsement*].—In accordance with the order to pay Rs.3,632-13-3 Lord (*i. e.* Maharaja) wet the coins and paid them while bathing, dated Margshirsh, Vad 8th, Sumvat [year] 1931. [Dec. 31, 1874].

The paper was put in and marked T 1.

It was so written in the yad about the feast, but the money was paid to the jewellers. It was credited in that manner in accordance with the Maharaja's instructions that monies received in this manner should be credited in this manner.

Mr. Branson—It was a general order, was not it?

The Interpreter—Yes; a general order.

Witness—With reference to this crediting and debiting of amounts, I have had conversations with the Maharaja. I asked the Maharaja if the monies due to the jewellers were to be paid, and the Maharaja said, "Yes, pay them." It was my business out of what funds to pay, whether from this fund or that fund, out of the balance. I entered this money as paid to Rameshwur for a feast to Brahmins instead of entering it as a payment to the jeweller in respect of diamonds, because these diamonds were not to be credited to the javharekhana or jewel account. This was because, first of all, the Maharaja had said, "Enter these diamonds as medicine for the purpose of reducing them to ashes;" and accordingly to that effect an entry had been made in the jewel department, and it was ordered to be credited. Afterwards when there was a noise about poisoning Colonel Phayre, I asked the Maharaja, with regard to the entry regarding the diamonds which were to be reduced to ashes, if diamonds could be reduced to ashes. The Maharaja said they could not. I then asked, "What am I to do with the entry to the effect that they were for medicine and reducing to ashes?" The Maharaja thereupon said, "If the entry has been so credited tear it up, or destroy it, and remove the paper." I told Nanajee Vithul he should remove it. Nanajee Vithul did so. This is the reason the amount was entered as paid for Swamee Narayen.

Did you report this change to the Maharaja?—I had received once for all an order from the Maharaja that on such occasions I should assign any reason I liked in the entries. I told you yesterday that on two occasions I had got arsenic from Nooroodin. I did not pay for that arsenic; no money has been paid for it. This was because Nooroodeen was promised the business of the silikhana. After the report of the attempt to poison Colonel Phayre, he asked me for Rs. 200, and said, "The Borah in the Camp wants that money."

How came you to see Nooroodin in regard to these Rs. 200? Did he come to you, or did you go to him?—He came to me to the warra or Palace.

Tell us what passed between you and Nooroodin.

Mr. Serjeant Ballantine—I object to this, my Lord. I don't know whether my learned friend presses that question as to what passed between the witness and Nooroodin.

The Advocate-General said he did.

Mr. Serjeant Ballantine—This was in the absence of the Maharaja.

The President—Certain things passed between them, and it is evidence of that. It is all evidence as to an act by these persons.

Mr. Serjeant Ballantine—Your Lordship thinks it admissible?

The President—I think it is. It is not admissible as proving the truth of what has been said, but we must hear what passed between them, and what the transactions were.

Mr. Serjeant Ballantine—I understand the principle on which your Lordship puts it, that there is an act to be explained, and that that act is explained by the conversation?

The President—Yes.

The examination was resumed:—

The Advocate-General to witness—Tell us what passed between you and Noorooden on this occasion?

Noorooden said, "I brought that arsenic from the Camp and gave it." The first packet had not been entered in anybody's name, and he said that the second packet had been entered in the name of the "Khangeewalla," meaning me.

Entered in what accounts?

In the shop of the Borah of the camp or cantonments. He said that the Borah in the camp had said that his books had been seized and taken to the Residency, and, "if you wish that name which has been entered to be cancelled, pay me Rs. 200."

Mr. Serjeant Ballantine—Does your Lordship think this comes within the category of your Lordship's ruling?

The President—I think we must have it. These conversations are really facts which are material to this enquiry.

Mr. Serjeant Ballantine—Of course, your Lordship hears the evidence, and it has made an impression on your Lordship's mind that it is receivable. It occurred to me that these are conversations which if a person —an accomplice—wanted to charge another person with a crime that he had himself committed, it would be extremely easy to invent.

The President—It is open to you to argue that these conversations are invented and ought not to have any weight.

Mr. Serjeant Ballantine—In arguing the matter before your Lordship, I have a right to use that as an illustration of what I apprehend is the evil of admitting these conversations. It is very difficult to answer such conversations. It is not pretended that the party implicated in the matter is a

party in any way to these conversations. Under these circumstances it certainly places him, and those who represent him, in a considerable difficulty. But I need hardly say that in these matters I put my reasons for the objection before the Commission, and if your lordship thinks it is receivable, I shall not press it further

The President—I think we cannot understand the acts of this man without receiving this conversation. We cannot properly understand him without hearing what was said.

Examination resumed—I said to Nooroodeen Borah "Pay the money out of your pocket and then the amount will be allowed to you in the Sillikhana business which it is proposed should be hereafter given to you." Nooroodeen did not say anything more.

Mr. Branson—And he says he never saw him again.

Interpreter—Yes, he means that he did not see him afterwards.

The Advocate-General (to witness)—Did Nooroodeen tell you who the camp Borah was?

Witness—He did not give me his name.

The Advocate-General—You told us yesterday that you had seen Rowjee only once, and that that was in Nowsaree?—Yes.

Do you know, in your own knowledge, whether Rowjee ever came to the Haveli in Baroda?—No, I did not see him at the Haveli.

Did you ever hear that Colonel Phayre was suffering from a boil?—Yes. This was in the month of Bardrupud last year. I do not quite remember when. I came to hear of the circumstance because Salim mentioned it to the Maharaja when I was present. As nearly as I can recollect, Salim said, "Colonel Phayre has got a boil of this size," pointing with his fingers on his head. Salim also said he used to get Rowjee to apply a plaster to the boil and that Rowjee had put on the plaster a pinch of arsenic, and that after the plaster was applied the sahib felt a burning sensation, in consequence of which he took it off. I heard that. I do not remember whether the Maharaja said anything. About the time that Colonel Phayre had this injury I remember receiving orders to get certain medicines prepared. It was arsenic which was to be given to Salim.

Any other medicine beside the arsenic?—Yes. This was about eight or fifteen days after this conversation.

Was it about the same time, whether before or after, that you mean?—Yes. This medicine in regard to which I had received orders was to be made by the Hakimjee. I received the orders regarding it from the Maharaja, who said "Do you send to the Hakimjee large ants, snakes, and the urine of a black horse." If the Maharaja and anything more regarding these three articles I dont's remember. I gave orders to get these things brought. These articles were ordered to be sent to the Hakimjee. I afterwards got a small bottle from the Hakimjee. The bottle was brought to me by the servant of Nana Khanvelkur Goojaba, as I mentioned to you yesterday.

The President—One of the members of the Commission thinks we ought to have a fuller description of that bottle in order to help us to identify it.

The Advocate-General to witness—Can you give any particular description of the bottle you gave to Goojaba or the bottle you gave to Salim?

Witness—I said yesterday that it was a small bottle of this length (shows finger) and that I poured it into a bottle which had contained otto of roses. I do not remember whether the bottle brought by Goojaba was stopped with bees' wax or not. But the small bottle which I gave to Salim I stopped with cotton and bees' wax. This small bottle was a glass one.

Do you know whether the Maharaja used to receive information of what passed at the Residency from any one?—Yes.

It what form did the Maharaja receive that information?—Notes used to be sent to the Maharaja by Rowjee through Salim. I know that these notes came because the Maharaja used to direct me to read them. After having read them to the Maharaja I used to tear them up. (Shown four bundles of paper.) These papers are the daily journals kept at the private Jamdar Khana, where I used to work. I see four of these daily journals here. One is for the 11th of Shravun-Vud (Sunday 6th September.) In that account I find an item of Rs. 119·8. A portion of that entry is obliterated with ink.

Do you know how that ink came to be poured over that entry?—I did not pour it. A carkoon did it by my orders. I have a reason for that. The name of the carkoon was Balwuntrao, the son of Rowjee. My reason was this. In the entry it was stated generally goods in the name of Salim, and there was no yad giving the particulars of the article, and, therefore, as there might be some inquiry after the report regarding the poison, I directed that ink should be poured over that part.

The Advocate-General put in the paper which was marked U1, and read the English translation as follows:—

Entry under date Shrawan Wadya 11th Samvat 1931 (6th September 1874.

Rupees 119-8-0.—(In the original the words which follow here are blotted with ink and are illegible) through Khasi goods (articles) purchased and brought from Ahmedabad. For the price for the same, machine-made rupees were paid out of the Nowsaree Swari account, together with its exchange (paid) in cash in Babashai currency to the Swari account by the hands of Bhivba Jamdar as per yad.

Exhibit U 1.

The President—Is part of that so entirely obliterated that you cannot read it?

The Advocate-General—Yes, my Lord. I am going to prove the connection of these entries with some of the papers put in yesterday.

Witness—(Shown yad marked P 1.) This yad relates to the one I have already seen. (Shown another portion of the daily journal.) This is dated 9th Jesh-vud (8th June 1874). That also contains an obliterated entry. That entry was obliterated for the same reason, viz. that Salim's name was mentioned there.

Does this entry, a portion of which is obliterated, relate to a payment of Rs. 1,000 paid to Salim?—Yes. [Shown document N 1.] This is the yad in reference to that item.

This portion of the daily journal was put in and marked V 1, and the English translation read as follows:—

Entry under date Jesht Wad 9th Samvat 1931, Monday (8th June 1874).

Rupees 1,0 0.—Credited after being debited. Fruit was purchased and caused to be brought from Bombay through (the words which follow here in the original are blotted with ink and are illegible). The price payable for the same was caused to be paid by the said Parakh, is on the said date debited as expended and is credited here.

Exhibit V. 1.

Entry under date Ashwin Sood 3rd Samvat 1931, Tuesday [13th October 1874].

(Shown another portion of the daily journal.) This also contains a partially obliterated entry. The date is 3rd Ash-vih-sud (13th October 1874.) What is obliterated is Salim's name or Yeshwuntrao's. I could tell from the yadee. The amount is for Rs. 200. (Shown Q 1.) This is the yad which relates to the entry. It is Salim's name that is obliterated. This was obliterated by my orders for the same reason as I gave in the former instances.

This portion of the daily journal was put in and

marked W 1. The English translation was read as follows :—

Entry under date Ashurn-Sud 3rd Sumvat 1931, Tuesday [13th October 1874.

Exhibit W 1. Rupees 200.—Expenses on account of purchases for the Shillikhana for fruit for His Highness purchased and caused to be brought from Ahmedabad through [the words which follow here in the original are blotted with ink and are illegible]. The Sirkar's permission was given for paying the money for its price, accordingly paid in cash in the hands of himself the said Salim as per yad.

(Shown another extract from the daily journal.) This also has a portion of it obliterated. It is dated 3rd Ashur Vud (the 2nd July 1874.) The amount is Rs. 298-12. (Shown O 1,) This is the yad which relates to that entry.

This portion of the daily journal was put in and marked X 1. The English translation was read as follows :—

Entry under date Adhik [intercalary] Ashad Wudya, 3rd Thursday Samvat 1931 [2nd July 1874].

Exhibit X 1. Rupees 298-12-0—Fruit caused to be brought from Poona through [the words which follow here in the original are blotted with ink and are illegible]. In regard to which the Sirkar's permission was given for paying machine-made money. Accordingly money in Surat coins was to be paid. This money was caused to be paid out of the balance of machine-made money on account of the Nowsaree Swari. In regard to the same Babashai money was paid together with exchange to the Swari account in cash by the hands of Bhiva Wullud Hanmuutrao Bochre Jamdar as per yad.

When was it you gave these orders to Bulwuntrao to obliterate these entries?—After the report had spread at the Residency. I do not remember on what date I gave the orders.

When money was paid to anybody for giving a feast to the Brahmins, was it the custom to obtain a receipt from the person to whom the money was paid?—Yes ; the person who received the money used to give a receipt for it. [Shown paper]. This is such a receipt as would be taken from a person to whom money for a feast to Brahmins had been given. It contains my endorsement.

The Advocate-General put in the paper, which was marked Y 1, and read the following English translation :—

Exhibit Y. 1. Memorandum showing the expenses (necessary) for feeding 1,5 Guzerathi Brahmins through Rameshwurbhaee at the temple of Swami Narayen on account of finishing the Brahmin feeding and Dumpatayra (feeding the pairs) and giving of charities connected with the intercalary month. The money to be given in cash to Rameshwurbhaee [Sur Sun year] Samvat 193 (Moorgsar.) 2nd, Ashad Shud 3rd, Thursday, [16th July 1874].

Rupees 1,125 for net articles at 12 annas per head, total.
" 375 for distributing charity money at the time of dinner per each 4 annas.
1,500 The Sircar has ordered payment of Rupees 1,500 for Brahmin feast according to the said yadee. Dated Ashad Shud, 3rd Samvat 1931 (Moorgsar.) [16th July 1874.]

[In Guzerathi.]

Written Payment by Rameshwur Morarjee to wit.

The money of this memorandum has been received in full, in the handwriting of Bholanath Poonjaram through him.

The Advocate-General to witness—Were similar documents kept when a feast to Brahmins was ordered by the Maharaja?—Yes. In the yadee shown there is no receipt, but the yadee and the paper refer to the same transaction. (Shown yad T 1.)

If that were a genuine order for a feast to Brahmins, would it bear the receipt by Rameshwur?—Yes.

How came you to direct Bulwuntrao to pour ink over these entries we have just seen?—Something must be done in order that Salim's name, which is mentioned in these items, should not appear.

Mr. Melvill to Interpreter.—He says "Salim's name must be obliterated, because certain things did not come."

This terminated the examination-in-chief of the witness.

Cross-examination of Damodhur Punt.

Cross-examined by Mr. Serjeant Ballantine—Just a question or two about these accounts : I understand you to say that the accounts which you have spoken of were all fictitious—that the accounts that have been put in were all fictitious?—Not all the accounts.

The greater part of them?—Such portions of them as were made up for the purpose.

And, as you say, these falsifications were made by the directions of the Maharaja?—Yes, by the directions of the Maharaja.

Given to you from time to time, or generally—had you a general authority to falsify the accounts, or only receive the authority from time to time?—As there was occasion from time to time, I used to ask and he used to say. (Interpreter—That is, give instructions.)

You used to ask permission to falsify them?—Yes, as there was occasion. The Maharaja knew the occasion for what the money was to be paid, and he used to tell me.

And you asked his permission, and he gave it?—Yes.

But if these accounts had been investigated, had you any means of showing that you had any authority from the Maharaja?—What more need I show? Everything I did was under the orders of the Maharaja.

So you say. What I want to know is—supposing the Maharaja, for instance, had charged you with robbing him, and altering the accounts for the purpose of that robbery, had you any means of showing that you had his authority for what you had done?—The receipt and the entries are in four books, and there is the man who received the money and the man who paid it.

Had you any means of showing that you had the authority of the Maharaja, is what I want to know, except your own assertion?—I had no other authority, only the order.

That is not quite the answer—had you any means, except your own assertion, to show that the Maharaja had given you these orders?—By such orders of the Maharaja lakhs of rupees have been expended during the last four years.

Yes, by such order of the Maharaja lakhs of Rupees have been expended during the last four years, and accounts falsified?—Where there was occasion, they might have been done or made.

And you were the man who did it?—The Maharaja told me, and I caused the karkoon to do it.

Now, what I ask you is this—and reflect before you answer—supposing you had been charged by the Maharaja, or anybody else, with cheating and robbery, had you any means whatever of proving that you had the Maharaja's authority for what you did?—The papers themselves contained the means.

Nothing but the papers?—And there are receipts endorsed thereon.

Have you a single written word of the Maharaja justifying you in what you have done?—Unless with the Furnese there is no writing. (Interpreter—Furnese literally means "secretary.")

What I want to know is can you produce a single letter in the handwriting of the Maharaja justifying your falsification of the books?—I have none in the Maharaja's handwriting.

Interpreter—He adds something.

Mr. Serjeant Ballantine—If he adds something, you had better let us hear what it is.

Witness—But there are papers signed by the third wife of the Maharaja, Luxmeebaee.

But not a signature of his; you have no signature of his?—She used to sign under the orders of the Maharaja, and there are seals attached.

Have you any signature of his?—During the four years, the Maharaja never signed any paper belonging to my department.

What I wanted to know is, how you were to defend yourself if you had been charged with robbery upon the foundation of those false accounts admittedly in your own handwriting?—There are writings (interpreter—Entries) at five places, and I could have easily made my defence from them.

Are there any entries in the handwriting of the Maharaja?—The general statement or the annual statement was once signed by the Maharaja in one year.

Have you got his signature?—Yes.

Then you can produce it.—If you send for it, it will come, it is under attachment.

Very well, we will see whether it comes. I just want to know—were you aware that there was an intention to investigate your accounts at any time?—By whom? Who was to investigate?

By any one?—There was nobody besides the Maharaja to examine my accounts before the attachment.

Were you told by the police that your accounts would be investigated?—After attachment they showed the papers, and said enquiry is to be made. The papers over which ink had been poured were shown to me.

Did they tell you that your accounts would be investigated?—They had said generally.

What was your salary?—My pay was Rs. 200 and my brother's Rs. 400 per month.

Well, now, I just want to learn something about the way in which your confession was given. You were given into custody upon the same day as the Maharaja?—Yes, on the same day, in the evening.

You had known, I suppose, of Rowjee and Nursoo and others having been examined by Mr. Souter?—I used to hear the report.

And I suppose you took some interest in it?—If I got any information, I used to communicate it to the Maharaja.

Well, I suppose you took some personal interest in it, did you not?—Why should I have a personal interest? Why should they allow me to come here?

I will tell you at once why you should have some personal interest. You had been a party assisting in the attempted murder?—Yes, I did assist.

Then it occurs to me that that would give you some little interest in the enquiry?—Yes, of course, with a view to save the Maharaja and to save myself.

Principally to save the Maharaja, and a little for yourself?—Yes, now, as there is an attachment I must be saved.

Then taking some interest for the sake of the Maharaja, and a little for yourself, did you find out what Rowjee and the other witnesses had said?—I used to hear a report directly from the town: while Salim was at large he used to tell.

And then you heard that a bottle had been mentioned by Rowjee?—I was in confinement. I could not hear.

No, no, but I am talking of when you were out of confinement. Rowjee was examined when you were out of confinement, you know?—No, I did not hear.

Do you mean that you did not hear that he had said that a bottle had been given to him. Now, take care.—Nobody gave me information. (Interpreter—That is this information.)

Nobody told you about a bottle?—Nobody told me about a bottle.

Did you hear about the powders being put into Colonel Phayre's glass?—Yes.

Did you hear that it was said to be arsenic?—Yes. And diamond dust?—Yes.

And heard that Rowjee had admitted that he had attempted to murder Colonel Phayre?—Yes, I had heard of it, and mentioned it to the Maharaja.

How came it, as you were a party to his attempted murder, and know that Rowjee and others were in custody, that you did not destroy all the papers that had a bearing upon the subject?—What papers were there relating to the matter?

I don't wonder at your asking. You know you have told us that several papers related to the matter?—You mean the papers referred to in my deposition?

Can you have any doubt that I mean them?—I must understand properly. If there were papers at one place, they could have been destroyed, but they were in five place, and therefore they could not be destroyed.

Now, just attend to me. If your story is true, you know that those papers were in connection with your own acts to procure the poison which was used, then why did you not destroy them?—All the papers except two, refer to bribes—only two refer to that matter.

But did you not know also that there was an enquiry about the bribes?—I did not know of it then.

Will you swear that you did not know of it during the time the enquiry was going on before Mr. Souter?—Yes, I can swear I was not in his service, nor had he given me any information.

Why, when you knew enquiries were going on in relation to the conduct of the Gaekwar, did you not destroy these papers? You had them in your possession?—All papers could not be destroyed; if they were at one place they could be. The paper of the juvurkhana—the jewel department—was only one. That was caused to be torn up.

What was there to prevent your destroying every one of the papers that were produced to-day?—There was this objection—in the book of the Jamdar, or treasurer, the money paid is stated. There is a rozmel, a general day book, and usually, thirdly, there is a memorandum, and there is a receipt endorsed upon it, and after that the journal now shown is prepared, and after that the monthly statement is prepared, and they are stitched up, and the sheets are stitched up; so to destroy so many papers at so many places would be a difficult job. If the money was given in one amount the papers would have been destroyed.

Just let me have those documents, the whole of them, that have been produced by this witness. I won't disturb them at all in point of fact. (Handed to him.) Now I see that all these documents are upon separate sheets, not bound up in a book?—The memoranda are on separate pieces of paper.

Now I want to know what was there to prevent your destroying every one of these papers if you chose to do so?—If the money was paid in one amount or at one time there would have been no objection to destroy them.

I will have an answer to my question—what was there to prevent your destroying every one of these papers which have been produced in confirmation of your guilt and that of the Maharaja?—There was no convenience to destroy the papers at so many places.

What do you mean by no convenience?—There was no help, they could not be torn.

Just tell me this—what do they do with people in this country who are guilty of poisoning others?

The President—Are you right in using the word convenienco"?

The Interpreter—"Savad" is the word used. Sir Dinkur Rao will know it.

The President—Sir Richard Meade says it means "opportunity."

The Interpreter—It is a common word.

Mr. Serjeant Ballantine—"Opportunify" and "convenience" mean totally different things.

The President—Quite different things. Sir Dinkur Rao says that it means rather opportunity. For what we should call "opportunity" we should not say "convenience."

Mr. Serjeant Ballantine—I don't think, as I follow this out, that the fine meaning of the word will be important; but still it has a very different meaning, and it may make a very important difference.

The Interpreter refers to the word "savad" in the dictionary, wherein the word was defined as "an interval, leisure, or convenience; a brief intermission, a present occupation, a vacant or spare moment."

Mr. Serjeant Ballantine—Probably that definition would apply to either, but it would seem to be the idiom rather to mean "opportunity" here than "convenience." Now I was just asking you that little question which I dare say, under all the circumstances, you can answer me—what do they do with people in this country who are found guilty of poisoning others?—What do that do?—they are punished.

I suppose so, but what do they do with them? do they hang them as they do in our country?—Whatever punishment they may give, but I have not seen the law.

You have not looked into the law upon the subject, but have you no notion?—Yes, I have a notion.

I should have thought that you had some interest in the question. Just tell me what do they do?—Whatever the judges think proper, they do. What can I say?

But do they sometimes hang them?—Not at Baroda. I have not seen it.

You have not seen it, but still you know your neck might be in some risk, and therefore I ask you the question?—Is my neck in risk——

It *was* in risk; it is all right now. Now why did you not give me an intelligible reason for your not destroying papers which might have been the means of losing you your life, if found?—I have given the reason.

Then you shall repeat it.—Such papers were at many places, therefore there was no convenience to destroy them.

They were all under your control, sir?—Yes, they were.

And you could get at them all?—I used to send for them whenever the Maharaja sent for information.

Never mind the Maharaja. Was there anything to prevent your getting hold of them if you wanted them?—They were with me.

What objection was there?—They were in my charge.

Then, being in your charge, and knowing that they would implicate you in a charge of attempted murder why did you not destroy them?—At that time I was not aware that there would be an attachment, and that this time will come (Interpreter—"That he would be put in this position").

That is the only reason you can give?—Yes, no other reason.

Well, now, will you be kind enough to answer this question? If you did not contemplate that this time would come, and that was the reason why you did not destroy the papers, why did you obliterate any part of them?—The ink was poured because there were no particulars of the goods.

To hide something?—Yes.

Connected with Salim?—Yes.

And connected with these transactions?—Yes, to conceal.

Then, why, if you thought it worth while to obliterate a part, did you not destroy the whole?—I had orders to give and I had told the karkoon to do as he could conveniently.

Well, I will just now ask you a question which will summarise this branch. Are you quite sure that you have not invented the whole story of these papers for the purpose of accusing the Maharaja?—With a view that the Maharaja may not be accused and this proof might not be found, this thing was resorted to.

The President (to Interpreter)—I don't think you put the question properly. I think you are rather too hasty.

Mr. Serjeant Ballantine (to Interpreter)—Just follow me. It may be my fault. I am too quick. Just put this plainly to the witness. Will he swear that he has not invented the whole story of these documents for the purpose of accusing the Maharaja of being connected with this poisoning?

Witness—Not with a view to accuse the Maharaja.

Sir Dinkur Rao—The papers, as they were, were not sufficient to bring any accusation against the Maharaja, but by pouring ink upon them an accusation is brought.

Witness—Because the Maharaja told me to obliterate, I poured ink. The Maharaja said "Employ any means and make the arrangement."

Mr. Serjeant Ballantine—Now, you know—just to follow the Commissioner's view—did it not occur to you that the very mode by which attention would be attracted to these documents would be these great splotches of ink that you poured upon them?—Not at that time, it did not occur.

It does occur to you now?

Mr. Serjeant Ballantine—Perhaps your Lordship will allow me to hand up these documents.

The President—Not at present.

Mr. Serjeant Ballantine—Well now, just a question or two further—did not you think it was rather a foolish thing to do, to put all these splotches of ink on?—Now I feel from the consequences that they have incurred.

But that did not occur to your mind before?—I did not at first think there would be an attachment.

No, no. But did it not occur to you that these splotches of ink would attract attention?—When I was not under the impression that there would be an attachment, how should I bear any other impression about these?

Then why did you do it?—In order to prevent the matter going out.

Unless you had made a confession of some kind, do you think you would ever have got out of the jail?—I could not have got out of the jail.

You, first of all, were put under a European guard?—For two days I was made to sit in the Senaputtee's cutcherry or office at Baroda.

Alone or in company with any companion?—My companion was a sepoy, and I was there.

Two days and two nights?—Yes.

I suppose you went to bed?—I used to sleep there—where I used to sit I used to sleep—in the same place.

With a sepoy to keep you company?—He was guardian to watch my running away. I used to consider him as my companion.

Well, after that what did they do with you?—From that place I was brought to the Residency.

And what was done with you there?—I was sent into a room guarded by European soldiers.

And when were you handed over to the police?—After sixteen days when I admitted, when I made an admission or confession.

And what are you doing with yourself now—I mean when you are not in the witness-box?—They gave me a sepoy from there, they took me from the tent, and took me back there. If they tell me to get up, I get up, and if they tell me to sit down, I sit down.

Then you are not in the custody of the police now?—Yes, of the police peons or sepoys.

What are their names—do you know their names?—They are changed every four days. I do not know their names.

What is to become of you when this is over—do you know at all?—That will depend upon what all the judges say.

Just explain what you mean by that?—Whatever comes to their mind they will say.

What do you mean by saying that what will happen to you will depend upon what the judges will say?—I am guilty, because I have admitted. If they like they will release me, if not I must hear their sentence.

Then, I suppose, it depends upon what is the result of this inquiry. Suppose the judges should not believe a word you said, what should you do then?—I know that I will then be punished.

But if the judges believe all you say, shall you then get off?—They will release me. I have got a certificate of pardon.

How many plots were there to poison Colonel Phayre?—All the plots which have been stated in the deposition.

I am looking at the statement that you made before Mr. Richey, and I just ask you how many plots were there?—I gave these five things—four tolas of arsenic, two tolas of diamonds, and one bottle. Besides this if there was anything, I do not know.

What is it you call in your deposition "physician's stuff?" Is that the ants, snakes, &c.?—Yes.

Now, was that the first, second, third, fourth or fifth attempt? Well, you say you know of three, was that the first attempt with the "physician's stuff?"—The first or second, I don't remember.

Try and remember.—How can I remember it just now?

Well, but have not you said that that was the first attempt?—If I have said so, you will find it in the statement.

Well, that is a remark that is perfectly true. I remind you that I am looking at what you stated before Mr. Richey. Did you not state before Mr. Richey "there were three distinct plots to poison Colonel Phayre,—first by physician's stuff, secondly by poison in the plaster for Colonel Phayre's boil, and thirdly by the arsenic which was discovered?"—I made that statement before Mr. Richey.

And is that true?—It is true. How could it be untrue?

Then I suppose the physician's stuff was the stuff contained in the bottle?—It was brought in a bottle which Goojaba brought, and I transferred it to my bottle.

And put it into the otto-de-rose bottle?—Yes.

When was that?—I don't remember the date.

Give me as near as you can.—I did not then know that there would be an attachment, and that I would be granted a pardon or certificate. If I had known, I would have noted all the dates.

Now try and see if you have not got it noted down in your memory?—I do not remember the date.

Come, come, you have a very good memory. About when was the bottle given?—I don't remember, but it must be in Ashvun. (Interpreter—Part of October and part of November.)

What time in October does it begin?

Interpreter—It begins on the 11th October and ends on the 9th November.

Are you sure that it was within that time?

Witness—Yes.

How long before the Dewali?—If I had remembered those dates, I would have given you the date.

Interpreter—The Dewali is the very following day after the month that you have mentioned.

Mr. Serjeant Ballantine—I am very much obliged to you, but I knew that before I asked the question. (To witness)—How long before the Dewali?—I don't remember.

Was it a week before?—A week or two, I cannot say.

Well, was it a week or two, was it more than two weeks?—It might be, I gave the bottle, I don't remember.

Was it more than two weeks before, let us have it particularly?—The five items were given during the whole of the Ashvun month.

Now listen to me, my friend—when you gave this bottle did you perfectly well know it was for the purpose of poisoning Colonel Phayre?—Yes, I was aware.

I will just remind you that this was only last year?—Last Ashvun.

Then do you mean to tell me that you cannot say within a week when you gave a bottle for the purpose of poisoning a fellow-creature?—No, I don't remember the day.

I don't ask you the day, I ask you within a week?—That too I cannot say.

Might it have been as early as August?—(The Interpreter translates that month by Ashard.)

Witness—That had passed away two months before.

Then it could not have been in August?—What?

That is a question to me?

Interpreter.—Yes.

Very well, I will answer it. It could not have been in August.

(Interpreter, at the suggestion of the President, asks the question, using the words Ashard and Shravun, each of which embrace a part of the English month August.)

Witness—No.

Might it have been in September?

(The Interpreter here uses the names of the native months Shravun and Bhadurvudh.)

Witness—The first note written to the Fouzdaree was in Bhadurvudh the 9th (corresponding to the 4th October 1874.)

I am told that what he has said is that all this took place between the 4th October and the 9th November—Since that day all this occurred.

Between the 4th October and the 9th November all these attempts were made?—Yes, during that time all these five things were given. Between Bhadurvudh the 9th and Ashvun the 15th.

The Commission rose for tiffin at about 2 o'clock.

The Commission met again at half-past two.

Cross-examination resumed by Mr. Serjeant Ballantine.

Cross-examination continued.

Just about those sales of arsenic; tell me, was there some edict in existence that no sales of arsenic should take place without the sanction of the Maharaja?—The arsenic could be had only at the Fouzdaree.

And could it always be had upon the Maharaja's order?—The officer in charge knows that.

But do you not know?—I don't know; ask the Foujdaree.

Do you mean that you don't know that upon the order of the Maharaja arsenic could have been got to

any amount?—With the Maharaja's permission it could be had.

Why did you not say so at first? Why was it that when you had the Maharaja's permission you did not get it?—Hormusjee Wadia said that after asking the Maharaja he would give the arsenic.

I repeat the question, if you had the Maharaja's permission to obtain the arsenic, what was the difficulty in getting it?—The Maharaja had told me to bring it. He had not issued permission or an order to the officer himself.

Why did you not get the Maharaja's order?—The Maharaja did not give an order, but told me to write a note and say the arsenic was required for horses.

Have you seen Nooroodeen Borah lately?—What do you mean by lately?

You know what I mean?—Do you mean when I was at large or after I was in confinement?

When did you see him last?—When do you mean—after I was in confinement?

The President—Let him give an answer to the question. Don't let him put questions in reply. When did he see him last?—After I was in confinement he was brought before me once.

How long is that ago?—I don't remember.

Do you mean that you have not seen him within the last two or three days?—No—I have not seen him in that time.

Last week?—No.

When he was confronted with you, did he say that you had told a parcel of lies?—He did not say anything, but I told him that I had given all in writing.

Did you say in his presence that you said you had purchased the arsenic from him?—Yes, I said to him, "I have admitted that I bought arsenic from you."

Did he say it was all a lie?—Before me he did not say anything.

Did he deny it?—He was confronted before me, and taken away again.

By whom?—Some officer—who it was I don't remember.

Native officer?—Yes.

Akbar Ali?—I do not remember.

Abdool Ali?—I do not remember.

Try and recollect. Was it Akbar Ali?—How can I remember just now.

Was it Gujanund Vithul?—No.

But it might have been Akbar Ali or Abdool Ali?—I do not remember. It might be.

And so he was brought before you and you told him that you had purchased arsenic from him?—Yes.

Then he was taken off to prison again?—I do not know where he was taken to.

He was taken away by the officer?—Yes.

Was Goojaba brought to you?—Yes.

By Akbar Ali?—No.

By whom?—By Gujanund Vithul.

Did you tell him you had told all about him?—Yes. I told him that when he was sitting.

Then he was taken off again?—Yes. He also was sent back.

You have told us that you gave a bottle to Salim?—Yes.

You knew it contained poison?—Yes.

Was that the ants and the other ingredients you mentioned?—I have already said so.

You said, did you not, that the Maharaja was present at the time the bottle was given?

The Advocate-General—He has not said that.

Serjeant Ballantine said he might be mistaken, but wished the question to be put. (Question repeated.)—

Witness—Goojaba brought the bottle with the Maharaja's permission.

The President—Was the Maharaja present or not?—I have stated in my statement that the bottle was brought to my house by Goojaba.

Serjeant Ballantine—Was the Maharaja present when you gave the bottle to Salim?—I was with the Maharaja's procession, and I went down to my house and gave the bottle to Salim.

The President—Cannot you say whether the Maharaja was present?—The Maharaja was not present. I gave the bottle at my house.

Serjeant Ballantine—What did you say to Salim when you gave him the bottle?—To take this to Rowjee.

But did you tell him what Rowjee was to do with it?—It was not necessary to tell him. He knew it.

Did you or did you not tell him?—I did not.

Did you know what it was for?—Yes.

What was it for?—To put into water in order that blisters might be caused upon the body.

Do you mean upon the body of Colonel Phayre?—Yes.

In what way?—By throwing it into his bathing or washing water.

Did you hear afterwards that Rowjee had done so?—No. I do not know whether he did it or not.

Recall your memory and let me know when that was?—Do you mean the giving of the bottle?

Yes?—It was either before or after the Dusserah (24th October), I do not remember which.

Did you ever hear from anybody what had been done with the contents of that bottle?—No.

You never asked?—No.

Was Yeshwuntrao constantly about the Palace?—Whenever there was business he used to come; but on Mondays and Thursdays he always came.

And Salim?—Salim also used to come for the procession, and if notes were to be brought during the interval he used to come then.

Did you ever ask Salim what he had done with this bottle that you had sent out to murder Colonel Phayre?—No.

Had you no curiosity?—No.

Re-examination of Damodhur Punt.

Re-examined by the Advocate-General.

You told my learned friend that the accounts were in five places?—Yes.

What were these five places?—What accounts do you mean?

That is what I want to know. My learned friend asked you why you did not destroy the papers, and you said you had no opportunity, as they were kept in five places?—First there was the verbal order of the Maharaja to give money to certain persons. Upon this order a yad was prepared. The man who has to receive the money goes to the treasury with the yad. The treasurer has a book called chopdi, and the item is marked into it. When the money is paid or received it is entered into the rough daily account. From that account a fair daily account was prepared. From the fair daily account a monthly paper was prepared called the monthly tallibund. From twelve tallibunds an annual account was prepared called jeertee bund.

Then every transaction that passed through your hands would appear in all these accounts you have mentioned?—Yes.

You say that lakhs of rupees were expended during the last four years by you under the orders of the Maharaja?—Yes.

Did all the private expenditure of the Maharaja pass through your hands?—Yes.

During the four years that you were khangeewallah did you ever receive a written order from the Maharaja for payments?—No.

Was the Maharaja in the habit of signing written orders for payments?—The orders in regard to all the expenses which were made daily were not signed.

You say the Maharaja signed only one monthly account during your term of office?—Yes; only one tallibund has been signed by the Maharaja in my time.

You mentioned one paper in the jewel department which was torn up; what paper was that?—That for the diamonds debited "on account of medicine."

Before you were arrested had you heard any particulars of what Rowjee or Nursoo had stated?—Rowjee had made a confession and taken a pardon. This information I had got, but I knew no particulars.

From the time of your arrest until the time you made your statement, had you heard from any one the particulars of what confession had been made by Rowjee or Nursoo?—The particulars were not known to me. I had known that a confession had been made and a certificate (or pardon) granted. When I made my statement it was taken down in English and a karkoon wrote it in Marathi.

Was the Marathi version read over to you?—I had read it at that time.

Was it correct?—Yes. I signed it. (Shown statement.) This is my deposition, and here is my signature.

The Advocate-General put in this Marathi version, which was marked Z 1.

The English version was not put in, as Serjeant Ballantine thought it should be proved first.

Damodhur Punt retired.

HEMCHUND FUTTEYCHUND called and affirmed.

Examined by Mr. Inverarity, deposed—My name is Hemchund Futteychund. I leave at Baroda. I carry on business as a jeweller. I know Nanajee Vithul well. He is in the service of the Gaekwar. I have never taken any jewels to him.

Hemchund Futteychund, jeweller, examined. Denies that he ever sold diamonds to Damodhur Punt or Nanajee Vithul (the man in charge of the Gaekwar's jewels). Asserts that he was forced by the Police to sign the deposition taken before Mr. Souter in which he admitted having gone to the Palace with diamond chips and sold them to Nanajee and Damodhur. Declares that that deposition is "all false."

Mr. Inverarity repeated the question. Have you never taken any jewels to Nanajee Vithul?

Witness—Of what value?

Have you ever done so?—At what month or what date?

About last Dusserah?—No, I didn't take anything about last Dusserah. I never took any diamonds to Nanajee Vithul. I have not taken any diamonds to the Haveli lately. I did so about the time of the last Dusserah. Nanajee Vithul said, "Bring some diamonds." I did take some, but they were given back to me. I took them to Nanajee Vithul from our house. I never took these diamonds back to the Haveli again. I never went back with any diamonds to the Haveli. After that occasion I never took any diamonds to the Haveli. About the time of last Dusserah no diamonds were purchased from me by Nanajee Vithul. I have never received any money in payment or in part payment of diamonds from Nanajee Vithul. In the month of Kartak Macksa (corresponding to October and November) I received from Nanajee Vithul a sum of money that was due to me. I know Venayekrao Venkitish. I have taken diamonds to him at the palace. I took them on the 7th or 8th of Assoo-vud (31st October and 1st November, 1874). Venayekrao is the brother-in-law of Nanajee Vithul. He is employed at the Gaekwar's jewelkhana. I gave these diamonds to Venayekrao at the jewelkhana. I took them there by Venayekrao's direction. On that occasion I took two packets of diamonds to Venayekrao. These packets were not bought. The diamonds were rose diamonds. They were about six or seven to a ruttee in weight. They are neither very small nor very large diamonds. The sum of money that I received from Nanajee Vithul was on account of money dealings and transactions. I had given a hoondee for Rs. 7,000 to Shivchund Khoosalchund at the request of Nanajee Vithul. I received that money in payment for that hoondee. I received one sum of Rs. 2,000; one sum of Rs. 3,000; another sum of Rs. 1,000; another sum of Rs. 2,000, and another sum of Rs. 2,000. I received altogether Rs. 10,000. There were some other dealings. The packets which I took to Venayekrao were returned to the merchants who had come to me to sell them. When I went to the Haveli with these packets I did not see Damodhur Punt. I never sold any diamonds to Damodhur Punt, Nanajee Vithul, or Venayekrao. I remember being examined by Mr. Souter.

Mr. Inverarity—I must ask your Lordship's leave to cross-examine this man regarding his statement to Mr. Souter.

The President—You cannot use Mr. Souter's statements as evidence.

Mr. Inverarity—I only propose to ask him whether he did not say certain things before Mr. Souter.

Mr. Serjeant Ballantine—What I understand, my Lord, to be the principle involved is this. If a witness is called and counsel desire to cross-examine him, the counsel must satisfy the judge that the mode in which the witness has given his evidence is not consistent with the truth upon the surface. And unless this is the case permission to cross-examine is never, I believe, granted.

The President—I do not think you can call this cross-examination. The witness made certain statements to Mr. Souter, and I think they may be read to him.

Mr. Serjeant Ballantine—Does your Lordship think it might be read by other than the counsel cross-examining the witness?

The President—I think his statements might be read to him under certain circumstances.

Mr. Serjeant Ballantine—I apprehend the question here is whether this witness has exhibited any such unwillingness to give evidence as to justify his cross-examination at this stage. We know that a witness may not answer as counsel would wish him to do, and that counsel might suppose they have something behind the evidence by which they could reach other results. But I think that unless it is apparent that the witness has not given proper evidence, cross-examination could not be justified on the mere *ipse dixit* of counsel that the witness had said something different at another time somewhere else.

The President [after a consultation with the other members of the Commission] said—In order not to rely simply upon my own opinion of the manner of this witness, I have consulted all of my brother Commissioners, and we think there is that about the manner in which he is giving his evidence which entitles the Advocate-General to remind him of the statement which he made before Mr. Souter.

Examination continued by Mr. Inverarity—Was your statement to Mr. Souter taken down in Marathi as well as in English?—My deposition was taken down in Guzerathi. It was reduced to writing in the evening and I was made to sign it. It was not read over to me. I did not acknowledge the statement to be true. I was forcibly made to sign it. I did not acknowledge anything. I signed the statement in presence of Sir Lewis Pelly. Gujanund Vithul said to me, "Don't you say anything; do you sign." The statement was not read over to me in the presence of Sir Lewis Pelly. It was not acknowledged by me to

be true in the presence of Sir Lewis Pelly. (Shown signature and deposition.) This handwriting does not appear to be mine. This is not mine.

[Signature pointed out to witness again]—Examined—Is that your signature ?

Witness stood for some time looking at the paper.

Mr Inverarity—Make haste. You surely know if that is your writing ?

Witness—This is my signature.

The President—What was it he said previously was not in his handwriting ?

The Interpreter—This that he now shows.

(Witness's attention drawn to three lines above his signature.)

Are these lines written by you or not ?

Witness [after a long pause]—These three lines are not in my handwriting.

Interpreter reads the interpretation of the three lines above signature as follows :—" Read the abovementioned particulars which were deposed the day before yesterday in the presence of Souter Sahib. According to that, it is correct. Dated 8th February 1875."

[Witness's attention drawn to signature above these three lines.] Examined.—Is that your signature ? Witness [after a long pause.] This is my handwriting, but at the time I put my signature great zoolum [oppression] was practised upon me. I was confused and I was made to sign.

Examined—Can you read ?—Yes. I can read Guzerathee.

(Witness shown his statement in Guzerathee before Mr. Souter]—Examined—Is that your statement ?—I cannot make this out at all.

Cannot you read this at all?—I can make out parts here and there. For instance, I can read the name Hemchund Futteychund.

Cannot you understand that document ?—No.

Mr. Inverarity then read the following interpretation in English of a portion of what the witness stated before Mr. Souter. Mr. Nowrozjee Furdoonjee translated what Mr. Inverarity read into Guzerathee :—

" Some few days after the last Dussera festival Nanajee Vithul, in charge of the Gaekwar's Jewel-room, directed me and other jewellers to bring some diamond chips, which we did the same day and handed them to Nanajee, who retained them. The following day our diamonds were all returned, and we were told that the price did not suit. Two days after Nanajee Vithul directed me to bring my diamonds back again, they were weighed, the price settled, and purchase concluded. Four or five days later I was again sent for by Nanajee Vithul and directed to bring other diamond chips, which I took to the Palace accordingly, Nanajee Vithul was not present in the jewel-room. The diamonds were, therefore, handed to Venayekrao, Nanajee's brother-in-law, who weighed and priced them, and then took them along with me to Damodhur Punt, who remarked that the price was high, but kept them, saying that he would purchase them, if required. On this occasion the diamonds were in two packets, both of which were kept, but about four days after, one packet was returned to me."

Examined—Did you make that statement to Mr. Souter ?—I did not. They caused me to write what they liked.

Who are they ?—I mean Gujanund Vithul.

How much of that statement that has been read to you is incorrect ?—It is all false.

And did you never say anything of the sort when you were examined by Mr. Souter ?—I did not.

Mr. Inverarity read the following from the witness's statement, Mr. Nowrozjee interpreting as before.

" A few days after it became known that an attempt had been made to poison the Resident Colonel Phayre, Nanajee Vithul asked me whether I had entered the purchase of the diamond chips in my books, and if so that I was to remove the entries in some way or other as he was afraid that the diamonds in question had been made use of to poison Colonel Phayre. On hearing this I became afraid and at once caused the pages of my account-books, on which the sales of the diamonds were entered, to be removed and fresh pages substituted."

Examined.—Did you say that to Mr. Souter ?—I did not.

Did you say anything like that to Mr. Souter ?—No.

Did you not produce your books before Mr. Souter ?—Yes. My books have been detained for a month and a half. (Shown books marked A, B, and C, respectively.)

Examined—Are these the books you produced before Mr. Souter ?—Yes, these are my book.

Did you point out any entries in these books to Mr. Souter ?—No, I did not point out any.

Did you tell Mr. Souter that any particular entries would be found on certain pages in these books ?—What items do you mean ?

Any items at all ?—Whatever items are in the books you will find there.

Did you, or did you not, tell Mr. Souter that any particular entries would be found on particular pages of these books ?—I did not say so.

Mr. Inverarity read as follows from the witness's statement, Mr. Nowrozjee Furdoonjee again interpreting as before :—

" The price that I was to receive for the diamond chips was Rs. 6,270 of Baroda currency, and on account of this sum I was paid Rs. 3,000 by Nanajee Vithul, which has been credited at pages 10 and 24 of the day-book as having been received from one Hemchund Khushal. A portion of the above sum of Rs. 3,000 was counted out and paid to me by Nanachund Shroff of the Doomala villages."

Examined—Did you say that to Mr. Souter ?—No.

Did you say anything like that to Mr. Souter ?—No.

Is any portion of that statement that has been read to you true ?—No.

Since you made your statement to Mr. Souter, where have you been living ?—At my house in the city.

You have had no guard of any sort placed over you ?—No. (Shown a book.) This is my janga book, or the book of goods left with customers for approval. It is my janga book for the Sumvut year 1930 (which ended on the 9th November 1874).

Mr. Inverarity pointed out the following entries :—

" Debited to the account of His Highness. Given to Damodhur in the month of Asho Vuda 14th (7th and 8th November.)

Diamonds bilandi [a kind of diamond] three hundred chips, ratti 69½ at 40 Rs. per ratti	2,770
Diamond bilandi two hundred and fifty, 70, at Rs. 50 ratti per ratti	3,500
Returned diamonds parabhna rangin [a kind of diamond] 44½ ratti at rupees 35 per ratti.	
Total Rs....	6,270

Examined—In whose handwriting are these two entries ?—Mine.

Mr. Inverarity (alluding to first entry)—In respect of what was that entry made ?—Gujanund Vithul forcibly caused me to make that entry.

How came you to make the second entry ?—At the desire of Gujanund Vithul.

At what time was it that Gujanund made you write these two entries ?—It was the day on which it rained in a tent.

How long before or after you made your statement to Mr. Souter, was it ?—It was before.

(Question repeated)—It was on the evening of the

same day on which I made my statement to Mr. Souter.

It being half-past four o'clock the Commission rose.

THIRTEENTH DAY, WEDNESDAY, MARCH 10.

PRESENT.

SIR RICHARD COUCH (President); H. H. Maharaja of Gwalior (in the forenoon only), H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Phillip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esquire, Bombay Civil Service.

Interpreters:—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

His Highness the Maharaja Gaekwar was asbent.

Sir Lewis Pelly, K.C.S.I., was present during a portion of the forenoon, and occupied a seat on the right of the Commission, but was absent in the afternoon.

The inquiry was opened at 11 o'clock.

The Advocate-General—I wish to call attention to what I think is an error in the shorthand writer's notes of the answer of the witness as to the handwriting of the three lines above his signature to his deposition. My note of his answer was that he said that they were in his handwriting, but the shorthand writer has taken it down that he said they were not.

The President suggested that Mr. Jardine's notes should be referred to.

The President—My note is, "The three lines above my signature are my handwriting." I will see whether Mr. Jardine has got it right.

Mr. Jardine referred to his notes, which were found to agree with the note taken by the president that the witness said that the three lines above his signature were in his handwriting.

The President—That is all right.

HEMCHUND FUTTEYCHUND'S examination was resumed by Mr. Inverarity.

Hemchund Futteychund further examined.

Witness (shown entry immediately succeeding the two entries referred to yesterday)—That is in my handwriting; I wrote it together with the preceding entries. Gujanund said, "Write this entry in order that the other entries may not prove false."

Mr. Inverarity (to the Interpreter)—Would you read the entry in English?

Interpreter translates the entries as follows:—"Dossi Purmanund Narronjee Assoo Vudh the 14th, one ruby finger-ring, enamelled, taken by him for the purpose of wearing—price Rs. 21." The corresponding English date is the 7th or 8th November 1874.

The President—We should like to see that book again.

(Book handed to the Commissioners.)

The Interpreter—The entry I translated just now is the last in the book.

Mr. Serjeant Ballantine—It is not only the last in the book, but the first in another page. Your Lordship sees that. (Book put in as an exhibit and marked A 2.)

Cross-examined by Mr. Serjeant Ballantine.

Cross-examination of Hemchund Futteychund.

The Interpreter, at the request of Mr. Serjeant Ballantine, read again the following entry from the book put in:—"Debited to account of His Highness Mulharrao Gaekwar. Assovudh 14th (corresponding to 7th and 8th November.) Delivered to Damodhur Punt (personally), Rs. 2,770 balandi (rose) diamonds, 300 in number, rattis 69¼, at Rs. 40 per ratti. Second item:—Rs. 3,500, balandi diamonds 250 in number, weighing ratties 70, at the rate of Rs. 50 per ratti. Third item:—Returned purrub diamonds, coloured, weighing 44½ ratties, at Rs. 35 per ratti—total Rs. 6,270.

Mr. Serjeant Ballantine (to witness)—What is the difference between rose diamonds and other diamonds?—They are diamonds of different kinds.

Does the difference consist in the cutting or in the character of the stone?—The balandi or rose diamonds sparkle.

Do not other diamonds sparkle?

Mr. Melvill—I thought that rose diamonds did not sparkle.

Mr. Serjeant Ballantine—That is my idea.

The Interpreter—The witness says that balandi diamonds are thin, and the brilliants are cut.

Mr. Serjeant Ballantine—His meaning, I suppose, is that the difference exists only in the cutting.

Cross-examination continued.

Do you mean to say that the entry we have just heard read is a true entry or a false one?—Gujanund Vithul caused that item to be fabricated.

Had you any dealings at that time for diamonds on account of the Maharaja?—No, not about diamonds at that time. With the Maharaja personally I had no dealings.

Other two books shown to witness.

Look at these books. Is there any reference in them to dealings you have had with the palace?—Do you mean the Gaekwar Sirkar?

Yes; or with anybody on his behalf?—There are items of dealings in these books.

Did you at any time supply the Gaekwar upon anybody's application with any diamond chips?—I have not supplied any diamond chips to anybody.

Do you know what diamond dust is?—Yes, it is simply small diamonds.

Mr. Branson said the interpreter had used the word *bookh* for dust, and he suggested the use of the word *loth*.

Question repeated with the word suggested.

Witness—I don't know that.

Mr. Serjeant Ballantine—Well, that is what you call diamond dust. Did you ever see diamonds reduced to powder?—No; I have not.

You were examined, or it is said that you were examined, on the 6th February before Mr. Souter?—I was not examined before Mr. Souter, but I was examined on three or four occasions.

Did you ever give any evidence to Mr. Souter?—I don't know Mr. Souter.

I suppose you would know him if you saw him. (Points out Mr. Souter.) Is that Mr. Souter? You don't need to be afraid of looking at him in Court.—I was examined before two or three sahibs.

But did you give your evidence to two or three sahibs or to the police only?—First of all I was examined by the police, and the Policemen then took me to two or three sahibs.

But did you give your evidence over again, or merely sign the evidence you had given when you were taken before these two or three sahibs?—As to the signature, I gave it to Gujanund Vithul and Sir Lewis Pelly.

Was the evidence you gave in the presence of Sir Lewis Pelly, or before you went to Sir Lewis Pelly ?—I had in the first instance been made to give my deposition, and my signature had been taken to it before.

When you went before Sir Lewis Pelly was anything more done than that you should read out the words preceding your signature and admit your signature ?—Gujanund Vithul sent for me and said, "Do you put your signature. Don't you say anything. If you do I will imprison you."

What I want to know is this—did you write anything at all in the presence of Sir Lewis Pelly ?—I have already told you I was threatened and made to give my signature.

Did you do that in the presence of Sir Lewis Pelly ?—Yes.

Did you give any evidence in the presence of Sir Lewis Pelly, or had you given your evidence before to Gujanund Vithul ?—Gujanund Vithul had made me falsely sign my deposition, and to that I was made to sign again in the presence of Sir Lewis Pelly.

Mr. Melvill to Interpreter—Did he not say that his deposition was in Marathi ?

The Interpreter—No.

The Secretary—My impression is that he alluded to some language.

The question was repeated to witness.

Witness—I was made to sign what had been written by Gujanund.

Serjeant Ballantine—Did you dictate to Gujanund Vithul what was written down ?—Gujanund Vithul wrote down what he liked.

(Shown deposition in Guzerathee.)

Was this read over to you ?—It was not.

And you say that Gujanund Vithul told you that if you did not sign it you would be sent to prison ?—Yes, I have been annoyed every day up to the present time.

By whom ?—Sepoys seize me, and bring me up every day and detain me.

Have you seen Gujanund Vithul since you have come here to give your evidence ?—No, I have not seen him since yesterday.

Did you see him yesterday ?—Do you mean before or after I gave my evidence here ?

Did you see him yesterday either before or after ?—Yes, before.

Did he say anything to you ?—Yes, he said "An item of debit and credit of diamonds to the amount of three lakhs has been made in your name," which is false.

Did he say anything else ?—No.

Did you see him after you gave your evidence yesterday ?—No.

Where have you been since you gave your evidence yesterday ?—I have been home.

Now, I just want to call your attention to what you are supposed to have said before Mr. Souter :—"A few days after it became known that an attempt had been made to poison the Resident, Colonel Phayre Nanajee Vithul asked me whether I had entered the purchase of the diamond chips in my book, and if so that I was to remove the entries in some way or another, as he was afraid that the diamonds in question had been made use of to poison Colonel Phayre." (Same interpreted.) Now, is it true that Nanajee Vithul did come to you and ask you these questions ?—I have neither sold diamonds nor has Nanajee come and asked those questions of me.

This is what further you are supposed to have said —"On hearing this I became afraid, and at once caused the pages of my account books in which the sales of the diamonds were entered to be removed, and fresh pages substituted." What do you say to that ? Is that true ? Merely answer "yes" or "no."—I do not know anything at all about it.

My Lord, the deposition goes on then to say—"The three books now before me marked A, B, and C are those which were thus tampered with." The witness is supposed to have identified books that are tampered with and these are the books that are now put in.

The Interpreter—The word "tampered" does not appear in this Guzerathi original statement. I will translate from the Guzerathi :—"The books which are now marked A, B, and C I produce."

Mr. Serjeant Ballantine—There is a further passage to which I call attention—"The price that I was to receive for the diamond chips was rupees 6,270 of Baroda currency." Did you state that ?

Interpreter—Rupees 6,270 Babashai rupees was the amount due for the packets of diamonds that were given.

Now just attend to this—"and on account of this sum I was paid rupees 3,000 by Nanajee Vithul, which has been credited at pages 10 and 24 of the day-book as having been received from one Khemchund Khushall."

Interpreter—The words "Khemchund Khushall" do not occur here (in the Guzerathi statement), but the words "Sivchund Khooshalchund" appear.

Mr. Serjeant Ballantine (to witness)—Refer to pages 10 and 24 of the daily cash book.

Interpreter—Shall I read that last passage to him ?

Mr. Serjeant Ballantine—Perhaps you had better.

(Passage in Guzerathi read to the witness.)

Refer to pages 10 and 24 of the daily cash book.—Here is page 10.

Is there any item there of payment ?—There is a receipt of Rs. 2,000 here received from Nanajee Vithul. That amount was received on account of money due to us on account of a hoondee or bill of exchange for Rs. 7,000, which I had given.

Now, look at the item in page 24 and you will find there a receipt acknowledging money from Nanajee Vithul.—Yes, I find rupees 2,000, received from the Gaekwar Sirkar's Palace called Dumala's Palace, I received from the karkoon or clerk employed in the Dumala Mahal or palace. (Interpreter, correcting himself, says—The witness means Dumala district, not palace). That was on account of money due to me for the hoondee due from Nanajee Vithul. It was in respect of a hoondee or bill of exchange which I gave on Shivchund Kooshalchund.

The President—We have had that before.

Mr. Serjeant Ballantine—Do you know where that bill of exchange is ?

Witness.—The paid or receipted bill has been received and is in the possession of Gujanund Vithul.

How came it in the hands of Gujanund Vithul ?—He caused me to give it up to him; there are three hoondies or bills of exchange.

Has Gujanand Vithul all your papers ?

Witness—Yes, twelve of my books and three paid bills of exchange.

We have not given notice to produce these, but I will ask for them.

Mr. Advocate-General—Oh, you shall have them immediately. Here is one of them.

Mr. Serjeant Ballantine shows bill.

Witness—This is one of the bills of exchange.

Does any payment appear upon that ?—Yes, there is a receipt on the back

For how much ?

Witness—It is in the Dakhni character.

Interpreter—We will get it made out afterwards.

(Two more hoondies shown to witness.)

Are these the other two ?—Yes, one is for Rs. 3,000 and the other is for Rs 4,000—total Rs. 7,000. (In-

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Interpreter.—These bills purport to be for this amount.)

What is the third ?—This purports to be for Rs.750.

Just take these bills into your hands again the whole of them. Upon which of these bills, if upon any of them, were the payments made that appear on pages 10 and 24 of your book ?—Those two items that I pointed out in my books were received in part payment of these three hoondies.

The Interpreter, at Mr. Inverarity's request, gave the following particulars as to the hoondies in question. The one for Rs. 3,000 is dated Wednesday, the 10th of Asar Sudh 1930. The hoondee for Rs. 4,000 is dated Tuesday the 9th of Asar Sudh 1930. The 10th Asar Sudh corresponds with the 24th July, and the 9th Asar Sudh with the 23rd July.

The Advocate-General—What is the date of the third hoondee for Rs. 750 ?

The Interpreter—Kartick Vudya 30th Sumvut year 1930, corresponding with 8th December 1874.

The Advocate-General (to witness)—You told my learned friend that at the time of the two entries for Rs. 2,770 and Rs. 3,500, on Ashu Vudh 14th, you had had no dealings in diamonds with the Maharaja or on his account ?—Yes. Not with the Maharaja regarding any diamonds.

Or on account of the Maharaja ?—No ; nor on account of the Maharaja.

[Shown Janga book.]

Look on the very same page on which these entries occur. Look at the first item on the top of the page, and tell me in whose hand-writing that is ?—As to the practice in my shop——

The Advocate-General (interrupting him)—In whose handwriting is that entry ?—I do not know the name of the goomastah in whose handwriting it is.

Is it in the handwriting of one of your goomastahs ?—The practice at my shop is that any one who comes to my shop is made to write.

Is it a genuine entry ?—Yes, but it refers to brilliants.

What is the date of that entry ?—13th Asso Vudh (6th November 1874.)

The Advocate-General (to the Commission).—This entry is the one immediately before the date of the entries which the witness says are false.

(To witness)—What does that entry refer to ?

The Interpreter explained the item thus :—"Debited to the account of Shrimunt Sirkar Mulharrao Gaekwar, Asso Vudh 13th. By the hands of Nana Sahib, who has given his signature—Rs. 28,000. One female headdress called *venan* made of brilliant diamonds.

The Advocate-General (to witness)—Now look at the entry upon the previous page in the same book. Do you see a little red mark there ?—(Witness signified his assent.)

Re-examination of Hemchund Futteychund.

Do you find there an entry of diamonds sold to His Highness ?—Ornaments.

Diamond ornaments ?—Yes ; "brilliant" diamonds.

The Interpreter explained the entry, which was for Rs. 27,000, for one necklace called *conmanue* made of brilliants, dated 5th Asso Vudh [29th October 1874].

The Advocate-General (to witness)—Now look at the page behind that again, the second page from the last. Is that not also an entry of diamonds sold to the Gaekwar ?—It is not for diamonds, but for a nose-ring made of pearls.

Interpreter—The date is the 8th Asso Sudh (18th October).

By the Advocate-General—Through whom was that ornament sold which you say was made of pearls ?—Either Venayekrao or Nanajee Vithul.

Question repeated—My goomashtas were in the habit of taking the ornaments and delivering them to either Nanajee Vithul or Venayekrao.

For whom were they ?—How can I tell ? They might have been thrown away or presented to somebody.

On whose account was that ornament delivered to Venayek or Nanajee Vithul ?—As to the sale, it was sold to the Gaekwar Sirkar, but was delivered to Nanajee Vithul. Nanajee Vithul was the purchaser.

The Interpreter described the entry—Debited to the account of Shrimunt Mulharrao Gaekwar, for Rs. 1,300, for one pearl nose-ring.

By the Advocate-General—Now is not that book full of transactions between you and the Gaekwar in respect of jewels and ornaments during the year 1930 ?—Whatever ornaments were given are entered as debited to the Sirkar.

Are there not very many such entries ?—Yes.

Do you mean to say that your evidence was not taken down by Mr. Souter—this gentleman here ? (Mr. Souter stands)—No.

Look well at the gentleman, and tell me whether your statement was not taken down in his presence ?—No, not that I remember

Don't you remember this gentleman asking you questions in Hindoostanee ?—How could questions be put unless I gave my deposition to him, which I did not.

The President (to Interpreter)—Tell him he must answer the question.

Question repeated—Did not that gentleman put questions to you in Hindoostanee ?—I do not know that.

You understand Hindoostanee, do you not ?—Guzerathi I understand.

Will you swear that you do not understand Hindoostanee or Mussulmanee ?—What is Hindoostanee or Mussulmanee ?

Do you mean to say you don't know what is Hindoostanee or Mussulmanee ?—I understand the Guzerathee language.

Do you mean to say that you do not understand Hindoostanee ?—I do not.

Not at all ?—I do not know what kind of language you mean by Hindoostanee. What sort of a language is it ?

Were you not examined yesterday at the beginning of your examination in Hindoostanee ?—I understand the Guzerathee language.

Very well, Sir.

The Interpreter said that on the previous day he had asked the witness the first few questions in Hindoostanee, and had then employed Guzerathee.

(Witness shown his deposition, and the three lines above his last signature upon it.)

Examined—Where did you write these three lines ?—I was made to write this in the bungalow of Sir Lewis Pelly.

In the presence of Sir Lewis Pelly ?—Yes.

Did you tell Sir Lewis Pelly what Gujanund had said to you as you have done to-day ?—No ; I did not say that to Sir Lewis Pelly.

You did not say that Gujanund Vithul had practised *zoolum* upon you ?—No ; because I had been threatened, therefore I did not.

Did you make any complaint whatever to Sir Lewis Pelly ?—No. Gujanund said, "You should give your signature, as we ask you to do so. Don't raise any objection there about it."

You say that, since you made your statement, you have been annoyed every day ?—Yes.

And that sepoys bring you up every day and detain

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you ?—From eight o'clock in the morning, and I am not allowed to go away until eight at night.

Where are you detained ?—At one time I was detained in the Resident's bungalow, and afterwards at some trees near Gujanund Vithul's house. Even yesterday, when I went home, three sepoys came to my house at eight or nine o'clock.

What for ?—To call me

To come here to-day ?—They told me to go with them to the Fouzdar's.

And did you go ?—I was not at home. My goomastah was taken.

Before the Fouzdar ?—He was taken before Ramchunder the Fouzdar.

The Fouzdar in the city ?—Yes. He sits in the Mandvie.

How often were you taken to the Residency altogether ?—Once.

And how often to the trees near Gujanund's house ?—Every day I used to go and sit there.

Every day since when ?—About a month and a half or a month and three quarters.

Every day during that time ?—I was released a day before the assembling of this Commission.

(Shown Janga book marked exhibit A 2.)

Have any pages been taken out of that book or added to it since it was first made ?—I did not introduce any new leaves in it.

Did you take any out ?—I did not take any leaves out.

Did you get anybody to do it for you ?—I did not cause anybody to take out leaves from my book or introduce any leaves, and my books have been in custody for two months.

Do you know if any pages have been taken out of that book or put in since it was first made ?—Seven or eight leaves appear to have been removed.

From what part of the book ?—(Pointing to the last page.) This one appears to have been removed and a new one introduced.

The Interpreter—He is pointing to two blank leaves.

The Advocate-General pointed to the entry regarding the ruby enamelled ring

The witness [after a pause.]—There appears to be some fraud in connection with this entry.

You told us that some pages appear to have been removed and others substituted. I want to know what pages ?—Does that entry about the ruby ring appear to be on a substituted page ?—Yes.

The Interpreter—He also points to the last item as fabricated.

The Advocate-General—Do you mean that that entry and those following it have been substituted ?—New or old I cannot say, but there appears to be a sort of fraud here about the leaves and the item.

I want to know whether the pages which have been substituted begin with the page on which this entry about the ruby ring appears ?—Yes. They appear to be new leaves, and this item appears to be a fabricated or false one.

The Advocate-General called attention to the date of the entry about the ruby-ring. Asso Vudh 14th (7th and 8th November.)

The Interpreter (taking a few of the last pages.) The colour of these leaves appears to be different from the colour of the leaves of the rest of the book.

The President and the other Commissioners examined the book.

The Advocate-General showed the witness the two hoondies for Rs. 3,000 and Rs. 4,000 and asked—Who are these hoondies drawn upon and by whom ?—They are both drawn on Hemchund Futteychund of Bombay, my firm in Bombay, and are drawn by Futteychund Somchund Jevera or jeweller, my firm in Baroda.

In whose favour are they drawn ?—Sivchund Koosalchund of Poona.

Who is Sivchund Koosalchund ?—A jeweller.

How came he to have these hoondies drawn in his favour ?—Sivchund had sold some goods to Nanajee Vithul.

Had he sold these goods to Nanajee Vithul on his own account ?—For his own private purpose.

Were these hoondies given in payment for these goods ?—Yes. Nanajee Vithul caused me to draw these hoondies in respect of that.

Is that in full payment of the goods received from Sivchund Khoosalchund ?—Not in full payment, after paying these two amounts it leaves a balance due to him.

Of how much ?—Rs. 150 or Rs. 100.

And both these hoondies had been paid by your Bombay firm on account of Sivchund ?—Yes.

And they are both dated in the month of Asso Sud (July 1874.)—Yes.

Besides these two hoondies for Rs. 3,000 and Rs. 4,000, had you any other hoondies payable to Sivchund Khoosalchund ?—The other hoondee is not payable to Sivchund.

Answer my question. Had you any other hoondies payable to Sivchund ?—No. I had only two.

Have you any entry in your book showing this hoondee transaction for Rs. 3,000 and Rs. 4,000 ?—Yes.

(Shown book.) Here is an entry dated Jaith Vudh 13th and Jaith Vudh 14th. Debited to the account of Jevera Khooshalchund of Poona, two hoondies, written and delivered at the request of Sethjee for Rs. 7,000 on Bombay at Rs. 19½-2½ exchange. Drawn on Hemchundbai Futteychund. Drawn from here by us or me Hemchund. Payable immediately. Drawn on Asud sud, for Rs. 3,000 and Rs. 4,000, Rs. 1,375. Total Rs. 8,375-15.

The Advocate-General—Jaith Vudh is the month immediately before Asud ?—Yes.

The Interpreter—The dates given correspond to the 11th and 12th June 1874.

What sums did you receive in respect of those hoondies ?—My account amounted to ten thousand rupees.

You received ten thousand rupees ?—Yes, with the exception of a small balance due to me.

The President—Did you ask how it came up to ten thousand rupees ?

The Advocate-General—That was the next question I was going to ask, but I think I can explain that by another entry in his books. (To witness—How came your account to be ten thousand rupees ?—A hoondee was given to Nanajee Vithul's brother-in-law, and a sum of money was paid in cash.

Nanajee Vithul's brother-in-law is Venayekrao Venkatesh ?—Yes.

How much was paid in cash ?—Four hundred or five hundred rupees were paid in cash.

Tell me which it was. You have got your book there ?—I must refer to the ledger.

Then refer to the ledger.—The new ledger has not been posted.

Perhaps we can do without it. You say that about 400 or 500 rupees were paid in cash—(shows hoondee) will you tell me—is that the hoondee you gave to the brother-in-law ?—Yes.

It is a hoondee for Rs. 750 ?—Yes.

What is the date ?—Kartick Vudh 30th Sumut year 1931, corresponding with the 8th December 1874.

This is the one you were referred to by my learned friend Mr. Serjeant Ballantine. Have you got an entry of that in your book ?—Yes. To the account of Sivchund Khooshalchund.

Why is that hoondee entered to the account of Sivchund Khooshalchund?—Because Nanajee Vithul was the owner of that account.

Where is the account?—Which account?

Why, the one in which you say this is entered?—The new ledger has not been posted up.

But you have got other books, besides your ledger; where is your day-book?—Here it is. What is the date?

You have just given it to me.

Interpreter—The date of the hoondee, you mean?

The Advocate-General.—Yes, Kartick 30. I think it is at page 13 of your day book.

Here are the particulars. The hoondee is for Rs. 750 and the amount for exchange is Rs. 155-10, and there is a sum of Rs. 94-6 in cash.

Very well. Now, the hoondee is entered, is not it, on the date on which it bears date—8th December 1874. It makes a total of Rs. 905-10, Rs. 750 and Rs. 155-10 for exchange?—And Rs. 94-6 for cash.

That makes Rs. 1,000 altogether?—Yes.

And that is a correct entry, is not it?—Yes.

Now, had Sivchund Kooshalchund anything whatever to do with the hoondee, or was it a hoondee given to Nanajee Vithul?—It was given to Nanajee Vithul's brother-in-law.

Not to Sivchund at all?—No.

Both the hoondee and the cash?—The cash as well.

Well, now, look at page 10 of the same day-book that my learned friend referred you to. Do you find there Rs. 2,000 entered, credited to the account of Shri Poonawalla?—Yes.

Rupees 2,000 paid by Sivchund himself?—"Credited to the account of Sivchund Khooshalchund, Jeweller of Poona, two thousand rupees."

Mr. Serjeant Ballantine—Let us have the correct translation.

Interpreter—I have given the exact translation:—"The 9th or 10th of the month, Thursday, Rs. 2,000, in ready cash, paid by the hands of himself personally."

Mr. Serjeant Ballantine—By the hands of whom?

Interpreter—This is the literal translation of the entry.

Mr. Serjeant Ballantine—I want to know who "himself personally" means?

Interpreter—I will ask the witness.

Witness—Very likely myself. I got the money very likely. I received the money.

The Advocate-General—You say, "Paid by the hands of himself personally" means yourself, do you?—Yes, I got the money in cash from Nanajee Vithul's house.

And you say that "himself" there does not mean Sivchand, but means yourself?—Myself.

Now the date of that payment I think was the 9th or 10th Kartick Vudh, Thursday?—The month is not mentioned, but Vudh, 9th or 10th, Thursday.

What month?—It is the daily cash account, and the previous entry shows it is the month of Kartick.

(To Interpreter)—If you will look, I think you will find that it is the 3rd of December.

Interpreter—The 9th Kartick is the second of December and the 10th is the 3rd December.

The Advocate-General—Which is Thursday?

Interpreter—Thursday is the third of December.

Mr. Advocate-General—Now, that entry was not written by Gujanund's directions, I suppose?

Interpreter—He says that it was made by directions.

Mr. Advocate-General (to witness)—It is a genuine entry made in the ordinary course of business, and not made under duress?

Witness—Yes, a genuine entry made in the ordinary course of business.

Now, turn to the entry at page 24, to which my learned friend referred you, and tell me what is the date of the entry?—I have found it. Here it is.

What is the date?—The 10th Magsur Vudh.

I think you will find that is the 3rd January 1875.

Interpreter—The 10th and 11th correspond to the 2nd and 3rd January 1875.

The Advocate-General—Now, the amount there is two thousand rupees?

Witness—Yes.

Just read that entry—"Credited to the account of Sivchund Khooshalchund Javer, the jeweller of Poona, Magsur Vudh the 10th, that is 11th—rupees two thousand in ready cash examined coin received by the hands of your Goomastah Cooverjee, who made the payment from Dhumala."

Interpreter—That is the whole entry.

The Advocate-General—Who is the Goomastah Cooverjee, who made that entry?

Witness—He is the Goomastah employed in the Dumala department. Very likely he was the person who brought the money—made the payment.

Is he in the employment of Sivchund Khooshalchund?—No.

Is he employed under Nanajee Vithul—No, Cooverjee Goomashta, I think, is the name of the person who brought the money, who paid the money.

What is this Dumala Mahal, as you call it?—There is a karkoon employed in the Dumala Mahal, who used to do the work or business for Nanajee Vithul.

And what is the name of that karkoon?—Nanchund.

Am I right in the conclusion that this hoondee for rupees 750, and those two entries of rupees 2,000 each, relate to Nanajee Vithul's transactions with you?—As to those rupees two thousand, they were not hoondees, they were money received in cash.

I did not ask you that. Does that hoondee of Rs. 700 and these two cash payments of Rs. 2,000 relate to transactions of Nanajee Vithul with you?—Yes, in respect of the hoondies for Rs. 7,000 and the other dealings and transactions.

Well now, how do you make up the account to rupees ten thousand?—About that account I have not cast up the total.

You have told me that you have received rupees ten thousand from Nanajee. How do you make up that amount. I don't want you to make up the payments to Nanajee Vithul to you, but merely to know how you exhaust this balance?—The hoondies which I paid were for rupees seven thousand—that makes 8,500. (Interpreter—He means exchange included, I suppose.)

The President—Then the hoondies with the exchange came to rupees 8,500.

Interpreter—Yes, I think he mentions that in round numbers. That is what he means.

Witness—And that other bill of exchange for rupees one thousand and sundry amounts amounting to rupees four hundred or five hundred.

The Advocate-General—You say that Nanajee Vithul was the owner of this Sivchund Khooshalchund's account, how was that?

Witness—Nanajee Vithul had brought a Kunti (necklace) from Sivchund Khooshalchund, and portions of that ornament were sold from time to time.

Through you?—Yes, by me of the value of rupees four thousand; and Nanajee Vithul himself sold a portion of the value of rupees two thousand, and the balance I received in cash.

I want to know why the account was kept in the name of Sivchund, when it really belonged to Nanajee?—In order to ascertain the amount of loss that might be realised by the sale of the ornament—kunti.

Do you say that the day book or daily cash account

has also been tampered with, any pages removed and others substituted ?—I cannot observe any. I do not observe any.

Or in the journal ?—I cannot observe any. I do not observe any.

Mr. Serjeant Ballantine—I want to ask you whether throughout all the books there are any genuine entries of the sale of unset diamonds ?

Interpreter—I will use the word "loose" instead of "unset" if you have no objection.

Mr. Serjeant Ballantine said he had no objection.

Witness—I have not sold any loose diamonds of late.

And is there any entry of any such sale ?—I have not sold any.

The President—Does he mean by that, that there is no entry ?

Witness—If I bought any, they would appear on the credit side.

Mr. Serjeant Ballantine—Yes ; but is there any genuine entry in your books during the last year of a sale by you of any loose diamonds ?—Whatever the books contain must be true. I do not exactly remember what they contain.

I must take that answer that everything contained in the books must be true.

The Advocate-General here suggested that it would be desirable to have those entries to which he had referred translated more fully, but the President considered that the translations given by the Interpreter during the examination of the witness would be sufficient for the Commission.

The President (to witness)—When were your books seized ?

Witness—About a month and three quarters ago from this time.

They were all seized then were they ?—Yes. Twelve books of mine.

Well, now, up to that time, did you use all your books in the course of your business ?—Yes.

One month and three-quarters ago—that would be about the middle of January. Can you fix the precise date of the seizure ?—I think it was in the month of January—Posh—which corresponds with January—though I don't remember the day of the month.

Interpreter— The native month Posh began on the 8th of January.

Sir Richard Meade (To Interpreter.)—He said his books were in use in the course of his business up to the time they were seized—and the last entry in these books which we have seen and which he says he made under the directions of Gujanund Vithul is dated the 7th or 8th of November, therefore no entry could have been made between that date and the month of January, and his books could not have been in use.

Interpreter—He says this is the book for the Hindoo year 1930. It is a separate book.

Then that book terminated on the 9th of November.

Mr. Inverarity—The 10th of November would be their new year's day.

The President—Then the entry of the 7th and 8th November terminated with the year, did it ?

Witness—Yes. It is for the Hindoo year 1930 which terminates with the Dewali.

That is the book with the entry which you say is not a genuine one ?—Yes. The last few leaves have been taken out and new ones put in.

Is there an entirely new set of books for the year ?—Yes, an entirely new set for the new year.

Then, if what you say is correct that the last leaves have been taken away from that book and new leaves put in, the leaves taken away would have no entries upon them ?

Interpreter—He said inclusive of the leaf on which the last entry is written.

The President—That the leaf on which the last entry is written was taken away ?

Interpreter—Yes. He said all the last leaves, including the leaf on which the last entry is written, had been taken away and fresh ones put in ; referring to the last entry, he says this is the item that he was made forcibly to write, it was not in existence originally, and there were no other items subsequently written.

The President—Mr. Nowrozjee, ask him, if that is so, how he explains the removal of the old leaves and putting in new leaves, what was the object of that ?

Interpreter—The witness says he was very much alarmed at the time, and was made to write this entry and he was desired to go away after he had written.

That is no answer at all to the question.

(Interpreter repeats the question.) He says, As to whether the other pages did contain any entries or not I do not quite remember.

(To witness)—Were you interfered with by the Police after you left this room yesterday ?

Witness—I was prevented as I was getting out from here.

What do you mean by being prevented ?—I was desired to wait.

By whom ?—By a police sepoy.

How long were you made to wait ?— Five or six minutes.

Were you after that allowed to go away ?—And then I was made to wait outside the compound gate.

State what happened to you then ?—At the gate of the compound a sepoy desired me to wait. He said, I will let you know when I receive permission from Gujanund and the Sahib to let you go. Afterwards he let me go, and I went home in the evening, and sepoys came to my house at 10 o'clock at night.

You have told us about that ?—Yes.

Had the sepoys any conversation with you except that which you have told us ?—That is all.

You may stand down.

The Commission rose for tiffin at 2-20 p. m.

On the Court resuming after tiffin—

NANAJEE VITHUL was called and affirmed.

Examined by the Advocate-General—My name is Nanajee Vithul. I am a Brahman by caste. I was employed in the Javarkhana (or jewel department) of His Highness the Gaekwar. I was daroga or superintendent there. I know Damodhur Punt. About the time of the last Dusserah I remember receiving some directions from him. This was before the Dusserah. Diamonds were required for the purpose of reducing them to ashes, and in consequence of Damodhur Punt's directions I sent for diamonds from two or three persons, and three jewellers brought diamonds to me at the Haveli. One was Gelasha, another was Purtabshah, and the third was Hemchund Futteychund. I kept some of the diamonds brought by Hemchund for one day, and showed them to Damodhur Punt.

Nanajee Vithul, Superintendent of Gaekwar's Jewel Department, examined. Confirms Damodhur Punt's statement as to purchase of diamonds from Hemchund Futteychund.

The President—Does he mean that he kept Hemchund's only ?

Interpreter—Yes.

Witness—The other two had not brought their diamonds then. The others were brought on the following day. I kept the diamonds Hemchund brought. I informed Damodhur Punt and kept Hemchund's diamonds with me. On the following day the other

two persons brought their diamonds, and the diamonds belonging to all three were shown to Damodhur Punt. I showed them to Damodhur and he approved of Hemchund's and those belonging to the other two were returned. Hemchund's diamonds were weighed and taken. Their weight was about 68 or 68½ ruttees, and after they were weighed they were given to Damodhur Punt. In regard to these diamonds, a yad or memorandum was made by one of my two carkoons. I did not see the carkoon prepare it, but it was kept on the record.

Interpreter—A ruttee is about 1⅞ of a grain.

Witness—I did not get other diamonds from Hemchund afterwards. Other diamonds were brought from the same man about seven or five days afterwards. This was by the orders of Damodhur Punt. The other diamonds brought were *parub* diamonds and *billundee* or rose diamonds. Hemchund brought the diamonds on the second occasion. These were also taken. The quantity would be 74, 73½, or 73¾ ruttees. These 74 ruttees were brought according to the instructions of Damodhur Punt, and they were given to him. The entry regarding these diamonds was made on the first memorandum—on the same piece of paper. The price for these two lots of diamonds was fixed. I do not remember the price, but the price written at the Bunya's house is correct. I think the total price was a few rupees over the Rs. 6,000. The diamonds bought on these two occasions were parub (flat) and billundee [rose] diamonds. [Shows size of diamonds by his fingers.) Two or three diamonds, or perhaps one or three quarters were in a rattee. I did not weigh them separately. In respect of these diamonds I have made a payment to Hemchund I paid Rs. 3,000 on that account which was paid in two sums—one of Rs. 2,000 and the other Rs. 1,000. The Rs. 2,000 were to be taken from Damodnur Punt, and I had to pay him some money. The memoranda were prepared for payment and payments were made according to his (Damodhur's) instructions. (Shown exhibits R 1 and S 1). Some venetians (putleis] coins were sold on account of nuzzerana, and they were to be disposed of in favour of the jewelkhana. [Shown yad R 1.] This is in relation to these putlies or venetians. These moneys were in my hands, and the memorandum shown bears my signature. The other memorandum belongs to the light department. (Shown exhibit R 1.) This is the yad. I had the money to which these two yads refer in my hands. I paid Rs. 2,000 out of this amount to Hemchund. I remember by whose hands I paid the Rs. 2,000. I caused a paruk (or shroff named Nanchund to pay the sum. Nanchund is a shroff in the Domala Mahal. The Rs. 1,000 was paid from my own house in cash. A hoondee was given for Rs. 2,000 out of which Rs. 1,000 was paid. Rs. 1,000 remained, and of the remainder I paid this.

Serjeant Ballantine thought the answer unintelligible.

The Interpreter repeated the question.

Witness—I had paid Hemchund Rs. 2,000. On account of this Rs. 2,000 a hoondee for Rs. 1,000 was taken from him, and the other Rs. 1,000 was left with him. The Rs. 1,000 was allowed him on account of the matter for which the part payment of Rs. 2,000 had been paid.

The Advocate-General—On what occasion ?

Witness—On account of diamonds.

The Advocate-General (to Interpreter) "Diamonds" is exactly the word you did not translate.

(To witness)—You say the hoondee was for Rs. 1,000.

Witness—Yes; the hoondee which I had taken from him. Some cash might have been taken from him, and for the balance the hoondee was taken. I do not remember in whose name the hoondee was taken. If I saw the hoondee I could remember. (Shown hoondee) This hoondee is for Rs. 750. Some amount must have been received in cash.

The President—Is that the hoondee ?

Witness—I do not remember. These Rs. 2,000 were Baroda rupees.

The President asked the Interpreter not to go so quickly.

The Advocate-General (to witness)—Do you know what has become of the yad on which these two purchases of diamonds were entered ?

Witness—The yads were in the records of the carkoon Atmaram. I do not recollect his father's name. About the end of the five Dewalee holidays Damodhur Punt asked for the yads and received them from me. He took them and said, "I will tear them up," and I don't know what he did with them.

Nanajee Vithul cross-examined.

Mr. Serjeant Ballantine—I don't quite understand, because I was not in court at the time. But what is your position, what are you ?

Witness—You mean my salary, or what ?

What was your occupation ?—I am superintendent of the jewel department.

Just tell me what you mean ? What were your duties ?—To take care of the ornaments in the jewelroom, and to give them when the Sircar wants them for the purpose of wearing them.

Had you any other duties ?—To make purchases relating to the jewel department.

Well, now, what do you suppose these diamonds were purchased for ?—I was told that they were for the purpose of making into ashes.

Who told you ?—Damodhur Punt.

Ashes for what ?—For medicine.

Did you hear of diamonds being turned into ashes for medicine ?—No, I have not heard.

Did you ever see diamond dust in your life ?—I have been seeing diamonds only since I have been employed—since the last four years.

Did you see or hear of diamond dust in your life ?—I did not know.

But you know whether you have ever seen or whether you have ever heard of it ?—I have not seen it.

Or heard of it ?—Nor have I heard of it.

What have you been doing with yourself lately ? where are you staying now ?—I have been staying in Baroda.

Under the care of anybody ?—Now in the Sircar's charge—that of the two Khan Bahadoor's police.

Now, I cannot at all gather what it is you have said.—I am now in the Sircar's charge.

Oh, do you mean by that that you are in prison ?—From the day that the Raja was arrested I have been made to sit (Interpreter—That is "I have also been arrested.")

Does that mean that you have been in prison ?—I have been made to sit, and I consider myself as confined.

But what for ?—I don't know why.

Well, I suppose you have asked, have you not ?—To whom should I ask ?

Well, I suppose of somebody that has got hold of you ?—I don't know. He asked me of the account of the diamonds and I mentioned it to him.

But are you charged with anything—are you charged with poisoning anybody ?—No. There is no reason to charge me.

Well, are you charged with anything ?—The Jamdar—the jeweller department—was in my charge, and when the Raja was arrested, perhaps I was arrested.

Perhaps that means "certainly." I understand you to say that you were arrested because the Maha-

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was arrested—is that what you mean?—The Maharaja was arrested, attachments were made at the Palace, and guards were placed.

Well, when did you first tell this story, that you have told this day, about these diamonds being brought up by Hemchund?—I was sitting at the *warra* for fifteen or twenty days, and after I came to the camp I mentioned it.

Well now, I want to learn what that means with a little more particularity—you were sitting where?—At the *warra* of Palace.

Do you mean—let me understand—that you were in prison for fifteen days, and then you made this statement?—For fifteen or twenty days I was in the city; until that time nobody asked me anything.

Just let us have it perfectly intelligible—were you in prison fifteen or twenty days before anybody made any enquiry after you?—Yes. I was in imprisonment at the *warra* of Palace.

Who had charge of you?—I was in the Senaputtee's cutcherry or office.

Who were the people who had charge of you?—The Purdeysee people, Purdeysee sepoys.

Very well. Then, after being in prison for fifteen or twenty days, did anybody come to you to make a statement?—No, nobody came to me there, but I was sent for here.

Who came for you?—Some sepoys went there, or there is a karkoon named Vishnu Punt.

Do you know?—Gujanund Vithul, perhaps, sent peons or sepoys to call me.

Did you go to Gujanand Vithul, or what did you do?—Gujanund Vithul did not give me instructions. I came in a gharry and in company with a sepoy came to Gajanund Vithul.

Well, then, what said Gujanund Vithul to you:—He asked me about the diamonds.

Here, now, what did he ask you? I would rather like to know how Gujanund Vithul does this sort of thing.—He asked me how many diamonds were purchased at my place in the month of Ashwin.

At your place?—At my place means the jewel room.

But you mean, I suppose, purchased by you?—Yes, he did ask me whether or not.

Did he ask you whether you had purchased of Hemchund?—No, he asked me generally.

And what did you say?—I said yes, they have been purchased.

Had you heard anything about Rowjee and Nursoo saying anything before this?—No.

Now attend, sir—You were taken into custody about the same time as the Maharaja, were you not?—On the same day.

Do you mean to tell me that you had not heard anything about Rowjee and Nursoo being examined?—I did not know anything.

Do you mean to say that you had not heard of their being examined?—I did not know. I have never seen them, they are not acquainted with me.

Answer my question, sir, and do not shuffle. Do you mean that you had not heard that Rowjee and Nursoo had been examined?—Yes, I do mean that.

That you had never heard of it?—I did not hear that.

You swear that you had never heard that Nursoo and Rowjee had been examined?—After enquiry here I have of course heard.

I have not asked you that. At the time you gave your statement to the police constables, do you mean to say that you had not heard that Rowjee and Nursoo had made statements?—I did not hear. I did not know what examination was taken.

That is not the question. Had you known that Rowjee and Nursoo had been examined in relation to the Maharaja and in relation to diamond dust?—After the Devali I heard that some attempts had been made at poisoning.

Now, I will have an answer if you have to stand there, as one of the witnesses said, until doomsday. Had you heard that Rowjee and Nursoo had been examined upon the subject of this poisoning?—I did not hear of it at that time. I knew that they were imprisoned.

Before you made your statement, did you know that Rowjee had made a statement? Now answer that question "yes" or "no"?—I did not know.

We will take that.

And Gujanund Vithul did not tell you about any statement that he had made?—No.

Did Gujanund Vithul recommend you to tell the truth?—Yes.

Did he tell you what would happen to you if you would not tell the truth?—I was threatened and told that, if I did not tell the truth, "You should know what is the result of an untruth."

What did you think that meant?—I thought they would put me somewhere—put me in imprisonment.

And what do you think will happen to you if they don't believe you now?—What the Sircar will do will be done, there is no other help.

Well, what do you expect?—I cannot say what I think. What the Sircar will do, will be felt [laughter].

Well, I suppose you would not be sorry to get out of the care of the police?—Whether to get out of them or not, is not in my power.

Well, now, just tell me, did Gujanund Vithul take your statement down in writing?—No, orally.

Then after you had made your statement, what did he do with you?—He took me to the sahib.

Do you mean Souter sahib?—Souter sahib was not then there.

Who was it that he took you to?—Some sahib living in a bungalow (pointing to the south from the witness-box).

Now, give us an idea who it was.—I do not know his name, but Sir Lewis Pelly was also present, or had come there.

Was Sir Lewis Pelly present when you made any statement? Now, just be cautious.—When he wrote down, he was present,

Who wrote down?—The other sahib who was there.

Did you make your statement in the presence of both?—Yes, of both.

You are sure of that, are you?—Yes, I am sure.

Did you know of Damodhur Punt's making a statement?—No.

How long had you been in custody before you were taken before the sahib and Sir Lewis Pelly?—Twenty days first, and now a month. The next seventh lunar day will be two months [Interpreter—That will be the fourteenth of this month].

Nanajee Vithul re-examined.

Re-examined by the Advocate-General—You say you were fifteen or twenty days in the Senaputee's cutcherry in charge of Purdeysee sepoys. Do you know who those Purdeysee sepoys were—in whose employment were they?—They are the Gaekwar's sepoys.

Troops?—Yes.

They were in charge of the whole Palace, were not they?—The guards were sent from this place (meaning the camp).

But in the interior there were these Gaekwaree troops?—They were under these gaurds (meaning the English guards).

Now, was it on the same day that you were sent for

by Gujanund, that you were taken before the sahib ?—On the same day at 8 o'clock in the evening.

By Sir Dinkur Rao—Are you the mookhtyar—the responsible head of the jewel department ?—Yes, I am darogah.

(The yads are produced.) Is there any other writing in the form of account, besides these yads ?—The account in regard to purchases is kept, but no account is kept in regard to these yadees.

Is there an account regarding purchases—a debit and credit account ?—There is an account, I am in the habit of keeping accounts. There is no account kept of these particular yads. There is no account kept.

In your accounts is there an entry of the purchase of diamonds ?—Not in my accounts. He took away the yad.

Who ?—Damodhur Punt.

Have you got an entry in your account to the effect that diamonds of Rs. 6,000 were received from Hemchund ?—In the jewel department there are no accounts of anybody, and there is no proof or voucher for the same.

Mr. Serjeant Ballantine complained that the witness's answer to the effect that he kept a regular account of purchases had not been translated, but the President found that the answer had been given by the Interpreter.

Witness—No ledger accounts are kept in our jewel khata (department.)

By Sir Dinkur Rao—Are sales and purchases to the amount of lakhs of rupees made orally ?—The entry is made item by item. The details are given below.

Have you got Hemchund's account in the ledger, shewing the items of ornaments received from him ?—As regards other ornaments there is. But there is no such account in regard to these diamonds, because Damodhur Punt took away the yad. In the accounts of Hemchund the items are in.

Mr. Serjeant Ballantine—How does he know that ?—Each item of the ornaments is entered, but in regard to these diamonds the yadee was ta en away, and no entry is to be found.

The President—In the jewel department there are no accounts of anybody—no ledger accounts ?

Interpreter—At first he said there were no accounts and then he corrected himself and said there were no ledger accounts.

By Sir Dinkur Rao—What details were given in regard to the diamonds purchased in the yad ?—Purchased diamonds from Hemchund Futteychund.

In the nugwarri yad—that is the yad of ornaments—why did you not give the details of diamonds, and why has no entry in regard to these diamonds of Rs. 6,000 been made in the nugwarri yad ?—The paper is prepared at the end of the month. The nugwarri yad is prepared after the month is over.

In a regularly kept sowcar's account there is the weight, price, number and rate of the ornaments mentioned. Without such details how could a sowcar's account be kept ?—At the time of making payments a yad is prepared in the Kangee department, and that yad gives the weight, price, rate—full particulars.

The accounts relating to any department are not kept in this manner ?—As regards the javeri khana, or jewel department here, such is the practice. You will find vouchers from the beginning or from of old.

The accounts produced by a sowcar in a book should be believed, or your oral statement should be believed ?—What shall I say to this ? Or what answer can I give to this ?

Sir Richard Meade—Is your verbal statement to be believed in preference to a sowcar's book ?

The President—He says he cannot say anything to that.

Sir Dinkur Rao—How can we say that this yad o yours is a true yad or a false yad ?

Witness—What comes to the Sircar's mind is true, what can I say ?

Mr. Advocate-General—He bows to the decision of the Commission.

The President—He may stand down.

The Commission rose at 4-45 P.M.

FOURTEENTH DAY, THURSDAY, MARCH 11.

PRESENT.

SIR RICHARD COUCH (President) ; H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence :—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission :—John Jardine, Esquire, Bombay Civil Service.

Interpreters :—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharaja Gaekwar was absent.

Sir Lewis Pelly, K.C.S.I., was absent.

The Inquiry was opened at 11 o'clock.

ATMARAM bin RUGHOONATH called and affirmed.

Examined by Mr Inverarity—My name is Atmaram bin Rughoonath. I was carkoon in the Gaekwar's state jewel-room. The head of my department was Nanajee Vithul. About the last Dewalee I remember some diamonds being purchased. This would be about eight days before the Dewalee. Diamonds were brought by four merchants. The name of one of them was Hemchund Futteychund; another's name was, I think, Gela Hemchund; another's was Pertabsha. These diamonds were brought to the jevarkhana or jewel-room of the Palace. The diamonds of Hemchund were purchased, but those belonging to the others were to be returned. Some writing was made regarding this by Nanajee Vithul's carkoon named Venayekrao Venkatesh. That memorandum was kept in Nanajee Vithul's dufter or records. It was given to me four or five days afterwards, and I kept it in the dufter or records for four or five days more. Nanajee Vithul sent for me one day, and took from me that yad or memorandum ; I have not seen it since. I remember hearing in the city that an attempt had been made to poison Colonel Phayre. Nanajee Vithul took the memorandum from me about the time of the Dewalee, and this would be after I heard the report about the attempt to poison Colonel Phayre.

Atmaram, of the Gaekwar's Jewel Department, examined. States that diamonds were purchased from Hemchund.

Cross-examined by Mr. Serjeant Ballantine—Are you still in the jewel department ?—Yes.

Atmaram cross-examined.

Who is the head of the jewel department now ?—Gunputrao Mahajun.

Just tell me, what are diamond chips ? how do they come ? what are they ?—Small diamonds are so called.

Are they the parts that are cut in cutting diamonds, the pieces that come off in cutting diamonds ?—No.

They are small diamonds are they ?—Yes, they are.

Did you ever see or hear of diamond dust in your life ?

Mr. Branson—Use the word *loth*

Interpreter—*Loth* is flour.

[Question put—using the word *loth*.]

Witness—No.

Mr Serjeant Ballantine—[to Interpreter] Use your own word. I want to know whether he has ever seen or heard of it.

Interpreter—The word I am accustomed to is *bookhi*.

Mr Melvill—Say "pounded-up"

(The equivalent of that word used.)

Witness—I never saw them.

The President—Take down answer thus: "I never saw pounded up diamonds."

Interpreter—Powdered diamonds.

Mr. Serjeant Ballantine (to witness)—How long had you been in the jewel department?—Twelve years.

Was the Maharaja in the habit of buying diamonds?—Yes, he was.

Small and large?—Yes, small and large.

Did he buy them in ornaments or loose?—Loose, as well as made into ornaments.

Had he possession of many diamonds?—The quantity that he has constantly night and day. He has that.

He has a large quantity of diamonds in his possession?—Yes.

Now, you have said that of these lots of diamonds that were brought for the approval of the Maharaja, Hemchund's diamonds were purchased. How do you know that?—Nanajee Vithul approved of the diamonds belonging to Hemchund.

But do you know anything about their being purchased except what Nanajee Vithul told you?—Sometimes I was called in by Nanajee Vithul when he settled and weighed diamonds.

Were you present at the purchase of these diamonds of Hemchund?—I was present on the occasion.

Well, now, what took place. Just tell us exactly?—Venayekrao made out a yad or memorandum in his own hand, which he kept by him; it remained with him.

And is that all you know?—That is all.

Did you ever see the diamonds again?—No.

What are these small diamonds used for generally? For the purpose of setting.

Now, did you not know that Nanajee Vithul had returned those diamonds to Hemchund?—I did not know that.

Don't you know that?—I will tell you how it happened. The diamonds were taken in the manner I have described, and Nanajee took the yad. The second or third day after that, I asked the merchant, "Did you take your diamonds away," he said, "Yes."

What merchant?—Hemchund.

And did not Nanajee Vithul tell you not to make any entry of the purchase of the diamond chips, as he had returned them to Hemchund?—Nanajee said "I am going to take the yad away, as they are not to be purchased."

Did he not say that he had returned them to Hemchund?—He said "I don't want to purchase the diamonds. I wish to return them."

And did he say that he had returned them?—That day he said to me "I am going to return them."

Now just attend to this—did not Nanajee Vithul tell you that you are to make no entry of the diamond chips, as he had returned them to Hemchund?—He did not.

Now, you were examined before Mr. Souter?—Yes.

Well, now, I will read to you what you said before Mr. Souter, attend to me:—"Nanajee Vithul told me, when receiving the memo. that I was to make no entry of the diamond chips, as he had returned them to Hemchund."

What I have deposed to is true. [Interpreter—And then he uses the expression that he used before that, "they were to be returned to him."]

Mr. Advocate-General—I have sent for the vernacular statement.

Mr. Serjeant Ballantine—I have taken the English statement. There is no doubt whatever that there are inaccuracies in the English version of the depositions in many instances.

Mr. Advocate-General—I understand that there was no vernacular statement in this case. It was taken down in English.

Mr. Serjeant Ballantine—That was through an Interpreter.

Mr. Advocate-General—I have no question to ask the witness.

The President—At the time that these diamonds were brought by Hemchund and the other jewellers, were there any loose small diamonds in the jewel-room?—Nanajee Vithul, who is the head of the department, ought to know that.

Well, do you mean by that, that you do not know?—I do not know.

Mr. Serjeant Ballantine—Perhaps my Lord, following that you would ask him this question—was the ornamentation of a sword hilt and scabbard, and I am told a jacket also, going on at that time, for which purpose small diamonds were being used?

Question put.—Witness—Yes. Jewellery work was going on.

The President—Do you mean that jewellery work was going on such as is described in that question?—They were being set, the scabbard and hilt with diamonds.

Small or large?—Small diamonds. A jacket was also being set.

Do you know where the diamonds came from that were used for those?—They were in store, they had been in store.

How long?—I cannot say, but there is a balance in store every year, going on from year to year.

A balance of small diamonds?—Yes.

(To Interpreter.)—Does that mean, Mr. Nowroziee, always in store—there is a balance of small diamonds always in store?

The Interpreter—From year to year.

BULWANTRAO ROWJEE called and affirmed.

Bulwantrao, one of Damodhur Punt's assistants, examined.

Examined by the Advocate-General—My name is Bulwantrao Rowjee. I was employed in the private and treasury departments under Dhamodhur Punt. [Shown four roze-keerd or daily accounts, exhibits U 1, V 1, W 1, and X 1.] These refer to payments made to several persons out of the private treasury. Among the papers I find some entries partially obliterated by ink. I don't know how these entries came to be so obliterated.

Serjeant Ballantine declined to examine the witness.

RAMESHWUR MORARJEE called and affirmed.

Rameshwur Morarjee, headman of the Swamee Narayen temple at Baroda, examined. Deposes that he received no money from the Maharaja for feeding Brahmins in December 1874.

Examined by the Advocate-General—My name is Rameshwur Morarjee. I am at present headman of the Swamee Narayen temple in Baroda.

In the month of Mhagsur-Vud (31st December) did you receive any money from the Gaekwar for the purpose of feeding Brahmins?—No; if I received any I must have given a receipt for it.

About any time during that month did you receive from any one, on behalf of the Maharaja, a sum of Rs. 3,632 for the purpose of feeding Brahmins?—No.

You say that when you receive money from the Maharaja for these purposes you gave a receipt?—I used to give my signature to a writing, and then the money was paid to me.

[Shown receipt Y 1.]—Is this such a receipt as you speak of?—No. This is not in my handwriting.

The Advocate-General (to the Commission)—The date of this receipt is Ashad-Sudh, and is for Rs. 1,150.

Witness [looking at the receipt.]—This is all right. A feast was given to Brahmins in the month of Ashad, for which I gave a yad.

Do you know the hand-writing at the foot of that receipt?—It is Bolinath Poonjaram's, my own man.

Cross-examined by Mr. Serjeant Ballantine—I understood you to say that upon one occasion you did receive a sum of Rs. 1,100?—Yes. Rs. 1,125 in the month of Ashad. (Shown Y 1). That is the receipt for it.

Rameshwur cross-examined.

What is the amount that purports to be a receipt for?—Rs. 1,125.

The exact amount?—Yes.

The Advocate-General (to the Commission)—Exhibit T 1 is an order for the payment in December last, but it bears no receipt.

(To witness)—What was the Rs. 1,125 for in Ashad?—For the purpose of giving a feast to Brahmins.

Besides that Rs. 1,125 for the purpose of giving a feast to Brahmins, did you receive any other money in Ashad?—No.

(The Interpreter—The witness first said, "I do not remember;" and then he said "No."

Besides the payment for the feast, did you receive any money for distributing any charity?—Yes, the khangee carkoon used to come and pay the money.

Do you know how much it was you received for charity?—Rs. 375.

When was that Rs. 375 for charity given?—On the same day that the feast was given.

The President—Why were not receipts given for the Rs. 375?—It was a karkoon who brought the money in quarter-rupee pieces, and distributed them to the Brahmins there.

DATATRIA RAMCHUNDER called and affirmed.

Examined by Mr. Inverarity—My name is Datatria Ramchunder. I am employed in the Fouzdaree, and it is my business, when poisons are ordered, to issue instructions to the carkoon. (Shown exhibit Z.) This bears an endorsement by me. It is an application for arsenic. No arsenic was delivered in respect of this note. When this note was received the Adakharee's carkoon endorsed it in my name. It remained in the Fouzdaree and was not given back to the applicant. It remained among the records until Jugjeevundass sent for it. Jugjeevundass is head of the Fouzdaree department. I think Jugjeevundass sent for it about three weeks ago.

Datatria Ramchunder examined. Witness, who is employed in the Fouzdaree, indentifies order to supply poison to Damodhur Punt.

Cross-examined by Mr. Serjeant Ballantine.—What was the rule about delivering out arsenic or any other poisons?—A report or the Kamdar's note is received, then the Adakar usually makes an endorsement upon it in my name, and I used to give it to the carkoon.

Now, look at that order; was there any difficulty in obtaining arsenic?—Would the arsenic, as a matter of course, have been delivered out upon that order?—There was no difficulty, but he did not come to ask for it, and, therefore, it was not given out.

There is, is there not, an actual order by the Gaekwar for the delivery of that arsenic?—So it is written in the note.

And, as a matter of fact, for the last eighteen months, has it been the invariable rule that there should be the Gaekwar's order before any arsenic or other poisons were delivered out?—Yes, such is the order.

(Interpreter—An order that arsenic or other poisons is not to be given out unless an order is received from the Gaekwar.)

Re-examined by the Advocate-General.—What do you call the Gaekwar's order for the delivery of arsenic on this exhibit Z?—This note does not contain the Gaekwar's order. In that year, 1929—

Don't go into that.

Mr. Serjeant Ballantine (to Interpreter)—Just repeat that answer.

Interpreter—The witness says in the year 29 the order was issued. That is the last Hindoo year but one.

The Maharaja's name is mentioned in that document is not it, in Gunputrao Bulwuntrao's endorsement, the Fouzdar's endorsement?—It is stated in the endorsement that the Sircar Maharaja has given permission.

That is stated in the endorsement to you?—Yes.

"In accordance with the above, two tolas of arsenic should be given, and price be received"?—Yes.

"As the Maharaja has ordered to give two tolas of arsenic the same should be given to the said Damodhur Trimbuck and the price taken"?—Yes, so it is stated.

Mr. Serjeant Ballantine—That is dated the 5th of October 1874.

RAMCRISHNA SADASEW called and affirmed.

Examined by the Advocate-General—My name is Ramcrishna Sadasew, commonly called Bhow Pooni ur. I have been a resident of Baroda for about thirty years. My present employment is in connection with the business of Meer Zoolficker Ally on behalf of Mr. Hope. Meer Zoolficker Ally is the son of Juffer Ally, the Nawab of Surat. Meer Zoolfickur Ally is a ward of the British Government, and he has estates in the Baroda territory. Besides looking after the estates of Meer Zoolfickur Ally I do other business. In the same way as I do Meer Zool's business I do business as agent for a number of sirdars and sowcars. I know Colonel Phayre. I was introduced to him by the Dewan Sahib Nana Sahib Khanvelkur. During the time Colonel Phayre was Resident here I was in the habit of seeing him frequently. My business with him was this. I had a letter from Mr. Hope to go to Colonel Phayre in connection with the business of Meer Zoolfickur Ally, whose case was going on at Surat, and I went. Sometimes I may have seen Colonel Phayre upon other business. I lived in the city in a place called Rowpoora.

Bhow Poonikur examined.

Were you ever in the habit of talking with Colonel Phayre from time to time about the affairs of the city?—Sometimes when Colonel Phayre inquired of me, when he returned from his walks or airing, I used to tell him about what I knew. I used generally to go to see Colonel Phayre about ten or eleven o'clock in the morning. I never received any payment from Colonel Phayre for any information I may have given him. I remember hearing of the attempt to poison Colonel Phayre on the 9th November, on the day following the attempt. I heard of it about ten or eleven o'clock when I went to the Residency. Colonel Phayre told me, on the second or third day. After the day on which Colonel Phayre mentioned this I gave information to Colonel Phayre about the matter. A man named Bulwantrao came to the Residency. He said

he had heard there were three things mixed in the poison that was given to Colonel Phayre.

What three things?—Copper powder, and arsenic, and diamond sand or powder.

The Interpreter—The word he used was *reti*.

And did you communicate what you heard from Bulwuntrao to Colonel Phayre?—Yes. In fact, I took Bulwuntrao with me.

The President suggested that the witness might be asked again what word he had used for "sand."

The Advocate-General—I think that what the witness said was "heera-ka-bookha."

The Secretary—My recollection is that he said *chota-chota heera-ka-bookha*.

The President—Very well.

Examination continued—I introduced him to Colonel Phayre. Bulwuntrao said to Colonel Phayre he had heard it contained diamond powder or sand, and arsenic, and copper powder. Bulwuntrao is a carkoon under Bapoo Sahib, and he was in the habit of coming to the Residency. Bapoo Sahib is the son of Khunderao Maharaja's kept mistress. Bulwuntrao told me this at the Residency office, where Colonel Phayre was in the habit of sitting.

Bhow Poonikur cross-examined.

Cross-examined by Serjeant Ballantine—Of course you remember the Commission that took place before General Meade?—Yes.

Were you then active in getting up cases against the Gaekwar?

Mr. Melvill (to Interpreter)—I think you put the question wrongly; you used the expression getting up cases "before the Gaekwar."

The Interpreter explained that "sahmne," the expression he had used also meant "against."

Serjeant Ballantine (to Interpreter)—I am not going to enter into a long cross-examination of this witness. Ask him whether he acted against the Gaekwar during that enquiry.

(Question put.)

Witness—I was obliged to do what was necessary regarding the rights of parties.

The President—Tell him that is not an answer to the question.

(Question repeated.)

Witness—In regard to instances in which people were deprived of their rights, in such cases the cases were against the Gaekwar.

By Mr. Serjeant Ballantine—Do you mean to say that you ever acted in favour of the Gaekwar in connection with this Commission?—At what time do you mean?

Was not every case in which you were engaged during that Commission against the Gaekwar?—No; I do not meddle in all cases. I did not concern myself in any other cases than the two or four I took up.

The President—The question was—was he against the Gaekwar in every case in which he was employed? (Question repeated.)

Witness—It must be held to be against the Gaekwar, because monies were due to different persons from the Gaekwar.

By Serjeant Ballantine—Don't you think you could answer the question directly. Did you act against the Gaekwar when you did act? That is surely a very simple question?—What I did was right and just.

It is not you that will ultimately have to determine that matter. Answer the question. On every occasion that you acted in that Commission, was it not against the Gaekwar?—No. In what do you mean I acted against the Gaekwar?

Mr. Serjeant Ballantine (to the President).—I think my Lord that my question has been plainly enough put to entile me to get a direct answer.

The President—You are entitled to it, I think, but I don't think you can get it.

By Serjeant Ballantine—What I want to know is, whether the only cases you conducted before this commission were not adverse to the Gaekwar?—It was not to injure the Gaekwar, but to gain what was due to persons from the Gaekwar.

Very well. Did Colonel Phayre know that you had conducted these cases?—He must have known it.

Were you in Colonel Phayre's company more or less every day while he was in the Residency?—Yes, even now I got to him.

And you were in the habit, although you got nothing for it, of giving him information about what you heard?—What true matters I heard I used to inform him.

And he used to listen to you and encourage you to tell him these stories, did he not?—It was in his power to listen or not. I was not the only informant. Many persons used to give him information.

But he listened, did he not?—Not to me alone, but to many others.

About what was going on in the town and in the Gaekwar's Palace?—Sometimes he used to hear something when he used to go out, and on his return he used to inquire of me. I would tell him what I knew.

Were these other persons, who were in the habit of giving him information, employed by you or not?—Why should I employ them?—The sahib used to go out for an airing for a distance of two or three coses, and he used to meet different persons.

Was it you who informed him of the khureeta that was about to be sent to the Viceroy?—I do not quite remember.

Try and remember, Bhow Poonikur?—As to the khureeta, the Maharaja sent a number of kureetas.

You know that I allude to the khureeta to the Viceroy requesting the removal of Colonel Phayre?—I do not remember having given information about that khureeta.

Will you swear you did not?—I do swear that I did not.

Did you know of it?—How could I know of it?

Am I to understand that you did not know of it?—No; I did not know of it.

I am now going to call your attention to what Colonel Phayre has said. I asked kim, "Did you hear from Bhow Poonikur that a khureeta of the 2nd November was about to be sent in to the Government." And Colonel Phayre answered, "I did." You therefore see that Colonel Phayre says it was you who told him about this khureeta?—Was it you who told him about the khureeta?—No, I do not remember.

Will you swear you didn't?—I do not remember mentioning that khureeta to Colonel Phayre.

Very well. Did you given him information about other khureetas?—If I had received information about any particular letter that was being written, I did inform him. But as to the substance, I could not mention what it was.

How did you know that any letters were being written?—People were talking about what was being consulted at the Durbar, and I heard of it.

Did you know any servants at the Palace?—I am acquainted with all the people at Baroda.

Then you know Salim?—Not further than as coming to the Residency.

Have you never been to the Palace yourself to see Salim?—No.

Have you ever been to the Palace?—Whenever there was business I used to go; but I have not been there since General Meade's Commission was here. I might have gone some five or ten times to the Haveli altogether, but not oftener.

Do you know Damodhur Punt ?—I knew him by sight. I never had any conversation with him.

Who is Bapoo Sahib that you spoke about ?—The son of Khunderao's kept mistress.

Was he a claimant to the throne ?—No, he was a claimant with regard to the amount or allowance that was settled on him or given to him.

Do you mean that he makes no further claim, and that at this moment you do not know he is making a claim to the throne ?—What claim could he have ? He is the son of a kept mistress.

Do you know whether he is or not ?—He does not claim anything except in regard to his allowances.

Have you been in any scrape with the Gaekwar or the Gaekwar's predecessor ? Were you charged with anything by the Gaekwar's predecessor ?—I was kept under surveillance.

For what ?—Mr Salmon was Assistant Resident, and Bhow Scindia had given some bribe to Mr. Salmon, and Bhow Scindia had been dismissed by the English Government.

I want a plain answer. Were you ever charged with any crime or any offence ?—No, nor was I examined.

I want to know whether you were charged—you can answer that ?—There was no charge brought against me.

The Advocate-General declined to re-examine the witness.

MR. RICHEY called and sworn.

Examined by Mr. Inverarity—My name is James Bellot Richey. I am assistant to the Agent to the Governor-General in Baroda and a member of the Bombay Civil Service.

Mr. J. B Richey, Assistant Political Agent at Baroda, examined.

I remember Damodhur Punt being examined by me on 29th January, and also on the 30th. He made his statement in Marathi. I understand Marathi pretty well. As he gave his statement, I took it down in English, assisted by the native Assistant Resident, Munibhai. I wrote down as he spoke. I know enough Marathi to know that the interpretation was correct. I wrote as rapidly as I could from the mouth of the native assistant, and made corrections afterwards. Damodhur Punt's statement was taken down in Marathi at the same time. I have here the statements I took down. They bear my signature and the whole are in my hand-writing. When an interpretation of these statements was read to Damodhur Punt I don't think I was present. I may have been.

Mr. Inverarity—My Lord, I propose to put in these statements taken on the 29th and 30th January.

Serjeant Ballantine—I do not know on what ground my learned friend proposes to put in these statements but I apprehend that on the general principle this is not evidence.

The President—Looking at the nature of this inquiry, I think they are. If Mr. Richey was competent to make an investigation, and I think we must hold that he was, then a statement made to him would be admissible in corroboration of evidence.

Mr. Serjeant Ballantine—I am rather loth to press an objection upon a matter regarding which there may be some other rule or law existing here than I am acquainted with; but I know that in ordinary cases where a deposition has been made before a Magistrate by a witness examined on the part of the prosecution the evidence given before the Magistrate would not be admissible as evidence.

The President—The law here goes further than that. Under the Evidence Act, which I follow in this matter, it is admissible if a statement is made before or to a person competent to investigate. Now, I think we must consider Mr Richey a competent person to investigate.

Mr. Serjeant Ballantine—That is not the ground upon which I made the objection, but rather on the ground which I have already stated, and upon the general principle. What your Lordship has said is quite sufficient.

The President—I should do it in such cases as this upon principle independent of the Evidence Act.

The statements were put in and marked by the Secretary. The statement of 29th January was marked B 2; and that of the 30th C 2.

DAMODHUR PUNT'S CONFESSION.

[Before J. B. Richey, J. P.]

Residency, Baroda, 29th January 1875.

Damodhur Trimbuck, Brahmin, late Secretary to H. H. Mulharrao Gaekwar, states:—

Exhibit B 2.

Yeshwuntrao Yeole, Salim, and Rowjee, were concerned in the poisoning of Colonel Phayre. In the month of Ashwin about the Dassera the Maharaja asked me to procure some arsenic from the Foujdaree, where it is kept, giving as cause that he wanted it for itch, and told me to say at the Foujdaree that it was wanted for a horse. I could not get any at the Foujdarce, and told the Maharaja, who told me to get it from camp. I told him it wanted a pass; he said, no matter about the pass.

I got two tolas of arsenic through Nooroodin Borah, the Maharaja having told me to promise him a monopoly of the supply of medicine to the Silikhana. He did not at first say whence he procured it. I took the powder to the Maharaja, and asked him whom it was to be given to. He told me to give it to Salim, who would prepare the medicine to be made from it. *I gave it to Salim.* I don't know why he brought it here. Afterwards the Maharaja told me to get one tola of diamond to calcine and make ash of. I ordered Nanajee Vithul to get a tola of diamonds and bring it to the Maharaja. He brought me the tola of diamonds and I showed it to the Maharaja and he told me to take it to Yeshwunt. Up to this point I did not know that it was wanted for this purpose. The Maharaja said at first it would be to make a head ornament of a Swamy at Akulkote. Afterwards, again, the Maharaja asked for another tola—this time *diamond dust.* I told Nanajee to get it and he brought some diamonds and some diamond dust, and either he or Venayekrao came and gave it me in the evening. I asked the Maharaja what was to be done with it, and he told me to give it to Yeshwunt. *When I gave it to Yeshwunt* I asked him what he did with these diamonds that were being given him; he said they were pounded and rubbed fine and given to Colonel Phayre. This took place about five or six days before the attempt to poison Colonel Phayre became known. On that day I had accompanied the Maharaja as far as Sewuk's Dhurumsala, when the Maharaja picked me up in his carriage. On his return he told me out at once that the poisoning by arsenic of Colonel Phayre had become known. He said that the attempt to administer poison through Salim and Yeshwunt had become known. Salim used always to be coming and going to and from the Residency *day* and *night** from the time that Rowjee was corrupted for the purpose of sending information. He was here on that morning, and the Maharaja told me that when the matter came out Salim had run off to Rowjee's house to get any of the powder that was left and throw it in the fire where the old woman was baking, and that as Salim was not fully trusted by Rowjee, Rowjee himself had gone to throw it away; whether he did or not, I did not further hear. I asked the Maharaja how this happened to be found out, he said that it was because Nursoo Jamadar was not there to be on the watch. He used to keep watch and whistle to give the alarm, and as he was not there that morning, the thing was found out. The Maharaja had come earlier than usual. I went home, and that afternoon, in Luxmeebace's house, Nana Saheb and the Maharaja discussed together. In the afternoon Nana and the Maharaja and I drove together, and the Maharaja said they must be on the look-out about the matter that they had been discussing. The next day the Maharaja told Salim and Yeshwunt in the Palace to keep well-informed of what was being done and afterwards in the carriage drive told Nana and me to keep ourselves well-informed, and said that Rowjee had been let go, that he was a clever scoundrel, and that now there was no fear as "our principal evidence"† was let go. After Colonel Phayre had gone and Col. Kelly came, one day the Maharaja told me that Rowjee had stood on the road, and made signs to Salim that he wanted some present from him [the Maharajah] but that he had told him he would do nothing now, but that when the case was entirely disposed of he would do something for him.

* Idiomatic—"constantly."

† "Moodyachá manus."

At first after Mr. Souter came, and Rowjee was not seized, and Mr. Souter was said to have gone, the Maharaja used to say that as Rowjee was not seized, it was all right, and there was

no cause for fear. Then, when Rowjee was seized he told me he had heard of it, and that it was a bad business; then he heard of Rowjee having taken a pardon and confessed, and told me to make arrangements that any others who might be arrested should *not* confess, and enjoined upon me not to confess even if I died for it, and told the others who knew, informing me of it. He told me that he had warned Nana, Hariba Dada, Salim, and Yeshwunt. When the order came from the Residency asking for the surrender of Salim and Yeshwunt on that afternoon, I met Nana Saheb, and he told me that the note had come, and that they would have to be sent and that soon notes would come to send us, viz., Nana and Damodhur. In the evening the Maharaja told me that the two men had been sent to the Residency, and that he had enjoined upon them not to confess, though they were torn in pieces.

When Yeshwunt and Salim were let go back, and another note came again asking for them, the Maharaja sent for Yeshwunt and enjoined silence upon him again, and told him to take Salim and go to the Residency. The next day, the Maharaja told me to act as Govindrao Kali, who was torn in pieces, but would not confess, and he gave the same injunction to Nana and Hariba, as he informed me.

The diamonds, I heard from Nanajee Vithul were brought from Hemchuad, Nanajee Vithul had the balance of the "saving" [Kussur] account, and when I asked the Maharaja to sanction the payment for the diamonds, the following arrangement was made by his order. The Rs. 3,5 0 or so of the "saving" account were credited in the Khangee, and a corresponding debit was made in the account of Swamee Narayen's Brahmins' feeding.

The diamonds were worth about Rs. 7,000, so half payment was made by Nanajee Vithul giving the jeweller the Rs. 3,500. which was entered in the accounts as paid for the Brahmins' dinner.

At first when the diamonds were bought they were entered in the accounts as bought for the Sillikhana for medicinal purposes, and when the poisoning was discovered I asked the Maharaja whether diamonds could be used for medicine, as he said, by burning them. He said they could not, and directed the entries in the accounts to be torn up. I told Nanajee Vithul, and he informed me he had done it. I told the Maharaja. The account was not in a book, but, as is the custom, on a loose paper. When I first asked for arsenic from the Foujdaree, Hormusjee Wadia was in charge and he said he would refer to the Maharaja before giving it. so I did not ask him again. The note asking for it under my signature was left in the record of the Foujdaree, as I was informed by Gunpatrao Bulwant who also told me that there was no reason to mind its being there, as there was an entry in the record that the arsenic had not been given.

When Dadabhai wanted to get a return of the sale of arsenic the matter was brought before the Maharaja, who wanted to know why the return should be sent, but decided that it must be given. I then asked Gunputrao Bulwant about our note, as above, and asked him to give it back, when he told me, as above, that there was nothing to fear.

The enmity against Colonel Phayre was the origin of this design in the Maharaja's mind; it increased much when Luxmeebaee's marriage was under discussion. At Nowsaree one night I saw Rowjee bringing some Government papers which he had stolen into the Maharaja's private room: the Maharaja sent for me and told me to copy the papers Rowjee had brought at once in Rowjee's presence. Salim was with Rowjee and the Maharaja. The papers were about Jumnabaee's business; it was the memorial of Jumnabaee which had come to Colonel Phayre for report, and Rowjee stole and brought it to the Maharaja. He brought it about 10 o'clock, and I was copying it till late. I gave it back to Rowjee about 2 o'clock. I destroyed the copy because I was afraid of being stopped and arrested at Surat in connexion with the charge brought by Luxmeebaee's husband. Afterwards, at Baroda, Colonel Phayre had fever, and a sore on his forehead from the fever. At that time I heard the Maharaja talking to Salim in the picture-room and Salim explaining that the plaster had been applied by Colonel Phayre, but that he had felt it burn and had torn it off. Salim told the Maharaja that Rowjee had told him as above, and that it was Rowjee who had doctered the plaster.

At the same time, namely when the Resident had the open wound, the big physician's younger brother brought a bottle of poison made up by the physician, but as there were many of us present, he did not give it that time, and he may also have wanted something for it.

In the evening one day, when Colonel Phayre had the boil on his forehead, the Maharaja told me to get some blister flies to send to the younger brother of the big physician. He told me to send through the Foujdaree and have the Wagries sent to catch some flies and taken to the physician. I told Narayenrao Wakusker, who is in the Foujdaree, accordingly.

The next morning the Maharaja told Hariba, in my presence, that the physician's younger brother wanted some snakes to make medicine. The snakeman came to me two or three days after, saying he had the snakes that had been ordered, and I told him to take them to Hariba and take his order before going with them to the physician.

Narayenrao brought the blister flies taken by the Wagries and showed them to me, and that next day Goojaba, a servant of Nana Khanvelkur, came and showed me some blister flies of the same kind, and I told him to take them to the physician's brother and submit them for his approval. About the same time the Maharaja told me that the physician's younger brother wanted the urine of a black horse, and I gave orders to Bapajee, the kamdar of the Khas Paga to take some urine accordingly to the physician's brother.

At the same time some arsenic was given from the Foujdaree, but not through me. I don't know how much was given. Had I known of its being given I would not have got some more from the Borah. Some days after the supply of these articles the physician's brother brought the bottle, as above stated, not getting what he wanted for it.

The Maharaja wanted the stuff, but did not want to give what the man demanded, so suggested to Nana Khanvilker to get some of the contents of the bottle, and a day or two after, about 9 o'clock at night Goojaba came to me with the bottle which the physician had made up, and told me that he had taken it to the Maharaja, and that he had been ordered to bring it to me, and that I was to take some out of the bottle, and keep it till the next day, and then give it to Salim. I poured some out of the physician's bottle into a small bottle of mine, which had held attar and gave the other bottle back to Goojaba, and the next day Salim came to my house about 9 o'clock, and I gave him the bottle to take to Rowjee to poison the sahib. This I understood perfectly, though I did not tell Salim to give it to Rowjee

There were three distinct plots to poison Colonel Phayre:—

1st.—By the physician's stuff

2nd.—By poisoning the plaster for Colonel Phayre's boil.

3rd.—By the arsenic which was discovered.

The arsenic that was first given to Salim was to poison the plasters.

Twice I got arsenic from Nooroodin Borah by order of the Maharaja, on each occasion two tolas. After the poison business came out I asked Nooroodin whether he had entered the arsenic in my name; he told me that the camp Borah, from whom he had bought it, had not entered it at all in any one's name, but the second time had entered it as given to Nooroodin for the "Khangeewalla" and now wanted Rs. 2 . I told Nooroodin to give Rs. 200 to him, knowing that Nowreddin got the Sillikhana business it could be adjusted in the accounts. He did not give the money I believe. I don't know the camp Borah, but the lives in the city.

After the poison business had come out, when I first talked on the subject to Nanajee Vithul, I found that he had suspected that the diamond dust was intended to be used to poison Malsabaee, against whom Luxmeebaee has a hatred. I told him at that time about the account business by which the transaction was to be concealed.

Before me, 29th January 1875.

(Sd.) J. B. Richey.

Taken in the presence of the following officers:—
Sir Lewis Pelly, Agent G. G.
Captain Segrave.
Captain Jackson.

Interpreted by me to Damodhur Trimbuck Nene, who acknowledges it to be what he stated.

(Sd.) R. G. Deshmukh, Sub-Judge.

Baroda, 2nd February 1875.

Interpreted by R. G. Deshmukh in my presence.

(Sd.) Lewis Pelly,
Agent, G. G.

Baroda, 2nd February 1875.

Examination of Damodhur Trimbuck resumed 30th Jan. 1875:—

Yeshwuntrao used to take money to give in bribes to the servants, but latterly Salim took the money from the private account, and it used to be debited to fruit from Ahmedabad, &c., fireworks, &c., always some fictitious entry. I should think he must have taken Rs. 2,0 0 or Rs. 3,0 . Bulwantrao Rowjee used to write the private accounts under my instructions as I had charge of the money, and made payments by the Maharaja's orders. When money was to be paid to Salim for the above purposes, the Maharaja gave me general orders to make such fictitious entries.

Exhibit C 2.

The Maharaja told me after the poison business came out, and Yeshwuntrao and Salim had been caught, that if there were any suspicious entries left in the accounts they should be altered, or erased, or cancelled. On this order I told Bulwantrao to dispose of suspicious items accordingly. He assented, but in a day or two came and said that the accounts were not such as could be so tampered with. I consulted Madhorao, another carkoon; and finally ink was to be poured on the items in question; and I told him to blot in the same way other items also, so as to divert suspicion from the particular entries. I saw one such blotted item, which Bulwantrao showed me as a specimen. I understood this much about the fictitious items, that the fruit, &c., was not ever really brought, but the money was given to Salim to use in bribery at the Residency. This practice of bribing through Yeshwunt and Salim had been in force for about a year and a half.

About four months ago one lac and twenty thousand Babasahi rupees was paid to Premchund Roychund through Ootemchund Jeweree. An anklet was brought from Ootemchund, and the above sum was paid to him in excess of its value. Moro Punt, Nana Khanvelkur's servant, was engaged in the business, which was to get recognition of Luxmeebaee's child by Government;

It was said to be for a bribe to Mr. Gibbs. I thought that Premchand kept the money, as I heard that he had redeemed Rs. 60,000 worth of property out of mortgage, and I suspected it was with this money.

Ootemchund, Premchund, Moro Punt, and the Maharaja were upstairs together. When the Maharaja came down he told me that 3¼ lacs were to be paid for the anklet,—one lac and twenty thousand to be paid *at once*, and the rest afterwards. The anklet had been given before this passed. The anklet was in the jewel-room, and Nanajee Vithul, jewel keeper, was instructed by both the Maharaja and me to send in his note for the payment of the sum settled, viz., 3¼ lacs from the Khangee. His note would be cashed in the Khangee by the Maharaja's verbal order, the cash being drawn from a State shop as a general rule. In the Khangee day-book it will be seen where the cash came from.

In connexion with the same intrigue for the recognition of Luxmeebaee's marriage and her son's legitimacy, a Baboo, who was brought by Motilall Dulpatram and Moro Punt who was paid two sums of about Rs. 25,000 and Rs. 20,000 in Government notes, which were brought from Bombay by Ootemchund in Rs. 1,000 notes.

The Baboo came twice and received the money as above on the two occasions. These items may perhaps appear in the day-book with Luxmeebaee's signature, as she used to sign sometimes for the Maharaja.

The Baboo came from Calcutta and talked in English with Motilall, who would interpret to the Maharaja.

When the Baboo came first there was a meeting at Mukhunpoora, and there were present—

The Maharaja,
Nana Khanvelkur,
Motilall Dulpatram,
The Baboo,
Moro Punt,
and myself.

Rs. 25 000 were given him there, and a promise of a large reward if the matter were carried through successfully. On the second visit of the Baboo, when he was paid Rs. 20,000, the money was given by me at the Maharaja's order to Moro Punt, and I know nothing of what became of it, but it was to be given to the Baboo.

All the criminal proceedings in which the Maharaja was engaged originated with himself; he did not act under any one's advice that I know of. I speak now of the matters of which I was personally cognizant. I know that Bhau Sindia, Govindrao Naik, and Bowjee Master and others were killed by the Maharaja's order, but I was not personally concerned in these matters which were conducted through the Foujdaree Department Officers, during the *regime* of Balwantrao Rahoreker, at which time I was not allowed access to the Maharaja. I was taken into favour for my services in connection with Luxmeebaee's marriage. Before that time I had been in the Khangee Department for about two years, and knew about the accounts.

The order on the Hoozoor Foujdaree Kamdar to send a pass for arsenic, now shown me, is in my handwriting, and is the order which I sent by the Maharaja's direction, as stated in my deposition yesterday, and the words "required for medicine for a horse" were used also by the Maharaja's order, as before stated. The pass for arsenic which I sent for by this order I did not receive, but, as above stated, got the arsenic from the Borah.

Dated Bhadurpud Wud 9th Sumvat 1931.

Before me,
J. B. Richey.

In presence of Captains Segrave and Jackson.
J. B. Richey.

30th January.

Interpreted by me to Damodhur Punt Trimbuck Nene, who acknowledges it to be what he stated.
R. G. Deshmukh, Sub-Judge.

Baroda, 2nd February, 1875.

Translated by R. G. Deshmukh in my presence.
Lewis Pelly,
Agent, Governor-General.

Baroda, 2nd February, 1875.

The Advocate-General thought it would be unnecessary to read them if copies were supplied to the members of the Commission.

Serjeant Ballantine concurred, but said he must make an exception in the case of Hemchund Futtey-chund's deposition, which the witness had said he did not make.

The Advocate-General said it was his intention to prove that statement afterwards.

Witness cross-examined by Mr. Serjeant Ballantine:—Is Damodhur Punt under your charge now?—No.

Is he under the charge of Gujanund Vithul?—I understand he is under Mr. Souter's charge.

Do you know in whose actual custody he is?—No. I do not know.

The witness retired.

The Advocate-General mentioned that, as Colonel Phayre was in Court, it might be convenient if his learned friend, Serjeant Ballantine, continued his cross examination upon the matter regarding which it had previously been postponed.

Colonel PHAYRE called.

Colonel Phayre again called, and cross-examined by Serjeant Ballantine with reference to the Resolution of Government censuring him for his conduct in Sind.

Cross-examined by Serjeant Ballantine:—Your cross-examination was postponed for the purpose of allowing you to get the original of a document to which I referred in the course of my cross-examination?—Yes.

Have you got that original?—Yes.

Will you be good enough to produce it?

[A pause, during which the question was repeated.]

Serjeant Ballantine—The date of the resolution I refer to is 4th May 1872?—It is dated the 7th May, and must have been altered to 4th May.

But the number is 1,023?—It is 1,233 A.

Very well. Will you hand it to me?

Colonel Phayre [to the President.]—My Lord, this is a Government document. Shall I produce it?

The President—It is not for me to say.

Colonel Phayre—Then, if I have the permission of the Court, I shall——

The President—I give no permission one way or another. I leave the matter to be settled by you and the Advocate-General. But I understood the other day from the Advocate-General that it was not available for use.

Colonel Phayre—Exactly. Then, if your Lordship leaves the option to me, I think it would be better not to produce it. [To Serjeant Ballantine]—I will give you any information or answer any question regarding this document, but I decline to give it up.

Serjeant Ballantine—Then I understand you to decline to produce this document?—I decline to put the document into court, although, as I have said, I will answer any questions regarding it.

Do I understand you to decline to produce the document?—I do.

Then, I must just ask you whether this which I hold in my hand is a substantially correct copy of the document. Reads:—"No frauds having been shown to have been committed, it only remains to consider Colonel Phayre's proceedings in this case, and it is with extreme regret that His Excellency in Council is obliged to record his unqualified condemnation of them." Is that correct?

Colonel Phayre—Important omissions have been made before that.

But is that substantially a representation of the original document?—I cannot say it is a true representation of the original document.

Then do these words occur in the original?—They do.

Serjeant Ballantine reads:—"It would seem that Colonel Phayre not only instituted the prosecution of these men prematurely before the accounts had been thoroughly sifted, but that he persisted in doing so against the advice of the Commissioner in Sind to stay proceedings, and after he had been warned by Sir W. Merewether that the accounts disclosed no frauds. Is that substantially correct?

Colonel Phayre—That comes in after a most important omission from the original document.

Serjeant Ballantine—Then, I shall leave you to supplement it, if you like. You know it is not my

fault. [Reads.] "Throughout this matter His Excellency in Council has no doubt that Colonel Phayre believed that great frauds had been committed, and that he considered the measures he took were necessary to enable him to remove a gigantic system of chicanery which he imagined was being carried on to the detriment of the State; but it must be admitted that he has displayed great ignorance of matters with which as Superintendent of Frontier Districts he might have been expected to have some acquaintance, and that he has been singularly hasty and indiscreet in applying to a criminal tribunal before the accounts, which he held to be suspicious, had been thoroughly examined by competent persons."

Colonel Phayre—That also comes in after an important omission.

Serjeant Ballantine reads:—"Moreover, in neglecting the advice and warnings of his immediate superior the Commissioner in Sind, and persisting in a course which he knew to be opposed to the views of that officer, he has laid himself open to very great censure. Zeal and honest intention are not alone sufficient in a public servant. There must be skill, discretion, and proper subordination. In all these points Colonel Phayre must be held to have been signally wanting in this instance. The attitude which Colonel Phayre has assumed with regard to the Commissioner in Sind in connection with the Khelat affairs has led to his temporary removal from his appointment at Jacobabad, and His Excellency in Council with much regret is compelled to observe that the facts disclosed by these papers render it expedient that he should not be allowed to resume office as Political Superintendent of Upper Frontier."

Colonel Phayre—There are two more paragraphs.

The Advocate General—Of course my learned friend undertakes to prove all this.

Serjeant Ballantine said he did not intend to do so.

The President thought it unnecessary to do as the Advocate General suggested, because the parts read had been so far proved by Colonel Phayre himself, while what Colonel Phayre had said about the "important omissions" would appear on the record.

Cross-examination resumed.

Do you know Nooroodeen Borah?—During the Commission a Borah had a case. I do not know his name exactly. I do not now whether that is the same man or not. That is, I believe, the person I mean.

Did you know he had been severely punished by the Gaekwar?—If it is the same person that I mean, he appeared in connection with what is called the Flogging case in the Report.

In which the Gaekwar had flogged or caused to be flogged some relative of his?—Yes.

And he himself was fined Rs. 5,000 by the Gaekwar?—He was fined, but I do not know how much.

Serjeant Ballantine (to the Commission)—I beg it to be understood that if Colonel Phayre chooses to amplify the document I have read either privately or publicly I have not the least objection to his doing so.

(To witness)—Do you know that Nooroodeen was one of the persons complaining against the Gaekwar during the former commission?—It was at that time, but I have had no communications with him for a long time.

Colonel Phayre (to the President)—I am not certain of the name, my lord. There was a Borah, and I believe his name was Nooroodeen, but I am not certain.

Re-examined by the Advocate-General—I understand that the passages read to you just now are extracts from a Government resolution?—Yes.

Colonel Phayre re-examined. States that a second Resolution of Government was passed exonerating him from the censure contained in the former one.

And that the original document contains important passages which have been omitted?—Yes.

You told my learned friend that the date is 7th May, altered to 4th May 1872?—Yes.

At the time were you in India?—No. I was in England.

Before that resolution was passed, had you had any opportunity afforded you of giving explanations in regard to the matters with which that resolution deals?—I was not aware of the issue of the resolution.

I asked you if you had had any opportunity of giving explanations?—These matters had been under discussion for a long time.

But you had not been called upon for any special explanations?—No special explanation, but there was a long correspondence for many months about it.

When were you furnished with a copy of the resolution?—On my return from England in November 1872.

Was that copy sent to you on your own application?—Yes; on my own application to Government.

It had not been furnished to you in the first instance?—Not in the ordinary course of business. I heard of it casually.

Upon obtaining a copy of that resolution, did you furnish an explanation to Government?—Yes. I sent full explanations in two statements dated the 8th and 14th November 1872.

Thereupon was a resolution of Government passed exonerating you from the censure contained in the resolution from which extracts have been read?—Yes.

I do not wish to ask you the reason Colonel Phayre, but I shall put my question in this way. Had that resolution anything to do with your not joining your appointment again in Sind?—That resolution had nothing to do with my not rejoining my appointment in Sind.

I refer to the censuring resolution?—Yes.

Were you, after your return to India, posted to Pahlanpore upon the same pay you had in Sind?—From the day I returned to India from England I received my full pay that I had been in receipt of on the Sind Frontier and up to the time I came to Baroda.

Was your appointment at Baroda one of superior emolument to that which you had left in Sind?—It was.

And is it reckoned to be an appointment of superior importance to that in Sind?—Yes.

Is the resolution of the 4th May a document which would be, in the ordinary course of business, communicated to the Gaekwar or any other native Prince?—Certainly not.

By Serjeant Ballantine—The person I desired to know about was Borah Nooroodeen Meea Khan, medicine-seller to the Baroda Government, and he appears to have taken an affirmation before you in the early part of January 1874?—That is the same person.

Colonel Phayre then retired.

MEER ABDOOL ALI was called and affirmed.

Examined by Mr. Inverarity—I am Khan Bahadoor Abdool Ali. I am employed at Bombay in the detective police force. I am inspector of the detective police there. I accompanied Mr Souter to Baroda on the 9th of December last. I have been in Baroda ever since, assisting Mr. Souter in the investigation of this case.

Abdool Ali examined.

No cross-examination.

GUJANUND VITHUL, affirmed and examined by the Advocate-General, said—My name is Gujanund Vithul. I have the title of Rao Bahadoor from the Sirkar.

Gujanund Vithul, head of the Ahmedabad Police, and employed on special duty with Mr. Souter to investigate the poisoning case, examined.

I am first-class police inspector at Ahmedabad. I have been employed on special duty under Mr. Souter in connection with the investigation of this poisoning matter. I came to Baroda on the 10th December, and have remained here ever since, with the exception of visiting Ahmedabad for a day or two during that interval. I remember the day on which His Highness the Gaekwar was placed under arrest. On that day I went to the old Haveli in company with Captain Jackson. I went at about 8 or 9 o'clock in the morning. All round the Haveli I stationed guards on all four sides. I stationed sentries, and in all places where there was property, goods, and articles belonging to the Gaekwar Sircar, such places were sealed up. The jewel-room, and in fact all places were sealed up. Accounts and papers were also sealed up. The accounts and papers of the Kangee department were attached and sealed up. I sealed up the papers of the Kangee Department in the presence of, I think, Captain Jackson and some of the people belonging to that place. Perhaps Damodhur Punt was also present. For the most part, the people employed there must have been there on that occasion.

Do you remember distinctly whether Damodhur Punt was there or not ?

Witness—I did a great deal of work that day, and therefore I cannot remember. These papers of the Kangee department remained under seal for two or three days, until they were brought up here to the Residency. I mean some of them were brought up. Even now, there are certain papers sealed up at the Haveli. The Kangee papers, the private papers, and old private papers, are even now under seal.

You say some of the papers at the Kangee were brought down here, under seal, from the Haveli :—Yes. The dufter was sent for to this place.

And when you got this dufter, as you call it, to the Residency, what did you do ?—It was kept in a tent under a guard of policemen ; even now it is under a guard of police. The seals were broken in my presence. But I do not remember the day. Besides myself, Bulwuntrao and Madhowrao, carkoons belonging to the Kangee or private department, were present when these seals were broken. Mr. Souter was not present when these seals were broken, but he came afterwards. I do not remember if there was any one else. [Shown exhibits U 1, V 1, W 1, and X 1.] These four papers or daily accounts were amongst the papers in the dufter when the seals were broken at the Residency.

Were these ink splotches upon them when the seals were upon them at the time they were taken out of the dufter ?—Yes, and it was in consequence of them that I showed these papers to Mr. Souter. I remember Damodhur Punt being arrested.

When did you first see him after his arrest ?—About fifteen or twenty days. When I saw him I had some conversation with him.

Tell us, as nearly as you can recollect, what passed between you.—I said to him, " If you give a correct, a true statement, to Colonel Pelly, you will get a pardon."

Sir Richard Meade thought the translation was not quite correct.

(Question repeated.)

Witness—I said to him " If you give a correct statement, if you tell all that is true, you will get a pardon from Colonel Pelly."

Mr. Melvill—He said " Colonel Pelly will give you a pardon."

The Advocate-General—Did you tell him anything more than that ?

Witness—I showed him a section of the Criminal Procedure Code regarding the granting of pardons, for his information, in order that he might know relating to the granting of a pardon, I further said, " Nanajee Vithul and others have confessed or acknowledged." (Interpreter—The word may be translated either way, my Lord.) Afterwards Nanajee Vithul was made to stand outside the tent and he said, " I have declared everything that was true." (The translation of the last answer being objected to, the question was again put and the witness said—) Nanajee Vithul said " Whatever the matter was I have stated the whole truth." That was all Nanajee said ; he did not say anything further. Upon this Damodhur Punt said. " I will think about it and give you an answer regarding it." This occurred at about or near ten o'clock in the morning.

The Commission here adjourned for tiffin, it being then past 2 o'clock.

The Commission re-assembled after tiffin at 2-45 p.m.

The witness Gujanund Vithul was recalled and further examined by the Advocate-General.

You told me about your seeing Damodhur Punt in the morning, and showing him the section about pardon. When, after that, did you next see Damodhur Punt ?—I saw him about two or three hours after. He gave his deposition after Sir Lewis Pelly had given him a pardon. He was sent for to the tent, where I saw him.

What took place ?—Sir Lewis Pelly gave him a certificate.

Was Sir Lewis Pelly in the tent ?—Yes, he came to the tent.

And what happened thereupon ?—Mr. Richey took down his deposition there and then, in the same tent. He took it down in writing. I know the witness Hemchund Futteychund.

When did you first see him in regard to this matter ?—I have seen him often.

Was it before or after Damadhur Punt had made his statement ?—Before.

About how long before ?—There is one circumstance connected with this.

Answer my question- about how long before Damodhur Punt had made statement ?—I saw him in connection with two matters.

When did you first see him in connection with this matter ? Never mind about two matters.—Very likely four or five days before Damodhur Punt made his statement.

Is there any truth in his statement that you caused him to make his statement by *zoolum* ?—That is false.

Is it true that you wrote down what you liked, and made him sign what you had so written down ?—That is false.

Is it true that you threatened to imprison him unless he put his signature to what you had written down ?—That is false.

Did you use any threats of any kind whatever to him in regard to his signing what you had taken down with a view to his giving evidence in this case ?—No threats whatever.

Is it true that you took forcible possession of his books ?—I did not take forcible possession of them ; he produced his books with his own hand. Hemchund Futteychund's statement was taken before Mr. Souter. I was present when it was taken. I very well remember, after that statement had been made before Mr. Souter, that Hemchund was taken before Sir Lewis Pelly.

And in reference to his going before Sir Lewis Pelly, did you say to him that he must put his signature to the statement, and that if he said anything, Sir Lewis Pelly would imprison him ?—I did not say that—that is false.

Was any threat or compulsion whatever resorted to by you in order to induce him to sign his statement before Sir Lewis Pelly ?—No. (Witness shown Yungud Nond exhibit A 2 and referred to the three entries, two relating to the diamonds sold to the Maharaja, and one to the ruby ring.)

Witness—There are three items regarding diamonds. None of those entries were written by my direction. I do not quite remember when it was I first saw that book. Hemchund brought it to me. Those entries were in the book when Hemchund first brought it to me.

Have you caused, or allowed any pages to be torn out, or new pages to be placed in that book ?—I did not do it, but it has been done here. It had been done before I saw that book. Before I saw the book, the alterations appeared in it, but no alterations had been made in it since I first saw this book. Old leaves appear to have been removed, and new leaves appear to have been put in, at the end of the book. Any one who examines the book will find that to be the case. That is my opinion. I remember Nursoo, the jemadar, being apprehended. When he came to the Residency he was taken up by the orders of Mr. Souter. I do not remember who took him up ; it was not me ; but he was apprehended in my presence. The next day, after Nursoo was apprehended, he was confronted with Rowjee.

Tell us how that came about ?—I was sitting with Nursoo in the maidan, or plain, opposite the Residency, at the open space or plain in front of the Residency bungalow, and I was questioning about the particulars of this case.

Mr. Melvill [to Interpreter]—Did he say that he was sitting ?

Witness—Yes, I was sitting with him, and the Khan Sahib was also present, that is Akbar Ali and Abdool Ali was also present. I had given instructions to Rowjee. I said, " You should not say anything further than this—that you have stated everything connected with this case."

The President—Whom was this said to ?

Witness—To Rowjee, and that was what Rowjee said when he came there ; and he added, " I have said up to this," pointing to his neck. (The witness imitated the action of Rowjee,) He did not say anything more than that. I did not say to Nursoo any of the particulars of what Rowjee had stated. It was in order that Nursoo might not know the particulars that Rowjee was cautioned in the manner I have mentioned. No other police officer that I know of, or to my knowledge, told Nursoo anything of what Rowjee had stated.

Cross-examined by Mr. Serjeant Ballantine—What you wanted was to elicit the truth merely ?—What ?

Why, about the case. When you confronted these people together, you wanted was the truth ?—Yes, to elicit the truth.

Gujanund Vithul cross-examined.

Supposing Nursoo had denied everything, what then ?—If there was no further proof against him, he would have been released.

Do you mean to say that you would have released Nursoo ?—Yes, on receiving the sahib's permission or order.

Just tell me this—when you went to the Palace, you seized all the papers, as I understand ?—Yes.

Did Mr. Souter or any person in authority see the papers until after they had been in your hands for two days ?—At the time the seals were broken I saw them and Mr. Souter also saw them.

That is not an answer to the question I put to you. Were the papers in your possession, and seen by you for two days before Mr. Souter saw them :—When I examined these papers I showed them at that very time to Mr. Souter.

What do you mean by " that very time" ? Do you mean that he was present when you opened them ?—As soon as I noticed, I sent for Mr. Souter.

Oh, I see. Then, how long had you possession of the papers before Mr. Souter saw them ?—They were not in my possession, but they were under the guard of the police and the military.

My good friend, just understand me for a moment. You know you opened all these papers. How soon after you had opened all these papers did Mr. Souter come ?—He came immediately, as soon as I noticed.

What do you mean by " immediately ?"—Ten minutes or fifteen minutes.

Now, just attend to me for a moment. You seized these papers ?—Yes.

How long was it after you had seized these papers that Mr. Souter saw them ?—What papers ? I should like to understand from you to what papers you refer.

I mean all these papers that you found in the Palace ?—The whole department of papers was sealed up at the Haveli.

I ask you how long after you had had possession of them whether they were sealed up or not ?—By " possession," do you mean the Residency seal, or what kind of possession ?

The President—I am not sure that he ever said he had possession of them.

Mr. Serjeant Ballantine.—After you had seized the papers, what became of them ?

Witness—What papers do you mean ? I should like to know that.

All the papers you seized in the Place ?—I did not seize any papers at the Haveli, but they were left where they were, and they were sealed up.

You say they were left where they were and were sealed up. Who had any access to them but yourself ?—Those papers they were under our seals, I could have access to them, or Captain Jackson could, if he chose.

Did that apply to all the papers ?—What " all papers" do you mean ?

All the papers that you had seized ?—During the time the papers were under attachment no one but myself and Captain Jackson could have had access to them.

And after you say you had examined them for about a quarter of an hour, you sent for Mr. Souter ?—I myself went to call Mr. Souter.

Exactly, that is after you had examined them ?—As soon as I observed one obliteration with ink, I went and called Mr. Souter, and then the further examination took place, and everything else was discovered.

Now, what is it that you say is the falsification of these books that have been put into your hand ?—I will show it to you.

Let us hear what you have to say about it ?—Some original accounts which were written in the book appear to have been removed.

Shew us now what you mean.

(Shows book.) Observe here, the previous writing is different from that one line.

What do you deduce or conclude from that ?—And I have another reason.

But first of all tell us this reason. These leaves are apparently attached together, and are consecutive.

Were they in that state when you seized them ?—Yes, in the same state with the exception of being further soiled by handling since.

Yes, yes, but what is there in that entry that leads you to say that the book has been falsified ?—Put it into my hand, I will show it to you. If you will shew

that line to anybody, he will tell you that it has been newly or recently written.

You charge that book with being false, and one of the reasons you give is that entry. Now explain that—That is not the only reason; there are other reasons which go to prove that.

What is there in that entry that is suspicious?—I don't know that there is any suspicion in this item. It was necessary to make alterations in another place.

Never mind, now look here——

Therefore the page that was——

Now, Mr. Gujanund, you selected or pointed out those leaves, when I asked you to point out your grounds for saying that there was a falsification of the books. Now, tell me what there is in it? (Witness begins to turn over the leaves.) Keep to that page, sir. You have selected that page yourself. Now, what is there in that page that is false?—I don't say that anything false has been inserted in this leaf here. I don't mean to say that; but this book has been altered in one place for the purpose of removing one account.

Mr. Melvill—This answer should have been thus translated:—"It was necessary to make this addition to cover an alteration in another place."

Mr. Serjeant Ballantine—Now that is one of the places. Turn to the other which you say explains it. Take the book into your own hand.—You will please notice this. There are sets of leaves altogether, not torn and separate, and several of these leaves are torn. You will please count how many of these leaves are connected together, and how many are unconnected.

The Advocate-General (to Interpreter)—You did not give that answer quite right. As I understood him the witness said that this book is made up of a certain number of *juzes*, and he says if you look at that book it will be found that most of those *juzes* are not separate, but that those particular *juzes* are separate, and that they do not contain the proper number of pages.

(Interpreter asks the witness again.)

Witness—In the latter part, the leaves are not made up of the proper number of leaves sticking altogether as in the former part of the book—that is entire.

Mr. Serjeant Ballantine—I want to know what is your suggestion? What do you say is the falsification?—The account regarding the diamonds has been altered.

But you have got the two entries which are quite according to your own wishes?—Those entries were made subsequently.

That is what I believe myself. What do you mean by being made subsequently?—The original page and date and entry were in another place, and that leaf has been removed.

First show us where the other leaf has been removed.—The page has been removed from the place where a number of leaves were together.

Be kind enough to shew me. You know what is your case. These diamonds were brought, you know, on the 6th and 7th, and you have that entry there.—There is an entry, but that entry has been subsequently made, the original entry has been removed.

Will you point out any portion of the book in which you say any page of the book has been removed that you suppose contained a preceding entry?

Witness points to book, and says "Sets of leaves here are torn."

Mr. Serjeant Ballantine requested that the book should be handed to him. (That was done.) (To witness)—Just point out where the leaves have been removed on which you say there was originally an entry.

Witness—As to that place, I have not seen it, but my idea is that leaves have been removed from the place where the set of leaves has been torn.

The President (pointing to the book)—Is this the book in which you say the new leaves have been put in?

Mr. Serjeant Ballantine—Yes. This is the book that Hemchund charged the police with having falsified, and with having obliged him to put in these entries, and this witness says that these entries are in reality substitutions for former entries.

The President—It seems to come to this that each party says that the other has made an alteration in the book.

Mr. Serjeant Ballantine—That is so. But this witness professes to say that there have been entries taken out, and what I understood him to indicate was that he was able to point out where that had been done.

[To witness]—You have asserted that entries or leaves have been expunged?

Witness—Yes.

Now, I require you to tell me your grounds for saying so and to point out to me where these entries have been erased, or these leaves torn out?

Witness takes the book and says the pages have been removed from here.

Mr. Serjeant Ballantine requested that the book might be handed to him, and after looking at the place pointed out by the witness he said.—"This is the old affair. Why do you say that pages have been removed from here?

(Here the Interpreter marks his initials on the particular page for the purpose of identification.)

Witness—I will show you. The previous writing is of a different character, and of a different ink, and when these leaves were removed fresh ink had to be used.

Mr. Melvill—What he said was simply that the ink in the old place was old, and in the new place new.

(Interpreter again asks the witness.)

Witness—There is a difference in the ink.

Mr. Serjeant Ballantine—Do you say that the pages have been torn out there?—(to Interpreter) Give the date of the entries upon these pages.

Interpreter—Purtim Ashad Vud 14th, is the date of the first entry upon that leaf, that is the 12th July 1874.

And the date of the next page?—Tuesday, the first, of second Ashad Sudh 14th July.

Mr. Serjeant Ballantine (to Commission.)—That, be it remembered, is the next consecutive entry in the book.

Cross-examination by Mr. Serjeant Ballantine resumed.—Who is the head of the jewel department now in the Palace?

Witness—Gunputrao Madhowjee.

Does he happen to be a near relative of yours?—He is the father of my son's wife

You don't misunderstand my questions at all, I see. Now, let me ask you, whether it has ever been suggested against you that you have made evidence upon former occasions?—What could I know of that?

You know that you have an interest in your own respectability. Have you been charged by judges with manufacturing evidence?—I do not know if any such charge has been brought or mentioned to me by a judge.

You never heard of such a charge being made by a judge upon the bench against you?—Not in all my life.

Just tell me—were you engaged in the Koth succession case?—Yes, I was.

And were you the principal policeman in it?—Yes, I investigated that case.

You conducted it, I suppose, and managed the witnesses?—I did the police part of the affair.

Was it originally brought before Mr. Coghlan?—I

did not inquire into the case that was before Mr. Coghlan.

Do you mean that you were not the policeman in the case before Mr. Coghlan?—I was not the person who enquired into that case.

Were you the policeman who enquired into that case?—No, I was not concerned—that was not my district.

Do you mean to say that you were not the policeman engaged in the case under Mr. Richey? Now, take care what you say.—On one occasion I went with Mr. Richey to Koth.

Mr. Melvill—He says he went before Mr. Coghlan.

Mr. Serjeant Ballantine wished that the interpreter would give the whole answer.

Mr. Melvill (to Interpreter).—Ask the witness if he did not go with Mr. Richey before Mr. Coghlan.

(Question asked.) Witness—I did not go with Mr. Richey. (To Mr. Serjeant Ballantine)—If I understand your questions I shall be able to answer them satisfactorily.

Mr. Serjeant Ballantine—Satisfactorily, perhaps, but you don't know to whom. Were you the policeman engaged in the case when it came before Mr. Coghlan at Ahmedabad?—I did not conduct the whole of the enquiry. I might have done one piece of work in connection with the case, and was principally sent for on that account.

Now, Mr. Gujanund, I can see that you are treating me with most utter unconcern. But were you not the principal policeman engaged in the case? You know I shall get it out of you yet?—I must know the particulars before I can answer.

Mr. Serjeant Ballantine (to Interpreter)—Tell him that I don't mean to tell him the particulars. (To witness.)—Now, you know, Mr. Gujanund—now don't be modest, Mr. Gujanund, but tell me were you the principal policeman engaged at that time before Mr. Coghlan?—I was number one amongst all the policemen that went up in that case as a witness.

Do you mean by number one that you were the principal witness?—I was the person who had the largest salary among the policemen that were witnesses in that case.

What were you called at that time?—First-class police inspector

Now, do you remember Mr. Coghlan saying, "A disagreeable impression remains on my mind that the police had too much to do with getting up the evidence?"—I did not make any inquiries about the witnesses in that case at all.

The Advocate-General (to Interpreter)—What he says is that he had nothing to do in getting up the evidence in that case.

Serjeant Ballantine—But did Mr. Coghlan say that?—If Mr. Coghlan said so, he must have said it in his own office and what do I know about that?

Do you know or not if he said that?—I cannot recollect everything. If anything concerns me, I might recollect it.

If it did not concern you, who were the police that it applied to?—The police who made inquiries in that matter.

And if that observation were made, you do not think it was applicable to you at all?—No, it does not apply to me. It applies to those who were concerned in making the inquiry.

There was a further inquiry connected with the Koth succession case, and just tell me whether the following applies to you. This is at a much later date. I think it was in 1873?—Very well.

Do you remember the case tried before Mr. Justice West?—Yes. I was not present at the trial.

But you were the policeman conducting it, were you not?—I was not there. I was concerned in the committal of the case before the magistrate.

Do you mean to say that you had nothing to do with the case tried before Mr. Justice West? Will you swear that?—I prepared that case here, but I was not present at the trial which took place before Mr. Justice West

Do you know that in relation to the preparing of that case, Mr Justice West says, "The Government of Bombay, which seems to have taken much interest in the case, has plainly been imposed upon, for I have met with no other case in the course of my experience which bore plainer marks of falsehoods and fabrication"?—Yes. What is your question?

Do you know whether Mr. Justice West made these observations from the bench in delivering judgment?—I was not present. I have already told you. How can I tell you without having knowledge?

Do you not know, or have you not heard, that Mr. Justice West did make observations of that kind?—I may have heard of it, and I may not have heard of it. Mr. Justice West himself has been imposed upon by the defendants, and I have got proof of this lately, which I am ready to produce before this Court, if the Court order me to do so.

Gujanund Vithul re-examined.

Re-examined by the Advocate-General—Between the time that these papers were locked up and sealed in the Palace at the time of the Maharaja's arrest to the time you made your investigation of them at the Residency after breaking the seals, had you any access to these papers?—No. I did nothing with them.

How long had you been examining these papers at the Residency before you found this ink mark to which you called Mr. Souter's attention?—I do not quite remember.

About how long? Can you give me an approximate time?—Half an hour or an hour.

Were the carkoons whom you mentioned present during the whole of that time?—I was superintending, and it was through them that the examination was made.

Were the carkoons who had been employed in the Khangee department under the Gaekwar?—Yes. They examined, and I superintended.

As soon as you saw that ink mark you say you sent for Mr. Souter?—Yes.

And did he come in ten minutes or a quarter of an hour?—Yes, immediately.

(Shown books.) I undertand you to say that these books are made up of a series of sets of pages which I think you call juzes?—Yes.

How many pages are there in a juz?—There are six pages here in each juz.

How many perfect juzes are there? Are there not six of these juzes which are not split up?—Yes.

The book was handed to the President.

The Advocate General explained that there were six juzes which were not split up above the sewing.

[A mark was placed at the sixth juz.]

Now, do not the unsevered juzes end at a place where the old ink ends and the new begins?

Serjeant Ballantine remarked that Hemchund Futteychund had never been examined about this part of the book, although he was asked as to the termination of the book.

The Advocate General [to Interpreter]—Put your pen where you placed your initials. That is at the end of the fifth juz, is it not?

Witness—The five juzes are entire, and the last juz is entire, and the intermediate are not entire.

Does what you call the old ink and the new ink be-

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long to the same entry or to different entries ?—To the same.

The President thought that it would be better if experts were called to speak to the condition of the books.

The Advocate-General said it was his intention to call experts.

In the branch Koth succession case that was heard before Mr. Coghlan were you concerned otherwise than as a witness ?—I was not concerned in preparing the case ; I was only a witness.

On the occasion when you went with Mr. Richey where did you go to ?—I went to Koth with Mr. Richey.

And your evidence was as to what passed on your visit to Koth with Mr. Richey ?—Yes.

The Commission adjourned at 4-45 P. M.

FIFTEENTH DAY, FRIDAY, MARCH 12.

PRESENT.

SIR RICHARD COUCH (President) ; H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence :—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission :—John Jardine, Esq., Bombay Civil Service.

Interpreters :—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharaja Gaekwar occupied a seat on the left of the Commission.

Sir Lewis Pelly, K.C.S.I., occupied a seat on the right of the Commission.

The Inquiry was opened at 11 o'clock.

HURJEEVUNDAS PURSHOTUM called and affirmed.

Examined by Mr. Inverarity—My name is Hurjeevundas Purshotum. I am head carkoon of the Gnzeratee accounts in the Ahmedabad Collector's office. I am acquainted with the way in which native books of account are made up.

Hurjeevundas Purshotum examined.

How are they made ?—Do you mean how they are bound up, or how they are written ?

How are they bound up ?

Witness—They are made by folding sheets of papers called *jooz* or sets and then binding them up. There are generally six or nine leaves to a jooz. If a book is made up of six jooz you do not find a jooz of nine leaves in it, and if it were made up of jooz of nine leaves it would be of nine leaves throughout. There would not be a different kind of jooz in one and the same book.

(Shown book exhibit A 2.)

This book is made up of jooz of six leaves.

In two jooz the leaves are literally what is called broken, split in two jooz, the leaves are split from below or underneath the string. Above the strings the leaves generally are not cut up, but are left entire. In order to remove one or more of the leaves from the middle of a jooz it would not be necessary to cut them above the string, but in the case of a single leaf it would be necessary to cut.

You could take out the whole jooz without cutting at all ?—I find the first five jooz in this book perfect or entire. There is one leaf deficient. In the sixth jooz there is one leaf which one would expect to find, deficient or wanting. In the sixth jooz there are five leaves—four leaves are entire and one is cut.

The President—By the four leaves he means four double leaves ?

Interpreter—Yes, double leaves.

Witness (points to a leaf)—This is a leaf.

The President—It is not quite correct to call it a leaf—it is a double leaf.

Mr. Inverarity—Four leaves are put double, are they not ?

Witness—They are made of one large sheet.

And they constitute four of those leaves, don't they ?—Yes, one sheet.

Look at the seventh jooz ; do you find that cut or not ?—Two leaves are joined together, and four are loose.

The Interpreter—Two leaves are uncut—that is to say, they are together at the top.

The President—You mean they are uncut above the string ?

Interpreter—Yes, my Lord.

And the others are separate ?

Interpreter—Above the string.

Mr. Inverarity—Is the eight jooz entire or not ?

Witness—It is entire ; that is the last jooz in the book. The seventh and eighth jooz appear to me to be made up of paper of a different kind from the rest of the book.

Cross-examined by Mr. Serjeant Ballantine—I don't know that I have quite followed you. Is this your theory—that one or more leaves have been taken away or removed ?—One leaf out of the sixth jooz is missing ; it is gone.

Cross-examination of Hurjeevundas Purshotum.

Do you mean by that that there is one leaf, and one only, gone from that book ?—Yes ; one gone altogether.

And only one ?—One is wanting.

Cannot you answer my question—and only one ?—If I look to the new leaves, thirteen leaves have gone altogether, thirteen have been removed, and twelve new ones have been put in.

And one altogether missing ?—Yes.

Do the twelve new ones put in contain any entries ?—There is writing on the first six leaves out of the twelve.

And are the other six blank ?—Yes.

Now, what would be the number in the book of the missing leaf ; what would be the date of the entry in the missing leaf if it was found in its proper place in the book ? On the preceding page, the date is the last day of the first month of Ashad of last year.

The Interpreter, at the request of Mr. Serjeant Ballantine, states that that date corresponds with the 13th of July last.

Sir Richard Meade—The page preceding what ?—The page preceding that part from where one leaf is missing.

Mr. Serjeant Ballantine requested the Interpreter to point out to the witness the items of the 7th and 8th November—one item in relation to diamond chips, and the other in relation to the ruby ring. Put the book into the witness's hand. (To witness)—Just tell me whether those two last entries are made upon what you say are interpolated leaves ?

Witness—They occur on the seventh jooz, which has been newly put in.

Interpreter—The date of the item about diamonds is Vudh the 14th.

The President—Those two entries occur upon the seventh jooz or set which has been newly put in ?

Interpreter—Yes, my Lord.

Mr. Serjeant Ballantine—Just look at the item of the ruby ring—does that also occur upon a substituted page ?—Yes.

Re-examined by the Advocate-General—Just point out in what part of the book you say the leaf is missing—the leaf of the sixth jooz ?

Witness points it out, puts a pencil there, and gives the book to the Advocate General.

Is it between these two pages ?—Yes; the leaf that is between those two is missing

The Advocate-General—That, my Lord, is the leaf on which Mr. Nowrozjee Furdoonjee has put his initials. Mr. Nowrozjee Furdoonjee has placed his initials at the place which Gujanund Vithul referred to as showing an entry begun in old ink and continued in new ink.

Mr. Nowrozjee Furdoonjee—Yes, my Lord.

MR. SOUTER called and sworn.

Examined by the Advocate-General—My name is Frank Henry Souter. I am a Commissioner of Police in Bombay, and a Companion of the Star of India. On the 9th December last I came to Baroda to make inquiries into the attempt that was alleged to have been made to poison Colonel Phayre. I had with me the two Khan Sahebs and the Rao Saheb Gujanund Vithul. The Rao Saheb joined me on the 10th.

Mr. Souter, Commissioner of Police for Bombay, and on special duty at Baroda to investigate the poisoning case, examined.

Do you remember examining the ayah Ameena in reference to this matter ?—Perfectly. I first saw her on the 16th December between five and six o'clock in the afternoon. I saw her in her own room in Mr. Boevey's compound. On that first occasion she did not make a detailed statement to me, and I did not take it down on that day because she was very ill and unfit to give a detailed statement on that occasion. She stated that she had been at the Maharaja Mulharrao's Palace, and also that she had received certain sums of money from him. She had high fever on at the time, and begged me to come and see her at some other time, when she would give me all the details. Before I saw the ayah on this evening, to the best of my belief none of my police had seen her. I took down her statement on the 18th. (Shown statement.) This is the statement I took down in my own handwriting. I know Hindoostanee thoroughly and required no interpreter in regard to what witnesses said. On the 21st December I took a further statement from the ayah at the hospital. (Shown papers.) That follows the record of the first statement.

The Advocate-General put in these papers, marked D 2.

AYAH'S STATEMENT TO MR. SOUTER.

Exhibit D 2.

Ameena, wife of Sheikh Abdoola Kiral, age about 40, and ayah to Mrs. Boevey, states:—At the time of the meeting of the Baroda Commission, I was persuaded, much against my will, by Faizoo Ramzan, Residency chobdar, to visit the Maharaja Gaekwar. I went to see him three times altogether. On the first occasion I was taken to the Maharaja by Faizoo, and that was when the Enquiry Commission was sitting. Salim sowar met us at the Haveli, and we all three proceeded before the Maharaja together. We went up three flights of stairs to where the Maharaja was sitting. He spoke to me personally, and begged me to intercede with my madam, Mrs. Phayre, in order that she might use her influence with the Resident in his (the Maharaja's behalf. I made no promises. After being about half an hour with the Maharaja I left. Faizoo went to his house in the city, Salim remained at the Palace, and I came home by myself in a bullock shigram.

I visited the Maharaja twice again; the second time was after my return from Bombay and Nowsaree, where on Mrs. Phayre's departure for England, I accepted service with her daughter, Mrs. Boevey, wife of the Assistant Resident. It must have been about a month after my return to Baroda that I visited the Maharaja on the second occasion. I was then persuaded by the Maharaja's Arab servant, Salim, to go to the Gaekwar, and I was taken by the Residency naik named Kurreem. The Maharaja and Salim talked to me about "jadoo" [sorcery], but I remarked that Europeans could not be affected or influenced by such means. My interview with the Gaekwar lasted about half an hour, and I then returned home in the shigram with Kurreem. On this day I received no money, but two or three days after Kurreem naik called at my house and gave me Rs. 100 stating that Yeshwuntrao Yeola had given Rs. 200, of which Rs. 100 was for him, which he had kept, and the other Rs. 100 for me.

The third time I visited the Maharaja was during the Ramzan. I was then pressed to go by Salim, who fixed the day and time; and I went in company with my servant boy named Chotoo. My husband, Abdoola procured a shigram, and Salim met me at the Haveli and took me before the Raja. On this occasion the Maharaja spoke to me with reference to the birth of Luxmeebace's child, and inquired whether the saheb and madam had been talking about him (the child), and if any objection was likely to be raised with regard to his legitimacy. The Maharaja asked me to do what I could in the matter; but I told him that I could not help him. I was with the Maharaja for about half an hour on this occasion, and returned to my home at the Residency with my servant boy about 10 o'clock at night. About two or three days after this visit Salim came to my house at the Residency and gave me Rs. 50. I am quite familiar with the Maharaja Gaekwar's appearance, as I have often seen him during his visit to the Resident; and on one occasion, when the Gaekwar's family came to visit Mrs. Phayre, the Maharaja was in the room when I happened to be called in and made my salaam. He was then sitting quite close, and I saw him distinctly, and it was the same person before whom I was taken and conversed with during each of my three visits to the Haveli.

The Kazi of Chandore, who was in the habit of frequenting the Residency, particularly when the Reverend Mr. Taylor used to be on a visit, informed me about a month before the attempt to poison Colonel Phayre that the Resident's butler, Pedro, and Rowjee, havildar of peons, were in great favour with the Maharaja, and that they had agreed to administer poison, but they did not say to whom.

Kurreem naik also told me, about a month before the attempt to poison the Resident, that he had heard from a person in high position that Pedro, buttler and Rowjee, havildar, had consented to administer poison.

Taken before

F. H. SOUTER,
Commissioner of Police, Bombay.

Baroda, 18th December, 1874.

Ameena, wife of Sheikh Abdoola, and ayah to Mrs. Boevey, is re-called at her own request, and further states:—When I gave my statement on the 18th, I was suffering from fever and was not feelling well, and omitted to mention certain facts which I have now remembered and wish to have recorded along with my first deposition.

On the occasion of my being taken beore the Maharaja the third time during the Ramzan, the Maharaja asked me, after other questions, whether it would not be possible to administer something by which the Resident could be brought round to his (the Maharaja's) will. The Gaekwar spoke in cautious and hidden language, but I understood him to be throwing out a feeler to ascertain whether I would consent to administer poison to my master, Colonel Phayre. I indignantly refused, and objected, and told the Maharaja that if he attempted anything of the sort he would get into serious trouble and be ruined. I exclaimed, "it would* be better that lakhs of people should die than that the supporter of lakhs should come by his death." Salim, who was standing close to the Maharaja at this time, endeavoured to persuade me by kind words and by saying that if I would only do as the Maharaja wished, I would have provision made for me for the rest of my life, and that my husband should also be taken into service under the Raja.

Lakh murna, lekin lakh ka pilnawala nai murna. This is a very common Oriental idiomatic phrase.

Taken before

F. H. SOUTER,
Commissioner of Police, Bombay.

Baroda, 21st December, 1874.

Examination continued:—I came to see the ayah at the hospital after that first occasion, because Dr. Seward called on me at the Residency. He said the ayah was better and wished to see me, and on the following day (the 20th) I went to the hospital. She made a further statement, which I took down on the following morning (the 21st), as I had no writing materials with me that day. I also took the statement of Rowjee. [Shown paper.] That is the record of the statement which he made to me. It is in my own handwriting. It was taken on the 24th, 25th, and 26th.

The Advocate-General—There is a postscript, which you had better remove, as the statement alone will be available.

The Advocate-General put the statement in [marked E 2].

ROWJEE'S STATEMENT.

Exhibit E 2.

Rowjee bin Rama, Mahratta, age 24 havildar of peons on the establishment of the Residency at Baroda, states:—About two months before the Commission sat at Baroda, Salim, Arab sowar, who was in the constant habit of visiting the Residency with His Highness the Gaekwar, spoke to me and said that the Maharaja wished to see me. I agreed, and it was decided that I should go on the following Sunday and meet him, Salim, at the house of Yeshwuntrao about 8 o'clock at night. I was taken before the Maharaja by Salim and Yeshwuntrao by a private entrance on the side of the Nuzzer Bag. On being introduced to the Maharaja, he asked me if I would agree to keep him informed of all that went on at the Residency. I consented, and he promised to reward me handsomely and to confer other favours upon me. The Maharaja asked me if I could get the jemadar of peons, Nursoo, to help in this matter also and to visit him. I promised that I would arrange this, as the jemadar was a great friend of mine. I then left the Maharaja, and the following day I spoke to the jemadar and told him of the Maharaja's wishes. The jemadar said that his family was ill, and that he had his duties to attend to, and could not go to the Maharaja at that time. I visited the Maharaja several times again previous to the sitting of the Commission, and on each occasion I went first to Yeshwuntrao's house, and was invariably accompanied by him and by Salim when taken before the Gaekwar. I visited the Maharaja three times while the Commission was sitting, and furnished him with all the information I was able to gather as to the action of the Commission, and of all that was going on at the Residency.

At one of these latter visits I informed the Maharaja that I was about to be married, and that I was without the necessary means. He ordered Yeshwuntrao to remind him of this, and on the following Monday, when the Maharaja came on his usual visit to the Residency, Yeshwuntrao, who accompanied him, informed me that he had got Rs. 500 for me and told me to come for it. I went soon after in company with one Jugga (a man employed at the Residency to pull the punka) to Yeshwuntrao's house, where Rs. 500 were paid to me by a carkoon in Yeshwuntrao's presence and before Jugga. Of this money I lent Rs. 100 to Jugga, and made up a silver anklet of the value of about Rs. 100, and the rest was expended on my marriage. One Dajeebhai Kurya got the anklet made up for me.

After my marriage, and a few days after the Commission had left Baroda, Salim sowar met me, and said that he had got the jemadar all right and willing, and wished to know when I could come in company with him to see the Maharaja. I settled with him to go two days later, which was on a Sunday; the jemadar and I met that night at Yeshwuntrao's house about 8 o'clock. Jugga accompanied me, as I did not like to go by the rear road to the city at night by myself.

From Yeshwuntrao's house we all went to the Haveli, where Jugga remained below, and Salim, Yeshwuntrao, the jemadar, and I went up and interviewed the Maharaja. This was the jemadar's first visit, and he consented, at the Maharaja's request, to keep him informed of all that transpired at the Residency, for which promise of favour a liberal reward was held out to the jemadar by the Maharaja. It was then arranged that Salim should from time to time receive and convey information from the jemadar to the Maharaja. I accompanied the jemadar two or three times on his visits to the Maharaja previous to the Resident's leaving for Nowsaree. At Nowsaree nothing particular transpired. Salim and Yeshwuntrao accompanied the Maharaja, but lived in the compound of the house occupied by the Resident. There they struck up a friendship with the Resident's butler, Pedro, and about two or three days after the return of Col. Phayre to Baroda, the butler, Pedro, asked me if I would accompany him to the Maharaja. I agreed, and on an appointed day Salim came to the Residency, and we three went off together about 10 o'clock at night in bullock shigram which had been placed on the road by Salim and belonging to the Durbar. We went direct to the Haveli where we met Yeshwuntro, who took us up to the Maharaja. The Gaekwar spoke to Pedro and asked him if he understood English. He said he did a little, so the Maharaja requested him to communicate to him any conversation that might take place at the table relating to him, to which Pedro consented. I accompanied the butler, Pedro, on two other occasions to the Maharaja, previous to his going to Goa after the rains. We went to the Haveli in the same manner as before and with Salim and Yeshwuntrao; nothing particular transpired. On the butler's return from Goa, I accompanied him again to see the Maharaja. Salim came as before and brought a shigram which we met on the road. Yeshwuntrao met us as usual at the Haveli, and we were taken before the Maharaja, who first inquired of Pedro how he was and when he returned, and then said he had something of importance for him to do, and asked if he would do it. Pedro said if it was a matter within his province that he would do it. Yeshwuntrao then handed a small paper packet to the Maharaja, who passed it on to Pedro, and told him to administer it in his master's food. Pedro remarked that if anything should happen suddenly, he would get into trouble. The Maharaja said that he was not to fear, as nothing would take place for two or three months, when his master would either die or get mad. Pedro consented to do what was wanted, and he returned to the Residency about midnight.

In addition to the visits I paid the Maharaja at night in company with Pedro, I also went to see him several times in company with the jemadar after our return from Nowsaree. The jemadar was not aware of my having gone to the Maharaja with Pedro. About fifteen or twenty-one days after our return from Nowsaree, the jemadar gave me at his house in the city Rs. 300, which he said was half the sum he had received from the Durbar to be divided between us. About three weeks or a month before the attempt to poison the Resident was discovered, the jemadar and I were taken before the Maharaja by appointment at night. Yeshwuntrao and Salim introduced us, the Maharaja sat in his private room as before, and after a short conversation he remarked that the Resident was very hard upon him and doing great "zoolum," and asked us if we would consent to administer something which he would give. Salim and Yeshwuntrao immediately began to persuade us by saying that if we would only carry out the Maharaja's wishes, we should not be required to serve any longer, as he would make a handsome life provision for us and our families; that we should have 'assamies" bestowed upon us, and should in addition receive a lakh of rupees each as soon as the work was done, meaning as soon as the Residentes death took place. We consented to do the job, and the Maharaja then said that the article to be administered would be given to us by Yeshwuntrao and Salim. A few days after this the jemadar gave me two powders, and told me that equal parts of each should be administered for two or three days, and in such quantity as to consume the whole in that time. This had also been carefully explained to me by Yeshwuntrao and Salim in the presence of the Maharaja. I did not commence to administer the powder for two or three days, as no favourable opportunity presented itself for so doing. It was decided at our consultation with the Maharaja that the poison should be administered in "sherbet," which Colonel Phayre was in the habit of taking every morning on return from his walk. Accordingly I put the powders into the "sherbet" two or three times wherever I found no person in the way, or about to see me.

As a few days elapsed without anything happening, the Maharaj evidently became impatient, and sent for me and the jemadar again. We went in the usual manner with Yeshwuntrao and Salim. The Maharaja remonstrated with us for not having done the work we promised. I assured him that I had put powder into the sherbet two or three times, and I expressed my doubts as to the poison being efficacious. Thereupon the Maharaja said he would give another powder, which Salim produced and handed to the jemadar. The Maharaja said that this would not take immediate effect, but that it would work slowly and surely. We then left, and the following morning the jemadar gave me the packet of poison at the Residency while I was sitting on the form close to the screen and near to where Colonel Phayre used to sleep. A day or two after this I administered the poison in the glass of sherbet which had just been made and placed on the wash-hand table close to the Resident's writing-desk in his private office room. Colonel Phayre was out walking at the time, and returned about twenty minutes after. I informed the jemadar when he came about half-past 7 o'clock of what I had done. When I visited the Maharaja, the punkawalla, Jugga, accompanied me from the Camp Bazaar sometimes but a man named Karbhai more frequently came with me as far as the Haveli. They never appeared before the Maharaja, and I only took them as company, as I was afraid to go so far at night by myself.

The packet of poison which the jemadar first gave me I made into small doses, as directed, and kept the powder in the secret pocket of my cross-belt. The powder taken from the secret pocket of my cross-belt this morning (25th December 1874) is one of the powders made up from the packet given to me by the jemadar, and I used always to keep the powders in the same place. While at Nowsaree I spoke to Yeshwuntrao and Salim, at the jemadar's request, to get some money for him, and they interceded with the Maharaja, who ordered Rs. 250 to be given to the jemadar through Salim, who, at the jemadar's request, paid the money to one of his brothers at Baroda.

Whenever there was any information to send to the Maharaja from the Residency, and I was unable to go to the Haveli myself, I used to write or get Jugga to write at my dictation, and the note used to be taken by the jemadar when he went home at night to the city, and he used to send it on to the Maharaja through Salim. The gold and silver ornaments which I have produced, and valued at about Rs. 420, have been made up from the money which I have from time to time received from the Maharaja.

Taken on the 24th and 25th Dec. 1874, before

F. H. Souter,
Commissioner of Police, Bombay.

Baroda, 25th December, 1874.

Rowjee bin Rama is recalled and further states:—On the occasion when the jemadar and I were taken before the Maharaja in company with Yeshwuntrao and Salim, and it was decided and arranged that poison should be administered to Colonel Phayre, it was carefully explained to me, and I was instructed each time to mix the powder in water first, otherwise I was told that the poison would float on the surface of the sherbet. Accordingly I used to shake the powder up with water in a small phial and pour it into the glass of sherbet. The jemadar knew this, and was aware that I kept the phial for this pur-

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concealed under a large empty box which stood close to the form on which the peons sat while on duty.

Taken this 26th day of Dec. 1874, before

F. H. Souter,
Commissioner of Police, Bombay.

The Residency, Baroda.

Rowjee Havildar was taken into custody by the Police on the 22nd December; and on the same evening, on promise of conditional pardon that he should tell the whole truth, he confessed to having been the person who administered the poison to Colonel Phayre. The following morning he was brought before Colonel Sir Lewis Pelly, who repeated and confirmed the promise of pardon conditionally offered, upon which Rowjee then made the detailed statement taken down on the 24th, 25th, and 25th idem.

F. H. Souter,
Commissioner of Police, Bombay.

The Residency, Baroda, 26th December 1874.

I also took Nursoo's statement. [Shown statement.] That is his statement taken down by me in my own handwriting on the 26th December.

The Advocate-General—On the last page of these statements there are some notes, and I suggest that Mr. Jardine may take a copy of them.

[Statement put in and marked F 2.]

NURSOO'S STATEMENT.

Nursoo bin Rajanna, Kamatee, age 50, Jemadar of peons on the establishment of the Resident of Baroda, states:—About the time of the sitting of the Commission at Baroda, Rowjee havildar told me one day that he had been speaking favourably of me to the Maharaja who had expressed a wish to see me. I replied that there was sickness in my house, and that I had my duties to attend to, and therefore could not arrange to go to the Maharaja at that time.

Exhibit F 2.

After the Commission left Baroda, Yeshwuntrao, Salim, and Rowjee all urged me to go and see the Maharaja; and I at last consented, and on a fixed day I went to the house of Yeshwuntrao where Rowjee and Salim also met me; and we went together by way of the Nuzzer Bag and a private entrance to an upstair private room, into which Yeshwuntrao brought the Maharaja and introduced me. The Maharaja first remarked that I was a scamp and a bad man, and had never been favourable to or assisted him; but the three men Yeshwuntrao, Salim and Rowjee assured the Maharaja that they had all spoken to me, and that I was now fully prepared to carry out his orders and act up to his wishes. The Maharaja then requested me to keep him regularly informed through Salim of all that transpired at the Residency, to which I consented. On this occasion a man named Karbhai accompanied Rowjee from the Camp to the Palace, but he did not appear before the Maharaja. About twenty or twenty five days later, I again visited the Maharaja in company with the same people, and in the same manner. Nothing particular transpired at this visit beyond furnishing the Maharaja with all the information we had regarding matters at the Residency.

In the month of April I accompanied the Resident to Nowsaree; the Maharaja also came there and lived in his Haveli, while Colonel Phayre was located in a bungalow close to the railway station, and about a mile from the Maharaja's Haveli. Salim and Yeshwuntrao lived in the Resident's compound.

I believe Rowjee used to visit the Maharaja at Nowsaree, and through Salim he obtained for me a present of Rs. 250, which, at my request, was paid to one of my brothers at Baroda.

About a month or more after the Resident's and the Maharaja's return from Nowsaree, I visited the Gaekwar again in company with Rowjee, Salim, and Yeshwuntrao. We met as usual at the house of the latter, who took us before the Maharaja. We first gave him all the information of what had been going on at the Residency, and then Salim and Yeshwuntrao remarked to the Maharaja that we (Rowjee and I) had not received anything on account of his recent marriage with Luxmeebaee. He said very well, that he would see about it. We then left, and a few days after Salim brought me Rs. 800, of which I gave him Rs. 100, and I believe I paid Rs. 400 to Rowjee, from which sum he was to pay Jugga Rs. 100.

About two months later I again visited the Maharaja in company with Rowjee. We met as before at the house of Yeshwuntrao, and he and Salim took us before the Maharaja. We first informed the Maharaja of all that had been going on at the Residency, after which he remarked that Colonel Phayre was very hard and doing great "zoolum" to him, and asked us if we could and would consent to put something in his food. I replied that in my position I had no opportunity to do this, upon which Yeshwuntrao and Salim began to persuade us by saying, that if we'd only consented to do this job, the Maharaja would reward us in such a manner that we should not be required to serve any longer, and that our families should also be handsomely provided for, and that the remainder of our lives would be spent in ease and comfort. Rowjee then said that Colonel Phayre was in the habit of drinking sherbet early in the morning on his return from walking, and that he would administer the dose in that. The Maharaja and Yeshwuntrao then said that they would send a powder by Salim to me at my house in the city, which I was to give to Rowjee at the Residency. Yeshwuntrao carefully explained to Rowjee at the time the manner in which the powder was to be administered. We left, and the following day Salim brought me a packet which I stuck safely within the upper folds of my turban, and the next morning I gave the packet to Rowjee while he was sitting on the form close to the screen near where Colonel Phayre used to sleep. I did not open the packet, and therefore was unaware of the number of powders it contained.

A few days after this when Yeshwuntrao and Salim came to the Residency with the Maharaja, they began to enquire of Rowjee how it was that nothing had happened, and asked whether he had administered the powders or not. Rowjee then spoke to me, and said he did not know how to account for there being no result, as he had certainly put the poison in the 'sherbet." The Maharaja being dissatisfied about this sent for us again. About fifteen days after the great Dusserah sawaree, we went as usual to Yeshwuntrao's house. It was about 8 o'clock at night when Rowjee and I met there, and we accompanied Yeshwuntrao and Salim as before, and they brought the Maharaja and introduced us in the same room. He immediately upbraided us for not having carried out his wishes as promised, upon which Rowjee declared that he had put the powders in the "sherbet," but stated that he did not think they could possibly have possessed the required property. The Maharaja then said, "Very well," that he would give something else which would be brought to me by Salim. At this time, and when we were about to leave, Yeshwuntrao gave something (I am not sure what it was, a small bottle or what it was) to Salim, who passed it on to Rowjee. The former promises of high reward and favour were repeated, and we came away. The following morning Salim gave me a packet, which I handed to Rowjee the same day on coming to the Residency. He was sitting as before on the form near the screen. A few days after this the conversation took place of the attempt to poison Colonel Phayre. Rowjee told me that, as instructed, he on each occasion mixed the powder with water, which he shook up in a little bottle before pouring it into the sherbet. He used to keep the bottle for this purpose hid under a large empty wooden box close to the form above referred to. Rowjee used often to give me notes, written sometimes by himself and sometimes by Jugga, at his dictation, to send on to the Maharaja. These notes contained all the information of what was going on at the Residency, and Salim or his man used to call at my house for them. I live in the city and have always been in the habit of returning to my house at night, and on Sundays I have not been required to come to the Residency.

On the several occasions when we visited the Maharaja, Jugga came once with Rowjee from Camp, and on all other occasions he was accompanied by Karbhai.

Taken this 26th day of December 1871, before

F. H. Souter,
Commissioner of Police, Bombay.

The Residency, Baroda.

Nursoo jemadar was taken into custody on the 23rd December consequent on the confession made by Rowjee, which so seriously implicated him as an accessary in the attempt to poison Colonel Phayre. He was at once given in charge of the military guard at the Residency. The following morning, at his own expressed wish, he was brought to the Commissioner of Police, before whom he made an unconditional confession. Previous however to hearing his statement, it was distinctly explained that no promise of pardon could be held out to him. The jemadar was then brought before Sir Lewis Pelly, who told him, before listening to his confession, that he would not only hold out hope of pardon, but explained to him distinctly and positively that he *would not* be pardoned. Upon this the jemadar took off his turban and laid it at the feet of Sir Lewis Pelly, saying that he might be hanged or have his throat cut, but that he wished to unburden his mind and tell the truth, and that he threw himself upon his (Sir Lewis Pelly's) mercy.

After hearing the jemadar's detailed statement, made without reserve before Sir Lewis Pelly and the Commissioner of Police, he was again given in charge of the military guard till the 26th, on which day he was re-called and his confession taken down at length by the Commissioner of Police.

After the prisoner's statement had been recorded, he asked to be permitted to take his dinner in the back garden of the Residency, situated within 100 yards from the bungalow. He partook of his food close to a well, near to which he had been taken for the convenience of water, and he had scarcely finished when he suddenly rushed away from the police guard and threw himself into the well. A policeman immediately jumped in and rescued him. This was about 4 p.m., and he was at once taken before Sir Lewis Pelly, who questioned him as to the reason for what he had done, and inquired whether he had been in any way ill-used or ill-treated by anybody. This he positively denied, and declared that the reason for what he had done was, that as he had served Government for thirty-five years, he was now, after what had taken place, ashamed to show his face; that his mind was confused and troubled, and therefore he had thrown himself into the well.

The following morning (27th December) Sir Lewis Pelly personally visited Nursoo jemadar in the guard-room and made similar inquiries of him again with regard to his throwing himself into the well; but the same reply was given as on the pre-

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visit evening, and this statement was made in the presence of one of the jemadar's brothers, who had come from the city to inquire after him.

F. H. Souter,
Commissioner of Police, Bombay.

Baroda, 29th December, 1874.

Examination continued :—

I think Nursoo was apprehended on the 23rd. He was placed under the military guard of the Resident, and has remained under that military guard ever since. Before he made his statement, no promise whatever of pardon was held out to him. Before taking his statement I stated to Sir Lewis Pelly that the jemadar wanted to make a confession and that I should like him to be present to hear it. Sir Lewis Pelly came into the room where I carried on my inquiries, and he explained to the jemadar distinctly, before he made any statement, that he would not be pardoned, but on the contrary Sir Lewis Pelly assured him that he would be prosecuted. Thereupon the jemadar took off his turban and laid it at Sir Lewis Pelly's feet, and said that even though he might be hung he wished to speak the truth and make a statement of all that had happened. After that he made the statement which has just been recorded. It was not taken down that day. He was removed and placed under a military guard. It was an oral statement made before Sir Lewis Pelly and several others. It was on the 26th that I took his statement down in writing, and I think it was on the 23rd that he made his oral statement. The room in which I generally conducted my business was a room adjoining the drawing-room at the Residency and is, I believe, the present dining-room. I occupied as my own bed-room a small room adjoining the dining-room and separated only by a small door with a chick. I remember the day on which Rowjee's belt was examined. As fa as I recollect, that was on the 25th or Christmas Day. My detectives sent for the belt when I went to wash and dress for breakfast. As far as I remember the belt was sent for before I retired, and at the time it was sent for my detectives were in the dining-room at the Residency. After I had retired, one of my detectives sent for me. This would be about ten minutes or a quarter of an hour after I had retired. On my return to the room they showed me the belt and said there was a piece of paper. I could just see a portion of the paper. It was at the bottom of a kind of pocket. They had to break some of the threads of it.

Serjeant Ballantine—We cannot have that, as you did not see it, Mr. Souter.

Mr. Souter—I saw some of the threads were broken.

Serjeant Ballantine—But you did not see them being broken.

Examination continued :—The paper was taken out and opened by me. It contained a white powder. That powder, with the paper in which it was found, was put in an envelope, docketed, and sealed, and I took it down to Bombay myself to Dr. Gray. I was not in Baroda when the first statement of Damodhur Punt was made. After my return to Baroda Damodhur Punt made some further statements to me. (Shown Statements.) These statements, taken on the 3rd, 5th, and 8th February, were taken by me, and are in my handwriting.

(Statements put in and marked G 2 collectively.)

DAMODHUR PUNT'S STATEMENT.

Damodhur Punt's examination resumed, 3rd February, 1875.

I held the position of Private Secretary to H. H. the Maharaja Mulharrao, and had charge of all his private business, known as the Khangee Department. Exhibit G 2.

About a week before the Maharaja was made prisoner, he brought me to the Residency and introduced me to Sir Lewis Pelly at the door as his Private Secretary.

It was the habit of the Maharaja to go for a drive three times during the day, and he always took me once or twice with him.

Whenever the Maharaja visited the Residency I used to accompany him as far as the Shrawuk's Dhurrumsala; where I generally got out of the carriage and waited till the Maharaja's return, when he took me in again and drove me to my house on his way to the Palace. The Maharaja was usually driven by a coachman named Rutansing.

I do not know why it was that the Maharaja put in force measures to poison Colonel Phayre without first waiting to ascertain the result of his khureeta addressed to the Viceroy, urging his removal.

I never knew that Mrs. Phayre's ayah had ever visited the Maharaja till I heard from him that she had also been taken up and made a prisoner of. It was characteristic of the Maharaja not to divulge to anybody the plots which he used to put in force, and to confine such secrets to those actually engaged.

Taken before
F. H. Souter,
3rd February, 1875. On special duty.

Damodhur Punt's examination resumed, 5th February, 1875.

I have stated in my deposition of the 29th January, that I procured diamond chips on two occasions by order of the Maharaja. I do not remember the exact dates on which they were obtained, but as well as I recollect about a week intervened between the two occasions when I procured them.

The sums of money which have been entered in the accounts of my department as having been paid to Yeshwuntrao and Salim under the head of fruit, fireworks, &c., represent the amounts which were paid by me in obedience to a standing order of the Maharaja for the purpose of bribing Rowjee, Nursoo jemadar, and other servants at the Residency.

It was no part of the duties of Yeshwuntrao or Salim to purchase fruit or fireworks for the Maharaja.

The Maharaja and Salim both told me that the details of the plot to poison Colonel Phayre had been personally planned by the Maharaja himself, and the execution of them arranged in his presence by Yeshwuntrao, Rowjee, Salim, and others.

The written information which the Maharaja had arranged to obtain through Rowjee of all that transpired at the Residency used to be delivered to the Maharaja by Salim, and either Wussuntram Bhow or I used to read them to him, and the papers were immediately destroyed.

The two sums of Rs. 25,000 and 2,000 paid to the Calcutta Baboo have been entered in my books as having been paid to Bhikoo (a kept woman of the Maharaja's) and to the relations of Luxmeebaee.

I am aware that while Bulwantrao Rahoorkur held the office of Deputy Dewan, he was the Maharaja's principal counseller in all his wicked designs, and it was he who took the principal part in bringing about the poisoning and murder by other means of Govind Naik, Rowjee Master, and Bhow Scindia.

I have stated above that it formed no part of Yeshwuntrao's or Salim's duties to purchase fruit, fireworks, &c., but I now remember that on one occasion Yeshwuntrao did bring some fireworks, either from Bombay or Ahmedadad; and this was about the time of the "Dewalee" 1873.

The orders and vouchers in Mahrathee lettered from A to F, and each bearing my endorsement, are the original documents and authority under which the sums shown in each were paid to Yeshwuntrao under the Maharaja's instructions for the purpose of bribing the servants at the Residency and others. Those papers, lettered from G to Q, show sums of money similarly paid to Salim for the same purpose.

I have, to the best of my knowledge and belief, stated all I know, but shall willingly furnish hereafter any further information that I may remember.

Taken before
F. H. Souter,
Baroda, 5th February, 1875. On special duty.

The deposition of Damodhur Trimbuck, Brahmin, resumed.

The two memoranda in Marathi now shown to me (lettered R and S) were addressed to me by Nanajee Vithal, at my request, with the object of concealing the purchase of the diamond chips obtained from Hemchund Futteychund. The two documents purport jointly to acknowledge the receipt of about rupees 3,500 from the "Saving Fund," and the Marathi order bearing my endorsement now shown me [lettered T] is my authority to debit the above sum under the heading of expenses incurred in feeding Swamee Narayen's Brahmins. In reality this money was paid to Hemchund Futteychund on account of diamond chips purchased from him for the purpose of poisoning Colonel Prayre, and represents the sum of Rs. 3,50 referred to in my deposition of the 29th January. On that day I stated the amount to be Rs 3,5 0, *or so*, as I was giving my deposition from memory. The documents above referred to [lettered R, S and T] have now been found amongst my records, which show that the actual amount was Rs. 3,032-13-3 of Baroda currency.

Taken before
F. H. Souter,
Baroda, 8th February, 1875. On special duty.

I remember some native accounts with ink splotches on them being shown to me. I don't remember the

exact time when these accounts were shown to me, but I think it was some time in January. My attention was directed to these accounts because one packet of these accounts was brought into my tent at the Residency by Rao Saheb Gujanund Vithul, and the Rao Saheb asked me to come into the tent in which the records are kept (a different tent from mine), as they were then looking over them. Several carkoons or native clerks were in the tent at the time, examining the accounts or the books. I sat in the tent for some time, and while there, other papers or accounts were found over which in had been similarly spilt. The carkoons whose duty it was to write up these books were present, and they were found by them. These were carkoons from the Palace. I remember one of the carkoons present. Bulwuntrao is his name. I remember perfectly taking the statement of a witness called Hemchund Futteychund. (Shown statement.) That is the statement. I took it down on the 6th February in Colonel Barton's office, in his compound. The language the statement was given in was Hindostanee. At the same time as I took down the English statement there was a statement taken down in Guzeratee or Marathee, I do not remember which. I asked the witness if he knew Hindostanee. He said he did, and I put questions to him and took down his answers in English. I did so directly with him without the assistance of an interpreter. After his statement was taken down in English and the vernacular, to the best of my belief it was read over to him. I remember that he signed it. Not the slightest compulsion or threat was used to make him sign it. Besides taking this statement I had other conversation with him. I remember my attention being drawn to a peculiar ring he had in his ear. The ring was set in brilliants, which I had not seen before. There were also two pearls in it. I asked him where this had been made, and he told me it had been made in Baroda. This was in Hindoostanee before taking his statement. On the occasion when I took his statements, he produced books which were marked by me A, B, and C. (Shown A 2.) I believe this is one of the books. I could not be quite sure. (Opens books.) To the best of my belief this was one of the books. I heard Hemchund Futteychund examined here the other day, and that was the same man.

The Advocate-General put in the English version of the statement taken by Mr. Souter, which was marked H 2.

The President—I understood that Serjeant Ballantine objected to Hemchund's statement being put in.

The Advocate-General—Serjeant Ballantine objected to the vernacular statement, but not to the English statement, and I understand my learned friend does not object to this.

The following is the statement referred to :—

HEMCHUND FUTTEYCHUND'S STATEMENT.

6th February 1875.

Hemchund Futteychund, jeweller of Baroda, states :—

Some few days after the last Dusserah festival Nanajee Vithul, in charge of the Gaekwar's jewel-room, directed me and other jewellers to bring some diamond chips, which we did the same day and handed them to Nanajee, who retained them. The following day our diamonds were all returned, and we were told that the price did not suit. Two days after Nanajee Vithul directed me to bring my diamonds back again; they were weighed, the price settled, and purchase concluded. Four or five days later I was again sent for by Nanajee Vithul and directed to bring other diamond chips, which I took to the Palace accordingly. Nanajee Vithul was not present in the jewel-room. The diamonds were therefore handed to Venayekrao, Nanajee's brother-in-law, who weighed and priced them, and then took them along with me to Damodhur Punt, who remarked that the price was high, but kept them, saying that he would purchase them if required. On this occasion the diamonds were in two packets, both of which were kept, but about four days after one packet was returned to me.

Exhibit H. 2.

A few days after it became known that an attempt had been made to poison the Resident, Colonel Phayre. Nanajee Vithul asked me whether I had entered the purchase of the diamond chips in my books, and if so, that I was to remove the entries in some way or other as he was afraid that the diamonds in question had been made use of to poison Colonel Phayre. On hearing this I became afraid, and at once caused the pages of my account books on which the sales of the diamonds were entered to be removed and fresh pages substituted. The three books now before me (lettered A, B, & C) are those that were thus tampered with.

The price that I was to receive for the diamond chips was Rs. 6,270 of the Baroda currency, and on account of this sum I was paid Rs. 3,000 by Nanajee Vithul, which has been credited at pages 10 and 21 of the day-book as having been received from one Sivchund Khushal. A portion of the above sum of Rs. 3,000 was counted out and paid to me by Nanchund Shroff of the Doomala villages.

Taken before
F. H. Souter,
On special duty.

Baroda, 6th February 1875.

Examination continued :- Bulwuntrao, the carkoon, has not been in my custody. He has not been in custody at all, to the best of my belief. I don't know his father's name, but he is the same man who was called here as a witness the other day.

Cross-examined by Mr. Serjeant Ballantine :—I think I have only one question to ask you. Speaking of Nursoo, I understand that he was examined, and was brought before Sir Lewis Pelly, and that he then expressed his readiness to confess. Am I right in that?—Yes.

Mr. Souter cross-examined.

And that you did not at that time take his confession?—He made an oral confession before Sir Lewis Pelly and before me. It was not written out on that day.

And you have no record of it?—Not on that day.

Would there have been any difficulty in your taking it down on that day?—Yes. I was very busy. I had a great deal of work that day connected with my inquiry.

It occurs to me—I may be wrong—that this is probably one of the most important matters in the whole enquiry?—One of the most important witnesses.

You know who they all were. There could have been nothing more important?—Well, I had a great deal to do. I had a diary from which, on reference, I could let you know exactly what I did on that day.

I am quite convinced without your diary that you had a great deal to do, Mr. Souter. I won't trouble you for the diary. Then that was the reason why you did not take down this statement at the time?—That was the reason, and being under a military guard, I knew he could not be tampered with. I knew he would be safe there.

Do you mean that your Police could not have had communication with him if it had been desired?—Yes, I think the Police might.

Evidently if the Police could get at him, it occurs to me that he might be tampered with?—I mean by outsiders.

Then you mean that no one else besides the Police could get at him?—Yes.

And then, three days afterwards, he made a statement which you took down?—It was the same statement in substance which he made on the 23rd that I took down on the 26th.

GUJANUND VITHUL re-called, and placed on former affirmation.

Examined by Mr. Inverarity—My name is Gujanund Vithul. I remember Hemchund being examined before Mr. Souter. At the time he made his statement I took it down in Guzeratee. (Shown

Gujanund Vithul re-called, and further examined.

statement.) This is the statement. On that occasion he signed it before Mr. Souter.

Cross-examined by Mr. Serjeant Ballantine—Was this taken down before you went to Mr Souter ?—No.

Was Mr Souter present when you first took it down ?—In fact it was Mr Souter who took the deposition.

Had any deposition been taken before Mr. Souter took it ?—After that I took down notes.

I want to know whether, before he made the deposition to Mr. Souter, you had taken any statement from him ?—Not I.

Was one taken in your presence before you went to Mr Souter ?—No; not before me.

What date does this bear ?

Interpreter—The 8th February.

Is there no date of the 6th February before that ?

The Interpreter—Yes. The date of the 6th February is above the three lines which were pointed out to the witness, and which he acknowledged to be in his handwriting. The date of the 8th February occurs in these three lines.

(To witness)—How do you account for these two dates of the 6th and 8th ?—On the 6th February a deposition was taken in the presence of Mr. Souter, and on the 8th February Hemchund Futteychund read over a deposition that had been taken before Sir Lewis Pelly.

And then the second date was given ?—The day that Hemchund read the statement over and acknowledged it was the eighth.

And that Guzerathee statement which was in your handwriting was taken down at the time that Mr. Souter took down the English statement ?—Yes. The English statement was first, and this was from the English.

The Guzerathee statement was put in and marked I 2.

Sir Richard Meade—I understand from the Interpreter it was written after the English statement was written.

Witness—Mr. Souter took down the deposition in English. There were other persons who made a translation from the English into Guzerathee, which I wrote down in Guzerathee.

Sir Richard Meade—After you had taken down in Guzerathee that which is recorded in that paper, was it read over to Hemchund ?—Yes. Hemchund himself read it, and such passages as he could not read I read over to him.

He read it with your assistance ?—Yes.

And after having read it with your assistance, did he put his signature ?—Yes, with his own hand.

The President—Hemchund spoke in Hindoostane, did he not, when he was making his statement ?—He spoke partly in Hindoostane and partly in Guzerathee.

The President—When you say that other persons translated into Guzerathee, do you mean that they translated from the English, or took it down from what they heard Hemchund say ?—From the English.

The Advocate-General—I propose, my Lord, to ask a few questions of Sir Lewis Pelly.

Sir Lewis Pelly was permitted to retain his seat on the platform. After being sworn—

Sir LEWIS PELLY, examined by the Advocate-General, deposed—I am Agent to the Governor-General and Special Commissioner at Baroda. I arrived in Baroda on the evening of the 4th December. One of my early acts was to apply for Mr. Souter's services in connection with the alleged attempt to poison Colonel Phayre. Mr. Souter arrived in Baroda about the 9th December, but I am not quite certain as to the date. He had quarters in the Residency and conducted his business in the present dining-room. I remember being informed that havildar Rowjee had made a statement. I left the inquiry in the hands of Mr. Souter until the morning of the 23rd. I had been intending to leave for Bombay at the Christmas holidays, but I was informed that something important had come out in the course of the inquiry, and not knowing what it was I consented to remain. Mr. Souter was going to Bombay on the 21st. I asked him to stay to a dinner I was giving at the Residency, and when it got to the 22nd I thought I would go down with him on the 23rd.

Sir Lewis Pelly, Agent to the Governor-General and Special Commissioner at Baroda, examined.

Was the statement which Rowjee made in your presence ?—No. They told me of a statement having been made, and I said, "You had better let me have a look at him during the day, and ascertain what he is going to say. Let me see him during the day, and I will judge for myself."

Did you see him on that day ?—Yes.

Did you hear any statements from him ?—Yes.

Was that statement substantially the same as that he has given before the Commission ?—Yes, so far as I can recollect.

I need scarcely ask the question, but I put it notwithstanding—was Rowjee allowed to speak freely before you on that occasion ?—Of course he was.

On the next day, did anything occur ?—Yes. The next day was a Thursday, one of the days on which the Gaekwar was in the habit of visiting me in the morning. When I came downstairs on the morning of the 24th I informed Mr. Souter that I should immediately communicate to His Highness that his name had been brought into connection with this affair. I thin Mr. Souter then said to me that Nursoo the jemadar had also confessed. I think it was at that moment that Mr. Souter said so. I told Mr. Souter that when the Maharaja came he must come with me into his presence. Mr. Souter came accordingly, and the circumstance was mentioned before the Maharaja. I then suggested to His Highness that he should afford every facility for a thorough investigation, and His Highness promised to do so. So much said, we went to work upon our general reorganisation. I myself saw the jemadar Nursoo on that day.

Was that before or after the visit of His Highness ?—After.

What occurred ?—Well, he was sitting in the room which is now my dinning-room, and I came there by appointment. I reminded the jemadar that the matter upon which I understood he had given evidence was of a most serious nature, and that, if he were concerned in it, he must not expect pardon, for so far as I was concerned he should have no pardon. I then told him to sit apart and reflect for a little, and told Mr. Souter to explain to him that he should not be pardoned. After a little time the jemadar flung himself forward from the place he was sitting on and cast himself at my feet, with his puggree off. He then said that the Sirkar might kill him or do what they liked with him, but that he must tell the truth. He made use of several more explicit expressions which I forget at the present moment, but they were all of the same nature. He then made a verbal statement, but I did not allow it to be taken down. That statement was much to the same effect as was afterwards as a printed deposition, sent to the Viceroy.

Do I understand that it was by your desire that the statement was not taken down on that day ?—Yes. I said, "Let him go back to his room, and have a day to think over it, and do not take it down before that time." As far as I recollect I took no further notice of the matter for a day or two.

Do you remember anything occurring on the 26th ?—Yes. On the afternoon of the 26th, between four and

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five o'clock, I was dressing to go out, in my bedroom upstairs, and after walking up and down a little I chanced to see the jemadar coming into the Residency garden with policemen. Shortly afterwards I heard a considerable disturbance coming from amongst the trees in the garden. I heard calls for a rope and for assistance. I went down stairs as quickly as I could, and when proceeding from the verandah towards the back of the house I met the jemadar with one or more policemen. I asked what the matter was, and the Police said he had thrown himself into the well.

Serjeant Ballantine thought it was not necessary to hear what the Police said.

The Advocate-General said he proposed to corroborate by this evidence Nursoo's own account of what had taken place.

Serjeant Ballantine said that, looking to the nature of Nursoo's evidence, he had no objection to his learned friend procuring corroboration of it.

The President said that, if the Advocate-General wished to corroborate Nursoo's story, the evidence was admissible.

The Advocate-General—If my learned friend has any objection to these questions I won't put them. They do not appear to me to be very material.

Examination continued :—Do you know the well in the garden of the Residency ?—Yes.

What kind of a well is it ?—Well, I think the best way for the Commission to form an idea of it would be to go and see it.

But can you give any description of it ?—It is certainly a deep well. I think it is more than ordinarily deep down to the surface of the water. There is masonry down the inside of it, either of brick or stone, I forget which. Round a portion of it there is a parapet. Nursoo was dripping wet.

Did you see Nursoo again after this occasion ?—Yes. I saw him on the next morning—a Sunday morning, I think. A relative of his brought a petition to me. It reached me when I was about to go out.

Serjeant Ballantine—I am sure my learned friend feels that this cannot be evidence.

The President—What is the question you object to ?

Mr. Serjeant Ballantine—I object to any conversation in relation to a petition that was sent in by a supposed relative of Nursoo. I might have waited for the question to be put, but I apprehend that my learned friend was going to put a question of that kind.

The Advocate-General—I apprehend that anything that goes to show the conduct and demeanour of Nursoo when he made his statement will be important and admissible as evidence as showing what amount of credit is to be attached to him.

The President—Is what you propose now to ask as to the conduct and demeanour of Nursoo ?

The Advocate-General—Yes, in reference to the statement that he made to Sir Lewis Pelly, when Nursoo went to see him in reference to the petition.

The President—That ought to have been put to him before. It seems to be a matter that he was not asked about at all.

The Advocate-General—Yes. I was not aware of it when Nursoo was examined.

The President—You ought to have asked about it at first.

The Advocate-General—I think your Lordship rules that the question ought not to be put.

The President—I think at present you ought not to be allowed to put it, if we are to follow any rule at all in this enquiry, and I think we ought to follow some rule.

The Advocate-General—Very well, then I will not ask Sir Lewis Pelly about this.

Examination resumed :—Upon receiving instructions from the Government of India about the suspension of the Gaekwar from power, by your order, was the Palace and the various offices sealed up forthwith ?—Yes. The officer I deputed was Captain Jackson, and there was a policeman, but who it was I do not remember at present.

Were the more important witnesses whose statements were taken down after the suspension of His Highness brought before you ?—Yes. Among others I remember a witness called Hemchund Futteychund. (Shown I 2, Guzerathee statement.) This bears an endorsement by me. The rule was that a man came before me after giving his evidence to the Police, and he was asked whether he could read or write. The man who acted as interpreter on this occasion was a Subordinate Judge called Deshmook. If the man could read he read his statements himself, and if not he would have his statements read to him, and made any corrections he wished to make, and if there was anything he could not make out in the handwriting he was aided by Deshmook or some other person who might be present.

In every case, was the statement either read over by the witness himself, or read over to him by some one, before he signed it in your presence ?—Yes. If a man could read he made a statement that his deposition was true and then he signed it.

(Shown endorsement)—Can you by reference to that endorsement say whether that Guzerathee statement was read by or read over to Hemchund in your presence ?—This was read over by the deponent :—"The above statement has been read over and acknowledged as true in my presence," and it is signed by Hemchund.

The President—You are, I understand, reading the endorsement. Have you any doubt whatever, after reading that endorsement, that the statement was read over to the witness, as there stated ?—None whatever.

The Advocate-General—And acknowledged to be true ?—And acknowledged to be true.

Did you know Damodhur Punt before he was arrested ?—Well, I know him so far that I had seen him on one occasion, and think I addressed one or two words to him. I may have seen him oftener, but of course, if he was in the crowd of courtiers, I would have no particular recollection of him. The occasion was this. The Gaekwar had come to call upon me on a private visit as usual, and after the visit was over, I accompanied His Highness to the doorway of my drawing-room. I then saw a man standing in the verandah between us and the carriage to which His Highness was proceeding. His Highness introduced him by, I think, the use of the words "khangee" and [using the English expression] "private secretary." I am not sure whether I addressed any words to the man or not.

I believe you applied to the Gaekwar for the surrender of Yeshwuntrao and Salim ?—Yes.

And they are now in custody in the Residency premises ?—Yes, under a military guard.

Did you send for them more than once ?—Yes, twice.

Within what interval of time ?—I first sent for them in the morning, and very shortly afterwards they were sent. They were sent without any unnecessary delay.

On that occasion, were they detained ?—No. I had forgotten about them. They came, and, it appears, asked to see me. My puttawalla said I was engaged, and so they went back again to the city. The fact is that they should have applied to Mr. Souter. Mr. Souter brought the mistake to my notice and the men were sent for in the evening again.

Have the solicitors of His Highness had access to them?—Yes; I believe so.

Do you know Mr. Wusuntram Bhow?—Well, I don't know him, but I think he is one of the men who have been apprehended in connection with some cases that are now pending in the Baroda State.

He is the man who described himself as the manager of His Highness the Gaekwar's shops?—Yes, I think that is the same man.

Have you any instructions from the Government of India to postpone the inquiry into any other cases until the present inquiry has terminated?—Yes, explicit orders.

Sir Lewis Pelly cross-examined.

Cross-examined by Mr. Serjeant Ballantine:—Sir Lewis, during the short time that the Gaekwar was at liberty, I suppose you had seen him a number of times?—Constantly. His Highnes used to call upon me as a matter of fact almost every day.

And when you were sent, I gather from the despatch of the Viceroy, that you were sent because it was felt that very delicate management was required and that there were very many difficulties to contend with?—My instructions and understanding were that I was to endeavour to aid His Highness through his difficulties in reforming his administration. There was also this incidental instruction—that the enquiry into this case which was supposed to have been commenced by Colonel Phayre was to be concluded either by me or by my orders; and that is all I know about it.

Sir Lewis, in your intercourse with him, which you say was nearly daily, did you find him very amenable to advice?—As far as I am aware, His Highness was most sincerely desirous to aid me in reforming his administration.

My learned friend has asked you about Yeshwuntrao and Salim. I will just call your attention to some documents which I believe are genuine. Mr. Cleveland has not got the originals, but you will correct me if I am wrong. (To the Commission)—I will put in a copy of these, supposing they are accepted by my learned friend. (To Sir Lewis)—It is only in connection with what you were asked. The first letter is—

My dear Sir,—Will you oblige me by causing Yeshwuntrao and Salim to be sent to the Residency at your earliest convenience, as Mr. Souter, the Commissioner of Police, is desirous of taking their evidence in regard to the case now under investigation before me?—Yours very truly,

LEWIS PELLY.

Residency, 23rd December 1874.

To Dadabhoy Nowrojee, Esq.

—Yes, that is what I wrote.

[The substance of the letter was then interpreted.]

Then, Sir Lewis, did you on the same day receive the following answer from Mr. Dadabhoy:—

Palace, Baroda, 23rd December, 1874.

My dear Sir,—As asked in your note just received I send Yeshwuntrao and Salim for their evidence.

Yours very truly,

DADABHOY NOWROJEE.

Sir Lewis Pelly, Residency.

[The substance of this letter was also interpreted.]

—Yes, I did

Was another note sent to you on the same day, I don't know why, by Mr. Dadabhoy, which is as follows:—

23rd Dec. 1874.

My dear Sir,—I have already sent away Yeshwuntrao and Salim to you. I hope they are at the Residency by this time. I am waiting for a note from you for doing anything further.

Yours very truly,

DADABHOY NOWROJEE.

Sir L. Pelly.

[The substance of this letter was also interpreted.]

—Yes. I presume that must have been in consequence of the men having returned to the town.

Then the next letter is from you?—

My dear Sir,—Kindly ask the Maharaja to cause the houses of Yeshwuntrao and of Salim to be searched, as it is alleged they are concerned in the important case (attempts to poison the late Resident), now before the Commissioner of Police.

The Commissioner of Police would be very glad if you could arrange for the head of your office conducting the search, and this note will be taken to you by two of the Commissioner's men, who he would request might be present at the search.

Yours very truly,

23rd December. LEWIS PELLY.

Dadabhoy Nowrojee, Esq.

And then follows a foot-note by you, Sir Lewis' Will you see whether I state it correctly?—

P. S.—This was at once attended to by His Highness, who asked the Chief Magistrate himself, Mr. H. A. Wadia, and a Senaputee's assistant, Mr. Baboorao, to go and see that the search was fully made, and every help given to the men of the Commissioner of Police to see whatever they liked. D. N.

[The substance of this P. S. was interpreted.]—Is that mine or Mr. Dadabhoy's?

In the copy I have got it is signed L. P.?—It seems to me that it mentions more than I knew about it.

[The initials at the foot of the note turned out to be D. N., Dababhoy Nowrojee.]

Mr. Serjeant Ballantine (to Interpreter)—Explain to the Commission that that is Mr. Dadabhoy Nowrojee's note and not Sir Lewis Pelly's.

(That was done by the Interpreter.)

Here is another letter from Sir Lewis Pelly, dated the same day, 23rd December 1874—I will just read it to the Commission:—

Urgent. Residency, 23rd December 1874.

My Dear Sir,—The Commissioner of Police informs me that the servants of H. H the Gaekwar, named Yeshwuntrao and Salim, whom you were so good as to send up here to-day, have returned to the city without giving their evidence or communicating with him.

The Commissioner considers that there is a *prima facie* case of complicity already made out against these persons in respect to the attempt to poison Colonel Phayre, and the Commissioner hopes that these persons may be made over to the Residency for safe custody, pending the termination of the investigation of this important case.

My advice to His Highness is to afford every practicable facility for thoroughly clearing up all the circumstances of the case. If His Highness pleases to send a guard to the Residency with the accused I shall be happy to receive them.—Yours truly,

LEWIS PELLY.

To Dadabhoy Nowrojee, Esq.

[This letter was also interpreted.]

Then comes a letter from Mr. Dadabhoy:—

Palace, Baroda, 23rd December, 1874.

My Dear Sir,—On receiving your note His Highness at once sent for Yeshwuntrao, and asked him why he and Salim had returned without giving their evidence. He answered that he gave my letter to you to one Balla pattawalla, and this pattawalla told him that the Saheb said "Salam bolo." Yeshwuntrao says he asked again of the pattawalla whether the saheb did not want him and Salim, as they had been sent specially to the saheb. The puttawalla said again, the saheb only said "Salam bolo," that Manajee pattawalla also gave the same reply, and told them to go.

From this it is evident that some misunderstanding has taken place.

I did not tell these men to go to the Commissioner of Police, but had only directed them to yourself.

On my explaining your note to His Highness, he was sorry any mistake should have taken place, and immediately ordered them to go to you. I send them with this letter to you, accompanied by a carkoon, who will hand them over to you.

His Highness is ready to give every practicable facility for clearing up the matter.—Yours very truly,

DADABHOY NOWROJEE.

To Sir Lewis Pelly

[The substance of that letter was also interpreted.]

This is the last letter I call your attention to; it is from you to Dadabhoy:—

Dadabhoy Nowrojee, Esq.

My Dear Sir—I am obliged by your promptitude in causing Yeshwuntrao and Salim to be sent to the Residency for the

purpose of giving evidence. I have requested the Commissioner of Police himself to see that they are accommodated in my office with as little discomfort as possible, and to take their evidence without unnecessary delay to-morrow. The pattawallia, if he told these persons to go to-day, acted wholly without my knowledge. Pray thank His Highness for his assurance of giving every practicable facility for clearing up this important matter.

If you could conveniently meet me to-morrow morning at 8 o'clock, I should be glad to see you.—Yours very truly,

LEWIS PELLY.

Residency, 23rd December, 1874.

[The substance of this was interpreted as before.]

Witness—My recollection is that His Highness instantly responded to my wish.

And I believe that when, at last, suspicion was attracted to him, an intimation was communicated to him to that effect, and he came down to the Residency, and offered to surrender himself for any enquiry?—No, that is not quite the case. The 23rd December was the first time I heard that he was implicated in the affair. Then on the morning of the 24th, Thursday, His Highness was coming as usual to see me, so, as I said before, when he arrived at the Residency, I had the Commissioner of Police with me, and told him to inform His Highness what had happened, and I then suggested to His Highness that he should afford every facility for a searching inquiry at once, and he promised to do so.

And from that time until the time the Gaekwar was taken into custody, he was not under any restraint?—None.

And I believe that when it was intimated that it was intended that he should be put under restraint, he came down to the Residency himself?—No, it was not intimated to him that way.

Then, how did it occur—please tell us how did it happen?—I was instructed by His Excellency the Viceroy to arrest His Highness, and I did so.

[Interpreter uses the word *pakarna* in interpreting this answer].

I object to the use of the word *pakarna*. It means forcibly taking hold of a man, and I therefore object to that interpretation.

The Interpreter states that he used the word in its ordinary acceptation.

Mr. Melvill suggested that the words *mukayad* or *geriftar kurna* would be more appropriate.

[The Interpreter acts on the suggestion.]

Mr. Serjeant Ballantine—I may be mistaken about it, but did the Gaekwar not come to the Residency on the very day that he was arrested?—Yes, he came to the Residency, and I explained the situation to him.

And I believe he then declared his innocence and expressed his willingness to put himself in your custody, but you, upon some formality which I do not quite understand, declined to do so then?—Yes, I accompanied His Highness to the borders of his own territories, and then I repeated to him the Viceroy's orders, and said, "Your Highness, I am told to do so-and-so." It was done in the politest manner possible.

I believe that among other expressions that he used he said that he had many enemies?—Yes, I think one of the expressions that he used at that interview, so far as I can recollect, was that "the very earth under me is my enemy." His expression was something after that sort.

And since that time he has been practically in custody?—Yes. He has been in honourable confinement. He has had every comfort, although his liberty has been restricted.

I believe his property has been seized?—The property in the Palace has been attached.

The whole of his property, all that could be traced to him?—Well, I had seals placed upon the Palace and on all public places, such places as the Arsenal for instance.

[A doubt was here raised as to the interpretation of the word "attachment" given by the Interpreter.]

The Interpreter said that he had used the word "jupti."

Mr. Melvill said that that word conveyed an idea of confiscation, and that the word which should be used for attachment was *koork*.

The Interpreter said that the word *koork* was not known in this part of the country, and, referring to Candy's Marathi and English Dictionary, said that the very first rendering of attachment was "jupti kurna."

The President said that it perhaps did not matter very much, as he did not think any of his colleagues thought that any confiscation has been made, and that H. H. the Maharaja Scindia and Sir Dinkur Rao understood it simply in the sense of attachment.

Cross-examination resumed:—

Mr Serjeant Ballantine—I understand that for the present His Highness's property has been taken out of his possession—for a time at all events?

Sir Lewis Pelly—I hope that I may be permitted to give my own explanation. I entered upon the charge of this State as successor to His Highness, and I caused seals to be placed on the public property for its protection, intending to hand over this property entire to the next administration that may be appointed.

The Advocate-General—This completes, my Lord, the evidence which I have to lay before the Commission.

Mr. Serjeant Ballantine—If my learned friend had completed his evidence at an earlier period of the day I should not have asked the Commission to have waited for me to address them as I might then have got through some material portion of my observations, but at this period of the day I do not think that any benefit would be derived if I were to commence my speech now, and it might be inconvenient if I were to break off in an important part of it. Under these circumstances I must be permitted to ask the Commission to allow me to commence my address to-morrow.

The President—You may begin your address to-morrow morning.

Mr. Serjeant Ballantine—If your Lordship pleases—There will be a short statement that I wish to put in of the Maharaja's to-morrow morning before I commence my speech. It would have been put in to-day, but the Maharaja requires time to give it more attention than he has been able to give to it at present.

The Commission rose at about 2-30 P.M.

SIXTEENTH DAY, SATURDAY, MARCH 15.

PRESENT:

SIR RICHARD COUCH (President), H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and Mr. Philip Sandys Melvill.

Counsel for the Prosecution—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the Defence—Sergeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attorneys, Bombay.

Secretary to the Commission—John Jardine, Esquire, Bombay Civil Service.

Interpreters—Mr. Nowrozjee Furdoonjee and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharajah Gaekwar occupied a seat on the left of the Commission.

Sir Lewis Pelly, K.C.S.I., occupied a seat on the right of the Commission.

The inquiry was opened at 11 o'clock.

Mr. Souter re-called.

On the Commission taking their seats, Sergeant Ballantine said that he wanted his Lordship's permission to ask Mr. Souter one other question.

Mr. SOUTER re-called.

Examined by Mr. Sergeant Ballantine—Mr. Souter, I was just referring to the finding of arsenic in the belt of Rowjee. I understand that you were aware of his going to fetch the belt:—Rowjee did not go to fetch the belt.

But you were aware of its being sent for?

Mr. Souter—Rowjee mentioned that the belt was then in the possession of a person called Bhoodhar. A person was sent to bring the man, and he came himself with the belt.

Sergeant Ballantine—Was there anything to prevent your remaining and examining the belt yourself?—No, there was not.

The President—What is that?

Sergeant Ballantine—There was nothing to prevent his remaining and examining the belt himself.

THE DEFENCE.

My Lord, His Highness the Gaekwar is desirous that a statement of his should be read to the Commission. I am desired by him to lay it before you. I think that their Highnesses upon the bench understand this language perfectly—the Marathi. If so, I propose that the Interpreter should read it in Marathi.

Sir Richard Meade mentioned that the Maharaja of Jeypoor did not understand Marathi.

The President—The Maharaja of Jeypore says that the English copy will be sufficient for him, so that it will not be necessary to read it in Hindoostanee at present.

Mr. Branson—With your Lordship's permission I will read the statement. It is as follows:—

Statement by H. H. the Gaekwar in answer to the charges against him.

My honoured and valued friend His Excellency the Viceroy having declared his intention of giving me an opportunity of clearing myself from the grave suspicion which he was induced to consider attached to me in consequence of the alleged attempt to poison Colonel Phayre, the Resident at my court, I now, out of respect for His Excellency the Viceroy, and from a desire to clear myself before him and before the world at large of those suspicions, make the following statement—

I never had, nor have I now, any personal enmity towards Colonel Phayre. It is true that I and my Ministers were convinced that owing to the position taken up by Colonel Phayre during his residency it would be impossible satisfactorily to carry out the reforms I had instituted and was endeavouring to complete in deference to the authoritative advice conveyed to me in the khureeta of the 25th July 1874, consequent upon the report of the Commission of 1873. Acting on this conviction, and after a long and anxious deliberation with my Ministers, Messrs. Dadabhoy Nowrojee, Bala Mungesh Wagle, Hormusjee Ardasir Wadia, Kazi Shahabudeen, and others, I caused the khureeta of the 2nd November 1874 to be despatched to His Excellency the Governor-General through Colonel Phayre, and, notwithstanding his remonstrances, feeling assured that when the true state of affairs was placed before His Excellency the Viceroy, my appeal would be successful. This conviction was shared by all my Ministers and was strengthened by our knowledge of the severe censure which had been passed on Colonel Phayre by the Bombay Government. The removal of Colonel Phayre on the 25th November 1874 shows that our judgment was not erroneous. Thus, neither personal nor political motives existed to induce me to attempt the crime with which I am charged, and I solemnly declare that I never personally or through any agent, procured or asked the procurement of any poison whatsoever for the purpose of attempting the life of Colonel Phayre; that I never personally or through any agent directed any such attempt to be made: and I declare that the whole of the evidence of the ayah Ameena, of Rowjee Nursoo, and Damodur Trimbuck on this point is absolutely untrue. I declare that I never personally directed any of the Residency servants to act as spies on the Resident, or report to me what was going on at the Residency, nor did I ever offer or cause to be paid any money to them for such purposes. I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions, such as marriage and the like. Information on trifling matters going on both at the Residency or at my own Palace may have been mutually communicated, but I did not personally hold any intercourse with those servants for this purpose; nor am I personally cognizant of any payments for the same having been made; nor did I authorise any measures by which secrets of the Residency should be conveyed to me. I present myself before this Commission fearlessly. I put implicit faith in the justice of those appointed by my honoured and valued friend the Viceroy. I am willing to answer any questions they may deem it right to put to me, and again solemnly deny the foul charge my enemies have instigated against me.

Sergeant Ballantine's speech for the defence.

Sergeant Ballantine then rose to address the Commission. He said—May it please your Lordship, your Highnesses, and the other members of this Commission—After what I believe—and I think I shall demonstrate—to have been a most cruel and groundless persecution, His Highness the Gaekwar of Baroda has now the opportunity of coming before a Court constituted as this is, and to ask at their hands that justice which has been hitherto denied him. It is now known upon what grounds these accusations have rested. It is now known upon what slight foundation his liberty has been taken away. He has been humiliated in the sight of his subjects, has suffered the misery of what amounts in reality, upon a man constituted as he is, to a severe incarceration. It is now further known upon what evidence these charges are founded and in what way that evidence has been procured. It is known that those who have conducted this prosecution conducted it with all the energy that an active, and I am obliged to say, utterly unscrupulous, police have brought to bear upon the matter. We know now what is the foundation, what are the facts, and who are the witnesses in confirmation of these facts. And I am not afraid to assert—and I do so fearless of contradiction from any thoughtful and reasoning man—that a mass so incongruous, that statements so contradictory, that matters so improbable—I may say almost impossible—

have never been heaped together in any charge that in modern days, at all events, has been brought into a court of justice. I further am entitled to assert—again I may say without fear of contradiction—that the witnesses who are called upon to support these charges are abandoned beyond all ordinary infamy, and that the only endeavour that can be made by myself, in appearing for His Highness the Gaekwar, is to point out, not these matters that I should have to meet as bearing in any way the impress of truth, but probably rather have to comment upon the greater infamy of one witness beyond another, whilst I am unable to rest my mind upon any witness or upon any evidence which is not corrupt, and bearing upon its very features the stamp of falsity and almost carrying upon its very surface an invitation to those who have but to hear to say that this is a foul and perjured lie which no gentleman or man of honour can receive or believe. I have said, my Lord, that the mass of evidence, the character of it, and the nature and character of the witnesses, is such as to be almost without a parallel. I remember no case of modern days bearing the slightest similarity to it—I have not the slightest acquaintance with the proceedings of courts of justice in this country. And for aught that I know, infamy may exist elsewhere, and cases of infamy may have been discovered before a tribunal like this. But in my time, and in my knowledge of other tribunals with which I am familiar, I have known none of the same character, I have known none bearing even a similarity to it, and, I confess it is with wonder and astonishment, I find that this unfortunate and unhappy Prince has had his liberty taken away, and been followed by slanders of the foulest kind, and has been heaped with infamy of the most extraordinary kind from quarters where he would feel it most. And when I come to look at the evidence, I find nothing but a mass of groundless lies, of filthy perjury, of abominable invention. My Lord, whilst this case has been proceeding, and while I have been reflecting from time to time upon the evidence which has been given from day to day, whilst I was unable to find anything in modern days, in any way whatever similar to the story, with all its improbabilities, with all its incongruities, with the absolute carelessness, in many instances, of making falsehoods fit in one with another, as if the persons who told the lies thought that they would here find an easy audience who would believe everything that these dirty wretches swore against a man who was under the ban of Government, and this Court knows right well it is not a peculiarity of the country of India, how when a man is down, and when he is supposed to be under the ban of power, and it is thought he may never rise again, the dirty curs surround him, spring up and yelp and bark, and how their miserable tongues convey all the miserable slander they are able against a victim whom they suppose is prostrate. My Lord, while reflecting on these things, the story which has been told here brings forcibly to my mind one of the most disgraceful passages in our history, where a weak king and an excited populace, assisted by corrupt judges, listened to stories equally incredible, listened to tales equally absurd, scorned anything like reasoning, applied nothing like judgment, listened to everything that was stated, and apparently believed it, and allowed many an honourable and upright gentleman to be hounded by perjury and fraud to the scaffold. It reminds me of those days when Oates and Dangerfield, and the crew of villains who surrounded them, invented every lie which came to their mind, and emitted these lies in a court of justice, and were listened to because those to whom they told the lies had no independence, and were afraid to act against the opinion of the monarch and the feelings of the people. But again I have been thinking, whilst this case has been progressing, that in this country there is a belief amongst certain sects in the doctrine of transmigration of souls, and when I have heard Rowjee and the other persons who have been called here—Nursoo and the others—I could not help dreaming to myself that possibly, if the ideas of these sects have anything of truth in them, at this moment we have the souls of Dangerfield and Oates before us, hidden in the bodies of the perjured witnesses who have dared to give evidence before an intellectual and honourable tribunal. My Lord, I hope—indeed I am sure—that you will believe that it is no mock modesty on my part, when I say that I enter upon a discussion of this case with a feeling of such heavy responsibility that it almost destroys my powers of reasoning with the clearness I should have desired to put before this tribunal, constituted as the present is. I cannot divest my mind—it may be a wrong feeling—a feeling not appreciated probably by many—I do not mean upon the bench, but by many of my hearers—but I cannot divest myself of a strong feeling of sympathy for that unhappy Prince, and my mind and powers are overladen with the weight that rests upon me, having more or less his fate in my hands, and, possibly—I do not say probably—because I believe without a word of mine this case will be disposed of as I could desire, and, as I believe, in the cause of justice and truth. But still it may be upon me that some matters rest which may have a more or less effect, and I do feel the weight of the responsibility cast upon me, and an apprehension of being unable to perform the duties I have undertaken. I have only to make this observation upon the subject. The matter rests entirely upon my own feelings. From the time I have had the honor of addressing the Court, I have met with nothing but a desire exhibited by the keenest attention to investigate the truth, and I have met with nothing but assistance even where it was possible. I might have trespassed upon their kindness, and I feel that upon me, and me only, rests this matter, and I have had no complaint to make since the subject has come into this Court I have had every facility afforded me, and with these facilities, I propose to address the Court. From this time I will endeavour to do so with calmness, advancing to them solely what I deem to be argument, because I hope to be able to impress my feelings upon the Commission; in my conscience I believe if I can only succeed in placing before this Commission the matter as it has been impressed upon my own mind, there will not I believe be a dissentient opinion as to the decision which will be arrived at. It is not often, my Lord, that an advocate dares to express such confident opinions, but I am assured the Court will feel that I intend no disrespect to them, and, moreover, if the decision should indeed be adverse, I shall simply feel that my judgment has been wrong, that my thoughts have been erroneous, that my conclusions have been led away possibly by my feelings. But such, nevertheless, are my feelings, and my only hope and prayer is that I may be enabled to convey that which is upon my own mind in clearness to the minds of those whom I have the honour to address. My Lord, the Proclamation by His Excellency the Viceroy, as has been pointed out, has limited the scope of this enquiry. It is particularly directed that no extraneous matters should be introduced. It is anticipated that the two questions that have been submitted to you—namely, whether or not there has been an illegal tampering with certain servants of the Residency, and whether or not the graver crime imputed to the Gaekwar has been committed—are the two questions which this Commission is called upon to apply their minds to, and to express an opinion upon. I refer to this because it is impossible not to feel that the Gaekwar has been surrounded by or enveloped, I should rather say, in a cloud to what, as far as I know, is calumny. I am not here with any power to know of

his former transactions, or aught of his former life. I have not sought, and I do not possess information upon the subject. I can well imagine—one's reading at all events gives one an insight into those who are occasionally governing territories of this description. One knows how they are brought up. One knows how little of independence they possess, how their thoughts are more or less controlled by others, and I believe I am right in saying that there were unfortunate circumstances in His Highness's life which made him more than usually dependent on others, and gave him less opportunity of acting for himself, and governing in those matters in which he had a more immediate concern. It is not uncommon, unless a Prince is indeed very acute, and unless he is also very determined—it is not uncommon—I will not say, merely in this country, but in every country in the world—for princes to be surrounded by the vilest of servants—men who are plundering them—men who are deceiving them—men who are tricking them—and yet men in whom they place their confidence. My Lord, I only refer that for the purpose of founding this observation. Do not let us be too hasty to fasten upon the man's heart, his judgment, or his mind, transactions, if there be any, which may have emanated from his servants, and over which he may have had but little control. I make no further observations upon this point. I think it will not be felt by the Commission that it is an improper one to have been made, although it is not with reference to that which is more immediately in issue, and although when I come to point out what is the real nature of this case, it will not be, my Lord, unimportant to ascertain by whom the Gaekwar was surrounded, and who were the persons influential in his household. But I wish rather to convey—perhaps, addressing this tribunal I ought not to do so—but it is an argument that is addressed to the highest, and to the greatest —whoever is mortal is subject to mortal prejudices and feelings, and it will not be considered disrespectful on my part when I earnestly implore those members of the Commission who may have known something of former transactions on the part of the Gaekwar, and who may for aught I know have formed certain opinions upon those transactions :—I am sure it will not be felt any disrespect on my part, if I implore them earnestly, as a duty to the Gaekwar, as a duty to their country, as a duty to common justice, to dismiss every consideration of that kind from their minds—to start free and clear from the point to which His Excellency the Viceroy has directed your attention, and from that point say,—is there any case made out? The importance of this enquiry, of course, is very great. It is not for me to contemplate political consequences. I am quite sure, from the course that His Excellency the Viceroy has taken in this matter, that he is careless of political consequences, that he has desired to exhibit to the civilized world that the kingdom of India can be governed by honour, and that questions between the Government and those who may be supposed either to be antagonistic to or somehow in the way of the Government that such questions shall be determined in such a manner as shall give satisfaction to civilization—and he has appointed for that purpose a tribunal to whom it is impossible not to look up. The native Princes acquainted with the habits of their own order, I shall hereafter appeal to, upon certain evidence that has been given during the progress of this case, and endeavour to obtain their assent to a proposition that I shall make, that the story stated, is, upon the face of it, incredible. To the native princes I shall appeal as having at this moment the power and authority placed in their hands, and a belief reposed in their truth and in their knowledge—the exercise of which power will have to be answered for to the length and to the breadth of India. To those who are my own countrymen, I have only to say, I expect and know I shall possess that assistance, and that fair consideration, that ever comes from an honourable English gentleman, and I care not who the presiding officer of this Commission may be, provided he is a Judge of England, because the very term Judge of England means independence; and no such thing as wavering from the truth, or yielding to power, or acting, except under the virtue of strong convictions, strong belief, and independent feeling ever enters into the mind of any of those whom I am proud to call my countrymen—of any of those whom the entire world look up as being free from anything like imputations of ever leaning to the right or to the left, and who, as far as their judgment enables them, go straightforward, whatever might be the interests that were at stake, whatever might be the importance of the determination, whomsoever it might injure, whomsoever it might benefit. Under such circumstances I consider I am indeed fortunate in the tribunal I have the honour of addressing—and while I doubt my own powers and ability in placing the matter as I could wish before them, I believe, and the world believes and looks to them with implicit and absolute reliance, in their integrity as well as their knowledge and their judgment. Now, my Lord, in dealing with this case, the early evidence, as it will be in the recollection of your Lordship, applied to tampering with the witnesses. I propose, however, to postpone the consideration of the matters connected with that particular charge, and to deal with the evidence applicable to the graver charge that has been made against the Gaekwar. I think that will be more convenient for one or two reasons. In the first place, the charge of poisoning, or attempt to poison, involves in many of its details the necessity of considering the evidence connected with the other charges, and the nature of those other charges, and I think that a great deal of time will be saved by taking the earlier charge first, and I am bound also to state, in doing that, I am unable to bring my mind down to the level of the other charge which I scarcely appreciate. It appears to me—comparatively at all events—trumpery and trivial. I feel some difficulty also in understanding the exact nature of it, or its exact legal bearings, but I shall, when I come to consider it, endeavour to obtain the sanction of the Commission for the view I take upon the subject. In the meanwhile I shall deal —I propose to deal—with the graver charges, and upon that, it appears to me, that it is desirable that I should make one or two general observations. With regard to the nature of it, I shall have to enter into a good deal of detail and particularity. But there is one observation that it occurs to me that I am entitled to make. I have already referred to the police. I find that the police are dealt with in different books connected with the law of this country, evidently upon the foundation of great doubts arising as to their testimony. I believe I am right in saying that within certain jurisdictions—I do not go into details of such jurisdictions—that a confession made to a policeman is not receivable in a court of justice in any instance whatever, unless somebody was present at the time to corroborate it. So an uncorroborated confession of a person to a policeman would not be received. A confession to a policeman, as I understand, would not be received at all. There are also provisions in other Acts of Parliament (I believe, I am speaking correctly upon the subject) by which policemen are forbidden to accompany witnesses to a court of justice. It seems that the Legislature and the Courts are fearful of the influences that the police are likely to have upon these witnesses. Laws of that kind do not apply here. As far as I see there is no law whatever governing the police or what they do. As far as

can see, they are entitled to do anything. They appear to me to have unlimited power, there does not seem to be any judge, any magistrate, who can control them—what a policeman chooses to do, he does; and, in the present case, I do not know how many —but a vast number of witnesses—have been detained in custody for the purpose, as they say, of investigating this charge. Now, such an unlimited power undoubtedly creates—and it is necessary that it should create—a very great amount of terrorism—and you know no man can call his house or his person his own when a policeman is able at any moment to take him into custody and hold him whenever he chooses, any time he pleases, and there is no remedy in any way—no magistrate can interfere or does interfere, and he has no power whatever, either to obtain redress at the time, or compensation afterwards. It is the law, I presume, of the land. It is unquestionably the practice at Baroda. We have seen it in numerous instances, and we have seen the mode in which the police have acted with regard to different persons, whose evidence was given in this case. In many instances I shall have to dwell upon facts connected with the police.

But there is one general observation which appears pertinent to this case, and I shall be glad to fix it upon the minds of the members of the Commission—it appears to me to be a most monstrous thing and calculated to lead to the gravest injustice—I believe that I shall shew in the present case that it has led to the gravest injustice—that a police officer should not only be the person getting up the case, doing all he can to bring it home to the person who is suspected of the charge, but that he also should have the power of taking the depositions, and that those depositions should be capable of being used against a person upon the subsequent enquiry or trial, whatever it may be.

Human nature is not less so because it inhabits the mind of a police constable, and a man who is hunting something down gets a keen desire to catch it—and sometimes if he cannot get at it by fair means he will go a little out of the way, and obtain it by foul. It is not right that that which is a judicial document, and intended to govern judicial minds, should be the act of a person who has a strong, a naturally strong, partizan feeling in the matter under discussion, and I think I shall be enabled to shew that this observation that I have made is singularly pertinent in the present case upon referring to some of the depositions that have been taken, and I cannot help saying—and I shall give my reasons hereafter for making the assertion—that these depositions are not warranted by what took place, that they have been unfairly obtained, and that in many instances they do not represent in reality what was said, and that in point of fact they do not in any way whatever convey the truth as was intended even in the mass of falsehoods, because these depositions contained that which the witnesses themselves did not intend that they should represent. I think I shall be enabled to shew this in a variety of instances, and that the observation that I have made upon these depositions will shew that they are not to be credited. I myself treat them as being instances coming from a source more or less tainted with suspicion. Now, my Lord, there is another matter; it is a general one, and upon that I must rather address the President of this Commission than address the others, except so far as some of the observations will be mere ordinary common-sense observations which they shall be, as far as I can make them so, but they involve certain principles of law as well as certain principles of justice. One often meets, when these questions are being discussed in society, a number of people very worthy people indeed, who say, especially if it is a subject of such great interest as this, "Oh so and so, there is no doubt that he is guilty." And I have no doubt whatever that that will be the kind of observation that I should meet with pretty generally among the English residents at, and English visitors to, Baroda. This opinion is not confined to one sex, but I should think it is pretty generally extended. But let me endeavour to introduce a little reasoning into the subject and ask, 'Oh! but why is he guilty?" "Oh! why you know everybody says he is guilty, there is no doubt he is guilty." Then you ask, "Upon what facts do you put it?" Then comes the puzzle. Facts are difficult things. And I have often observed that those who have given their opinion upon a particular subject dogmatically, have very little knowledge of the matters upon which these conclusions are formed. Belief, I apprehend, cannot be formed by mere intuition —such belief as ought to govern the minds of courts of justice must be a belief founded upon facts. Now with regard to the facts—there, again, there is very often a very great mistake. People treat mere assertions as being facts without investigation, and without enquiry, and without analysis. But there is, moreover, a class of facts, and what may be dealt with as assertions, and which may also be said to be facts, that frequently come before courts of justice, and which have had the attention of very great and learned men applied to them, for the purpose of dealing with them in a fair and judicious manner. I mean those statements that are made by accomplices — the statements that are put forward by persons who admit themselves to be parties to a crime, and I am extremely anxious in this case, that the position of persons of that kind should be thoroughly understood; and I apprehend that I am not wrong in saying no Court constituted under British law, will receive the evidence of an accomplice without confirmation. I am not unaware—and I should like to exhaust this subject, which I think will be an important one, and one which I shall not probably allude to again—that there is no law to prevent a person being condemned by the evidence of an accomplice alone; but there is springing up a custom, as much honored as the law itself, that Judges in directing juries expressly direct them—and it would be a misdirection if they omitted to do so—that upon evidence of an accomplice alone, no person can be put into peril, or have his liberty or his life imperilled. That proposition is a simple enough one, perfectly intelligible, and I fancy so completely admitted, that I need not labour upon it, but it will be well appreciated by the learned Chief Justice that there is a more important question subsidiary to that one, and that is, what is the nature of the confirmation that can with propriety be received to implicate a person charged? That is a question not of less importance, but it is a question, undoubtedly, of more difficulty. It requires clear heads and clear minds to deal with that question. I propose to make some observations upon it, and submit, not my views, but I believe the views of all lawyers upon the subject. Corroboration must be something that implicates, however slightly, the person charged with the statement of a witness—it must bring in some way or another the accomplice and the accused together. It would be confirmation, supposing there was any writing in the handwriting of the accused, in which some of the statements made by the accomplice were alluded to, and although it might be very slight confirmation, it would be confirmation of a kind that could not be rejected. The confirmation that is simply supporting the assertion of the accomplices themselves as to their own acts,

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independent of the accused, away from the accused, but of the presence of the accused, and not shown to be within the knowledge of the accused, is no confirmation whatever. To put the matter broadly, even if you could get, and that seems to be difficult, a respectable witness into this case who had seen Rowjee put the poison into the glass of Colonel Phayre, if he did put it in, would be conclusive against Rowjee, but it would be no evidence whatever against the Gaekwar. I put that broadly, because it makes the proposition that I have submitted to the Commission perfectly intelligible, and it is an observation that I think the Commission will find, follows every witness in this case, and follows all the evidence that has been given in this case. I think that I shall demonstrate that that confirmation that is said by the law to be required to support the assertions of accomplices against an accused person, is wanting from the commencement to the end; that there is not in point of fact, a scintilla of evidence, coming from an uncorrupt witness, which, in any way whatever, confirms the evidence of the accomplices in this case. I may put illustrations founded upon this case very shortly. Supposing there is a word of truth—and I do not say there was not—in the assertion of Damodur Punt, that he obtained arsenic from a man named Nurrodeen; supposing Nurrodeen had been called and proved the receipt of the arsenic; supposing there was any confirmation whatever, or assuming that there is confirmation that diamond dust or diamonds were obtained from any individual—that is confirmation, if the man himself were under charge—that would be proof against him, but it does not confirm his story against the Gaekwar, and I think this Commission will find, after careful investigation of all the evidence in this case, that from the commencement till the conclusion there is no evidence whatever that introduces the Gaekwar personally, or by writing, or by act. There is no independent witness who has put his finger upon one single act of the Gaekwar that in any way whatever confirms the story told by these accomplices. As I discuss the witnesses—which I am afraid I shall have to do at considerable length—I shall have to discuss the details that they give in the shape of confirmation, and I think I shall satisfy the Commission, who have heard my proposition on that subject, that it is at all events a perfectly correct one, and having, as I hope, made myself clear on these topics, I wont trouble the Bench further on that subject, but request them to weigh what I have said and say whether or not I have laid before them a proposition that is not only legal, but one which commends itself to men of sense and learning, though they may not have the learning and experience of lawyers. It is sometimes said, and sometimes written—said by people whose words are not of much value, written sometimes by people whom one would have supposed knew better,—"Ah, do not let us have any technicalities." And I think I have seen it stated in relation to this case somewhere, that there will be no legal quibbles in this case, it will be tried according to common sense and reason. Technicalities will be entirely excluded. Those who talk that way forget that the technicalities they so much abuse, and which govern the practice of courts of justice, are the works and experience of great lawyers and great men, of the judgment of those who have considered the question of how the truth is best elicited, and that these technicalities, which are abused by thoughtless and silly people, are in point of fact the bulwarks of their country, and the means by which truth is sifted out of lies, and has been created and recognized by the wisdom of ages as the best mode of establishing the truth. I shall not trouble you further with the discussion of a subject which certainly does not possess any features of amusement, but shall proceed to direct your attention to what I consider to be an important feature in the case. I am not going to make any observation or complaint further than this that I have already made about the position in which His Highness is already placed. Those who have done the acts are responsible for them, and their doings will not affect the judgment of this Commission. I may, however, allude to them, so far as they may be pertinent to this enquiry, and I think you will agree that this observation is fairly pertinent—that the Gaekwar, from the position in which he has been placed, from the practical seizure of all his possessions, or, to use the euphemism of the Resident, Sir Lewis Pelly, to their attachment—an attachment of so lasting a character, that the Gaekwar has never yet seen the end of it, so that, so far as he is concerned, whatever word is applied to the subject is extremely immaterial. In relation to all this, I say, he has been placed without means at his command and is under a cloud, and I need scarcely add the observation that the position in which he is placed naturally creates many difficulties in meeting any charge of any nature such as is now preferred against him. I will say no more upon the subject. I think the observation will meet with ready assent, and I do not propose to refer to it again. But I propose, with great submission to the Commission, to dwell upon what has been the conduct of the Gaekwar, and also what his interest would be in this matter. It appears to me to be an extremely important subject indeed. I should venture to say, in a case surrounded, as this case must be admitted to be, by perjury, it becomes extremely important to view that which must in any way whatever be the effect of falsehood, of fraud, and design. I therefore earnestly, and at the same time most respectfuly and humbly, ask the members of this Commission to consider what the conduct of my client has been from the period which forms the date of this transaction, namely, the conclusion of the Commission that was held before Colonel Meade. It would be irrelevant for me, as it would be irrelevant for this Commission, to consider the enquiry that took place before one thoroughly competent to form a judgment and to assist the Viceroy of India by his views upon that or any other subject. I wont say or suggest, except by a word, that much which appeared upon that Commission may have been applicable to servants, and not directly to the Gaekwar, but I pass away from that. The terminus from which I begin is the end of that Commission. The conduct of the Gaekwar from that period is a matter to which I have to solicit your earnest attention. I have to solicit it with a view of asking you to say that it was not the conduct of a man who was designing and arranging a crime of deep dye, but that it had all the contrary appearances. It is not merely negative. I wish very much that my observations upon this point should be made with sufficient clearness and force to fix them on your minds. I assert that it is not in human nature that a man should be acting openly in the way the Gaekwar did, and avowedly against the person against whom he was also plotting secretly. It will be obvious to the meanest intellect that people would at once say, "Yea, here is the man that has done it." Ordinary common sense, to give no higher name to it, ordinary cunning, would prevent any course of that kind. I should expect that a man who was about to poison another in the way suggested against the Gaekwar, would be all affection with the man he intended to poison, and I should expect to find him destroying any evidence that he desired to do him evil. Instead of that, you find him in conflict with Colonel Phayre certainly, but in a fair, open, and honourable way. He obtained a khureeta from the Viceroy of India—an important document in which the

Viceroy, after having considered Colonel Meade's report, after learning all that could be said upon the subject, after deriving all the assistance that could be given to him by experience, ability, and knowledge,—came to the conclusion that the Gaekwar was a person who might, under certain conditions, be entrusted with the reform of those institutions, the bad arrangement and management of which had formed the subject of the preceding enquiry, and he gave to the Gaekwar an opportunity down to the end of the year 1875 to effect the necessary reforms. He therefore had received from the Viceroy the clearest proof that, in the viceregal court, he would meet with fair consideration, with fair judgment, and that he would be given a fair chance. Well, why should he interfere with him? But he finds—and upon that I shall have to observe hereafter—every sort of opposition to the proceedings he was taking, and to the endeavours he was making to perform that which had been suggestd by the Viceroy. I do not think it is unworthy of remark the observation that was made by Sir Lewis Pelly in his examination yesterday, of what his experience of the Gaekwar was. He found him quite amenable to reason; he was able to act with him upon most agreeable terms; he found that he was perfectly ready to do what was suggested to him in the interests of his Government, and according to the desire of the Viceroy. And one cannot help making the observation that there is sufficient and abundant evidence—and I think I shall be able to point out without any necessary harshness or unkindness—that Colonel Phayre was about the very worst man who could have been placed in the position he was in, that he was in his conduct most injudicious, and that the Gaekwar had most reasonable ground to complain of the conduct he pursued. One little incident is enough for me, and I think I shall have to dwell more upon this hereafter. You, gentlemen of the Commission, can do what I cannot. You can realise the native mind and the native reason, and I ask you—and I think you will agree with the comment I am making—could there be anything on earth more injudicious than for Colonel Phayre to show himself in daily and hourly intercourse with the very bitterest enemy the Gaekwar ever had? Could he have thought, under such circumstances, justice was likely to be done to him? Moreover, *was* justice likely to be done to him? I venture to think not, for although Colonel Phayre imagined, and stated that Bhow Poonikur was a most upright and highly honourable man, I venture entirely to dissent from that opinion, and to think he was nothing more than a spy, and a person who, with other persons too numerous to mention, was hunting up for that very information which the Gaekwar is accused of obtaining—hunting it up in much the same way—not perhaps receiving for it specific sums of money, but receiving Colonel Phayre's patronage which would put more in Bhow Poonikur's pockets than a few rupees would do, as it would show that he had the ear of the Resident; and it must be remembered that this man must have appeared before the eyes of the Gaekwar as being a person who, in all human probability, was controlling all the actions of Colonel Phayre. Is it wonderful then that the khureeta of the 2nd of November should have been framed? Of course, the gentlemen of the Commission have all the dates in their minds, so that I need not ask them to recollect them particularly, but in dealing with it, it seems to me to be a matter of importance to remember this date. I allude to the 2nd November. Immediately previous to that time the khureeta was being framed. It must have been a subject of very grave deliberation. It is, as far as my humble judgment goes, a very admirable document. Everything is put most fairly, most temperately, and at the same time argumentatively, while not leaving matter upon bare assertion without proof. Two or three cases are quoted of what he alleges to be the gross injustice perpetrated against him by Colonel Phayre. The case propounded by the prosecution is that at the very time this khureeta was being prepared, simultaneously with it—day by day and hour by hour it must have been going on—arsenic, diamond dust, contrivances of kinds that are the dreariest remains of ancient superdtition, bottles containing poison, such as one may read of probably in the Arabian Nights, but which I should have thought would have been hardly alluded to in the sarkest places in the nineteenth century. But all this time while a great State document, of great importance, was being prepared with care, and argued out with judgment—while this is being prepared by himself and his Ministers, he is accused of mixing himself up with a parcel of scoundrels, and inviting them to poison the man whom he must have known perfectly well would have to answer this khureeta, and whom he also must have known it would be perfectly useless to act in any way whatever against, till this khureeta was answered. Of his object, I shall say nothing more at present; but when I come to objects I shall have to say a good deal. There are grave matters in this case that will present themselves, and I cannot help thinking, before it is concluded, the real criminal will be traced. I cannot help thinking so. But talking of the probability of the Gaekwar being that criminal, I wish to impress—and this is a matter that I shall have to dwell upon hereafter—as strongly as I can on the minds of the Commission, that such an outburst as would arise from the successful attempt to poison, must in all human probability powring or unsuccessful have utterly prevented any attention being paid to the khureeta. In this particular instance the Viceroy appears to have attended to immediately, and notwithstanding this alleged attempt occurring, to have answered the khureeta in most favourable terms. But it appears to me if the Resident had been poisoned, in all human probability, there would have been an end of the enquiry raised by the Gaekwar, and that the greater subject connected with the kingdom, the poisoning of the Resident, of the Queen's representative in that kingdom, would have smothered everything like an enquir, into other matters, and probably would have led to a deposition of an entirely different kind, upsetting from the beginning to the end all the endeavours of the Gaekwar for the purpose of obtaining what he considered justice at the hands of the Viceroy. I submit that would be the natural result,—in point of fact—I should say the almost certain result, of such an attempt whether successful or not, therefore I venture to think that the two things are totally inconsistent: that the khureeta and poisoning do not agree; that they do not go hand in hand; that they are poles asunder; that they diverge of necessity; that the man whose mind was on the khureeta, would not do anything that would be likely to make that khureeta of no effect and at the same time bring another Resident, together with, as he must have known, the severest investigation and one that might be attended with the most dangerous consequences. Having remarked on the conduct up to that time of the Gaekwar, I wish now to proceed to the period when suspicion, or rather before I arrive at that, I wish to call your attention to the conduct of the Gaekwar during the interval, when you have been told by Sir Lewis Pelly he was free from all restraint, under no watch, and not interfered with in any way whatever. The suggestion of the prosecution is that upon this man's mind is the knowledge of this heavy crime, and he also knows, if the story be a true one, that the immediate actors in this crime are persons who have been already suspected, that enquiries have been made, and that the train is laid by which ultimately the truth may be arrived at. At this period his Secretary, Damo-

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Thus Punt, was not under charge. Damodhur, who certainly, whatever other elements may be wanting in his constitution, is not wanting in intelligence—would, of course, have communicated with him, and according to Damodhur Punt's evidence, he had communications with him: so if Damodhur Punt's evidence is to be believed, his mind was quite alive on the subject, at all events his mind would necessarily be alive from the fact of Rowjee and Nursoo having been taken into custody, and this matter being investigated. Well, during all this time he has control of all the means connected with his Government. The control of money sufficient for the purposes I am about to suggest, and the question is what his conduct was, and whether that conduct is what you would expect the conduct of a guilty man to be. I submit that it was not. On the contrary, it was the conduct of an innocent man. It is not pretended that he had communications with Rowjee or Nursoo; or that he, either by his agents or otherwise, endeavoured to get them out of the way. It is not suggested that any attempt was made by his agents or others to bribe them. He remains there knowing, if the case on the part of the prosecutors is a true one, that he was sitting upon a mine to which a match might be at any moment applied; knowing that he must be necessarily blown up by it, and yet there he remains careless, pursuing his ordinary avocations; seeing Sir Lewis Pelly each day, dealing with Sir Lewis Pelly anxiously for the purpose of meeting the views of the Viceroy daily in the town, daily having an opportunity of seeing Rowjee, daily having an opportunity of seeing Nursoo, his secret agents, I suppose he would have no difficulty in finding some whom he could use for his purpose, and there is not a single act from the beginning to the end of that period—and I urge this upon the Commission—that is indicative of anything but the most perfect freedom from being guilty of the subject of the matter that was then being investigated and now is charged against him. A very few words more about him. I had intended rather to have deferred my observations upon this matter till a later period but one does not always follow the exact arrangement that one has made, but having alluded to it, I will now conclude my observations upon the subject of his conduct, by begging attention to the evidence given by Sir Lewis Pelly, yesterday, as to his conduct when he was requested to send Yeshwuntrao and Salim to the Residency. I think I may ask you to refer to the correspondence which I put in on that subject. Sir Lewis Pelly felt no doubt whatever as to what was the nature of the enquiry, and as to his object in asking for the presence of these two persons. What was the conduct of the Gaekwar himself? It may be great deceit and it may be great hypocrisy, but it is a deceit and hypocrisy that he has not shown in any other part of his career. It may have been great deceit and great hypocrisy, but it is inconsistent with anything you find in the earlier period of his conduct regarding the matters which have given rise to this trial. It may have been deceit and hypocrisy that he exhibited, but bear in mind that he sent Salim and Yeshwuntrao without a moment's delay, and without any communication hesitation, without having been made to them by any human being, they were permitted to come to the Residency and state allthey knew about the matter under the hands of acute police officers; under the hands of authority, under the hands of the law. He knew the power of the law, he knew the power of the English Government, he knew how much could be brought to bear upon a person against whom there is an accusation by the British Government. And yet the supposed attempted murderer has never interfered with any of those persons, never attempted to corrupt them or buy them over, and when their presence was required at the Residency he immediately, without communicating with them, ordered them to go there, went himself, offered himself in every way to give every assistance; and I take the liberty of saying that while his interests and his conduct militate against his contemplating the act of poisoning, his subsequent conduct showed as conclusively as a man's demeanour and conduct can show, that he had never been a party to it. I submit for your better consideration and judgment these observations upon the subject of what his conduct was both before and after this charge, and I hope you will not consider that I am too sanguine in supposing that they are likely to have great effect on your minds, and that effect of a kind much calculated in favour of the Gaekwar. At that time, as your Lordship is aware, I mean during that month while the Gaekwar was at liberty and free from anything like restraint, Salim and Yeshwantrao were his servants, under his control, and there would have been no difficulty whatever in their removal if it had been desired. Another remarkable fact in this case is that while there is evidence of sums of money of a comparatively small amount being paid, as was supposed, for information to the ayah and to others—I say comparatively small amount, because as far as I recollect the evidence the amount is small, your Lordship will correct me by your notes if I am wrong, I am speaking now without looking at my notes—but as far as I recollect there is not a half-penny supposed to have been paid to any of the alleged actors in this murdering transaction during the whole of the time during which the transactions were beng carried out. I think I am right in saying that it was about August or September, certainly not later than these months, that any sums of money whatever were paid, and while it is supposed the Maharaja is spending money recklessly for the purpose of obtaining information, there is no evidence that a farthing was paid to any of his accomplices in the murder he contemplated. There is undoubtedly another instance in this case of remarkable modesty and self-denial on the part of Rowjee and Nursoo—one is glad to find any good qualities remaining in their constitutions—they never seem to have asked for any money. My Lord, you see that we were in the hands of these men, for supposing they had told that they had received sums of money, probably they would have had to shew how they had spent it so that they dared not assert it. If that is the case, we have, I think, a feature quite unnatural, that a Prince should put himself absolutely in the power of half-a-dozen of his subordinates because one of the curious matters in this case is that the Gaekwar, who is said to be rather reticent in one of the examinations, seems to have been extremely anxious to parade in a most unnecessary fashion his intention to poison Colonel Phayre, and if in point of fact, he had been anxious to make up a case against himself, he could not have gone more effectually to work, for while one instrument would have been quite sufficient, he seems to have taken endless opportunities of proclaiming his intention, and surrounding himself with conclusive evidence of four or five witnesses, at least four of whom were quite unnecessary for the purpose he is supposed to have had in view. There cannot be a more remarkable instance of that than Nursoo himself, for if you look through the whole of his evidence, I ask you whether that man has been brought here for any purpose except to corroborate the lies of Rowjee, for from beginning to to end he was useless in the transaction, and he is brought into the presence of the Gaekwar for no earthly purpose in connection with the crime that was about to be committed. All that I find about him is that "Salim will hand you so and so." They make him an intermeddler, and an entirely unnecessary accomplice to the crime. Not very natural, not very probable this.

But Nursoo's fate leads him into most unhappy matters and entails upon him most unhappy consequences. I fear my Lord, that in pursuing a consecutive argument,—the materials are so abundant, as the investigation has lasted such a long time,—that somehow or other, in the arrangement of matters, I may get into confusion, but I shall leave it to the Commission to put my omission right—I shall endeavour to be as clear as possible. I shall also endeavour to be as conciso as concise as possible. I think, my Lord, it may not be undesirable that I should refer more particularly to the case as it has been put before you—and, for that purpose, I shall refer to the speech of my learned friend the Advocate-General—a speech in all respects worthy of the high position he holds—perfectly temperate, and fair, and not an observation introduced into it, about which, on the part of the Gaekwar, I feel I have the slightest right to complain; in fact, I may say that one of the pleasures I have had in the conduct of this most painful and anxious case has been the continuous courtesy I have met with from my learned friend, and the assistance he has afforded me, whenever he could justly give it to me. I propose, as I have said, to refer to his speech, because it is a careful speech, and has been founded upon instructions carefully given. I call your attention to the mode in which he places this case and the features to which he invited the attention of the Commission, as being those upon which he should ask your judgment adversely to the Gaekwar. He divided the matter into the charge of tampering with the servants in which he suggested the ayah as being one of the principal performers. I ought, however, before I comment upon what my learned friend did open, to refer to one very remarkable omission in his speech. The omission must have been deliberate, and so far as I can see, it is omitted of necessity. He does not from the commencement to the conclusion of his speech suggest any motive that could have actuated the Gaekwar to commit this crime. It has been left to me to bring out the position of the Gaekwar and his course of proceeding to show what motives he had, and comment upon these motives, and what they probably would have led to, but my learned friend suggests no motives, although he must have well considered this matter, it must have occurred to him as the first thing that should be dealt with in proving a great crime like this; but my learned friend has been unable to put his finger upon any single position that existed in connection with the Gaekwar that would have shown whence a reasonable motive could have sprung for the commission of this great crime with which he is charged. I say he alluded to the tampering of the servants, but he did not suggest or allege that there was any connexion between the ayah, Rowjee, and Nursoo. What is also very remarkable is the following fact, which I shall ask your permission to say a word or two about. The Advocate-General introduced into this part of the case a person of the name of Pedro, who, according to my learned friend, was chief butler, and had been butler for some five and twenty years, and whom he connected with that branch of the case which I have described as being the tampering with the servants. After the mention of Pedro, my learned friend says, "I now come to the more important part of the case." So that he divides the case into two parts—the acts of the ayah, and one or two other persons, and the acts of Pedro, in connection with the tampering of the witnesses, and then he goes on to the acts of other persons in support of the allegation of poisoning. It becomes important that we should consider the mode in which my learned friend has introduced the man Pedro, who forms a most important feature in this enquiry. I have no hesitation whatever in saying that independent of almost every other argument in the case, and taking a certain view of the case, the evidence of Pedro entitles the Gaekwar to an acquittal on all the charges brought against him. It becomes therefore extremely important to consider how my learned friend has dealt with Pedro, knowing perfectly all that Pedro had to say, knowing who Pedro was, and having to introduce him to your notice. Now, my Lord Chief Justice who presides is well aware how witnesses of a certain kind may be introduced into a case. Supposing their testimony is at all suspicious—there may be a doubt under such circumstances as to whether they should be produced as witnesses. My learned friend has of course deliberated on this matter. He has not attempted to cast the slightest slur upon Pedro. He has introduced him as a perfectly repectable trustworthy witness, and as a person to be relied upon as proving a particular fact. He had been twenty-five years in the employment of the Residency. I have a right therefore to say that from the beginning to the end of this case, there has not been a suggestion of anything which would cause me to say that Pedro is not amongst the whole group of liars and perjurers who have been introduced to support this case, the one man against whom no imputation whatever is cast. Pedro puts this case out of court. If Pedro is to be believed, there is an end of it. The entire superstructure must tumble. Rowjee, the main actor, cannot be believed as his evidence stood, but here it is contradicted up to the very hilt, and I will show you internal evidence presently of the truth of Pedro's statement and of the falsity of the statements made by Rowjee. Without, however, entering now upon that particular evidence I shall deal simply with the particular fact that a man introduced here by my learned friend as a thoroughly respectable witness, competent to prove a fact, a man upon whose evidence he has asked you to find a decision against the Gaekwar, a man who, for aught I know, has been a confidential servant for a quarter of a century, declares in the witness-box here that every word deposed in relation to him by Rowjee is a foul lie and fabrication. My Lord, I feel it very difficult, indeed, to say more upon such a point. It appears to me that as far as Rowjee is concerned, the evidence against him is conclusive, and if you agree with me that upon Rowjee's evidence this case must stand or fall, then Pedro strikes a mortal blow to the whole case, from which I think that even the ingenuity and power of the Advocate-General will not be able to rescue it. He will attempt to avert it with all the fairness which, as the representative of the Crown, desirous simply for justice, he can command; but I think that, notwithstanding, it will puzzle him to find an argument to convince this Commission, that if the evidence of Pedro can possibly be believed, it is not possible to believe in Rowjee. I am reminded by my learned friend Mr. Branson, to whom I have constantly to offer thanks for his assistance, that Pedro oddly enough is the only person whose examination does not appear to have been conducted by parties to the case. He was examined at Bombay by a Justice of the Peace and Deputy Commissioner of Police there (referring to Mr. Edginton). There are some things that, must be and which can never be denied. I apprehend that, in the first instance, you have such a case. You have got Rowjee and you have got Pedro. You cannot believe both of them; it will be impossible to do so. I shall comment upon Rowjee's evidence presently, and in the meantime, I shall say nothing more about Pedro's evidence. It is not necessary for me to give a character to a man from whom my learned friend has not attempted to take it, but who, on the contrary, has been relied upon by my learned friend for the proving of what he deems to be an important part of this case. Now, my Lord, my friend having stated that he had come to the more important part of his case, proceeds

to open upon the attempts to poison Colonel Phayre, and I think that your Lordship must have been surprised at the instructions which my friend received upon that subject. My learned friend, in his opening makes no mention of the earlier attempts to poison He does not allude to the earlier attempts which are said to have taken place to poison Colonel Phayre, and which form an important part in Rowjee's testimony. I do not remember the dates, but I shall call your attention to the subject afterwards. I merely call attention now to the fact that it is alluded to by Colonel Phayre, but that my learned friend does not mention it in his opening. I can scarcely imagine an omission of that kind to be accidental. Probably my learned friend thought it was so utterly incredible that he did not like to put it bravely before the Commission, and I think I shall be able to show that if such was his idea, that it is a correct one. But whilst he does not speak of these September attempts, he opens upon two attempts by Rowjee on the 6th and 7th November, while Rowjee himself, as the Commission will remember, declared that he did not make any attempt either upon the sixth or the seventh. It is perfectly true that although there was no attempt made upon the 6th and the 7th, yet Colonel Phayre had all the distressing symptoms just the same. Colonel Phayre looked back to the times when he ought to have taken the poison, and when he ought to have taken it his stomach was always in a most uncomfortable state. If it was so upon the 6th and 7th, it must have been the pummelo juice, because there is no poison. Rowjee, who was said to have put in the arsenic, does not assert that he put it on those dates. That tumbles to the ground altogether. On the contrary he says, "All that I received I put in on the 9th November." There can be no doubt whatever that liars often forget themselves. It is one of those fortunate arrangements of nature that liars very seldom have a good memory; and nobody can doubt that when my learned friend opened the attempt at poisoning on the 6th and 7th, Rowjee had made his statement, that there had been this attempt at poisoning. I forget whether he said so to Mr. Souter or not. It is quite clear he made it to somebody because this statement my learned friend was instructed to make. Well, when Rowjee came to be examined, I quite admit his position was not altogether a pleasant one, and his memory might not be altogether so retentive as it might be. He made no allusion to the attempts of the 6th and the 7th, but on the contrary he made a statement in effect entirely inconsistent with that, saying that he put the whole of the powder he received in Colonel Phayre's tumbler on the 9th. My friend then refers to the orders to procure arsenic from Hemchund Futteychund, about whom I shall have to say a word or two when I come to the evidence of Damodhur Punt, and I place before you a probable solution to this part of the case. But my friend makes an observation which I think also I may say was upon his instructions and upon which also there is a direct and positive contradiction. He says arsenic and diamond dust appear to have been pounded together and handed over by Salim to Rowjee upon two occasions. In page six of the short-hand writer's notes, my friend says:—"The arsenic and diamond dust thus obtained, appear to have been compounded together and handed over by Salim to Rowjee on two occasions." The importance of that I shall deal with in another portion of my observations, but I may briefly say that this diamond dust and arsenic are the diamond dust and arsenic supposed to have been given upon the first occasion to Rowjee. Arsenic and diamond dust are not said to have been received at all upon the last occasion. One powder only is said to have been given on the last occasion. But the two packets are said to have been given to Rowjee for the purpose of being administered to Colonel Phayre, somewhere about September. Why it is important to consider what my friend was instructed to open, is this. I think there is no doubt from my learned friend's opening—and I believe it will turn out that this was the original assertion—that the diamond dust and arsenic appear to have been compounded together and handed over to Rowjee. Now, the statement that Rowjee makes now is that there were two packets given. He told us that he divided this into three portions—one packet into white and the others into a rose coloured powder. Probably it is rose-coloured because Rowjee had heard of rose diamonds. I rather imagine he introduced the colour out of compliment to the name. At any rate there were two powders, one of arsenic and one of something like rose-coloured powder. That is his first statement, quite inconsistent with the diamond dust and arsenic compounded together—perfectly so, for if they were compounded together the arsenic could not have come into Rowjee's possession. It was necessary, therefore, for Rowjee, in support of the lie about the belt and the arsenic found in the belt—it was necessary for him to invent another story, and therefore Rowjee does invent this very remarkable one. He says that there were two powders given to him, not compounded together—that one was separate and the other as I pointed out rose-coloured. Then Rowjee—whose mind is of a peculiar character, made up of murder and mercy, of affection for Colonel Phayre and a desire to kill him—thinks that this white powder is too poisonous to administer, and he accordingly, in making up the packet, mixes up three packets principally of the rose-coloured powder and puts in a small pinch of arsenic not calculated to harm anybody into the rose-coloured powder; and then he deposited that which was intended to poison Colonel Phayre in his girdle and forgets all about it. I shall have to comment upon the belt episode hereafter. It is a very peculiar and important episode, and is not one of the least indicative of what the case is. It is not wrong that I should refer to that and point out the entire difference between the case my learned friend was instructed to open, and the facts which have been proved. I shall be obliged to refer to these matters again at something like great length, but I mention them now to request you to give such consideration asmy observations and the facts themselves lead you to consider they are worth. Then, my Lord, my learned friend, being in serious difficulties, having no motive to suggests suggest that there is a confirmation arising from the absence of communication between all the witnesses. He dwells upon that as being a strong and pregnant evidence of confirmation. Perhaps that would be about the nearest approach to evidence of confirmation that could be given in this case; yet I should say that it was trumpery and trashy, yet perhaps it has some claim to be considered as evidence of corroboration if it were the fact. The only misfortune is that it is utterly without foundation. Not only had the witnesses intercourse together, but they were invited, by that respectable gentleman, Akbar Ali, in a most persuasive manner, to give every particulars to him; and they generally made a statement after having passed a not very comfortable twenty-four hours. There seems to be a process—what it is I do not know—that after having been under the gentle care of Akbar Ali, and probably quite accidentally, they are made very uncomfortable in their minds and at once make a statement. That, as confirmation, falls to the ground, and I shall point to a way they were brought together for the purpose of having their evidence manufactured—and how completely it was manufactured from beginning to end—and I shall, I

believe, lead your minds to that conclusion which will be pretty well bounded by this. I do not think I need here do more than use the name of Gujanund (I wish he had a name I could pronounce better.) I think that when they talk of fairness and of the witnesses having no opportunity of seeing each other and of confirmation from that source, all I need say is, Gujanund. Nothing can be fairer, my friend may say, to these witnesses, and that at least there was candour and fairness. I answer—Gujanund. And if, when Gujanund is fully impressed upon the minds of the Commissioners, and when they remember the active and intelligent officers, as they will be called in the London papers, whose assistance he had on all occasions, I think the notion of the witnesses not seeing each other or knowing what they were about to say is the most comical that has ever been brought before a Court of Justice. Unfortunately, as I have said before, liars who have no foundation of truth to go upon, cannot always recollect what they may have formerly said, and therefore, notwithstanding Gujanund, Akbar Ali, and Abdool Ali, who have done all they could for their country and themselves, I do not think it will be believed that the witnesses had not many opportunities of meeting together. But my learned friend had felt that up to this time he had a very unsympathetic case to offer to the Commission. He felt that he had a terrible lot of rogues and a terrible lot of falsehoods, or probable falsehoods, to allude to, and there was nothing whatever in regard to Damodhur Punt and to Rowjee that could redeem them from the depth of rascality into which their own admissions have put them. But at last my learned friend comes to an oasis in the desert of miserable lying through which he had been obliged to travel. He comes upon Nursoo, and my friend is at once relieved. There is something to dwell upon, something of innocence, something of virtue, there is repentance. My learned friend alludes to him in this way, and I noticed that when he did so his voice almost trembled as he said, "One other circumstance in regard to Nursoo deserves to be mentioned. He had been many years in the service of the Residency and held a high position. After he had given his evidence under the circumstances I have stated, he felt so strongly the disgrace he had incurred, and the falsity of allegiance of which he had been guilty, that he attempted to drown himself. There is a deep well near the Residency. One day he broke away from his guards and jumped into the well, from which he was rescued by the police." It turns out, however, that he had had a dinner at the Residency—I have no doubt a very good one. He was standing beside the well and saw people, and he was seized with a vertigo, and then he tumbled notwithstanding all my learned friend's efforts to push him into the well—he would not go in except by his own act, and my friend could not get him to declare more than that he tumbled into the well. They say that truth is found at the bottom of a well; but on this occasion the police were too quick and rescued him before he had found any. So we pass away from Nursoo. The next matter to which my learned friend alluded, and upon which also he had depended for confirmation, was the demeanour of the Gaekwar when he called upon Colonel Phayre on the 9th November. My friend said: —"Colonel Phayre was still suffering from the effects of the poison which he had imbibed, but he did not know at that time, as he had not heard from Dr. Seward, what he had taken. He received His Highness as usual, and was much struck by His Highness in the course of conversation describing to him almost exactly the symptoms under which he was suffering, and saying that there was a great deal of sickness about the town of such a character as Colonel Phayre was at that very moment suffering from. He said that he had himself suffered in the same way." It is curious that such conversation should take place. Colonel Phayre did not tell Mulharrao what he had taken or what his suppositions were at that time—he may have thought something had been put in his goblet. He had no definite idea that he had partaken of poison, not having then seen Dr. Seward. But if Damodhur speaks faithfully the Maharaja knew perfectly well then that the attempt had been made and failed, because on his driving back from the Residency to the Palace he picked up Damodhur Punt on the road and had a conversation with him about it. That conversation Damodhur Punt will himself relate. My learned friend intended to convey—and probably it would have been an argument of very great weight—that the Gaekwar had wished, having ordinary knowledge enough to know the symptoms of poisoning by arsenic, to divert Colonel Phayre's attention from thoughts of poisoning, by endeavouring to convey the impression presented that he himself suffered under exactly the same symptoms from natural causes. I read to you a letter from Colonel Phayre to Dr. Seward or Dr. Gray—I see it is to Dr. Seward. "Although I only took two or three sips of the pummelo juice which the tumbler contained, I felt within about half an hour, as I described to you, a most unusual sickness of stomach, accompanied by dizziness in the head and of sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth, with slight salivation, such as I have never experienced till within the last few days." These are the symptoms described by Colonel Phayre, and these are the symptoms my friend is instructed to say are identical with those which the Gaekwar attempted to make Colonel Phayre believe he was suffering under from natural causes. I have therefore looked into what the evidence of Colonel Phayre was upon the subject. He says, "I asked His Highness about his health, and he said that he had not been very well, and that there was a good deal of fever about, and he thought he must have eaten too many sweetmeats of the kind usually made at the Dewallee. He also said that he had headache and a slight pain in his stomach, but he was well now." It is rather difficult to associate the description which he gives of the slight pain in the stomach from eating sweetmeats, with the coppery taste, the dizziness, and the slight salivations described by Colonel Phayre, and I believe another observation was made as to there being something unusual in asking Colonel Phayre about his health. Indeed, I am reminded that Colonel Phayre led up to the question by speaking of his own health. When I look at Colonel Phayre's evidence, I am warranted in saying that the whole of the Gaekwar's demeanour to Colonel Phayre upon that morning was one nothing approaching to guilt, but was the perfectly natural demeanour of a man who generally visited Colonel Phayre on that day—it was not a demeanour, in fact, that could have excited suspicion in the remotest degree in the mind of the most suspicious person. I have thus, my Lord, dwelt with my learned friend's speech, which is valuable, not only for its ability, but as pointing out in the clearest manner what his view is of the evidence. Now, he says that this case depended upon Nursoo and Rowjee; he admits them to be accomplices in the crime they saw was committed, and that he considers that according to ordinary practice—and the practice will be observed on the present occasion—that confirmation of some kind is necessary; and he undertakes to give that confirmation. He gives three samples—one is that the witnesses were kept separate. I have already referred to that to show that wherever traceable the contrary was the fact. Will any one for a single moment doubt that there is any honest confirmation in the conduct of

Hurroo, a man who, although very wicked on one occasion, when his fate led him to attempt murder, was a man who had the merit of shewing repentance, and exhibiting his sincerity by attempting to pitch himself into a well. With what object was he introduced into the case? Did the Maharaja, on any occasion, give him anything to do? He has done nothing! That also has fallen through. Another point was the demeanour of the Gaekwar and his allusion to his own maladies which he says were identical with those of Colonel Phayre—that also tumbled down to the ground. He has failed upon the one point on which he relied to give confirmation. He has opened with Pedro as a witness to be relied upon to give confirmation. He has opened with Pedro to be relied upon making no comment to detract from his evidence and credibility, and Pedro knocks over the main witness upon the most material points, thus showing that Rowjee has upon these points entirely and deliberately perjured himself. Then, if I am right in the observations I venture to make in this portion of my address upon this point, we are now left entirely and absolutely at the mercy of the three accomplices; and it is upon evidence of such witnesses, filled with other inconsistencies, that you are asked to deprive the Gaekwar of his honour, of his property—to cast him forth as a helot in the world—from whom all would shrink—a man whom, if you were sitting here in another capacity than that of Commissioners, if you were sitting here as jurymen—a man whom without hesitation you would hand over to the scaffold. And this result is asked of you, to be arrived at upon the evidence of men admitted by my learned friend to be accomplices, and show, I think, up to this time at all events, by the opinions which I have ventured humbly to address you, to be accomplices without a shadow of foundation. I will now—and before going to other evidence, because I my do so with propriety and conveniently—refer to the evidence of Colonel Phayre. He is the central figure in this extraordinary story. Heaven knows that I have no wish to say a word more than I am absolutely obliged to do calculated to hurt the feelings of Colonel Phayre, who, I have no doubt, is a thoroughly upright and honourable man, and a gallant and distinguished officer; but I venture to think that Colonel Phayre was entirely unfit for the position he held—which was an extremely delicate one—and he was known by the Gaekwar to have met with a reprimand of a most serious kind, not involving, but on the other hand, conceding his honour and integrity, but dwelling upon his want of tact and judgment in the management of delicate affairs. I think I am not putting it unfairly. He said, and no donbt truly, that a subsequent Governor cleared him from this imputation. This gives me no dissatisfaction, but, on the contrary, I never wished to use that document as charging Colonel Phayre as deserving of the censure passed upon him. I use it simply to shew that it was one of those documents operating upon the mind of the Gaekwar and leading him to consider first that Colonel Phayre was scarcely the person to occupy the position he did, and that in the next place that he would be removed upon a complaint being made. Colonel Phayre most imprudently associated himself with a person, or a number of persons, who were not friendly to the Gaekwar. Bhow Poonikur was a specimen of the lot. They say he get no money; but they got patronage, which was probably very much more valuable to all these men, to whom Colonel Phayre seems entirely to have lent himself. From mixing with these men Colonel Phayre comes to the conclusion that Bhow Poonikur—God only knows how he comes to the conclusion—is or was an honourable man. We know not upon what grounds he came to that conclusion, but he made a right-hand man of him who had been so active against the Gaekwar. Then Colonel Phayre has a great notion of redeeming a persecuted people. He is the saviour to whom the people looked and made entreaties to. When he drove out he was met by persons who petitioned him, and he was a ready listener to all their complaints. Such demonstrations are not ungratifying to the vanity of some people, but are little proof of the truth of the complaint, knowing as they did that his ears were open to any complaints that might be uttered against the Gaekwar, ready enough to give ear to such congenial food to his imagination, and to listen to those who would make assertions which he would readily accept. I have already alluded to what must have been the feeling of the Gaekwar when he saw Colonel Phayre in daily, almost hourly, communication with Bhow Poonikur; how he was absolutely in his hand; and how absolutely impossible therefore it was for reforms to take place. Was there no difficulty in the way of accomplishing that which the Viceroy had considered would take a period of two years or a year and a half to effect, but he was to be thwarted that way. Colonel Phayre also seems to have been labouring under the idea that he should be poisoned. Where he got it from, Heaven knows; but one can very well understand that persons like Bhow Poonikur, who talked about bazaar gossip, impregnated a mind like Colonel Phayre's with notions of that character. Then we have a circumstance that also occurred which I shall have to speak of afterwards. Somewhere about September or October Colonel Phayre had a boil on his forehead. This boil will not be altogether unimportant in the case. I think a good deal turns upon it. There is a curious episode connected with it, and if anything can be humorous in this case, this forms one. There is no doubt whatever he had a boil. He had the attendance of a distinguished medical practitioner to take care of this boil. Where he got the idea into his head, and how he got it there, nobody knows, unless he had read over Damodhur Punt's evidence and recalled matters to his mind, and then came to a sudden conclusion, because he does not appear at that time to have made any observations on the subject. He complains at that time of having been sick, not liking his pummelo juice. Dr. Seward was not asked upon the subject. I know collodion was mentioned, but Dr. Seward would hardly apply collodion to an open boil. If he did apply collodion, it fully accounts for the feelings he described; but it is clear that he intended to convey that something was done to the plaster which he put on and which he describes. My learned friend corrects me, and therefore the observation does not apply. I did not remember that he used anything else, and I did not remember what was said by one other witness, what was to be put on the place. My friend mentioned this, and it is to support the testimony of Rowjee that he put certain powders into his pummelo juice. A peculiar matter is that Colonel Phayre drank his bad pummelo juice without complaining. It occurs to me that the best tempered man in the world on drinking bad pummelo juice would say, "What on earth is the matter with this;" but Colonel Phayre seems to have behaved in a most Christian spirit and said nothing about it. He simply does not drink it, and simply throws the juice away, and this occurs on three successive days, with no complaint, no alteration, no enquiry. I think you will agree with me that that conduct is of a kind which can hardly be accounted for. He says so, however, and I accept his statement as such; but I do not accept it as being what actually took place, and I cannot help thinking he has been poring over the evidence of the other witnesses; and that he is inclined to attach to that an importance which has only been created by the assertions of other people. Of course I may be wrong on that point, but it appears to me to be extremely probable. Let us

look at it whilst we are considering it with Rowjee's. If his account is true he really took out all the arsenic from the parcel he had received and deposited it in another parcel and practically only used the diamond dust. Practically he only used that which, supposing it to be admitted, is a perfectly innocent matter, and can cause no pain nor annoyance. It certainly does look as if fancy had worked upon his mind, and that he had recollected feelings which he never experienced, by reading depositions that an attempt had been made to poison him. Then, my Lord, we go on to the subsequent period, the 6th, 7th, and 9th of November. On the 6th and 7th the same incidents occurred. The same symptoms that he had experienced in September and October, and again experienced on the 6th and 7th November, the very same that were afterwards experienced on the 9th. To say the least of it this is extremely peculiar, because, according to the evidence of Rowjee, he had not put the poison in upon the 6th and 7th, and therefore Colonel Phayre must certainly have imagined these symptoms upon those days, and one cannot help thinking with regard to all the circumstances that Colonel Phayre supposed that poison had been attempted to be administered to him upon these particular days. The pummelo juice was bad again; he tasted an unpleasant taste again, he could not drink it all, again he was perfectly submissive, and made no complaint, nor till the 9th of November did it strike his attention that poison had been administered. Now, my Lord, these I confess are matters that I am unable to fathom. At one time it occurred to my mind—I do not say it occurs to it now—but it did occur to it, and to the minds of other persons, and I wish to offer it as an argument to you, and that is that there was no substantial, real intention to poison the Colonel. I shall have to address many observations in which that point will be an important one to consider. It occurred to me as very strange that persons having such complete access to poison, having also such complete access to Colonel Phayre, with a perfect knowledge of his habits, with an opportunity of dealing with them, it occurred to me as extremely strange that for so long a time with all these implements at their hands no attempt had been successful, and that in reality Colonel Phayre had never derived any, and in point of fact never complained of any at the time from what were said to be repeated attempts to poison him. That was a matter which it was impossible to lose sight of in a case like this presenting such extraordinary circumstances and so many impossibilities. But when we come to the ultimate act, the description of it greatly puzzled me, and puzzles me to this moment. Colonel Phayre was very resolute in saying that the sediment at the bottom of the glass was a dark sediment. The other witnesses all spoke of light-grey powders, and if that which was analysed, and if the analytical tests have been correct, and if we are rightly informed upon the subject, beyond all question the powder analysed did not in any way answer the description given of it by Colonel Phayre. The tumbler had been put down, and after it had been put down, and after it had remained for, if I recollect the evidence rightly, about half an hour, he threw it away and then was attracted by the appearance of the contents at the bottom. Now you will remember what Dr. Seward said upon that subject. I received his evidence upon a number of points, and I assured him that it was not my intention to offer him the least offence, but directly I spoke about the colour of the powder in the glass, he got out of temper and proposed to keep me here till doomsday. It seemed to me perfectly clear that it was a puzzle to him which he could not make out, for the powder which Colonel Phayre saw was dark while that seen by Dr. Seward was light. I do not mean to say that eyesight of people does not deceive them occasionally, so that that which is light may appear to them dark and *vice versa*. I have heard that such cases sometimes occur in regard to colours, but, to say the least, it is unusual, and the fact remains that between Dr. Seward and Col. Phayre there is a direct and altogether irreconcilable difference. Now, the powder—at all events, if it was the powder that really remained, for I confess that I cannot understand the difference of the colour I have alluded to—was sent away for analysis. I shall be obliged, when comparing what Rowjee and Nursoo and one or two of the other witnesses said, to refer again to the circumstances that took place on the morning of the 9th. In the meantime, however, I pass away from that. In analysing the powder, Dr. Seward applied a test which is not always carried out with success. And from Dr. Grey's evidence I do not understand that the arsenic was really reproduced by either himself or Dr. Seward, although they both refer to the discovery of a metallic ring. There is no doubt that this metallic ring indicates arsenic, but it is not an absolute proof; and I know that in cases of arsenic poisoning tried at home, the scientific men employed have generally brought out the arsenic itself in its pristine form and not relied merely upon the appearance of this metallic ring. With regard to the diamond dust it is entirely idle to say that any whatever has been found. It is pure nonsense to say so. There are some sparkling elements and something that scratches glass, but to say that it is diamond dust is utterly beyond any possibility of proof. It cannot be proved. It is the purest guess-work imaginable to speak of the presence of diamond dust, and to accept scientific disclosures upon such a subject is the merest trash which I do not think will have any weight upon the minds of the members of this Commission. Of arsenic there is a certain amount of proof, supposing that the powder sent for analysis was the identical powder which was in Colonel Phayre's glass at the time he showed it to Dr. Seward, and I am well aware of a positive declaration by Colonel Phayre that the glass could not have been touched or the contents added to before he gave it to Dr. Seward. But I do not think that positive declaration will go far, because there were a number of people about who had the fullest opportunity of touching the glass if they wished to do so; and his positive declaration may have been due to his preconceived idea that he had been poisoned. In making these observations I am not propounding a theory which I undertake to prove or substantiate; I am only remarking upon the peculiarity of the evidence in this part of this case and the reflections it gives rise to, and the difficulties presented by those matters to which I have taken the liberty of calling your attention.

It was now past two o'clock, and the learned Sergeant suggested that the day being Saturday, the Court should rise for the day. He was, however, willing to go on if the Commission desired it.

The President—If you feel that physically you require a rest this afternoon, we shall certainly not press you to go on.

Sergeant Ballantine—I must put it entirely upon myself, as I think I should like a rest this afternoon.

The President—For the reason you have stated we shall not go on, although I regret that there should be any loss of time.

Sergeant Ballantine thanked his Lordship the President, and said he had already gone through a considerable portion of the case, and probably by Monday he would be able to see whether he could not condense what observations he had yet to make.

The Court then rose.

SEVENTEENTH DAY, MONDAY, MARCH 15.

PRESENT.

Sir Richard Couch (President), H. H. Maharaja of Jeypore, Sir Richard John Meade, Sir Dinkur Rao, and and Mr. Philip Sandys Melvill.

Counsel for the Prosecution—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the Defence—Sergeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attorneys, Bombay.

Secretary to the Commission—John Jardine, Esq., Bombay Civil Service.

Interpreters—Mr. Nowrozjee Furdoonjee and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharajah Gaekwar present.

Sir Lewis Pelly, K.C.S.I., was present for a portion of the forenoon.

The inquiry was opened at 11 o'clock.

The President—I am sorry to have to say that His Highness the Maharaja Scindia is unwell, and will not be able to be present to-day.

Mr. Sergeant Ballantine—In my concluding observations on Saturday, there were one or two matters in which I made a slight mistake which, with your permission, I will now correct. It was only slight reference to dates—and they are only slight errors and rather assist my arguments than detract from the effect of them. In speaking of the date of the first poisoning I put it back to August or September. I find, on looking carefully over the evidence, it is fixed by the only witness who has given anything like an accurate account of the matter to have been fifteen or twenty days before the 19th of Sept. And I wish to direct attention to that date, because when I come to a later part of my argument, it will form an important feature of that which I propose to offer for your consideration. The second matter is that, as far as I can see, and subject to the correction of the Commission, the last money payments actually proved, was not later than July. I put it at a later date in my observations on Saturday. But looking through the evidence with the assistance of my learned friends, I think I am right in saying that the last money payment to any of the servants was some time in July—certainly not later. That also, in my view of the case, will be an important matter to consider, and therefore I correct what was to a certain extent an error that I made in addressing you on Saturday. There was another subject which I introduced casually; I did not attempt to follow it out at that time; it will be a subject on which I shall have to dwell hereafter, but I may as well supplement what I said on that occasion. You will remember that I called attention to the colour of the deposit in the glass of Colonel Phayre, described by himself, after he had drunk a portion of it. I wish also to call attention to the fact that looking at the number of attempts—putting them at four or six, according as you may be satisfied by the evidence that has been given—I assume that there were about six attempts—on every occasion Colonel Phayre was prevented from drinking the remainder of the glass by the taste that he discovered after drinking a small portion of it. What will not have escaped your observation was the case on every occasion that the attempt was alleged to have been made. It will not have escaped the attention of the Commission that the only agents that are supposed to have been used for the poisoning of Colonel Phayre were arsenic and diamond dust, neither of which produce any taste whatever, and no doubt he might have drunk off an entire glass of liquid without having discovered that there was anything deleterious in it until about half an hour afterwards. I believe that is spoken to as about the nearest time at which the effects of the poison would begin to be felt. I shall have to dwell upon this matter again, but having incidentally alluded to it on Saturday, I wish to call attention to it, because I think it is worthy of the Commission, and when I come to the evidence of Damodhur Punt and others, I think the point of these observations will be sufficiently apparent to the Commission. I propose now to enter into the investigation of the graver charge against His Highness the Gaekwar, and the order I propose to do it in is to commence with Damodhur Punt. It is evident that he originates everything, and that from this source whatever poisons obtained, were obtained. There is no suggestion that any other person originated, or supplied the poisons; it is traced back to him, it is intended to be fixed upon him. It becomes, therefore, extremely important to consider his testimony, and I think it will be better to take his evidence as being the first in order of time. In discussing the evidence of this witness, as well as of Rowjee and Nursoo, I don't think it will be improper for me to allude, before entering into details, to the mode in which the evidence has been obtained. I alluded to it shortly on Saturday, and I don't intend to dwell upon it at any length now. I think that I shall meet with the agreement of all men who reason the matter fairly, as I am sure it will be reasoned here, when I make the observation that when you find that witnesses of an extremely suspicious character have placed themselves before a tribunal in the character and light of accomplices, it is extremely desirable to ascertain whether their evidence has been obtained by people of a pure character themselves, and whether the mode of obtaining it will satisfy the tribunal that it has not been got in an improper way. It is always a disagreeable thing to make any general observations detrimental to other people; but I am obliged not only to speak of the persons but of the mode in which this evidence has been procured. Mr. Souter, I have no doubt, is an extremely able man, and he holds a post of importance, I presume, at Bombay. He was perfectly aware of the character of the three persons who are the remarkable persons in this case—Gujanund, Akbar Ali, and Abdool Ali. He was quite aware of the censure that has been passed upon them by, I believe, a man who is acknowledged to be one of the most honoured and most eminent members of the bench of India—he must have been well acquainted with this, I say; and whether that censure was right or wrong which had been so passed he might have reasonably entertained suspicion of the instruments he was about to employ. He might have found other persons in Bombay to serve his purpose, but these three persons—Gujanund, Akbar Ali, and Abdool Ali—seem to have been brought from another district. There is no reason for their having been so brought; they are persons, as I have said before, who have had comments made upon them elsewhere regarding the falsifying of evidence and getting up false cases; and whether these were true or not, I say there ought to have been care taken as to the amount of power that was left in their hands. The mode in which the evidence has been given of these three witnesses (I may also speak of the ayah) is also a matter to which I must call your attention. And I call your attention to it very earnestly, because I think it is a feature in this case that will meet with great observation from one end of this country to the other, as well as in almost every civilized country. These men seem to have been allowed to take persons into custody, and then, after keeping them in custody for a certain time, and not until then—a custody, as far as I know, utterly illegal—Mr. Souter comes forward, and takes their examination. The mode in which these examinations were taken I shall defer

commenting upon until I enter upon the individual cases to which I shall have to call attention; but in every instance, as far as I know, the persons who have been the material witnesses in this case, have been persons who, first of all were placed in custody, and not until after having been in custody for a considerable time—some longer than others—not until then, are they supposed to make their statements. I shall presently show you how if these statements are not satisfactory, they are subsequently cooked up by additions or alterations; that will be a matter I shall dwell upon in individual instances, rather than generally; but I cannot help making this observation, that witnesses so dealt with are, in point of fact, tortured before giving their evidence. You do not administer the thumb-screw, nor do you stretch them upon the rack, but they are nevertheless kept in misery and terror, and, from what I have seen of many persons that have been called here, a position of abject terror. They feel that their lives, their property, their hope, and their liberty—everything in the world—is dependent on what they do while in the custody of the police, and that the only mode in which they can escape from that custody is by answering the whip—I use that expression advisedly—by giving the character of evidence that the police require for carrying out their case. In the towns of India such a course would not be endured. I know it would be utterly and absolutely illegal. It is practised here in a distant district, where there are crowds of poor, ignorant natives—men who do not know who to appeal to, or who do not know where to go to; men who have no constituted tribunal which can help them in their difficulties; they feel, as in the present case, their master is powerless; the police are to them a power that they cannot resist; the police that they exercise a terror that they cannot control, and they go the length of what I cannot but call deliberate torture for the purpose of obtaining their ends. I have made these general observations after reflection and great thought. I feel that they will be observations weighed not only by your experience, but by the knowledge and intellect of many others, and I believe that this case will thoroughly support the observations that I have ventured to make. Having made them, I will now proceed to consider the case of Damodhur Punt—a man who, as I have said before, is the *fons et origa* of the entire case, because, although examined at a much later date than the other witnesses, he is the person from whom everything is supposed to have originated and to have been the immediate agent of the Gaekwar, and, therefore, a man whose evidence we are bound to consider with a great deal of care, and to ascertain whether it is evidence upon which you can rest. I am speaking to men as I would wish to be spoken to. I desire, in this case, to introduce no violent expressions. I desire to use no words but those which are justified by their being argumentative. I believe conscientiously that if I can convey the thoughts and impressions that are upon my own mind to the tribunal I have now the honor of addressing, the safety of the Gaekwar is perfectly clear, and that it will be felt that it is perfectly impossible for a tribunal in a civilized country, upon such evidence, to pronounce a verdict adverse—I won't say merely to the Gaekwar—but I say that they could not pronounce a verdict against the lowest persons in the land, if the evidence is such as is produced against a person who, if he falls under it, loses his character, crown, and all that is dear to him; and, as I said before, loses it under circumstances which, I cannot help thinking, would not be fatal to the humblest in the land. My Lord, before entering with the minuteness which I must do into Damodhur Punt's evidence, I must refer to the mode in which he was given into custody as corroborative of the general observations that I have made on the subject of the police. It appears that he was taken into custody on the same day as the Gaekwar, and, instead of being brought before any magistrate, instead of being confronted with his accusers and having the matter investigated fairly and properly, the first thing that is done is to put him under a sepoy's guard; under that guard he remains for seventeen days. The words "being under guard" do not seem to be very terrible, but with the thoughts that must follow it, and with the feelings that must attend it, I think I have not improperly described it as that not of confinement but as amounting to torture. He himself says, "I made the statement for the purpose of getting free from that guard." That is his own perfectly candid statement upon the subject, and, probably, whatever doubt he may have raised by his evidence, you will not feel much hesitation in believing that he was speaking the truth. Upon that he was handed over to the care of the police. He knows, at this time, the evidence of both Nursoo and Rowjee. This time he admits it himself. If he had denied it, it is palpable that he must have known it, because Rowjee and Nursoo were being examined, and had been examined, when he was at liberty, and it was natural that he should be interested in knowing what they had stated, and he must have known that that charge was one against the Gaekwar, and that it was a charge of poisoning by arsenic and diamond dust. He, therefore, has to arrange something or another in which arsenic and diamond dust are mixed up. But, in addition to that, there is a shadowy account of a bottle; and he therefore must introduce a bottle into his statement; and although he is the first person who is brought into this case by the evidence,—that is, the first person who supplies this bottle, in point of fact he only gave it after what was expected of him. He knew perfectly that diamond dust and arsenic must be the means by which the Gaekwar should be accused. These were matters with which he was perfectly well acquainted, and with which he was ready to deal under the circumstances that he himself describes. Now what these circumstances are, are worthy of your consideration. They have been eloquently detailed by himself, and I need do no more than call your attention to them. The poison of this honorable witness is, —"If you convict the Gaekwar, you shall get off; if he gets off, you shall be punished." That is his own account, his own proposition. He is then granted a conditional pardon. "Succeed in what the police have told you to be what they require and you will get off, otherwise you must bear the consequences of your own admission." Liberty, possibly a grant of land, Heaven only knows how perjury of this kind is ultimately rewarded, might be given to him; but on the other hand he would not only not get liberty, but I don't know exactly what the punishment is for having committed perjury or having attempted to commit murder in this country, he would probably be very much more severely punished for not doing what the police expect of him than he would be for the crimes that he has undoubtedly committed. I don't know whether I have ever met before with an instance in which a witness has come forward and made such a direct avowal, and stands before you with a halter round his neck which is to be used or not according to the evidence that he gives. Still, there are marvellous instances in this world in which, notwithstanding so painful a position, a man will sacrifice everything to the truth, but I don't think the warmest admirer of Damodhur Punt would be inclined to think that he would be disposed to make any such sacrifice. He is a clever man—the cleverest amongst the witnesses that have been produced, as far as my judgment has been able to go—an eminently cunning man, who gives his evidence with very considerable volubility—but I could not

help thinking that there was an appearance about his countenance as if even he felt a sense of shame while he was uttering what I shall demonstrate to be a perjury, for he made statements which have been materially altered. My Lord, this will make it necessary for me to examine this evidence in relation not only to its consistency with itself, but also in relation to other matters; that is what I propose to do at some considerable length; and I venture to think that when I have done this, and called your attention to the evidence of other witnesses who were also called to support this case—Hemchund and other witnesses—I think I shall show you, not only that he has deliberately falsified a number of statements in this matter, but also that the police have been most active and have made much of a great deal of the evidence which has been produced before you. I, my Lord, particularly refer to the evidence given by Hemchund, —evidence that was manifestly extremely suspicious, as you were of opinion when you allowed him to be cross-examined upon his statement; but evidence which I am now in a position to consider, and I think shall point out, with such matters connected with it, that I think it will have a very formidable effect upon the conclusion of this case. I think—unless I am very wrong indeed in the conclusions that I have arrived at—I shall show in this case police manipulation beyond all question, of a most daring and outrageous kind. Of course, I can only judge that of my own humble ability, and I can only submit such reasons as have affected my own mind. I can only hope that they will also affect yours. I shall lay them before you, and I hope in relation to this and other matters I shall appeal to your reason as I should wish to be appealed to by those who endeavour to convince me upon any particular point. The first matter to which I call your attention is the position of the man Damodhur Punt. Permit me to describe it, as it occurs to my own mind. I do not think it will be a fancy sketch at all. He is the Secretary and trusted servant of His Highness the Gaekwar; he is a man likely to have His Highness's confidence, I admit, and so far they may be enabled to state part of his story as probable. But his position, as he describes it himself, is one of a man whose accounts are rotten to the very core—false entries in all his books —false representations as to what payments have been made for—and, in point, he places himself in a position, that if he had been charged by the Gaekwar, or upon the suggestion of Colonel Phayre, which was extremely likely to be the case, with embezzlement and fraud, he would have had no earthly answer to these charges, his books would have told their own story, the falsifications would have been perfectly apparent, the evidence given by the Brahmin and other people would have shown his entries to be utterly untrue; and, supposing there was no charge against the Gaekwar, I think he, Damodhur Punt, might have howled himself deaf before anybody would have believed that these falsifications had been made at the Gaekwar's direction. Supposing the charge had been made against him—what answer could he have made? How on earth could he in any way whatever have rescued himself from the certainty of being convicted as a fraudulent servant? My Lord, I asked some questions and pressed them to him, and I don't think they were impertinent or unworthy of consideration. I pointed out to him what his position was, and he admitted that which I am now arguing— he admitted that he had no means of answering, no means whatever of rescuing himself from the imputation; and the suggestion that was patent upon that I now venture to make to you,—is it at all likely that he would have become the instrument of the Gaekwar for the purpose of falsifying books, which falsification admitted his own dishonesty, and to which falsification—if he himself were accused, and the Gaekwar chose to be a party to the accusations, he could not have had any earthly answer? And upon that point, it is proved that there is not a scrap of writing in the Gaekwar's hand—not an act done in the presence of an independent witness by the Gaekwar, from the beginning to the end of this case (but more particularly I am referring now to the falsification of those accounts)—by which Damodhur Punt might have exculpated himself from the charge of embezzlement and fraud. My Lord, I think that is a forcible argument for your consideration against the supposition that they were committed in the way that he stated, and for the purpose that he stated. It is difficult to imagine that he would not have supplied himself with some protection and that he would not have left himself entirely unprotected in the hands of a master who, he must himself have known, would be after a certain time glad to get rid of him, and to whom he gave the power of getting rid of him. In the history of villanies committed in which great people are supposed to use small instruments, we always find that these instruments generally supply themselves with the means at all events of implicating their principals. I am not aware that I have ever heard in my life of a case in which a man in Damodhur Punt's place lent himself to fraudulent entries without retaining the power of making an explanation in the event of an accusation. My Lord, there is a matter that I may allude to in a word—although his hours at the Palace were from eight o'clock in the morning until ten at night, with the exception of a short time for dinner, those visits which form a material portion of the earlier part of this case, and which one would have thought he would have known of perfectly, especially if he had been an accomplice of the Gaekwar, seemed to have passed without his notice, and he did not seem to be a party in any way consulted in them. It is one of those inconsistencies that I think speak to our minds, and leads the way naturally to another observation, why if the Gaekwar was in point of fact dealing with a parcel of servants and others, and had a desire to obtain information, or to commit the graver crime with which he is charged—why, when he had a ready and facile instrument in his secretary, did he not leave him to do the infamous and dirty work, instead of placing himself constantly in the power of parties every one of whom would be able to testify against him? I believe I remarked on Saturday that one of the most remarkable features in this case is that it seems that the Gaekwar rather took a pride in the number of persons whom he took into his confidence upon a capital and fatal matter of this kind; and really the mode in which the meetings are supposed to have taken place, and the perfect candour with which he seems to have offered his opinion to the humblest people, and I should think the most dangerous of people, is even in this extraordinary feature. When I come to refer to some of the evidence that has been given, and the circumstances under which it has been given, and the conversations that took place, I shall very earnestly ask those members of the Commission, who are also natives of this country, to attend to some observations. I know that they will attend generally to all; but I shall direct some observations which I think will be peculiarly adapted to their knowledge of the country and its habits, and upon which I believe that they may give very valuable information, and be of very valuable use indeed to the Gaekwar in this his terrible position. Now, my Lord, these matters I have dealt with, and I have endeavoured, in doing so, to state myself calmly as I shall endeavour to do during the remainder of my address. I may take the opportunity of saying that these observations are pertinent not only to this part of the case, for their application will be found when I come to the other portions of the case in detail. But having once called

the attention of the Commission to them, I don't propose to elaborate upon, or, unless by forgetfulness or otherwise, again refer to them. Having disposed of Damodhur Punt's position in relation to the accounts, now let me ask you to follow me in the history of what he is alleged to have done. At page 112 in the short-hand writers' notes in the *Bombay Gazette*—and it will save my reading many extracts that I might otherwise do, and I think enable you to follow such parts of the argument as are worthy of my attention, if you would allow me to refer you to the short-hand writers' reports in the matters which I may place before you—your Lordship will find the commencement of this extremely singular transaction. It commences with the order of the Gaekwar for the arsenic from the Fouzdaree, regarding which it is alleged that the Gaekwar stated to him that it was for the itch, and that he himself worded it that it was for a horse; and his further evidence is—"I took the order to the Fouzdar, but was unable to procure the arsenic." Now, I beg the attention of the members of the Commission to that. He wrote the order, and was unable to obtain the arsenic—that is his story. That is a falsehood—a deliberate falsehood. He begins by telling that which is entirely and absolutely untrue; he could have obtained that arsenic without any difficulty. The Fouzdar was called by my learned friend, and his evidence will be found in page 156 of the short-hand writers' notes. The Fouzdar says that the order was in all respects complete, and there was nothing whatever to prevent Damodhur Punt from obtaining the arsenic from the Fouzdaree. As the superstructure is built upon this, the whole of it must tumble to the ground with the falsity of that allegation. It will be broken to pieces by other means, but that alone is sufficient to destroy it. But that, my Lord, is not the only feature to which I think it right to call your attention in this order for arsenic. This was an order upon which the Gaekwar's name appeared; the Gaekwar endorsed it. Therefore, as far as we can gather, unless he was a lunatic, he actually puts his own name upon an order for arsenic, which, according to Damodhur Punt, is to be used for the purpose of poisoning the Resident. There is another view that may be taken of this, and that depends upon the view that hereafter you will take of Damodhur Punt. Damodhur Punt may be a mere instrument of the police, and knowing that he is perfectly safe if he assists them in obtaining a particular object, he may have invented the whole of this matter. But there is another view that may be taken—Damodhur Punt may have had some object of his own in obtaining the arsenic. Look at what his position was at this time. Colonel Phayre was beyond all question using every means in his power to sift the proceedings at the Palace; and, sooner or later, it must have been apparent to Damodhur Punt that his defalcations and frauds would be discovered. That idea must have been apparent. Nothing could have been more perilous to Damodhur Punt than an investigation of his accounts and in all probability other servants of the Gaekwar might be reasonably supposed to be under the same apprehension. I have already pointed out what such an enquiry would have led to; and if an enquiry had been made against him, there is no doubt his position would have been sufficiently perilous. He was in disgrace admittedly at the Residency; the Gaekwar was never able to take him there; he was not admitted within the walls of the Residency. Under these circumstances, Damodhur Punt knew that he was a marked man. He had a motive; the Gaekwar had none. Therefore, it will be hereafter a matter for consideration whether the whole of this story is a lie, or whether when, in point of fact, he admits that he has intended to murder, he has told one truth—and upon that point I shall make some further observations hereafter, when I come to investigate the evidence that has been given by other witnesses; and I think, indeed I feel sure, that when I point out some matters that at present have not been called to the attention of this Commission, that extraordinary as the circumstances are that are patent before this Commission, there is passing through the whole of the matter circumstances that require the deepest consideration, and are calculated to create the gravest doubt as to what is the real history of this transaction. Let me, however, proceed with his statement. It is obvious, supposing he had any object in getting arsenic, why he did not get it from the Fouzdaree, because if he had been mixed up with the use of it at any time afterwards, the name of his master upon it would have at once traced the possession of it to himself. Under these circumstances if the Gaekwar had been desirous to use poison, the last thing on earth that he would have done would have been to put his name upon the order. On the other hand, the last thing Damodhur Punt would do when he found his master's name upon the order would be to obtain the arsenic, because it would have been the means of tracing it to himself. Upon that, he, according to his own account, represents to the Gaekwar that he cannot get the arsenic from the Fouzdaree. That will be in your recollection. Why not? Would not the obvious answer of the Gaekwar be—"Why, all poison is sent out of the Fouzdaree by my order, and upon my order alone. I have the entire control of the poison; I have the entire control of arsenic. What do you mean by saying that you cannot get the arsenic? you have got my order for it; go and get it." And yet he (the Gaekwar, allows the order, with his own endorsement, to remain in the records so as to convict him of attempting to procure arsenic in the event of any charge being made against him, and yields to the reason given him by Damodhur Punt that he cannot get it, without a single observation, although he knew perfectly well he could get it, and tells him to go and get it elsewhere under the circumstances to which I have now referred and to which I call your attention. Upon his statement that he could not get the arsenic at the Fouzdaree, he is directed to go to Nooroodin Borah, and get it there. Now here we have another curious interlude or episode in this very remarkable case, and here we have again an exemplar of police management and police arrangement. We have a good view of the liberty of the subject—whether they are respectable tradesmen or not—when the police chose to interfere with it. He gives a long account of going to Nooroodin Borah. I can quite understand why he has fixed upon Nooroodin Borah to tell a parcel of fables. He expected Nooroodin would endorse them. Nooroodin Borah, as will be remembered by Colonel Meade, was one of the complainants against the Gaekwar upon the Commission. He complained of having been fined five thousand rupees unjustly, and he also complained of a relative of his having been flogged. He was, and is, and might be well esteemed to be a bitter enemy of the Gaekwar. One can very well understand why it is that Damodhur Punt should have selected him as being the person to whom he applied for arsenic. It occurred to him, as it has occurred probably to men of little minds generally, that this man would naturally be only too glad to obtain vengeance. This is a man who is no friend of ours, but he seems, at the same time, to be an honest man. And how has he been treated because he refused to come up to what the police demanded of him? As confirmation of Damodhur Punt's statement, he is kept in custody, and has been kept in custody, for months. According to Akbar Ali, I believe, he has been remitted to prison, because they could not get anything whatever out of him, and Akbar Ali, with a smile the very reverse of benevolent, intimated, in passing, that

there was something or another in reserve for him that he would not at all like. One is not therefore surprised that he has not made his appearance to confirm Damodhur Punt upon the subject. The police have done all they could to make him—they have threatened him, they have tortured him—but they cannot make him. Bitter enemy as he is to the Gaekwar, he is the one spot in this case in which an adherence to truth has induced a man to suffer torture and degradation rather than be made an instrument of a false charge against an innocent man. So much for the arsenic. Oddly enough, it does not appear by the depositions that he was ever taken before Mr. Souter, and that illustrates what I have already said that nobody was taken before Mr. Souter until a proper course of police manipulation had rendered him subservient to their purposes. He was never taken before Mr. Souter; he remained in prison. Akbar Ali said that he had been remitted back to jail with the threat that some proceedings or other will by taken against him—what they may be Heaven only knows! He is powerless to prevent them. There is no magistrate, no human being to whom a man, persecuted as this man has been, can appeal for remedy and for safety. So, my Lord, as far as I remember, there is no evidence whatever that Damodhur Punt ever obtained any arsenic at all—no evidence, I mean, beyond his own assertion. His own assertion is that he obtained it from Nooroodin. I think the observations that I have made upon that subject will satisfy you that this is utterly false. If he obtained it, he obtained it from some other source, and for some other purpose. The whole of his story is a fabrication that he might have obtained it upon his master's order! He did not do so, and the evidence in relation to Nooroodin is conclusive, that he did not get it from there. He makes no suggestion as to having got arsenic from any other quarter. This is the arsenic that permeates ultimately until it is supposed to reach the cup of sherbet of Colonel Phayre! I am not aware that there is any other suggestion as to arsenic being procured. I believe there was some suggestion of arsenic from the camp Borah—the man who has not been called; and if there was any arsenic obtained from him, they have his books in their possession, so that if that arsenic had been bought from him they have abundant means in their own hands to prove it. Now, I think the next portion of his evidence, having dealt with the arsenic, it will be desirable to deal with, will be the evidence as to what he calls the "physician's stuff." I have before me the evidence given before Mr. Souter; and part of it I will take the liberty to read. It will save me considerable amount of description, for I think the description he gives himself is as good and graphic as any I can attempt:—"At the same time, namely, when the Resident had the open wound," (that I presume to allude to the boil upon Colonel Phayre's forehead) "the big physician's younger brother brought a bottle of poison made up by the physician, but as there were many of us present, he did not give it that time, and he may also have wanted something for it. In the evening one day, when Colonel Phayre had the boil on his forehead, the Maharaja told me to get some blister flies to send to the younger brother of the big physician. He told me to send throught the Fouzdaree and have the Wagries sent to catch some flies and taken to the physician. I told Narayenrao Wakusker, who is in the Foujdaree, accordingly. The next morning the Maharaja told Hariba, in my presence, that the physician's younger brother wanted some snakes to make medicine. The snakeman came to me two or three days after, saying he had the snakes that had been ordered, and I told him to take them to the physician. Narayenrao brought the blister flies taken by the Wagries and shewed them to me, and the next day Goojaba, a servant of Nana Khanwelkur, came and shewed me some blister flies of the same kind, and I told him to take them to the physician's brother and submit them for his approval. About the same time the Maharaja told me that the physician's younger brother wanted the urine of a black horse: and I gave orders to Bappajee, the kamdar of the Khas Paga, to take some urine accordingly to the physician's brother." Now I don't know what state of darkness this country may be in, but certainly this story reminds one much more of some Eastern tale of the former time than it does of anything that could have occurred in the nineteenth century. At the same time, upon that subject you are very much more competent to form an opinion from your own knowledge of what may be the superstitions of the natives possibly than I am myself, and I won't profess to offer any argument upon the subject, but leave you to judge of the probability of it. But passing away from that, I call your attention to what is done with it, and how it is used. I may as well, however, mention here that I think my learned friend began to get a little ashamed of this particular part of the case. I don't think that these blister flies at all suited with his keen and acute intellect. I think he had a sort of notion that he was going a little too far; but inasmuch as they were down upon this evidence, my learned friend fairly and properly enough proved the whole thing from Damodhur Punt's mouth; —but my learned friend could not go any further. I expected—indeed we were promised—the presence of the snake-man. We should have had an opportunity of learning by what process he is able to extract the poison. We should also have had some valuable information, the subject of blister flies and their effect upon human beings, and with regard to the article that was particularly desired by the Maharaja for the purpose of poisoning his enemy, some account of its properties might have been given by the gentleman who was deputed to obtain it, and who appears to have obtained it. But my learned friend does not appear to have called any of these sages for the purpose of giving us any information upon the subject, and as far as I can gather these wonderful extracts were made into a white liquid and disposed of in a manner to which I will now call your attention—"The Maharaja wanted the stuff, but did not want to give what the man demanded" (that, I think, is rather improbable, and considering that Damodhur Punt had nothing to do but finger whatever amount of money he pleased belonging to his master, probably you will agree with me that it is not very likely to be true) "so suggested to Nana Khanvelkur" (who has not been called, and I don't know who the gentleman is) "to get some of the contents of the bottle, and a day or two after, about 9 o'clock at night, Goojaba came to me with the bottle which the physician had made, and told me that he had taken it to the Maharaja, and that he had been ordered to bring it to me, and that I was to take some out of the bottle, and keep it till the next day, and then give it to Salim. I poured some out of the physician's bottle into a small bottle of mine, which had held attar and gave the other bottle back to Goojaba, and the next day Salim came to my house at 9 o'clock, and I gave him the bottle to take to Rowjee to poison the sahib. This I understood perfectly, though I did not tell Salim to give it to Rowjee." So that we have now the contents of the bottle which were to be applied to the unfortunate Colonel Phayre. We know how it was made, the elements of which it was compounded. I shall have to follow that bottle through a variety of stages. It is almost a comical episode in this otherwise extremely serious case. But we trace it now from its source and it will not escape your attention, and I beg that you will keep in your recollection the account that Damodhur Punt gives of it, because

You will find that when we are considering Rowjee's evidence that that account is extremely material. He says the first bottle brought was about this length (pointing to the fore-finger). He did not use any other term, but put up his finger, represented that the first bottle was about a finger's length, and that the bottle that he put it into was about half a finger's length. You will find that in the evidence—I believe I am quoting it quite correctly—because it is extremely important. It will be one of the means by which the falsehood of Rowjee's story will be developed. He tells us further that it was in an attar bottle. Now, I did not ask any particulars as to attar bottles. But I believe it is perfectly well known what they are —they are bottles in which there is a very thick coating of glass and capable of holding a very small quantity of attar. Probably the space to hold liquid is almost infinitesimal, and when you consider an otto-of-rose bottle of about the size of half your finger, you will agree with me that it is not calculated to hold any amount of liquid. But according to all accounts, this is the famous bottle which ultimately met with such adventures, and came under such very learned cognizance. This is the bottle given to Rowjee, and the bottle that I shall presently follow through its very eventful history. I have dealt with the arsenic, and I have dealt with the physician's stuff, as I shall perhaps in the future call it whenever I have the necessity to allude to it. I have now to come to the supposed obtaining of diamond dust. Now, I venture to believe that there was never such nonsense in the world talked as diamond dust being accredited as a poison. I have looked into books of considerable authority such as Taylor, and Beck, and others, and I cannot find the slighest trace, except in a work with which I was not acquainted until I came here, where it has been quoted on the subject. At the same time, for aught I know, there may be a belief that diamond dust is a poison where a book of any kind, whether any authority or not, asserts that it is. As far as I can understand, if it is spoken of as being an article thoroughly well-known, one would imagine that it would be the residuum that comes from diamonds after they were filed or cut. However, they are shown to you as being the result of diamonds themselves being pounded, and it is supposed that diamonds were procured for the purpose of pounding them into diamond dust and using them in the way that is suggested for the poisoning of Colonel Phayre. It is quite odd that of two or three witnesses who have been asked upon the subject—goldsmiths, Nanajee Vithul and others—every one of them declared that he had never heard of diamond dust in his life—never heard of diamonds being pounded. We all know it is a very valuable article, and would imagine that the notion of its being a poison would have been discovered effectually long ago. However, I will accept the assertion made by my learned friend upon the foundation of the work that he referred to—Dr. Chever's work. I will accept it that there is a superstition of that kind which I will class with the superstitions about the snakes and the flies and other articles. There may be such a superstition, I cannot tell. But diamond dust never came out of Damodhur's place. Damodhur Punt never obtained any diamond dust. Let us follow what he says upon that subject, and I come now to a portion of the case that I shall have minutely to analyse, and I hope I shall be enabled to convey the ideas that are present on my mind upon the subject:—"I got the diamond dust from Nanajee Vithul. I got three massas of powder, and nine massas of diamonds. I know this from what Nanajee Vithul told me." That is an important portion of his evidence as you will observe when I call attention to the evidence given by Nanajee Vithul. Then he says—"I gave the diamonds to Yeshwuntrao, who said they were to be made into powder and given to Colonel Phayre. I said this is not good—this is bad"—a sufficiently mild mode of talking on the part of one who intended to poison. You will see that in the statement he first of all made, he said there were three massas of powder. It appears from what Yeshwuntrao observed—if his statement is true—that there was no powder given to him, because he simply makes the observation that the parcel or packets given to him was to be made into a powder. Now, I must pause at this period of the case. I have made observations upon the improbability of the Gaekwar taking such means as those imputed to him for the purpose of obtaining arsenic. I now would venture to ask the Commission what they think of the story in relation to his obtaining diamond dust. Assuming diamond dust to be pounded diamonds, why on earth should there be such an elaborate scheme to obtain possession of these diamonds; why should other people have been taken into confidence; why should a man have to falsify his books when the Gaekwar has nothing whatever else to do but to take the loose diamonds, and the diamonds that he was using in ornamentation and have them pounded! At that very moment he had small diamonds which were being used for the purpose of ornamenting the hilt and scabbard of a sword. Throughout his whole reign he had been in the habit of procuring diamonds. His diamond department was full of them; he had nothing whatever to do but to take them. Then why all this machinery; why all this quantity of falsehood; why all this manipulation of documents? What earthly purpose could be gained by it? If he had wanted diamond dust, he had only to take his own diamonds and have them pounded. That is all he had to do. In the same way, it appears to be manifestly absurd that there should have been so much elaboration for securing arsenic. All these transactions took place in the absence of the Gaekwar and they are alone dependent upon the statement of Damodhur Punt. No collateral evidence of any kind is taken. Diamond merchants are not found to have brought the diamonds to the Gaekwar nor said to have brought them, nor is it said that they had any conversation with the Gaekwar at all about them. In point of fact, except through the medium of these most tainted and infamous witnesses, there is not a scintilla of evidence that the Gaekwar had anything whatever to do with or any knowledge whatever of these transactions. My Lord, I pass over those portions of Damodhur Punt's evidence in which he imputes certain conversations to the Gaekwar relative to the attempt on Colonel Phayre. They come within the argument that I have already humbly suggested to the Commission—they are utterly and absolutely uncorroborated—there is not a scintilla whatever of confirmation—and it is quite clear that in the matter of conversations, inasmuch as they are said to have taken place when Damodhur Punt and the Gaekwar were entirely alone, it is perfectly impossible for the Gaekwar to give anything but a general denial to them—he has no means by evidence or otherwise of doing anything else than contradicting what he denounces as an infamous falsehood—and I cannot do more therefore than refer to the character of Damodhur Punt, and the impossibility of any human being, I don't care who he is, extricating himself from such a web of charges as those made by Damodhur Punt against the Gaekwar, made by a man admitting himself to be an accessory to the murder or attempt to murder, endeavouring to shift off his own shoulders the responsibility on to somebody else, and obtain immunity for himself by casting the crime upon another. But while there is no conversation whatever or any corroboration of any kind in the statements made by the Gaekwar to Dhamodhur Punt, there is negative evidence that in my humble judgment goes very strongly to refute it. Every paper in the Gaekwar's possession was seized by the officers and there

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any genuine document whatever found by which the Gaekwar can be personally implicated in of the transactions. I used the term personally implicated for the purpose of distinguishing between the statement Damodhur Punt has put forward as the confirmation of his own statement, and supposing it to be true it amounts to nothing more in contradistinction to what I say ought to exist for the purpose of confirming a villain of this description, namely, such confirmation as brings the accused by word, by deed, or by act only better into connection with the transactions. But it is pretended, except in one most remarkable document to which I shall presently call your attention, that the Gaekwar was not cognizant in any way whatever with any of the transactions that Damodhur Punt was carrying on. And all the papers ransacked, searched and investigated with every minuteness, show there is not a single corroborative proof connecting him with the action of Damodhur Punt. There are other things that are very well worthy of your attention, and these again I used as being the strongest evidence that this case is a got-up case against the Gaekwar. I submit what I am about to say to you with great confidence—it depends upon no words, it depends upon dates and upon the construction that the Commission will put upon those acts. It does appear to me to be a most singular and remarkable thing, and I think that it must have struck the members of the Commission at the time that the matters were being investigated as being singularly remarkable, and that is the story of the obliteration of particular parts of these journals. It strikes me as being all important. The mode in which it is used or suggested by the prosecution, is that these were obliterations of certain words—certain names. That connected Damodhur Punt with the transactions in question. Well, I have had an opportunity of looking at the dates of these obliterations, and I believe I am right in saying, if I am wrong my learned friend will hereafter correct me. The dates of three of the papers so obliterated are June 8, July 2nd, and September the 6th—these are dates which the Commission will be quite aware, during which time it is not pretended that any of these transactions took place—and therefore the supposed obliteration could have been for no earthly purpose as regards Salim because there was nothing whatever to conceal at that time, and according to the case of Damodhur Punt, nothing whatever occurred at that time. It is a much later date. There is one obliteration as late as the 13th October; that may have been an obliteration for something or other occurring to some of these parties—but with regard to the other three obliterations, they are at dates during which it is not pretended by any witness whatever that anything at all had occurred. Then, my Lord, there is another curious feature in this case. Damodhur Punt did not obliterate them himself he says, but that he told an office clerk to obliterate them, and he vouches the name of the clerk so employed. That name is vouched by my learned friend and pledged in confirmation of the story. He is called and absolutely denies the fact—he says there is not a word of truth in it. Bulwuntrao is his name. It is very true that we have a statement of Mr. Souter, one in which he admitted it on one occasion. I am corrected by my learned friend, that has not been said, I thought that in his examination by Mr. Souter he had so stated. However, they may now say the whole thing is a falsehood and an utter fabrication, he says "I never did anything of the kind." I do not know that any human being would have blotted it there except for the purpose of attracting attention. I don't believe this was ever done by Damodhur Punt, certainly it was not done as he said it was. Is it within the range of probability, or of common sense and common experience, that Damodhur Punt for the purpose of concealment would have made these obliterations that must have attracted the attention of the very first person who looked at them. I am told, I do not know whether correctly or not, that some of the natives of India are not unskilful hands at obliteration, and that they are not generally signalised by large splotches of ink that must attract everybody's attention that looks at them. I can scarcely with gravity deal with such an assertion. It seems to me to carry on the face of it absurdity—the statement of a comparatively unreasoning mind which only looks at one object, which object it wants to carry out, and cannot grasp at the same time the folly and absurdity that surrounds an assertion of this character. I ask whether any rational or intelligible answer was given to the questions that I put and repeated over and over again, why, if there were any entries that you wanted to conceal in the journal, did you not throw them behind the fire or tear them up? If he had had time to do the one thing, he would have had time to do the other—but it is manufactured—it is a part of this foul case—it is shortsighted—it is ignorant—it is what no man of ordinary intelligence would practice, because it carries its answer upon its very face, but it is very probable that those who made these statements never imagining that this case would be tried before a Commission like the present, but by somebody or other without some reasoning power that would swallow all the absurdities he chose to utter; that must have been his idea passing through his wretched brain, that thing answers itself and answers itself in a way that is most important for the men whose nonsense I have been endeavouring to demonstrate; it shows that evidence of a grossly flagrant kind has been manufactured, and it will cause this Commission to look with the greatest care and apprehension upon every portion of this case with which these manufacturers have had to do. I make no further observations upon that. I shall not have to recur to it again. As I have said before, I think it is negative testimony of a very important character indeed, and in the light of negative testimony I place it before this tribunal. I have already referred to the fact that he was perfectly well aware of the statements that Nursoo and Rowjee had made—he admits that before he was arrested he had heard of the alleged poisoning by arsenic and by diamond dust, so that his mind was fully prepared to furbish up some story of poisoning in which the principal elements should be arsenic and diamond dust. As to the bottle employed in the transaction he gives some kind of excuse by saying that it had poisoned a boil of Colonel Phayre. But now you have before you the evidence of Damodhur Punt that is given upon the subject of the arsenic and upon the subject of the diamond dust, and you have also my comments upon the subject which it is a great gratification to me to find are not at all likely to be forgotten, and will I know be hereafter considered with perfect impartiality, and with sound and excellent judgment. I have endeavoured to make my propositions as clear as possible. I make them, knowing that they will be answered as far as they can be by my learned friend the Advocate-General. I know that the ability of a man holding one of the highest positions in the country will be brought to bear upon the subject; but at the same time I know that, recognising the duties of his high position, he will only do that which is in the interest of justice. He is not here, and he must feel gratified that he is not, to hunt an unhappy prince off his throne, and no man is more likely than my learned friend to act in the interests of that justice which will ultimately be administered here, and to which I have no hesitation in saying the whole of the population of India is looking forward to the result with great interest, while it will be watched by the greatest minds and the greatest intellects of Europe.

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I come now to another part of my subject. I shall have to go into some detail, and perhaps I shall not secure the entire sympathy of the Commission at first in what I am about to say. I am alluding to the evidence of Hemchund Futtychund. (Refers to page 137 of short-hand writers' notes.) Your Lordship will not have forgotten the appearance of that unhappy person in the witness-box. I never in my life witnessed, stamped upon the face and appearance of an individual, such an abject expression of terror as there was upon his. He had made his statement to the police and to Mr. Souter, which I shall presently read to you. He came forward here to say that that statement was false, that he had made it under intimidation, that he had gone through the process usually administered to witnesses, that he had been left in the custody of the police until he had been sufficiently handled to serve their purpose, that, moreover, he had introduced fictitious items at the bidding of the police, that he had done so under the threats of the police, and that they had carried out these ends by giving him just a gentle hint, as he was going in to Mr. Souter, "Now if you don't verify what has been done before, back you go to prison." That is his account, and under the influence of those threats he made a false statement to Mr. Souter. The Crown produces him for the purpose of saying that diamonds were brought from him through Nanajee Vithul, that Rs. 3,000 were paid him on account, that that sum came from a saving account, and had been falsely entered by Damodhur Punt as having been paid away to the Brahmins,—that is to say, that the entry upon which the Brahmin was called as a witness was an entry fabricated for the purpose of accounting for the sum of money paid to Hemchund for these diamonds, and that Hemchund's books contained fictitious entries to the effect that Rs. 3,000 were received from Khemchund Khoosalchund, when in point of fact they were in payment of diamonds. Hemchund was called here to prove two entries at the end of this book, debiting the Gaekwar with two sums of money for diamonds. For all these he was called here by the prosecution. I think it is very desirable in this case, as so much depends upon it, to read what this witness said to Mr. Souter: "Some few days after the last Dussera festival Nanajee Vithul, in charge of the Gaekwar's jewel-room, directed me and other jewellers to bring some diamond chips, which we did the same day and handed them to Nanajee, who retained them. The following day our diamonds were all returned, and we were told that the price did not suit. Two days after Nanajee Vithul directed me to bring my diamonds back again; they were weighed, the price settled, and purchase concluded. Four or five days later I was again sent for by Nanajee Vithul and directed to bring other diamond chips, which I took to the palace accordingly. Nanajee Vithul was not present in the jewel-room. The diamonds were, therefore, handed to Venayekrow, Nanajee's brother-in-law, who weighed and priced them, and then took them along with me to Damodhur Punt, who remarked that the price was high, but kept them, saying that he would purchase them if required. On this occasion the diamonds were in two packets, both of which were kept; but about four days after, one packet was returned to me." It is well that I should call attention now to what Hemchund said when he was examined. Up to this point his evidence, when examined here, and his statement, agree, but they commence to disagree at this point where he says that only one packet was returned to him. The Commission will find it desirable to recollect this fact when I call attention to the evidence of another witness. He asserts now that both packets were returned to him, and the question for your consideration is whether that is true or not:—"A few days after it became known that an attempt had been made to poison the Resident, Colonel Phayre, Nanajee Vithul asked me whether I had entered the purchase of the diamond chips in my books, and if so that I was to remove the entries in some way or other, as he was afraid that the diamonds in question had been made use of to poison Colonel Phayre. On hearing this I became afraid, and at once caused the pages of my account-books, on which the sales of the diamonds were entered, to be removed, and fresh pages substituted. The three books now before me (lettered A, B, and C,) are those that were thus tampered with. The price that I was to receive for the diamond chips was Rs. 6,270 of the Baroda currency, and on account of this sum I was paid Rs. 3,000 by Nanajee Vithul, which has been credited at pages 10 and 24 of the day-book as having been received from one Khemchund Khushal. A portion of the above sum of Rs. 3,000 was counted out and paid to me by Nanchund Shroff of the Doomala village." I want very much to impress upon the Commission the point here which is really in dispute. Hemchund says now in evidence that both packets of diamonds were sent back, and that there was no transaction between him and Nanajee Vithul. He also says in the statement before Mr. Souter that the pages containing the alleged transactions with the Gaekwar were torn out; but he goes on to show that which you will ultimately find to be entirely inconsistent with their being so torn out—that an account of these transactions was to be found at pages 10 and 24 of the day-book, disguised as transactions with Kemchund Khoosalchund. My learned friend says that Khemchund Khoosalchund was an entirely imaginary character in so far as these accounts were concerned; that Khemchund had no such transactions with this Khemchund Khoosalchund, and really never knew of any transactions whatever existing with Khemchund to which he had been a party; and my learned friend pledged himself to call Khemchund Khoosalchund to prove that no transactions whatever had taken place between him and Hemchund.

The Advocate-General explained that the name should be Sewchund Khoosalchund—not Khemchund.

Sergeant Ballantine was glad that it was the printer's mistake with the name this time, and proceeded:—But there is no doubt about the real name, and no doubt whatever about the transaction. Now comes what I think sufficiently exhibits the manipulation of the police, the substantial truth of Hemchund's story, and the undoubted falsification of the books by the police themselves. I think you will agree with me that it is about as iniquitous, and at the same time as transparent a proceeding, when exhibited by the light of information subsequently obtained, as has pretty well ever been endeavoured to be foisted upon a court of justice. When Hemchund is called here, he says:—"Refer to pages 10 and 24—there they are—they are not torn out—they are not pretended to be falsified." These are the items which in his examination before Mr. Souter he vouches as proving the payments in relation to the diamond dust, and at the very time he was vouching this before Mr. Souter, Gujanund Vithul had in his pocket three bills of exchange which he must have deliberately suppressed, of which he never made the slightest mention, and which he never produced to the light until I challenged the production of them here. In these bills the history of Hemchund's transactions is clearly shown, and the impossibility that they could have related to diamonds proved beyond the possibility of a doubt. Now, Sirs, I shall rely upon your assistance in this case as men much more versed in such business matters as this than I am, and shall content myself with just giving a summary of my views upon the subject with a view to directing your attention to the details, which are extremely important. It appears that Nanajee Vithul had transactions with

this Hemchund, and I cannot help having a kind of notion of the nature of the transactions when it appears, according to Hemchund's testimony, that some ornament was purchased from the person whose name I have already mentioned,—a jeweller at Poona—and it appears that that article of jewellery was intended, in some way or another, to belong to Nanajee Vithul, and had been paid for, and paid for by these three bills. You heard his evidence upon the subject, and I think he must have made out, to your entire satisfaction, that these three bills did apply to the payment for that ornament. Hemchund gave you the amount of the bills, the amount of interest, and so on, and made out an original sum of Rs. 10,000. How that sum was made up he explained with minuteness and detail. He brought the account up to Rs. 9,300 odd, and said the balance was in connection with other transactions upon his books, where they might be seen. My learned friend, evidently astonished at these disclosures regarding the bills of exchange, and believing that the whole of Hemchund's story was an utter fabrication—as well he might, from the information he had received—if he were aware of it he possibly had not his mind particularly directed to the bills—he endeavoured to prove out of the mouth of Nanajee Vithul that Hemchund had been guilty of perjury, fabrication, and falsehood. My learned friend cross-examined him at great length upon this point, and upon his dealings with Nursoo and the Poona goldsmith. It now turns out by negative testimony that every word of Hemchund's story about these transactions is strictly true, and that in point of fact the transactions did take place. Nanajee Vithul was never examined about them, and the Poona goldsmith was never called to confirm or the contrary the statement made about his dealings with Hemchund. As far, therefore, as I can see, and remembering the written documents before the Court, these two entries declared to before Mr. Souter to represent an untrue transaction for the purpose of covering the sale of the diamonds, turn out to represent a perfectly true transaction. The documents before the Commission, the absence of any contradiction of them and of witnesses who were upon my learned friend's brief and might have been called—all prove conclusively, I think, that what that man Hemchund said regarding this in the progress of this case was perfectly true. "When I declared that these were fabricated entries I did so in order to get out of the hands of the police. I give you my books, my bills of exchange, I vouch the names of all my people engaged in these transactions." That is practically what he said here. No contradiction whatever has been given to that. Although Nanajee Vithul is called in in the matter, the entries are now proved conclusively by Hemchund to have been a pure business transaction, although he had been dragooned and frightened by the police into telling a falsehood when examined before Mr. Souter. I must say it really is a terrible state of things, take it in whatever point of view—something that must produce very grave feelings in the minds of all of us—the abject terror that these people can create upon the minds of people who appear to be well-to-do and intelligent, and who in a civilised state would be protected by their character and position, but here may be dragged from their homes, dragged to a prison, bullied by the police, threatened with punishment, kept in confinement, promised delivery if they make a statement consistent with what the police tell them to make; and then we have this fearful thing—that a deliberate false statement is made in the presence of Gujanand Vithul—made by his procuration—in relation to two items, while at that very moment Gujanand himself had in his pocket the means of proving, and probably had satisfied himself, that these items were entirely correct. My Lord, I use no further expression in condemnation of such a state of things. I confess it was with great apprehension that the proposition first came into my mind. It was with doubt I allowed it to remain there for a moment. I doubted my own judgment; I hesitated about my own discretion; and it was not until I had thoroughly mastered the documents themselves and the surrounding evidence, that I ventured to put it before men who can appreciate my argument, and to put forward upon it the broad assertion that if you are satisfied my view upon this matter is a correct one, the whole case from the beginning to the end is foul and rotten—that this mass of forgery and falsehood must fall to the ground, and be crushed under the foot of every thoughtful and feeling man. Hemchund's evidence is not, however, confied entirely to that, nor are the falsifications of the book limited to that. (Here Mr. Ballantine received from the Secretary exhibit A 2.) As my learned friend reminds me—and I am obliged to him for the information—these hoondies are not only referred to in this particular book, but are referred to throughout the other book admitted to be genuine. Therefore they are shown by a number of books to be a regular mercantile transaction, and bring out the state of things I have endeavoured to develop. It is very difficult to quite understand how this story is intended to be made out, because it seems rather like blowing hot and cold, first of all to impute to Hemchund the tearing out of the items which involve him in this matter, and the fact of vouching the very books; it is very difficult, I say to see, even on the prosecution's own showing, how they are to reconcile these two things. But there can be no doubt about this. He is supposed to have torn out items for fear of implicating the Gaekwar, and yet they say that the item I have now before me is a genuine entry appearing upon the books at the time they were received. (Page 140 of the short-hand writers' notes referred to.)

Sergeant Ballantine pointed an item and requested the interpreter to read it.

Mr. Nowrozjee Furdonjee—The item is as follows, "Debited to the account of Shrimunt Mulharrao Gaekwar, 14th of Aso-vud. Given to Damodhur Punt." (To the President.) This line is not quite correctly written, but I would translate it thus: "Narranjee himself gives to Damodhur Punt." One letter is wanting in Narranjee, so that it is Narrajee. Then follows the items—"Rs. 2,770—bilandi diamonds."

Sergeant Ballantine—That is sufficient for my purpose. You perceive from that entry that so far from the transaction being concealed it is patent. It is not in a curious place certainly, because it comes in upon the 7th or 8th November, when it might be very convenient in regard to the diamond dust that was supposed to be administered to Colonel Phayre. It, however, follows in a remarkable way the evidence of Damodhur Punt, because, according to the words used, it is "delivered to Damodhur Punt by the hands of Nanajee." Such an entry as that would not, I should think, be found in many tradesmen's books, but here it concurs precisely with the evidence given by Damodhur Punt. If the item is a manufactured one we can pretty well account for the terms of the manufacture. You find it consistent with the traces being destroyed—with the destruction of entries. Here you not only find the item, but moreover in the very place a policeman would wish to find it who was conducting this particular case—upon the 7th and 8th, although probably it could not have been used at such a time of being supplied. Hemchund has declared that that entry was made in duress and by compulsion. I ask you to take the entry itself, and you have simply Gujanand against Hemchund. You have a man—I suppose a respectable tradesman—at all events no imputations have been suggested against his

character. You have Gujanund, and know the nature of his transactions. I take the liberty of asking you to believe Hemchund rather than Gujanund. I ask you to do so, not only upon the characters of the men, but also upon the entry itself. I want to know what any reasonable man will say about that entry. Is it a genuine one? Or is it one made up for the purpose, as stated by Hemchund? Why, it passes everything! It being supposed that this transaction was correct, and one in which Damodhur Punt did not want to come before the public view, care has actually been taken to stick his name in. Moreover, it is clear that the whole thing is in direct contradiction of the statement made before Mr. Souter that all entries had been destroyed. Does it not create pregnant suspicion that Hemchund has told the truth? I think that that suspicion will be largely increased when I call your attention to another witness, Nanajee Vithul—the next witness to whose evidence I will now call your attention. Now, Nanajee Vithul is introduced as a go-between between Damodhur Punt and Hemchund in the purchase of these diamonds, and he, during his examination, confirms what was originally stated, that one of these packets was purchased and one sent back; and he alleges—and I beg the Commission not to lose sight of this fact—that these items of Hemchund's, upon which I have offered so many lengthened comments (the items accounted for by the hoondies), do in point of fact represent the sale of that one packet of diamonds. Nanajee Vithul knows all about these bills of exchange. He knows all about the transaction with the goldsmith at Poona. The transaction was one in which the ornament alleged to be purchased was an ornament for his brother-in-law. And beyond all question Nanajee Vithul was intended to be called to corroborate the evidence that had originally been given by Hemchund, and to contradict the evidence which he gave in open court here. There is no doubt whatever that Nanajee Vithul could have contradicted that evidence most conclusively had it been untrue. Here is a tradesman who keeps books. Here is a transaction in which Nanajee Vithul is said to be implicated, the bills of exchange being alleged to be bills to which he was a party. But Nanajee Vithul, although called by my learned friend, was allowed to stand down without being asked a single word upon the subject. I do not know that it is possible to place the case more strongly or to have more forcible and convincing proof of the truth of Hemchund's statement. Nanajee, however, sticks to it—and I think you will believe it to be a deliberate falsehood—that a packet of these diamonds was in point of fact kept and charged for; and I am not without warrant for saying that it is a deliberate falsehood, because the very next witness called—Atmaram bin Raghoonath, a servant or clerk under Nanajee Vithul—said in the course of his evidence, "Nanajee said to me, I am going to take the yad away, as the diamonds are not to be purchased." That was in relation to the second packet of diamonds; and he distinctly states that the yad was to be destroyed because the diamonds had been sent back. This was not a matter of surprise to my learned friend, for I find the witness saying in his evidence before Mr. Souter—"It was about this time that a report was current throughout the city that an attempt had been made to poison the Resident. Nanajee Vithul told me, when receiving the memo., that I was to make no entry of the purchase of the diamond chips as he had returned them to Hemchund." That is what Hemchund himself says; and under these circumstances—considering the bills of exchange, the absence of any contradiction on the part of Nanajee Vithul, and other matters—I say it is perfectly clear that the diamonds were returned, that no sales took place, that there has been no erasure or obliteration whatever in Hemchund's books, that these pages which are vouched as being fraudulent and not applicable to what they are stated to be applicable, turn out to be applicable exactly to what Hemchund has stated in his evidence; and, moreover, that the two last items about the diamonds on the 6th and 7th are falsified entries, but that Hemchund was compelled by compulsion and duress to make them. I have not abstained from referring to any document upon this subject, or from any test that could be supplied; and I do say I think I have made out, as against the allegation of Gujanund, that Hemchund has told the true story, and is to be taken as a witness of truth. I am quite aware that Hemchund exhibited himself in no very favourable light in the witness-box when he said he did not know what Hindoostanee was. Of course that was an absurdity. At the same time it is clear, even from Gujanund's account, that he speaks Hindoostanee very imperfectly, and that his evidence was given partly in Hindoostanee and partly in Guzerathi, so that saying that he did not understand Hindoostanee was reasonable enough. Of course, when he said he didn't know what it was that was an absurdity which nothing can justify except confusion and a kind of terror he seemed to be in. He seemed to be apprehensive every moment of feeling the imaginary claw of an imaginary policeman upon his shoulder, and therefore afraid to utter a single word. I feel that in this matter I have a duty to do towards those persons who make statements upon which I feel I can place great reliance; and when one considers who Hemchund was—the circumstances under which he had been treated—I must ask the Court to extend their consideration towards him. An error he may have committed in the way he gave his evidence, but I shall presently have to call attention to the evidence of Colonel Phayre; and as I take it for granted that Colonel Phayre did not want to misrepresent statements, I hope that when you see that an educated man, in the confusion of his position, making errors which he has afterwards to correct, you will no more impute the errors committed by a poor man, under the influence of terror, to an intentional deviation from truth, than you would the errors committed by Colonel Phayre. I have very little more to say upon this branch of the case, except to allude to this fact—that Nanajee Vithul is said to have given Damodhur Punt two parcels, one containing diamond dust and the other diamond chips, while Nanajee himself says that he does not know what diamond dust is, and never gave him diamond chips at all, but that he only supplied the diamonds. Moreover, he proved the fact that with regard to small diamonds and chips, there was abundance belonging to, and subject to, the management of the Maharaja, which he could have got at any moment, and that in point of fact there was a quantity at his disposal. You have, therefore, in reality, by different witnesses, every single portion of the remainder of this substantial case disposed off. No arsenic, no diamond dust, doubtful whether any diamonds whatever were sold, no proof from any source whatever that they were, the arsenic supposed to have been got from Nooroodin Borah not confirmed, the books of the person who is supposed to have sold the arsenic not produced; and the very mint out of which the coinage is supposed to spring, and upon which the whole case depends from the beginning to the end, crumbles to dust, and leaves nothing whatever remaining but Damodhur Punt's bare assertion unsupported by a single credible witness. With regard to Damodhur Punt, he may be lying from the beginning to the end, or he may, for all I know, be only a poisoner in intention. I shall not attempt to clear that man. From what I saw of him in the witness-box, he has a skulking, scowling, lowering countenance, and I could believe him guilty of any villany. From the way in which he answered questions here, I could imagine him capable of any amount of

cunning. Doubted by Colonel Phayre, likely to have an investigation, prevented from ever coming into Colonel Phayre's residence, and being himself, as I am sure you will believe, a robber and embezzler of his master's money, a fraudulent servant who was likely to have his books investigated at any moment, I can very well believe that he was likely to be the person who initiated these proceedings ; and if he did so, and employed Salim and Yeshwuntrao as his agents, I implore you in the name of everything just and fair to exculpate from such charges, made upon such weak foundation, the unhappy prince who is now relying upon the honour of those now sitting here, to acquit him of a crime of which he has declared himself to be absolutely and entirely guiltless.

Here the learned Sergeant requested an adjournment for three quarters of an hour.

The President agreed to adjourn for an hour and to meet again at half-past two o'clock.

Sergeant Ballantine—I am told that Nanajee Vithul vouched that a person named Nanchund Tullackchund was present when a sum of money was paid for these diamonds. I merely beg to mention that that witness has not been called to corroborate these statements. He was examined before Mr. Souter.

The President—Have we got any evidence in our proceedings that he was examined by Mr. Souter ?

Sergeant Ballantine—I believe, my Lord, his evidence has been put in.

The Advocate-General—I have not the slightest objection to admit that Nanchund made a statement before Mr. Souter.

Sergeant Ballantine—This is rather important, as Hemchund is attacked by this witness in his deposition.

The President said that if Mr. Sergeant Ballantine had not the note referring to the matter at hand, he (the President) could take a note of it afterwards.

The Court now adjourned for half an hour. On the Court meeting again at half-past two—

Sergeant Ballantine resumed his address as follows :—I have, my Lord, dealt with Damodhur Punt, considering him to have been the origin of the whole matter, although as a matter of fact he was last called here. There are other two other witnesses—Nursoo and Rowjee—whose evidence is of course of considerable importance. With regard to Rowjee, I do not propose at this moment to go through the details of his evidence, because I wish to follow one or two episodes of this case which I think are illustrative of the whole, and, I think, had better be followed to their source. I have already alluded to the story about the bottle. We have got a bottle about the size of Rowjee's finger —an attar-of-roses bottle—which holds so little. It has not been pretended that there has been any change whatever in the bottle, but yet in Rowjee's hands it increased considerably in size. I propose very shortly to follow the history of this bottle. The Commission may remember that in the course of my observations, without pretending to put forward any direct proposition of any kind whatever, I expressed a doubt that has permeated through my mind as to whether the servants of Colonel Phayre had in point of fact any intention to poison. I have dealt with Damodhur Punt and delivered him over to your mercies. Deal with him as you please, or consider him the villain he pretends to be when he did in point of fact intend to murder Colonel Phayre ; but I cannot bring my mind quite to the realization of the idea that Colonel Phayre's servants were concerned in any such deliberate design. I do not say they were not, but I cannot bring my mind to think that they were. It is extremely important to follow the history of this bottle, and Rowjee's statements upon it. Well, this attar bottle gets into his hands. The period when it does so is extremely doubtful. He himself puts it at about the 9th November, but I am told that he received possession of it at a much earlier period than I supposed. At all events he gets it earlier than October. As I have said before it becomes extremely enlarged after it gets in his possession, and then the question is as to the uses he has to put it to. He understood that it was to be put into Colonel Phayre's bath, that it was given to him for that purpose, and that there was powder in it. According to Damodhur Punt, we have heard what the stuff was compounded of. According to him, also, we have the size of the bottle. We then have a description of what Rowjee did with it. He puts it between his drawers, or some other peculiar place, and it produces a boil upon his stomach. It occurs to him then that if he puts it into the bath or uses it against Colonel Phayre it might injure the sahib. The bottle was intended to poison him, or destroy him in some way or other ; but Rowjee is seized with a fit which it is extremely difficult to understand. At all events, directly it produces a boil upon his own stomach, he is determined that he will not use it, and accordingly throws the contents away. I believe I am correctly stating the extraordinary evidence Rowjee has given. He, however, keeps the bottle, which is subsequently, according to his account, mixed up with arsenic, or whatever the materials may be, to poison Colonel Phayre upon the 9th November. He is told to mix these things in a bottle, shake them up, and put them in a glass from which Colonel Phayre was in the habit of drinking sherbet. The first observation that occurs is, how could a quantity of arsenic or any other poison be shaken up in a bottle of half-a-finger length ? It is not pretended that there is any other bottle than this, which has been traced from the evidence of Damodhur Punt. Of course, probably the whole story of the bottle is a fabrication, and that Damodhur and Rowjee contradict each other upon the size of the bottle because one did not know what the other had said about it. But I think the whole thing is an absolute piece of absurdity. A mixture of arsenic poison and water could not be shaken in it. If you consider that the story about the bottle has broken down, another link in the story is done away with. I will ask my learned friend what he means to say upon this bottle episode. He cannot urge that there were two bottles. If so, what became of the attar bottle ? Does he mean to say that Rowjee procured another ? If so, what becomes of Rowjee's statement that he obtained that identical bottle from Damodhur Punt ? I would also ask this Commission what view they take of Rowjee's evidence about not using this bottle, which, it is said, was handed over to him for the purpose of injuring Colonel Phayre in some way or another. Do you accept his explanation that he was afraid he would hurt the sahib ? Is it not pertinent to the observations I made on Saturday that it is quite possible that Damodhur Punt intended to commit murder, but Colonel Phayre's servants did not ? I shall be very glad if the Commission come to this conclusion, because —although these people are perjurers and scoundrels, they are not of the deep dye they have described themselves to be. If that is the case I may as well call your attention to the time when it is said Rowjee received this bottle. He says that he received it about the time that Colonel Phayre had this boil—that is to say, some very considerable time before he received the first supply of arsenic. He vouches that Nursoo was present at the time he received the bottle, and I call your attention to this, as it contains one of the important contradictions of the case. Nursoo corroborates him as to the receipt of the bottle, but fixes the time as at the very last interview—this is, three or four days before the poisoning took place. It ought not to be lost sight of either that in his deposition before Mr. Souter, Rowjee

never mentioned the bottle at all. The bottle is only mentioned after Damodhur Punt has made his statement upon the subject.

The President mentioned that, according to his recollection, there was a discrepancy between Rowjee and Nursoo as to the time the bottle was given.

The Advocate-General said that Rowjee had mentioned the small bottle in his deposition, for he said, "I used to shake it up in a small bottle and then pour it."

Sergeant Ballantine—But he never says a word about a bottle being given to him full of poison, or (in the way that is now suggested) a bottle coming from Damodhur Punt at all. He says he has got a bottle, but never speaks of another bottle of poison. Rowjee himself affirms the fact that the bottle he saw used was the bottle he obtained from the Maharaja under the circumstances I have described. I wish to impress upon the Commission that in the first place the bottle described by Damodhur Punt is an impossible bottle to have been used in the way described; in the next place Rowjee never mentioned he received a bottle containing poison when he was before Mr. Souter; again, the bottle he used for the alleged poison he describes in a perfectly different way and of a different class, while he does not pretend to say that the bottles were two different kinds. Perhaps really that bottle contained some of the magic elements described by Damodhur Punt, because it appears to me utterly incredible, notwithstanding the great scientific opinion we have heard expressed upon the subject, that a bottle sealed up in the way it was could produce a boil upon a man, supposing some of the contents exuded from it. If a person manipulated his stomach with arsenic he might have caused a boil, but that the mere accidental exuding of a small quantity of arsenic from a bottle of that description should cause a boil is beyond my comprehension. My learned friend had evidently a lingering belief in the story, and called up Dr. Gray for the purpose of supporting his idea. Dr. Gray, during the process of examining Rowje's boil, looked very grave, and came back to the witness-box with his scientific opinion. It was put to him whether, in his judgment, such appearance he saw might have been produced by what Rowjee had described. Unfortunately none of us had an opportunity of judging what these appearances were. Dr. Gray gravely told us that a little of this liquid exuding from the bottle might have produced the boil. After that, who on earth can say that it might not? This reminds me a good deal of how a very eminent man in our profession, whom your Lordship doubtless remembers, and who, I have no hesitation in saying was the greatest advocate I have ever seen in my life and the best lawyer, was deluded by a scientific opinion into a suggestion that a person who had eaten an apple might have been poisoned because there was an apple pip in it! He was called "Apple Pip" ever afterwards, and, in the same way, I think Dr. Gray's name will always be associated with a boil upon the stomach of this Hindoo. The way science was shocked by such a piece of absurdity was rather surprising. I was taken in by Dr. Gray, because there was a solemnity about his appearance that led me to hope I would be able to say that there was at least one witness in this case thoroughly respectable; but I thought of Apple Pip, and there was an end of the belief, and an end of the bottle. It is something too absurd. By the way, the contents of this bottle were never put to Dr. Gray, or probably he might have found out that there was something in them deleterious and calculated to produce boils upon the stomach. If this were an ordinary case one would be inclined to pass it over with a mere smile; but to think that the man who is the principal perpetrator here should be guilty of such a piece of folly and be the man upon whose evidence a prince has been practically deposed from his throne, makes that which I believe would otherwise be a laughing-stock a matter of deep gravity and one worthy of the gravest contemplation. I cannot help thinking that before such a man was allowed to have such an effect his evidence ought to have been analysed by big and honest men. I pass away from the bottle; I wish it farewell. It is an absurdity at once ridiculous and painful as being part of a procedure like this. I now come to another part in which Rowjee is also an actor. I mean the powders Damodhur Punt is supposed to have sent to Salim or to Yeshwuntrao. They are subquently supposed to have been delivered in the presence of the Gaekwar through a variety of formalities, and at last they come into the hands of Rowjee. I think I had better call your attention to the account Rowjee gives of these powders when he is examined for the first time before Mr. Souter:— "Salim and Yeshwuntrao immediately began to persuade us by saying that if we would only carry out the Maharaja's wishes we should not be required to serve any longer, as he would make a handsome life provision for us and our families; that we should have 'assamies' bestowed upon us, and should in addition receive a lakh of rupees each as soon as the work was done—meaning as soon as the Resident's death took place. We consented to do the job, and the Maharaja then said that the article to be administered would be given to us by Yeshwuntrao and Salim. A few days after this the jemadar gave me two powders, and told me that equal parts of each should be administered for two or three days, and in such quantity as to consume the whole in that time. This had also been carefully explained to me by Yeshwuntrao and Salim in the presence of the Maharaja. I did not commence to administer the powders for two or three days, as no favourable opportunity presented itself for so doing. It was decided at our consultation with the Marahaja that the poison should be administered in 'sherbet,' which Colonel Phayre was in the habit of taking every morning on return from his walk. Accordingly I put the powders into the 'sherbet' two or three times whenever I found no person in the room or about to see me." In another part he goes on to say that the packet of powder which the jemadar had given him he made into small doses, as directed. Now, the statement that he has made here is not that he used the papers as directed, not that he made them into three packets, not that he administered them in that way, and not that one of the three packets was found in his belt; but what he says is, that he found the two powders of different colours, and "my own notion was that the white powder was the most dangerous, and therefore I only put a small portion of the white powder into all three packets which I made up, and the remainder, consisting of all white powder, I put into my belt." Now, which of these stories is true? They are in direct opposition. As far as I understand the evidence, the powders were mixed up at the time he got them up and were not two powders, one of white and the other of gray. That is the story told by Damodhur Punt, and that is how he represents it to Mr. Souter. I am wrong, it seems, in supposing that the powders were mixed up already, and I am much obliged to my friend for correcting me. But Rowjee distinctly says to Mr. Souter that he mixes them up as directed, and his statement before this Commission was quite different. How are these stories reconcilable? Then we come to the question—why should he not have followed his directions? What did he know about the difference of the powders? Then again they were meant to poison Colonel Phayre, and why should he have kept back what he supposed to be the most deleterious? The whole thing is unintelligible in connection with the subsequent story of the belt. If his story before Mr. Souter was true the parcel

found in his belt would have contained two powders and not merely arsenic. I venture to think that taking these stories together you have a mass of improbabilities out of which it is impossible to see day-light. There is no doubt, however, that arsenic in the belt was extremely useful for other purposes. Mr. Souter was not present at the finding of the damaged papers belonging to Damodhur Punt, and at the discovery of the arsenic he was not present. In fact, he never seems to be present at the finding. There was universal cry after Rowjee to destroy the poison and leave no trace whatever, but curiously enough his mind seems to have got into a haze about the arsenic, and it entirely escaped his recollection. But Akbar Ali's intelligence overcomes many difficulties, and perhaps Providence assisted him on this occasion. Akbar says to Mr. Souter that he would not wonder if some powder were left in the belt, and Mr. Souter says, "You'd better look to the belt," and he has such confidence in Akbar that he permits him to depart to fetch the belt. It occurs to me to ask, however, why didn't Mr. Souter accompany Akbar? Akbar had made a most valuable suggestion. That belt ought to be put in a menagerie—I mean a museum—and that Akbar Ali should be put in the museum. That belt is a wonderful belt. It will go down to posterity. When Akbar feels the parcel in the belt, as if Providence had told him there was arsenic in it, he immediately sends for Mr. Souter, and Mr. Souter says, "God bless me, why this is arsenic." I cannot help thinking that here was a matter in which Mr. Souter deliberately left a man whom he knew to be utterly unscrupulous to manage the belt, and relied upon something coming out of it, and sure enough something did come out of it. The discovery of this arsenic can only be considered Providential—if it can be supposed for a moment that Providence had anything whatever to do with Akbar Ali. I have shown that as far as Damodhur Punt is concerned he got no arsenic and no diamond dust; I have shown that Rowjee's account of the belt is abused even to comicality, and I have shown that with regard to the bottle he never mentioned it until the bottle had been mentioned to Damodhur Punt; that with regard to the powders, he says he used them in one way and then swears he used them in a totally different way, and then produces a paper of pure arsenic which is found in the belt under improbable circumstances—all this is a story which rational beings are compelled to look on without doubt, to use no stronger expression; but when the story is told by such a man as Akbar Ali, it carries falsehood upon it, and I charge, before this Commission and before the world, that in that belt was placed by Akbar Ali the powder which was ultimately found, and directly that was done he called Mr. Souter as a comparatively respectable person to vouch to the facts of its being found. I shall now conclude my observations to-day by calling attention to the intrinsic evidence of Rowjee's falsehood. Undoubtedly Pedro is a respectable witness; upon his character no stain attaches; but he is a Portuguese by birth, and I am told that it is extremely unlikely that any Hindoo would make an accomplice of a Portuguese. Pedro gave his evidence where he could not be tampered with—before a gentleman named Edginton, who, I am told, bears as high a character as any man in India. Pedro says he received money upon a particular day, but with regard to all the interviews imputed to him by Rowjee, Pedro pledges his solemn oath that Rowjee's statement is entirely and absolutely false. The Commission can determine, without any observations on my part, whether they can find Pedro guilty of accepting poison with the view of poisoning a master with whom he had been a servant twenty-five years without any earthly motive, because so far as I can see no motive whatever is suggested for the treachery of Pedro. I think I can point to other intrinsic evidence of the falsehood of Rowjee. The conversations which Pedro is said by Rowjee to have had with the Maharaja are singularly alike, both in spirit and in word, to conversations which Rowjee reports to have had with the Maharaja himself. The inference is obvious. What other conclusion can you come to than that Rowjee's story is a base and weak fabrication? My friend here calls my attention to an extremely material fact. Pedro's visit is made to be three or four days after his return from Goa, which was on the 3rd November, so that the visit would be about the 6th or 7th, the very period as I shall subsequently show that has been fixed as being the period of Rowjee's visit with Nursoo.

Sergeant Ballantine concluded by saying he would probably get through the remainder of his observations by mid-day to-day.

The Commission rose shortly before four o'clock.

EIGHTEENTH DAY, TUESDAY, MARCH 16.

PRESENT.

Sir Richard Couch (President), H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, and Mr. Philip Sandys Melvill.

Counsel for the Prosecution—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the Defence—Sergeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attorneys, Bombay.

Secretary to the Commission—John Jardine, Esquire, Bombay Civil Service.

Interpreters—Mr. Nowrozjee Furdoonjee and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

H. H. the Maharajah Gaekwar was present during the forenoon, and a portion of the afternoon.

Sir Lewis Pelly, K.C.S.I., was present for a portion of the forenoon.

The inquiry was opened at 11 o'clock.

The President—Sir Dinker Rao is not well enough to come to-day.

Mr. Sergeant Ballantine—My Lord, I think that it will be convenient that I should refer now to a matter that is not without its significance in this case, and probably more or less weight will be applied to it by the members of the Commission. I allude to the examination of the two principal witnesses, Rowjee and Nursoo, before Colonel Phayre, when the supposed attempt at poisoning was first under investigation. I don't know whether it is necessary that I should occupy any great portion of the time of the Commission in commenting upon that evidence. It is almost sufficient to refer to it; it exemplifies their characters; perhaps it does not make them more black than they were made before by their statements made in connection with

other matters, and their own evidence in this case has made them. But at the same time it is a matter not to be passed by without observation. We find a number of the servants at the Residency, persons one would assume comparatively respectable people from the offices they filled, directly after the suspicion that the poisoning has been attempted on Colonel Phayre, knowing that the matter might inculpate some of themselves, quietly setting to work together, to consider who it is they ought to charge with the offence, and by a general combination of every one of the persons to whom I refer, charging a man who they knew, if their evidence is at all true, was perfectly innocent. They seem to have felt no sense of shame. They were frightened at the enquiry that was going on, so they every one combined, according to their own account. They talk the matter over, and Rowjee and Nursoo knew if there is a scintilla of truth in any portion of their story, they were the persons to whom the act is really attributable—they and their fellow-servants endeavour, as far as they can, to supplement the charge by details which might render it likely that a fellow-servant would commit the offence. Where you find people coming forward first of all, admitting that they have attempted to commit the murder, when you find that they are prepared to charge every body else, and that they are now charging the Maharaja, it occurs to me that the whole case is of a kind that certainly does not very much commend itself to any Court in which there is a disposition to come to a conclusion upon anything like credible testimony, and although those are matters thoroughly in the mind of the members of the Commission, it might nevertheless have seemed neglectful on my part if I had not called attention to them; but I do not desire to dwell upon them at any length, as exhibiting the infamy of these people. I shall do no more than say that I feel the force of it, leaving the members of the Commission to apply their minds to the subject to which I have called their attention in anything but strong terms. Having made that remark, as I was entitled to do, I now go to the remainder of Rowjee's evidence, a great portion of which I have disposed of. As to the bottle and the belt, I shall offer the few observations remaining for me to make on that testimony. I think, however, that I might refer, and ought to do so, to the circumstances under which he made his statement, and that again I shall refer to very shortly, for I have already made reference to the conduct of the police in general terms. It is only necessary for me now to call the attention of the Commission to the fact that the plans which they adopted with everybody else they adopted towards Rowjee. He is taken into custody on the 22nd, and then it is said upon the same evening he confessed that he had administered poison to Colonel Phayre. He is promised, it appears, pardon, if he will confess all. However, that is only after an interview with Akbar Ali. He is subsequently taken before Sir Lewis Pelly and Mr. Souter, after he has been manipulated by the Police, Akbar Ali, and all the others engaged in the business of Mr. Souter, to which I wish to call your attention. It seems to have been the course adopted throughout the whole of this inquiry that Akbar Ali and Gujanund and Abdool Ali are the persons who, upon all occasions, manipulated the witnesses, and the persons charged previously to their examination being taken by Mr. Souter. I know that it is always unpleasant to make observations that are either unfair or unjust, but upon serious reflection that I have given upon the matter, I cannot hold Mr. Souter to be irresponsible in these matters. He must have perfectly known the character of Gujanund, he must have known perfectly well, when he was handing over these persons to them, how unscrupulous they are; and I cannot help thinking—and I have expressed an opinion to that effect, and submitted it to the Court—that Mr. Souter ought himself, in the first instance, to have taken down their evidence before they were threatened and tortured as they appear to have been on every single occasion when the examination had been taken. I refer now to some two or three other matters in Rowjee's testimony. Rowje's examination is taken on the 23rd, another examinition is taken on the 24th, and another examination on the 25th. He is then taken before Sir Lewis Pelly, where the promise of pardon to him is confirmed. There is a remark that I may take the liberty of making, but I think it does seem excessively strange that while Damodhur Punt is supposed to be the originator of this infamous plot, and Rowjee, who is supposed to be the person who consummated it—if a pardon is promised to them—that Nursoo, who at all events performed a very subordinate part in the whole matter, and so a very inferior actor in the whole affair, should be the only person to whom the hopes of a pardon are not only not held out, but who alone of all others is told that he never will be pardoned. It is an extraordinary thing to find that the perpetrator, the originator of the crime, should be pardoned, and that a mere subordinate agent in carrying it out is the only person to whom a pardon is refused. I should have thought that Nursoo would have been the only person to whom a pardon would have been extended. I cannot tell by what process of reasoning Sir Lewis Pelly should have arrived at the conclusion that Nursoo should be excluded from the grant of an amnesty, and I cannot but think that Nursoo has some reason to complain that he has been entirely left in the shade while persons worse than himself are to go entirely free—to be pardoned. I, however, cannot help thinking that if this case goes on all right that we shall find that Nursoo will not be excluded from the position others have found themselves in. To go, however, now to Rowjee's evidence. It appears that his first interview was in August 1873, and it is said that these interviews took place in consequence of certain proposals of Salim. I want rather to dwell upon this. These are matters that apply, because at this time it is not shown that they were engaged in the matter at all connected with the attempt to poison. It is only suggested that Salim is desirous of getting hold of some of the servants

for the purpose of getting information as to what was going on at the Residency, and it seems that some information was given, if we are to believe Rowjee. It is said that he went upon three different times—sometimes during Commission, and up to the end of the Commission, and that conversations were had upon the subject of his giving information. It seems that this gentleman has taken to himself a wife, and that under these circumstances he thought it only proper that he should have asked for a present. There seems to have been a comparatively small sum of money given to him at that period, or about that period; and, as far as I recollect, it is a sum of money not applicable in any way whatsoever to poisoning, if applicable to anything; but it has been very elaborately followed out. There has been an endeavour to give form to it by calling a jeweller who has produced a quantity of trash which he made on Rowjee's wedding, and to prove that the cash, according to Rowjee, came from the Maharaja. I shall have to say a few words—though a very few—upon the subject of this endeavouring to get information of what was going on at the Residency. But I stop here to call the attention of the Commission to the fact that, as far as I know, this is the only money that has really been "ear-marked." There are some small sums of money supposed to have been given to the ayah; but with that exception, these are the only sums of money supposd to have been given, and it becomes a feature of considerable prominence to notice that, after this attempt had been made, there was abundant opportunity both for Rowjee and Nursoo to apply to the Maharaja for money. There does not seem to have been any application of any kind, and no communication whatever made in reference to any money. It is exceedingly strange, to say the least of it, that something was not kept back by these men, and some endeavour to extort money from the Maharaja was not adopted. It seems to me that the absence of all demand is strongly corroborative that the whole of this, as far as the Maharaja is concerned, is the most entire and infamous falsehood. One of these, so far as the Maharaja is concerned, is a most entire and infamous falsehood. I see it is Rs. 500 he is said to have received from Yeshwuntrao. Nursoo, Salim, and Jugga went to the palace; but although Jugga was the person who had gone there, and was introduced by my learned friend as corroboration of some of the visits when the attempt to poison was suggested, I think that that part of the case must fall to the ground. There is also another person connected, named Khabai, who is introduced by Nursoo, or both Nursoo and Rowjee, as having accompanied them to the palace. But upon these occasions regarding which my learned friend wanted corroboration, Khabai, like Jugga, fixed an earlier period than is consistent with the supposed suggestion of conspiring to poison. He says he went to the Palace last hot season. In point of fact, both of these witnesses entirely fail to give corroborative evidence on the points on which they were wanted to give such evidence, and there is no evidence from any unpolluted source that any visits were made at which the poisons were given. I have to submit that the fair inference, as it stands, of the evidence of Rowjee and Nursoo, is that there may have been visits in the early part of the year during the time the Commission was sitting, and for some time afterwards down to the hot season that Khabai speaks of; that certain sums of money were received by Rowjee and others; but that, from that period, not one single farthing is ever alleged to have been given to any of these witnesses. Notwithstanding that it is said they were risking their necks in the transactions regarding the alleged attempt at poisoning, these people never appear to have asked for, or as a matter of fact received, one single farthing of money out of the Maharaja's treasury. It is said, and it may be true, —and I am not going to dispute it—that Nursoo received Rs. 800 on one occasion. But he says he received it at the time and in consequence of the Maharaja's marriage: and of course this is not in connection with the poisoning, nor does it agree with the period when the poisoning was supposed to be attempted. These are general observations which may have occured to the members of this Commission as they have occurred to myself. It is not necessary to dwell upon them further than remarking that a man generally expects to get rewards according to what he does; and these men are supposed to give information; and one gets Rs. 500, and another Rs. 800 upon an occasion when it was perhaps not unreasonable that they might get presents. But the point to observe is that on the occasion of the attempted poisoning of the Resident they did not get one single farthing. It has been suggested that each of them expected a lakh of rupees; but I do not think any one would take it upon himself to believe that these men expected that they would get such a sum in the event of their success. That would be a sort of promise that a native of this country, unless he were peculiarly simple-minded, would hardly hope to receive in a state of hard cash, and at all events it is a promise of an exceedingly improbable kind. With regard to Nursoo, I don't believe he mentioned from beginning to end of his evidence, that he received any consideration to induce him to join in a crime for which he showed so much repentance afterwards. But the pointing out of these improbabilities sinks into comparative insignificance side by side with other improbabilities to which I have drawn the attention of the Commission. The account given by Rowjee of Damodhur Punt is an odd one, considering that they were so deeply implicated in the one concern. He says,—"I know a man named Damodhur Punt. I know him by sight. He was at Nowsaree with the Maharaja." That is the account he gives of Damodhur. You will remember that Damodhur Punt says of Rowjee—"One day Rowjee came to my place. He had stolen some documents from the Residency and he waited there while I copied these documents." I think

that these things show that there have been three men at work in getting up this matter—Gujanund Vithul, Akbar Ali, and Abdool Ali—and as each has worked the matter differently according to his own idea that accounts for the differences in the story. It may be said variances are a proof of truth; but this is an argument which I think has been pushed too far. In small variations it may be true, but when you find the parties themselves differing pretty well upon every material point from beginning to end of the case, I apprehend that this is a contention which my learned friend can hardly submit and that the members of the Commission could scarcely understand. It has been said that Pedro went twice to Goa, but that was one of the discrepancies which I did not think it necessary to refer to. I shall not occupy the time of the Court by repeating the arguments I have already addressed to the Commission on the subject of Pedro. Rowjee describes the packet as containing two powders—one white and one rose-coloured—and then he says he divided them into three parcels, taking more of the rose than of the white coloured. The fourth part he put into his belt, and the other powders he put into the tumbler upon alternate days. Upon this subject I shall have to refer to Colonel Phayre's evidence, wherein he describes himself as suffering from confusion of the head, and that incapacity of understanding himself which astonished him so much—all which attributed he to these powders, though, unfortunately for that theory, these powders were administered when Colonel Phayre had become perfectly well. These powders were obtained fifteen or twenty days before the 9th, and the period fixed for the symptoms I have referred to was the time when he was suffering from the boil, which I think was fixed as some time in September. It was very curious to see the way in which there is an endeavour—I won't say a dishonest endeavour, but one of those endeavours that a mind not over-strong might make—to adapt himself and his recollections and thoughts to circumstances he subsequently believed to have taken place. When I read over some part of Colonel Phayre's evidence you will see it is quite obvious that he means us to infer that he underwent a process of slow poisoning at a time long preceding anything whatever having been done to him. As to the boil, perhaps Colonel Phayre may have attributed his symptoms to the bottle that had been obtained by Rowjee, although there is this difficulty about doing that—he never used the bottle at all. That suffering which he felt when he took off the plaster, and that confusion of brain which he so seldom seemed to suffer from, could not be applicable to the bottle more than the powders. It is said that Nursoo had asked about the bottle and Rowjee replied that he had used it, but we have got the history of the bottle so completely before us that I need not refer to the falsehood connected with that matter. In referring to the 5th November, about this time, I want to call the attention of your Highnesses to a comparatively small matter, but which if I were addressing a jury in England I might consider to be a very important point. It is said that when about November 5th Rowjee went with Nursoo to the palace he was violently reproached by the Maharaja with not having done anything at all, and that the Maharaja gave vent to some very coarse abuse. I believe that the particular expression used was given to some one in court; but I should desire that expression to be submitted to their Highnesses, for, considering their knowledge of Eastern manners, and of the manners of a person occupying the position of a Maharaja, I should ask them to say whether that expression was one that was ever likely to come from his lips. I have been told that the expression is one of extreme, filthiness and wish the Court to know what that expression was.

The Advocate-General remarked that the expression had been brought out in the vernacular during the examination of the witnesses.

Sergeant Ballantine—Then, that is all right, for the expression should be in the recollection of their Highnesses. Then Rowjee says that on the next day Nursoo gave me—this is a matter I have already alluded to before the Commission, but I will venture to allude to it again—"On the next day Nursoo gave me some black or dark-coloured substance." This is the substance supposed to be put into Colonel Phayre's glass. I think, Sir, that this is substantially all I need call the attention of the Commission to in relation to Rowjee's evidence, for having dealt with that evidence upon some particular points at some length yesterday, it is not necessary for me to refer further to the evidence. There is, however, I think this very remarkable fact—I do not know whether it has occurred to the Commission, but I think I am right—that every transaction emanating from Damodhur Punt first of all goes through either Salim or Yeshwuntrao, and that the next person brought upon the scene is invariably Nursoo, to whom, quite unnecessarily it appears to me, the packets from time to time are supposed to be handed. Nursoo need not have been entrusted with the secret at all. However, he is brought in, and then he hands the packet to Rowjee, and the poison is used, or not used, according as Rowjee's evidence is to be taken. The Commission have therefore clearly before them that, according to Damodhur Punt's own admission, he concocts the schemes and then employs as his agents Salim and Yeshwantrao—probably both of whom were persons implicated in the frauds committed upon his master—and that then through the hands of Salim and Yeshwantrao the powders are delivered to Nursoo, by whom again they are given to Rowjee, who is supposed to use them. But all through this the Maharaja is never brought into the matter at all, and he has not been connected with the affair but by bare assertions. Now, supposing this were the case, and that Damodhur Punt were under a charge and had no opportunity such as he has now of saving himself by throwing the blame

upon the Maharaja, there would have been the most conclusive case that the design emanated from him and was carried out ultimately by Rowjee. I cannot help thinking—and I put it before you in a clearer way than I have put it hitherto, because I am sure this Commission will not rest with any bare proposition—that the case as propounded against the Maharaja has not been made out. This, it appears to me, is one of the most extraordinary elements in this difficult case, but I can understand that Damodhur Punt, excluded from the Residency, threatened with an inquiry, a man who had been embezzling his master's property, as undoubtedly you will agree he has been, if you accept the explanation I gave to you, and do not accept the explanation he offered out of all reason to you, that Damodhur Punt —with Yeshwuntrao and Salim, who were his accomplices in these matters, and who had therefore equally good reasons for getting rid of the Resident, really intended to murder the Resident himself. Considering what Damodhur Punt has admitted, I think that this is neither improbable nor impossible; but I have shown, I think conclusively, that it would have been in no respect whatever for the Maharaja's benefit to murder Colonel Phayre; and I have given you sufficient grounds for supposing that Damodhur Punt may have had a motive for doing so and wanted to carry out his designs. But when we come to the servants of the Residency it is extremely difficult to see what motive on earth they had to destroy their master. They would lose a man against whom they had no complaint. They would lose a man,—Nursoo especially, who had served so long in the Residency—from whom they obtained their position and everything else. There are other men more cunning and clever, men who have completely taken in Colonel Phayre and governed his mind and ruled his intelligence; men like Bhow Poonikur, who knew all that was going on, and who were perfectly well aware, for instance, of the khureetah that was in existence, and who must have known that Colonel Phayre was in considerable peril of being dismissed; but when we come to examine motives I think we will find that it was much more reasonable for the servants at the Residency to keep him there than seek to take away his life. Now, where every particle of a story is monstrous and improbable, I do not think it is a forced conclusion to arrive at, that it may have easily occurred to Bhow Poonikur that if there was an appearance of an attempt upon the Resident's life that would save him from being removed. The lesser thing would merge in the greater, and the confusion that would be caused by the rumour of the attempt might distract attention from the intention to remove him. I would not venture to put forward such a proposition if it were not for the evidence given by Rowjee. If Rowjee is to be at all believed and the story of the bottle has any truth in it, directly he gets the powders, he takes out all that is dangerous and leaves that which is innocent. At all events, if Rowjee used those powders it is perfectly clear that no evil effects from their use arose to the Resident. Then comes the dark-brown powder which we must follow, as it is one of the oddest features of this case. Dark but not black, Rowjee calls it; dark, Colonel Phayre calls it; while Dr. Seward took away the powder and says it was a light-coloured one. Says Dr. Seward—"I cannot account for the powder being dark, because the powder I took away was a light one." Therefore you have to account for this dark sediment of the powder which was sent to be analysed. You have no explanation of it. Colonel Phayre cannot explain it, nor can Dr. Seward. It stands entirely inexplicable. Then there is another circumstance which shews this was not a reality. If arsenic was really used, arsenic is perfectly tasteless. Now Colonel Phayre says that there was a strong coppery taste in what he drank, while there is no suggestion either by the evidence or by the analyst of anything whatever having got into that sherbet with a strong metallic taste. There is no accounting for this fact; this also stands perfectly unexplained. Then, my learned friend may say, how do you account for arsenic getting into the possession of Dr. Gray or Seward? I do not know whether I should answer that, but if it is intended that I should, I take the liberty of saying that there would not be the slightest difficulty of doing so in the world. It is perhaps not to be supposed that either Dr. Seward or Colonel Phayre, who had had their attention directed so much to this matter of poisoning, might have made a change; but what is there from the beginning to the end of this case that is not either probable or improbable? Nothing. The whole is a mass of inconsistencies. Here is at all events something of a solution.* You will remember that associated with this matter there was a statement which must have meant something to Colonel Phayre, and did really mean something at the time, that he had received private and confidential communication that the ingredients in his glass were arsenic, copper, and diamond dust. I shall refer you presently to his evidence on that point. I think it is only right to do so on behalf of H. H. the Maharaja. This private and confidential communication turned out at last to be from Bhow Poonikur, although Colonel Phayre did not confess it without some backwardness. Bulwunt Rao or some such person is, according to Bhow Poonikur the man who first gave this information about the ingredients of the sherbet. My learned friend did not think it necessary to bring forward Bulwant Rao. But there the information stands, that copper had been used,

and that Colonel Phayre affirms there was a coppery taste in his mouth. How is that explainable, nothing being used but diamond dust and arsenic? If my learned friend means to show that any other ingredient has been used, then he must knock down the whole of the superstructure that has been so deliberately and carefully raised in order to show that the poison used was diamond dust and arsenic alone. I have already told you that neither of these ingredients possesses any taste whatever, although they possess certain sensations; and I venture to ask again how on earth is this story reconcilable? How do you get rid of that dark residuum? What became of it? Where did it go to? Dr. Gray didn't get it, and Dr. Seward didn't get it. They both got a light grey powder. The only possible way out of the difficulty is that Rowjee mistook the dark for the light, and that Colonel Phayre mistook the dark for the light. Now, in propounding this theory of the possible guilt of Damodhur Punt or the possible intention on the part of the servants at the Residency to play a trick upon their employer, but with no view whatever of poisoning him, it must not be understood that I propound it as one of the matters upon which I stand to prove the innocence of His Highness. I put it forward as one of those matters which upon theory may be fairly put forward, and I assert that it is just as possible as many of the other theories which have been propounded here, and is, in point of fact, supported by circumstances that are not nearly so inconsistent in themselves as those other theories I alluded to. I suggest that actual intention to poison did exist in the minds of certain people, but that the Residency servants took care that copper should be used, and put something into the glass that tasted so strongly that Col. Phayre's attention is drawn to the matter, and the whole thing becomes known in the bazaar. I simply ask the Commission whether or not these are not considerations that you ought to receive with the other circumstances in this case. My Lord, I do not think it is necessary that I should occupy your attention with many observations upon the subject of Nursoo. It is worthy of note, however, that he appears to have been arrested on the 3rd December, and was confronted with Rowjee in the presence of Gujanund and Akbar Ali and Abdool Ali. Mr. Souter was not then present. The same system was pursued by these three men that I have already called attention to. Gujanund Vithul himself admits (see page 164 shorthand writers' notes) that he had questioned Nursoo. This is the account he gives himself upon the subject. The next day after Nursoo was apprehended he was confronted with Rowjee. "I was sitting with Nursoo upon the maidan or plain opposite the Residency, or the open space or plain opposite the Resident's bungalow, and I was questioned about the particulars of this case." Then there is a question put by Mr. Melvill, and the witness says, "Yes, I was sitting with him and the Khan Sahib was also present, *i. e.* Akbar Ali and Abdool Ali were also present. I had given instructions to Rowjee—(and I call the attention of the Commission to this point) I said—'You should not say further than this, you have said everything connected with this case.'" The President asks "Who was this said to?"—and the witness replies, "To Rowjee," and that was what Rowjee said when he came here and he said, "I have said up to this" (pointing to his neck). He did not say anything more than that. "I did not say to Rowjee anything of the particulars what Nursoo had stated in order that Nursoo might not hear the particulars in the manner I have mentioned."—I cannot make any minute observations upon this matter again. If it does not strike the Commission as being a fabulous account of what really took place no words of mine would be able to convince you. Gujanund particularly desires that Rowjee should not allow anything to escape that can in any way inform the mind of Nursoo, and all that Rowjee does is the intimation, quite intelligible, that he has said up to his neck. It is possible that Gujanund may have been actuated with a good desire upon this occasion, but such a thing would be inconsistent with his nature and of his previous history. Moreover, if he did want to be fair, his object was woefully defeated by what took place afterwards. It next appears that Nursoo made a statement and was taken before Sir Lewis Pelly and Mr. Souter, and then is told that no pardon will be given to him—which I think was rather hard upon Nursoo, as he was the least criminal among the persons concerned. It seems that he made an oral confession. I asked Mr. Souter why he did not take it down. He replied (see page 177), "I did not take it down as I had a great deal of work to do." I beg the attention of the Commission to that. It occurs to me, and I think it will occur to you, that if Nursoo did make an oral confession at that time, and if that oral confession was intrepreted and was not in any keeping, Mr. Souter's duty to the public was to take it down there and then; it was a confession of murder and of guilt. Why was it not taken down then? "I had no time to do it," says Mr. Souter, "I had other matters to do connected with this enquiry." But what more important than taking down the account of an accomplice to the murder? To this Mr. Souter has no reply. Then we have Sir Lewis Pelly, and he entirely differs from Mr. Souter's account of what took place. It was not because Mr. Souter had not time to take it down, but because, as I understand the matter, as Mr. Souter was about to take it down Sir Lewis Pelly

said, "Oh no, let him have time to think it over," and accordingly he was committed to the care of the police, and it is not until the following day that he comes forward and makes a statement, which is subsequently reduced into writing. Now I must say that the whole of that transaction is eminently suggestive of an opportunity being given to a man whose statement was not in accord or might have contained elements somewhat contradictory with the statements of others to correct that testimony. Another point to which I would draw your attention is that the statement was not taken down until the 26th, although he was put into custody on the 23rd. This fact is vouched for by Sir Lewis Pelly. Then we come to the garden scene or the well incident, which I have already referred to, and in which the question is whether it was the effects of conscience or the effects of a dinner that induced Nursoo to do something which he could not be prevailed upon to say was done purposely. I wonder who it was that told this precious story about the well. Whoever it was, they conveyed what was a palpable and deliberate falsehood, although surrounding it with circumstances that might have been very easily proved. They say that he was in the custody of the police, when he broke away from his guard and was standing at the edge of a well and threw himself in. That is a fact stated with so much detail that it should have been proved up to the very hilt. It may be said that when Nursoo comes here he may have told that which was untrue, and the suggestion be that he was tampered with—although your Lordship will remember that the word tampering was defined the other day by one of the witnesses as being the handing of a man over to the soldiers and only allowing him to be seen by the police. But where are those people from whom he broke away? Cannot any of them be found? Are none of those careless guards from whom the prisoner suddenly broke away to be discovered? It is astonishing that the gentleman who instructs my learned friend has put none of those men into the witness-box. I think that the explanation that would have been more satisfactory to the tribunal would have been the evidence of some of these witnesses to show upon what possible pretence the assertion has been put forward that he wanted to jump into the well. I do not propose to refer to his cross-examination. It will be in the recollection of the Bench that the fate that overwhelmed him, predesination, and so on, led him to take part in committing this attempted murder, for which he was to get nothing. But having dealt with all the main parts of the case, I do not propose to offer any further observations regarding this man. The case of my learned friend is this, that, without a motive, without an inducement, without anger, without revenge, with a good master, with good wages, with everything surrounding them to make them comfortable—these servants, without one single word of remonstrance, no resistance, nothing in the way of protest—directly when a proposal is made to murder their master, fall into the scheme as readily as if it were a proposition of a most ordinary kind, and consent to go through processes the most cruel to their master. If they had succeeded, nothing but evil could have happened to themselves, because they would have been left in the power of the Maharaja, and they themselves would have been charged with the crime without a possibility of their ever being able to blame others. This is the story that has been told to us. They have connected it with the story of Damodhur Punt and have endeavoured to make a whole of it. I have already dwelt at great length upon all the matters connected with the witnesses and with Damodhur Punt, and out of that this Commission will have to make a consistent whole—and not only this, but you have to say that which you make out of the evidence is founded upon evidence upon which it is impossible for you to place the least reliance. You have, first of all, to come to the conclusion that an attempt at murder did take place. It is possible that you may come to that conclusion, because you cannot believe that any man could be so vile as to charge himself with attempting a murder, which in point of fact he did not intend. I have no means of answering that conclusion. I have no evidence to offer against it. In reality, I have no desire to stake that conclusion. But I repeat that, as against the Maharaja, you have nothing but a mass of gross improbabilities put forward by people who must be admitted to be the most infamous of men—brought forward by the police, who have beyond all question tampered with them on every possible occasion, and been urged to do so by motives of the strongest kind. If guilty, a promise of pardon was held forth to them if they succeeded in making you believe that the Gaekwar was the criminal. On the other hand, the knowledge was branded upon their memories, and permanently upon their minds, that unless they succeeded in making you believe that the man I call this ill-used prince had been guilty of this foul attempt at murder, they will go back with a halter round their necks to meet their well-deserved punishment for having, in point of fact, committed a foul and filthy perjury. I think it is well to get rid of these witnesses and associate them, if necessary, in my comments on Colonel Phayre. In dealing with him, at all events, I have a pleasanter subject to deal with and one in which, although my observations will not be altogether laudatory, I shall nevertheless be able to discuss without making observations of great severity. As reflections

have been cast upon one of the witnesses here, I think it is not unnatural to call attention to some of the answers given by Colonel Phayre to shew you how a man under the excitement of cross-examination is likely to avoid telling what is strictly the truth except after a great deal of pressure. He told us here that he remembered Yeshwuntrao and Salim were in the habit of coming with the Gaekwar to the Residency, and then he says, " I remember particularly that about that time (that would be the middle of September) I was suffering from a bad cold in the head and had a bad boil on the forehead. I did not get rid altogether of the boil for, I should think, nearly three weeks. My medical attendant was Dr. Seward, who used to dress it every morning. He used to put the plaster he used on a dressing-table, and there was a side-table on which it remained, and I think I shifted some of it on to a little clockstand near the dressing-table in my private office." Now this looks as if Colonel Phayre thought something had been done to the plaster, and you will remember in the evidence of Dhamodhur Punt he says that Rowjee put something in the plaster. It is quite clear that what Colonel Phayre imagined after reflecting upon the thing was that there had been arsenic put upon the plaster, and his head was suffering in consequence. I have already referred to the fact that this idea is altogether repudiated, and that no arsenic had been used in this way. Then Colonel Phayre goes on to say—" After this boil, I had slight fever at one time ; my eyes watered a good deal, and I had a feeling of fullness in the head, and I tried to account for this in various ways. I used to sleep out at night and thought I had caught malarious fever, and thought that perhaps this was the cause. I had puzzled myself about the circumstances and tried to account for it in the way I have mentioned, when I also began to wonder whether the pummelo sherbet was made with proper pummelos. It would be about the end of September or the beginning of October that I began to wonder of this. I remember Govindrao Rouj. On the 6th November I went to an adoption ceremony at his house. I think I arrived at his house about 5 o'clock in the afternoon. On the morning of that day I did not take the whole of the sherbet, I took a sip or two of it and threw the rest away." Now it is quite clear that Colonel Phayre implies by that that there was some difficulty in the sherbet which induced him to throw the rest away. In point of fact, it was opined by my learned friend that he was poisoned, or attempted to to be poisoned, on the 6th or 7th. Now, it turns out that nothing was done to him on these two days, so that really Colonel Phayre's imagination must have been the father of these symptoms, *ex concessio* there is not one single scintilla of evidence to show that any poison was employed on these days. In his letter to Dr. Seward, Colonel Phayre says :—" My dear Seward,—With reference to the circumstances which I mentioned to you this morning, together with the symptoms which I described to you and the contents of the tumbler which you took home with you, I should feel much obliged if you would kindly give me a professional opinion as to the nature of the contents of that tumbler whether poisonous or not. Although I only took two or three sips of the pummelo juice which the tumbler contained, I felt within about half an hour, as I described to you, a most unusual sickness of the stomach, accompanied by dizziness in the head and of sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth with slight salivation, such as I have never experienced till within the last few days, and which I attributed partly to a slight attack of fever, which had, however, quite gone off, and partly to an idea that the pummeloes from which the juice daily placed on my table had been extracted were not fresh ones. I now, however, attribute all of these symptoms, especially that of this morning, to entirely different causes. In fact I now believe that for the last few days small doses of poison have been introduced into the juice, and that had I drunk the whole tumbler off to-day, I should have been very ill indeed. The confused state of my head has often surprised me of late, because for the last six weeks I have abstained *in toto* from wine and beer, &c., except once or twice when friends dined at the Residency, and I have found myself all the better for it. My general health is, as you know, most excellent, and therefore the symptoms which I have described to you are, I feel sure, the result of unnatural causes. I never dreamt of poison, otherwise I should not have thrown away so much of the contents of the tumbler which I gave you this morning. It was only after doing so, and when I was replacing the tumbler on the table, and saw the sediment at the bottom, that I for the first time suspected foul play." This only shows what imagination may do with a man. Upon these two days it is not pretended by any one that any poison was used in the pummelo juice. Then comes the morning in which this poisoning is supposed to have taken place. After having drunk the pummelo juice he says, " I wrote for about twenty minutes or half an hour, and then felt a sudden squeamishness, as if I was about to be sick. The thought occurred to me all at once, it must be the sherbet which has always disagreed with me, and I got up, went to the washhand table, took the tumbler in my hand and tried to throw away the contents in order that I might not be tempted to drink it." This shows a very funny reason for throw-

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ing it away, and one that can scarcely be satisfactory to this Commission. As I said before, it would have caused me to call my servant and say, what on earth do you mean by getting me this pummelo juice ?—and it would have been better still if this liquid substance had been kept and analysed instead of the greater part of it being thrown away. Dr. Seward seems to have acted also with a great deal of haste, as he threw away all the liquid handed to him by Colonel Phayre and only retained the powder. Then Colonel Phayre goes on to say, "The window through which I pitched the sherbet opens on a chunam verandah, which is rather wide, and then comes the grass of the compound." It was on this verandah that this remarkable discovery of diamond dust and arsenic takes place. It seems to me that the discovery of this was sufficiently odd to excite attention. If there was no trick being played, or if there had been a predisposition to find arsenic, there would have been plenty of means of finding it upon the verandah, and perhaps this Commission will not pay much attention to anything that was found outside of the glass. Colonel Phayre then goes on to say. "As I was replacing the tumbler I saw a dark sediment collected at the bottom." He then proceeds to describe the sensations, which he says were similar to those he suffered upon the two previous days. Now the whole story here seems to be odd ; first there is the throwing away the liquid, instead of calling his servant, in order that he might not be tempted to drink it ; then there is the description of the coppery taste in it, and the darkness of the powder. All these points I have already commented upon and I must leave you to consider the value of these comments. I have already referred to his letter in which he speaks of the confidential communication ; and this shows how completely a man's mind may be perverted by his prejudices. On that very day he writes to the Government of Bombay telling them that he has been providentially preserved from being poisoned. He displayed the same determination to consider himself poisoned. He then goes on to say, "The Maharaja came at about half-past nine, his usual hour. Between the time of my giving the sherbet to Dr. Seward and the Maharaja's arrival I had received no communication from Dr. Seward. When the Maharaja came I went out to receive him as usual and led him into the drawing-room, and he sat down. I asked after His Highness' health and he said he had not been at all well, that there was a good deal of fever about, and he thought he must have eaten too many of the sweetmeats common at that time (the Dewalee). He also mentioned that he had a headache and a slight pain in his stomach." Now, how unfair that is, and how thoroughly untrue, because in an early part of his evidence he says that the conversation began with his asking upon the subject of His Highness's health, and it was then, and not till then, that His Highness gave a description of his symptoms. This shows you how that man's mind had become so impregnated with an idea that he actually states what is not true until you come to find it out by the facts proved. The Maharaja did not lead the conversation ; Colonel Phayre did, and it was he who made the enquiries regarding health ; and it was only in reply to this that the Maharaja gave a very natural account of his own feelings and of what really took place about that occasion. There was not the slightest ground for making the allegation that the Maharaja was the first to lead this conversation. In point of fact, my Lord, can you consider this Prince guilty by his own acts ? Supposing Colonel Phayre's story was true, there is not the least reason to suppose that the Maharaja knew of the events which took place on the 9th. He was ignorant of what had taken place at the Residency that morning, and that Dr. Seward had got the glass. This was not a gunpowder plot in which the day and the hour had been fully arranged and all the accomplices were waiting to see what became of it. In point of fact nothing was arranged at all ; there was no day mentioned and nothing whatever had been fixed. Therefore all the insinuations about the peculiarities in the behaviour of Rowjee on that morning fall to the ground, unless it was the case that Rowjee was playing a trick upon Dr. Seward, whose youthful imagination carried away his judgment in the matter. I think there is nothing from beginning to end in this case—and that is a matter I implore your consideration of—there is nothing in the demeanour of the Maharaja which indicates the knowledge or impression of guilt. There is no movement in a muscle of his face ; there is not an act done out of the ordinary course of nature. His Highness, in fact, acts as he had always done before, and meets Colonel Phayre as a man and not as a murderer who had made him his intended victim, and the Gaekwar only pays to Colonel Phayre the ordinary visits which he was in the habit of paying at such times. I do not know how Eastern princes are constituted, but I should say that at all events they are men like ourselves. They must have some emotions, and they must have some fears, and we look to the conduct of a murderer to exhibit by manner or demeanour something or other to implicate him with his crime. I defy the most ingenious of those who have maligned this unhappy prince from the time he was arrested to the time he has sat here waiting the decision of this Commission to point out anything in His Highness's conduct which criminates him. I defy those who have called him harsh names and who have communicated to the papers, to their disgrace, terms opprobrious of His Highness, and who have thought fit with a view of influencing the tribunal before whom he is being tried, endeavouring to make that tribunal forget the duty they owe to themselves, by falsely misrepresenting statements and falsely heaping upon His Highness terms which in England would cast upon the editor of that newspaper an obloquy from which he could never escape to the end of his days. I have read the words published in that newspaper about that unhappy man, and my blood has boiled. Living in a country where there is a free press and an honourable press, I know there is not a man, except a man who would be hunted into infamy for it, who would have written one single word against that prince, much less word upon word, sentence upon sentence, that I find has been written about that unhappy prince in one of the papers here which, I am told, is one of the most influentially circulated through this country. I say that there has not been one single act exhibited by His Highness the Gaekwar that would lead you to conclude that he is guilty of the crime laid to his charge. Now, my Lord, I am not referring to the early parts of the cross-examination of Colonel Phayre ; I do not desire to do so. It was with great difficulty that I could get from him any admission about that document, which he called a private document, and which he said he could not recognize, as no private document had ever come to him. I have never used that document in any way except to show that it was known to the Maharaja, and I may here call attention to the letter that Colonel Phayre writes to Dr. Gray to the effect that "previous to the receipt of your letter under reference, I had received secret and confidential information that the poison administered to me did consist of a mixture of (1) common arsenic, (2) finely powdered diamond dust, (3) copper." Now, Sir,

I pressed Colonel Phayre to mention what justified him in saying that the information he received was private and confidential, and he replied:—"I can give no information. Amongst the persons who gave me the information it was one or the other amongst them, but which particular person it was I could not say without enquiry. I can give a list of all the persons who used generally to give me information, and it was one or other among them. Was it Bhow Poonikur?—cannot say. It was either Bhow Poonikur or the other man. To the best of your belief, was it Bhow Poonikur?—To the best of my belief, I cannot say. Who is the other man?—The other man I referred to is named Bulwuntrao, a moonshee. But there is a list of persons. I won't have a list of persons, sir, I shall just have your evidence. Was it Bhow Poonikur or the other man you mentioned?—I tell you I cannot say. Was it one or other of them?—So I believe." Ultimately it turned out that the statement was given by Bhow Poonikur, who was called as a witness here and gave an account of the persons from whom he got that information—men who have not been called here by my learned friend. I will leave Colonel Phayre's evidence at this point with a view of pointing out the nature of the statement of his feelings, specially as to the coppery taste. You will take these in relation with the whole matter in this case and say how far it leads you to be satisfied that any attempt to poison had been made. This, I think, leads me to one more matter to which I should address myself, namely, the tampering with the servants at the Residency. Now, my Lord, as a specific charge I hardly know how it is intended to be used. I understand perfectly well that if it is supposed that servants were being tampered with to do an injury to their master that that might be an offence. But I do not think the charge can exist as an offence here. If the Maharaja chose or endeavoured, however little-minded it might be, to obtain information of what was going on at the Residency, and that, not with a view to injure the Resident but simply for his own information, I hardly know in what manner that could be dealt with by this Commission as an offence. I cannot help making this observation, that it comes very ungraciously in the charges laid against the Gaekwar if it emanates from Colonel Phayre, because it is quite obvious that Colonel Phayre had a lot of people who were in his employment to all intents and purposes although they were not paid by him. The person who seemed to be thoroughly in the confidence of the Resident will make money in a variety of ways, and I have no doubt that Bhow Poonikur was more or less a spy used by Colonel Phayre for getting information for him. Could it be doubted that he in his own room dealt with these persons day by day and from them was consequently in the receipt of information of what was going on at the palace? Colonel Phayre seems to have thought there was no harm in this, but there is no mistake however that it was done. He had learned—and that is a matter well worthy of consideration—some time before that this khureeta was being prepared, and he had learned all that through Bhow Poonikur, who must have bribed or inveigled the servants at the palace for the purpose of obtaining that information. That is all, as I understand, that is alleged against the Maharaja. As far as I can see, all that the Maharaja obtained was the most trumpery stuff in the world. As far as one can gather from one of the letters to which I shall presently refer, it is something or another about a dinner party, and I do not remember that anything whatever is gained by the Maharaja. Even the evidence of the ayah as to the information, supposing that evidence is taken to be true, is that Mrs. Phayre is "very well disposed towards him," and that she will get her to look kindly upon him, with some other matters of that kind. But as far as I can gather, he gains nothing of importance from beginning to end, and nothing that is worth while to lay himself open to the observations made in the present case. Colonel Phayre undoubtedly, in respect of this khureeta, did get valuable information. He got information of this khureeta a considerable time before it was delivered, and he must have got that through the instrumentality of some of the servants. Now, Colonel Phayre in reality speaks of a number of people who were constantly giving him information, and one of these is Bhow Poonikur, whom he describes as being a man whom he constantly received and constantly communicated with, and constantly got information from. Such being the case, it seems to me rather hard that a charge of this kind should be made against the Maharaja, when it is perfectly clear that Colonel Phayre practised at all events quite as much espionage as it can be pretended was ever practised by the Maharaja. I of course do not admit the statements of the ayah upon the subject. They are denied entirely by the Maharaja; he denies having had any communication with the woman at all; and you are to say whether these communications have been of the kind, and the description of them of a character that would carry at all conviction to your minds. I submit to you that they are in the highest degree improbable. One does not understand what is to be got out of the ayah. What does she know? What are her communications? What influence has she? What can she get? State papers? She was only an ayah at the Residency, and so she seems, as far as I can see, about the last person in the world he would have been likely to use for such a purpose. It was stated by my learned friend that this is not the only purpose for which she was used, and there is no doubt whatever that a strong endeavour was made to apply her communications to entirely different motives, and to get her to say that some suggestions had been made to her upon the subject of poisoning the Resident; and there is no doubt also that originally the intention was to bolster up a case against the Maharaja by the ayah's evidence. My learned friend now is content to put it as being merely one applicable to the obtaining of information, and not in any way whatever as supporting Rowjee and Nursoo's story; and in fact, as far as I recollect, the ayah is not supposed to have been in communication with or to have seen Nursoo and Rowjee—at all events not to have been in communication with them. I don't deny any of the evidence of the carriage drivers who are supposed to have taken the ayah to the palace. When I say I do not deny, my learned friend will perfectly understand that what I mean is that I know nothing about it one way or the other. It is a matter perfectly possible, because the ayah may have visited the servants at the palace, and may have plenty of gossip with them, for aught I know, and yet the whole story of having seen the Maharaja may have been utterly untrue. And then one of the dates given by the ayah is a very important one; and in relation to the evidence which she gave to Mr. Souter, and to her subsequent statements, I think it is extremely important. There is no doubt whatever that pressure was put upon her to make her allege that she had been not a party, but that she had rejected with scorn—rejected with utter disgust—the suggestion that she should assist in the poisoning. Now, it is a very odd thing that one of the visits—and this is a thing to be considered throughout the whole case—made by this woman was a visit made at the very time when Nursoo and Rowjee were said to have obtained the last lot of poison; and the suggestion originally made was, while Nursoo and Rowjee were the agents who had undertaken to poison Colonel Phayre, that at that very time, almost upon the identical day, the 5th or 6th of November, this woman

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also had a suggestion made to her of the same kind—not in any way whatever connected with Nursoo and Rowjee, but an independent poisoning, something apart from them, something that she was to do, and in her own fashion if she had not been shocked at the proposition and declined to have anything to do with it. That is an observation that I make with reference to that particular meeting. I don't know whether there will be any doubt upon that subject. Shaik Dawood says, "It was before the last Dewali, about two or four days before." So that he fixes the time to be the 5th, 6th, or 7th November, which is about the very period when the other plot was going on and was in full play, or supposed to have arrived absolutely at the consummation. This woman asserts that she had an interview with the Maharaja, who talks to her on the subject of poisoning, which he, it is alleged, had already arranged to have done by somebody else, and talks, as he is alleged to have talked to this woman, as if she had been Colonel Phayre's prime minister—a person of the greatest power, a person of the greatest dignity and of the greatest importance. This Commission will consider the probabilities of that story, and with the observations that I have already made upon the subject I don't think that I shall feel it necessary to trouble them further on the subject of these visits. Tampering with servants seems to me to be a matter in which both sides have done exactly the same, so that the one can hardly charge the Gaekwar for doing that of which we had such prominent examples in the case of Colonel Phayre. There is no doubt whatever that there was a time when the establishment of spies as against the enemies of the kingdom was considered absolutely necessary and were a part of the constitution of the State. However, that was done away with in 1830. Before concluding the evidence of the ayah, I must refer to her evidence given before Mr. Souter, and to the circumstances under which that evidence was given, because it shews very prominently how charges of this description may be raked up and upon what miserable gossips they depend, so that the chatterers in the bazaar are listened to, the wretched gossip that takes place there is retailed, and although the Gaekwar, who may not have much experience of the world, might have seen any of these persons, I say it is with great surprise that I learn a man holding the high position of Resident in a kingdom of this description should allow and encourage a parcel of people to be constantly retailing their stories in his ear, especially when one of these is looked upon not only as Colonel Phayre's chief spy, but as a bitter enemy of the Gaekwar. In the first statement that the ayah made to Mr. Souter, though I venture to say it was the second—(reads extracts from ayah's statements in which she states that the Maharaja and Salim talked of *jadoo*, and she said Europeans could not be affected by that means)—you will perceive that in that account there is not a word said about her being unwell, though meanwhile she gets unwell and then she is taken to hospital. Then she goes on to state how she visited the Maharaja on the Ramzan. (Relates conversation.) Don't you remark how puerile this is? Here I may remark that Kazee Sahbudeen seems to have entirely disappeared, although he was in the habit of visiting the Residency, particularly when Mr. Taylor was there. You will observe that in the deposition, taken on 18th December, there is not a pretence that the Maharaja makes any suggestion to her about poison, and we have heard the accounts of all her meetings in which there is no suggestion made except that of using sorcery, which seems to be tolerably absurd. At the time she made this statement she was unwell, I presume from her being in hospital, although she was well enough to make such a long statement. We have circumstances deposed to by Dr. Seward which are somewhat sacred. He says he took a great interest in the ayah. Why he should do so passes my comprehension. No doubt there may have been something very attractive and fascinating in the ayah, but when she was here the other day I do not think that that fascination interested anybody who had a good opportunity of seeing her. He knew she had been in the habit of going to the palace, but that would not interest him. What was the mystery? She was under good medical treatment, but he went to see her, never communicating with the gentleman who was the medical attendant at that hospital, simply because he says he knew that gentleman. At all events, he went to see the ayah, and then, you know, upon her striking and eloquent countenance, he discovered those marks that indicated that she was moved, and Dr. Seward's medical experience led him to discover in these emotions not physical pain, but the agony of her conscience; and so, to solace her, induced her to unburden her mind to him, probably assuring her that if she would only relieve her mind she would at the same time relieve her stomach. There was one period at which a more efficient remedy was applied in the shape of a blister, but on this occasion she relieved her conscience as a kind of emetic. In consequence of what she said the relief seemed to be thoroughly sufficient both for mind and body. Dr. Souter—Mr. Souter I mean, although one might call him doctor upon this occasion—was sent for by Dr. Seward to administer to her, and while Dr. Seward looked after the body, probably the other was engaged to look after her soul. I can well understand Dr. Seward saying to his colleague, "She is under my care, and taking the interest in her that I do and wishing to see her well, I think it is right you should have this interview with her while her soul is troubled." That interview is held and the result of her unburdening her conscience is this. Serjeant Ballantine reads as follows from the ayah's statement:—"On the occasion of my being taken before the Maharaja the third time during the Ramszan, the Maharaja asked me, after other questions, whether it would not be possible to administer something by which the Resident could be brought round to his (the Maharaja's) will. The Gaekwar spoke in cautious and hidden language, but I understood him to be throwing out a feeler to ascertain whether I would consent to administer poison to my master, Colonel Phayre." Now I ask my Lord Chief Justice, whether ever in the course of his experience or his reading he ever found such a sentence. This common woman, this ayah, is made to say "I understood him to be throwing out a feeler." Now that did that ever come out of the mouth of an ayah? Then she says, alluding to the administering of poison to her master Colonel Phayre, "he spoke in cautious and hidden language." Really the ayahs of this country beat the nursery maids in ours. Then she says she indignantly refused and objected, (Just fancy the ayah refusing) and told the Maharaja that if he attempted anything of the sort he would get into trouble. Now, I really do ask the members of the Commission whether so grotesque a falsehood was ever attempted to be bolstered upon reasonable men. Then this moral and highly educated ayah says, "I said it would be better that lakhs of people should die than that the support of lakhs should come by his death." And to this wretched stupid old woman, who had no power on earth to administer poison and no chance of doing anything else but chattering everything said to her as soon as she got into the bazaar, it is supposed that the Maharaja, who must have an amount of decent intellect, is supposed to have spoken to her in this way and made her an accomplice when it would appear he had made other arrangements with other people. I hope that when the Commission comes to consider some of her answers they will remember she admitted at last her statement had no foundation and that never from the beginning to the end

was any suggestion whatever made to her except that she should use a charm on the Resident in favour of the Maharaja, and that nothing whatever justified her in supposing that the Maharaja had contemplated poison. There is another passage which it is my duty to call your attention. The ayah was asked "Did Mr. Souter ask you if you knew anything about the poisoning?" Now just fancy beginning with a woman like that, and suggesting poisoning and what she was wanted to say. Now, look at the answer this woman gives upon the spur of the moment. "Yes, they threatened me and said that if anything of the kind was said I should say it." "I told all I knew." So here you have in the first instance Mr. Souter putting directly in her mind the notion, and then you have Akbar Ali threatening her about the poison. In fact her story is a mass of absurdities from beginning to end. I have examined those statements and I have also considered whether it was possible there was any means to answer the case, and I have found that there is not a single instance in which there is not a single witness worthy of any attention as being present at any of the proceedings. My learned friend asked a witness—and unless he had done so I would never have made any allusion to the subject, whether or not there had been any access on the part of my client to Salim and Yeshwuntrao. I presume that the object of that question was to suggest that Salim and Yeshwuntrao were witnesses to be called on the part of the Maharaja, but in the first place the Maharaja in no respect whatever recognizes any of these proceedings. He cannot tell and his advisers are unable to suggest to any certainty whether these men are or are not accomplices with Damodhur Punt, they may be so or they may not be, they are people connected intimately with Damodhur Punt according to Punt's own statement. They are persons who have gained a livelihood like Dhamodhur Punt by embezzling their employer. But, moreover, from the time of this enquiry down to the present moment they have been in the hands of, and are now in the hands of the Police. My learned friend has not hesitated to call tainted witnesses here, they have called no other. Why should they not have presented Salim. He is not a greater scoundrel than Dhamodhur Punt. Why should they have not brought forward Yeshwuntrao, he is not a greater villain than Rowjee. They might have called all these, which would lead me to suppose that there is nothing in the conduct of this case that they might have been called if they could have been found to confirm a single question. But I say unfeignedly I could never have learnt what I have done as to the Police in the present case even if these men had been of a better cast than I believe them to be, and even if there had been anything whatever that the Maharaja was called upon by evidence from respectable sources to give an answer to, I should have felt the utmost unwillingness and the utmost doubt upon the subject regarding the calling of Yeshwuntrao and Salim. They would have come out of a custody from which nothing could be safe, and unless they could have proved some facts of which the Gaekwar was cognizant, I should have felt the deepest hesitation in putting these men into the witness-box. It is not for me to make out a case on behalf of the Gaekwar. I believe now that these men have lent themselves to proceedings utterly unjustifiable if the story of the different witnesses be true; but these proceedings the Gaekwar knows nothing about. No independent nor honest witness has implicated the Gaekwar in any way, and I will not put into the witness box men who have been in the hands of the police up to this time and who may probably have been implicated in that which may have been an attempt by one set of persons although not carried out by another. My Lord, whether I am right in that course or not, I need not say my judgment has been left perfectly free and unbiassed, and it is upon my judgment that I act upon this occasion. I decline absolutely to put forward these people. I refer back to the evidence given and submit to this court that the evidence is utterly unsatisfactory, and that the charge made against the Gaekwar entirely falls to the ground. My Lords, it is really with a deep sense of gratitude that I thank you for the attention that has been paid to the arguments I have humbly and probably insufficiently pressed before you—arguments that may be fallacious, but which I have earnestly and in the belief they are worthy of consideration pressed upon your attention. My Lord, you have given, I am sure, and will give, the fullest effect to them. I have felt the weight of this case and the deep responsibility cast upon me. No case probably has ever excited more general attention—that will be watched with more jealous care—that will be canvassed by more critical minds. It is, probably, the very first example that I know of, in which a man in the position of the Gaekwar charged with an offence of this character, or indeed with any offence at all, has been put upon his trial. We know well the history of India furnishes many examples of it, how the Viceroy has frequently with a high hand taken upon himself the supposed necessary correction of those who have acted contrary to that which the Viceroy has taken on himself to think is correct. But on the present occasion His Excellency the Viceroy has felt it right when there is a grave accusation against a great prince in the kingdom that that accusation should be sifted. He has seen upon paper, probably sufficient grounds for an enquiry, and he has instituted that enquiry—the first I say that has ever existed in this country and by which English law and English justice are called upon to assist in an inquiry connected with a charge against an Indian prince. My lord, to me, at all events, that is a profound satisfaction, for whilst admitting and feeling deeply my own incompetency—and in that I am not talking from any false feeling of modesty, because I believe there is hardly a counsel in the land who would not have the same sense upon this matter, and probably justly so, for it requires indeed a great grasp of mind, great power, and one would have been glad if one could have brought to bear upon the subject great eloquence. I have only been able to bring to the subject calm reasoning and such as I wished and calculated would have an effect upon the judgment and minds of the Commission. Again, my Lords, I thank you for the attention you have paid me—I implore you not to consider that what I have said is all that can or might be said upon the part of this unhappy prince. I implore you to look into the minutes of the evidence. I believe in that minute will be found matters upon which I have not relied, but which have strong bearing to show that the Gaekwar is entirely innocent of this charge. Cast from his throne, exhibited to his people under circumstances of degradation, not one man scarcely dare, while the investigation is going on, to come forward and say a word in his favour—he has solemnly declared his own innocence, and I as his counsel have referred to the evidence given here, and solemnly ask the tribunal which has to try him by equal judgment and justice of English laws, to say that the veriest pickpocket ever charged with an offence could not have been found guilty upon the evidence by which it is sought to deprive a sovereign prince of his throne.

The Advocate-General—Perhaps it would be more convenient if the Commission would now retire and I could then proceed to address them without the prospect of an immediate interruption. But I am quite ready to begin if the Commission should think it necessary to do so. (It being then nearly a quarter to two, the President said the Commission would adjourn until a quarter past two.)

The Commission then adjourned.

The Commission reassembled after tiffin at 2-15 P.M.

REPLY OF THE ADVOCATE-GENERAL.

The Advocate-General then proceeded to address the Commission as follows :—

My Lord Chief Justice, your Highnesses, and Gentlemen,—It now becomes my duty to offer such observations as have suggested themselves to me upon the evidence which has been recorded in this matter, and upon the able and eloquent speech which we have heard from my learned friend Serjeant Ballantine in defence of His Highness the Gaekwar; and I feel that the task which now devolves upon me would be one almost beyond my strength were not I satisfied that the evidence which I have been able to adduce before this Commission has established every one of the material propositions which I stated to you in opening this case. My Lord, it has been a satisfaction to me to find that my learned friend has recognized not once only, but more than once, in the course of his address, the satisfaction with which he and his client viewed the course which has been adopted by the Government of India upon this occasion. My learned friend has admitted in the fullest degree that the Commission which has been appointed to investigate this case is a Commission to which no exception can be taken. My learned friend has said that the decision at which the Commission shall arrive, will be one to which, though he may not agree with it, he can offer no valid or substantial objection. Of my learned friend's part in the case, it is not for me to speak. My learned friend has brought to this country a reputation which is not merely English but European. My learned friend has before this Commission exhibited those rare qualities which have raised him to a foremost place in the ranks of the British Bar, and he has here worthily sustained the fame which has accompanied and preceded him. It cannot therefore be said that if the Commission should arrive at an adverse decision to His Highness the Gaekwar upon any of the charges imputed to him, it has been for want of ability or zeal on the part of his advocate. If, indeed, my learned friend has introduced into this case sympathy for his client, which is not unnatural under the circumstances, and which has found expression continually in the course of his arguments—that sympathy which my learned friend has expressed and felt has not detracted in the slightest degree from the force of his argument. I have, I confess, been somewhat surprised to hear my learned friend dwell so much upon the Gaekwar being a persecuted prince—upon the circumstance of His Highness having been placed in what Sir Lewis Pelly very properly called honourable confinement, and upon the fact that the public property of the State, pending the decision of the Government, has been placed under what is popularly called in this part of the country attachment. Indeed, it would have been impossible for any other course to have been pursued, and my learned friend must be satisfied that in subjecting His Highness to suspension from power, in assuming the temporary administration of the State, and in providing for the protection of the State property, the Government of India would have failed in its duty if it had not adopted the course that it has adopted. It should be felt as no hardship by His Highness the Gaekwar that this course has been taken. I am sure that my learned friend will bear in mind that in his conduct of the case he has met with the assistance of the officers of the Government—an assistance which he has himself most handsomely acknowledged. The defence which has been presented to the Commission on behalf of His Highness is not merely contained in the argument of my learned friend, but in the statement put in by His Highness—a carefully prepared and well-weighed statement, which is before the Commission. That statement really amounts to nothing more than this—that it is, in elaborate phraseology, a plea of not guilty. It is a statement not vouched by oath or solemn affirmation—it is a statement, as we must take it, I presume, made by His Highness upon his honour; and weight must accordingly be attached to a document presented under such circumstances. For my own part I have no desire to cavil at the course that has been thus adopted. I had no desire to ask the Commission to put any of those questions which His Highness stated at the close of his plea that he was willing to answer. There seems to me to be no necessity for harassing His Highness in regard to the averments in his plea with any cross-examination whatever. My learned friend, following the general scheme adopted in that plea, has dissected, with the ability for which he is so remarkable, the evidence which has been offered in this matter, and we find that the defence which he puts forward comes really to this—that instead of the circumstances which your tribunal has to investigate showing a conspiracy on the part of the Gaekwar and his servants to procure the death by poison of the British Resident at this Court, they disclose a conspiracy on the part of the police, who have brought false accusation against His Highness. For that defence I was prepared, though I was not prepared to hear it put forward in the way in which my learned friend found himself, on his instructions, justified in adopting. The case really, as presented by my learned friend, comes to this—that all the evidence in support of the graver charges imputed against His Highness has been manufactured notably by Akbar Ali, Abdool Ali, and Gujanund Vithul, the three detective officers employed under Mr. Souter; and, strange to say, my learned friend has not hesitated to aver that Mr. Souter was a party to the base and vile conspiracy so brought to pass. Now, before I go into the consideration of the case proper, allow me to say a word or two on the general suggestion that this has been a case made up by the police. It will be in the recollection of the Commission that Sir Lewis Pelly started that among the matters that he was deputed to enquire into, when he was appointed to succeed Colonel Phayre, was this very question of

the attempt to poison Colonel Phare. Mr. Souter's services were applied for by Sir Lewis Pelly, shortly after his arrival here, and Mr. Souter came to Baroda on the 9th December—just one month after the alleged attempt had taken place—and was then accompanied, or immediately followed, by the three police officers whose names I have mentioned. Of these three men it may be permitted to me to speak here one or two words. Akbar Ali is an officer of forty-four years' standing. He joined the service in 1831. He has received in recognition of his services the honourable distinction of Khan Bahadoor—a distinction conferred by the Government of India, and a distinction not conferred lightly or without due consideration. During the whole forty-four years that he has been in the public service, there was not one event upon which my learned friend could cross-examine him. There is not one single instance in his career to which the research or the ingenuity of those who instruct my learned friend could point as attributing to him the slightest disgrace. He comes before the Commission as a man of unspotted character whose services have been recognized by the State, and nothing whatever discreditable to him is on record. As to the junior Khan Bahadoor Abdool Ali—he, of course, has been for a less period of time in the service of the State than his father; but he has also gained from the Government of India the honourable title of Khan Bahadoor; and when he was put in the witness-box for cross-examination, not a single question was asked of him. If there had been anything in his career upon which he could have been cross-examined, no doubt my learned friend would have been instructed to put questions showing he deserved the character which my learned friend has attributed to him. No such question was put to him, and we must, therefore, presume that he, like his father, has a character untarnished, notwithstanding the difficulty and delicacy of the services he has had to perform. With regard to the third man, Gujanund Vithul, he also has been for a long time in the service of the State; and has earned the corresponding distinction given to Hindoos in the British service of Rao Saheb, Khan Bahadoor being title conferred upon Mussulman officers. And the only point as to which my learned friend could cross-examine him was as to his previous connection with certain phases of a case which was brought, in the first instance, in the District Court of Ahmedabad, and afterwards tried in the High Court of Bombay, and is what is popularly known as the Koth Succession Case. I regard to the first branch of it—I mean the investigation before Mr. Coghlan—Gujanund was not concerned in it further than as a witness, and in the later proceedings he was not even a witness. My learned friend was instructed to read a passage from a judgment of the High Court, which in no way referred to the police. Those are the three men—old, zealous servants of the State—whom my learned friend has been instructed to describe to this Commission as utterly unscrupulous persons, engaged in the inception and prosecution of a vile conspiracy. I think the Commission will be opinion that there is not the slightest foundation for the charge which my learned friend was instructed to make against them, and that in the part which they have taken in this matter they have done nothing which should cause them to lose the good character which they have so justly earned. My Lord, my learned friend has frequently in the course of his address to the Commission said that he has been told this and that by various persons whom he has not named. I have no doubt that my learned friend has been told a great deal, since he came to this country, that he would not have repeated had he been better acquainted with this country and the people of this country, and with the particular individuals who are concerned in this case. There are no doubt here, as everywhere, a large number of people who have a bad opinion of the police, and that opinion I have generally found to be entertained by persons who have at one time or another been in the hands of the police in connection with some charge or other. The criminal classes all over the world have a great objection to the police; and no doubt some of the information which has been conveyed to my learned friend may have been derived from people who have no reason to speak with pleasant recollections of the days when they were brought into contact with the police. But when my learned friend, not satisfied with ascribing to the three native officers whom I have mentioned, an active part in the conspiracy which he has been instructed to suggest in this case, went on to say that Mr. Souter deliberately left the room at the time that Rowjee's belt was about to be examined, knowing that he left the examination of that belt in the hands of an utterly unscrupulous person, notwithstanding the expectation that something would come of that enquiry—which something did come, as my learned friend said—and that Mr. Souter was called in afterwards as a comparatively respectable witness to testify to something having been found in the belt, I think my learned friend was misled by those who gave him his instructions to misjudge not only the effect of his imputations upon the general public, but to misjudge their probable effect upon the members of the Commission themselves. Mr. Souter is a man well-known throughout this side of India. He has been an officer in the service of the Government for many years, and his services have been recognized by Government by conferring upon him the Star of India. He wears, though in a lesser rank, the same decoration that is so worthily worn by three of the members of the Commission; and even if it were not the case that Mr. Souter is personally known to the members of the Commission, surely the fact that he is an English gentleman ought to have preserved him from the imputation which my learned friend was instructed to cast upon him. But Mr. Souter has a reputation as dear to him as mine is to me, and as my learned friend's is to him; and I have no doubt that if my learned friend knew Mr. Souter better he would find him to be a gentleman of honour, and of honour as untarnished as that of any man in this place, and it does not recommend the case put forward by the defence to have it suggested here in open Court that a gentleman of Mr. Souter's position and character is—I will not say a puppet in the hands of his own police, but actively engaged with them in a vile conspiracy for the purpose of ruining His Highness the Gaekwar. Had Mr. Souter's character been capable of being attacked, there is no doubt that it would have been attacked, in the course of his cross-examination, but it was not then attacked, and it was with a feeling of great pain that I heard my learned friend attack it yesterday. The character, then, of the police officers specially deputed by Government to enquire into this case—for it will be remembered that these three native officers were men whom Mr. Souter well knew—one of them, the Rao Saheb, had served under him many years ago in the mofussil, and the other two are at the head of the detective branch of the police force of Bombay of which Mr. Souter is the Commissioner—the character of these men ought to have saved them from the imputations cast upon them. But there is another consideration also which I think, if fully and fairly weighed, would have spared my learned friend from his groundless attack on the police, and it is this—what interest could these three or four police officers of the Bombay Police have in accusing the Gaekwar? My learned friend has not come

here to say that it was a part of the policy of the Government of India to drive His Highness Mulharrao from the Gadee and to banish him from Baroda. If those who instructed him could have ventured to suggest that such was the policy of the Goverment of India, there might have been found in that suggestion an explanation of a possible desire on the part of the Bomboy Police to cary out the behests of the Supreme Government. But no such suggestion is or can be made, and I have no hesitation in saying that the suggestion that my learned friend threw out, and which he deemed well worthy the attention of the Commission that this is a police case, is a suggestion which is not warranted by the circumstances. Surely, if it were necessary for the police to find some culprit to whom the attempt to poison Colonel Phayre was to be attributed, it would have been much easier for them to have fixed upon Damodhur Punt, as my learned friend appears to have done, as the person by whom the plot was initiated and by whose instrumentality it was carried out. I think, therefore, I may ask the Commission to dismiss from their minds, so far as the character of the police evidence, and so far as the probabilities of the case are concerned, the wild theory of my learned friend that this is a case which has been got up by the police. Had it been got up by the police, after the compliments which my learned friend has paid to the ingenuity of that body of men, after the enormous praise which he bestowed on their cleverness in supposing that they could have invented and carried out a conspiracy of this kind—surely, we might have expected that the evidence would have hung together more completely than it has done ; that if tutored at all, the witnesses would have been so tutored as to agree exactly in the statements they had to make ; that there would have been none of those discrepancies in the evidence to which my learned friend has so triumphantly pointed, and certainly none of those mistakes in regard to documents which my learned friend has endeavoured to expose—we might in fact have expected a perfect case had the ingenuity of the police, and the ingenuity of the police alone, been expended upon it. But, my Lord, I think it must be perfectly clear, from the history of the investigation of this case at Baroda, that the police have done nothing more than their simple duty in endeavouring to trace out, from slight indications at first to complete disclosure, the authors of the attempt made to poison Colonel Phayre. I think if the Commission refer to dates and trace the evidence in chronological sequence from the time that the cart-driver admitted taking the ayah to the Palace up to the time that Damodhur Punt supplemented all the evidence previously recorded—I think this Commission will be able to come to no other conclusion than that what the police did was only to follow up from day to day the clues which one witness after another placed in their hands. And not only in the sequence in which the witnesses were examined, but in the circumstances under which the inquiry was conducted, will the Commission, I think, find irrefragable proof that my learned friend's theory cannot be supported. We have been informed that there is another kind of torture beside that of the thumb-screw and the rack, and that this torture has been applied in this case by the police. It is strange, if this were so, that one of the rooms, at the Residency should have been selected as the scene of the operations of the police. I apprehend it did not enter into the minds of those who are instructing my learned friend to suggest that Sir Lewis Pelly was a party to this conspiracy, and yet, unless it is intended to be so suggested, it is difficult to understand why this line of defence was so much insisted upon by my learned friend, when we bear in mind that this alleged torture was committed in Sir Lewis Pelly's dining-room, which forms an intermediate room, between the reception room of the Residency and the office, and into and through which there must have been the freest access. Having regard to these circumstances, I do not think the theory put forward by my learned friend will be accepted by this Commission ; and if it is not accepted, I fail to see what answer there can be to the charges which have been brought against His Highness. Before I leave this part of the case, however, let me refer to one other point. Sir Lewis Pelly stated that he was on the point of going to Bombay for the Christmas holidays, and had asked Mr. Souter to accompany him. This was before Rowjee's statement was given. Nothing had then been discovered beyond the fact that certain of the Residency servants had been to visit the Gaekwar at his Palace. But, on my learned friend's theory, the police must have known they were on the eve of a discovery. Had this been so, it is conceivable that Mr. Souter would have thought of leaving Baroda ? I think this circumstance shows at all events that the police conspiracy was not then concocted. Rowjee's statement was made in the most natural way, and it was in consequence of that statement that the proposed visit to Bombay was deferred.

I now come to another preliminary point which I may mention, as it was very much dwelt upon by my learned friend in the opening of his speech, namely this—that the material witnesses who were called in this case to prove the guilt of His Highness were accomplices, and my learned friend asked that upon that ground their evidence, if not rejected by you, should be utterly discredited. Of course every one familiar in the slightest degree with the proceedings of courts of justice in this country, and every man of common sense, must know that there is a grave degree of suspicion always attaching to the evidence of accomplices, and I am not aware that I introduced any of these witnesses to the attention of the Commission otherwise than as coming here with the disadvantage that their evidence would need to be regarded with a certain amount of care. I am not aware, at the same time, at there is any law existing in India or England which renders the evidence of an accomplice inadmissible. In England it is customary for judges to tell juries in their summing up, in cases in which the evidence of accomplices has been taken, that it is not safe for them to act upon the evidence of accomplices unless that evidence is corroborated in some circumstance that affects the identity of the person accused ; but at the same time it is by no means obligatory on judges to offer that advice. As your Lordship the President is probably aware, it has been held that it is no misdirection on the part of a judge trying the case to omit to give that caution to juries. By the Indian Evidence Act it is laid down that an accomplice shall be a competent witness against the accused person, and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice. That is a point in Indian law which is, I am sure, familiar to at least three of the gentlemen sitting on this Commission, but I have deemed it desirable to mention it, because I thought the impression might be conveyed to the public from the address of my learned friend that unless an accomplice is corroborated it is impossible to find an accused person guilty against whom he has given his evidence. I think, however, I shall satisfy this Commission that in this case there is no particular necessity for resting upon this rule of Indian law, because the corroboration exists in vast quantities upon the very points on which English

lawyers have held such corroboration ought to be supplied. The identity of the Maharaja is established beyond all possibility of doubt in connection with the matters to which the witnesses depose. Perhaps, also, I may here be permitted to advert to another of the points dwelt upon by my learned friend in the early part of his address, and which is a point of much importance—namely, to the conduct of His Highness the Gaekwar after he was informed that his name had been mentioned in connection with this attempt to murder Colonel Phayre. The Commission will remember that after the evidence of Rowjee was taken, and before the statement of Nursoo had been made, His Highness paid one of his ceremonial visits to Sir Lewis Pelly. On that occasion Sir Lewis Pelly requested Mr. Souter to communicate to His Highness the purport of the evidence given by Rowjee, and the Gaekwar, being advised thereto by Sir Lewis Pelly, stated he would willingly give every assistance in this power towards the detection of the criminals. My learned friend has said, that from that time forward His Highness did so, and that by his demeanour and his readiness in giving up Salim and Yeshwuntrao he proved himself to be an innocent man. But I am not disposed to attach much importance to the surrender of Yeshwuntrao and Salim. I do not see how their surrender could have been refused. Moreover, whether it was the act of the Gaekwar personally to surrender those prisoners is not apparent. An application for their surrender was made to Mr. Dadabhoy Nowrojee, and the communications on the subject, in which the Gaekwar may have concurred, were through Mr. Dadabhoy Nowrojee. No doubt Mr. Dadabhoy would at once have advised the surrender of the men, and I have no doubt also it would occur to His Highness that the surrender of the men was a thing which it would be, not only wise to do, but a thing which could not be helped. If His Highness had disregarded the advice of his Minister, and refused to surrender the men, what would have been the consequence ? He would have placed himself in open hostility with the British Government, and he would either have had to yield or fight. So, my Lord, there cannot be the slightest doubt that there was nothing meritorious in His Highness's conduct in the matter of sending the men, and I do not see that any powerful argument can be put forward in favour of His Highness because he did not prefer a more perilous alternative. Moreover, as to the rest of the conduct of His Highness from the time he was informed through Sir Lewis Pelly that he was said to be implicated in the attempt to murder Colonel Phayre until the time he was suspended from power by the orders of the Government of India, I fail to see what there was in the demeanour of His Highness from which a conclusion can be drawn either one way or another. No doubt it might have been possible for His Highness to raise the standard of revolt, or to have taken flight, but either would practically have been an admission of his guilt. I think that the course he adopted was the course that would have suggested itself to any sane man—namely, to stand by and abide the consequences. He could not have taken any active measures which might not have amounted to proof positive of his guilt. He therefore remained passive, and if we read his conduct by the light of Damodhur Punt's evidence, we can understand why he did remain passive. Not only did he know beforehand that an attempt to poison Colonel Phayre was to be made, but on the morning of the 9th November, before he saw Colonel Phayre, he knew that the attempt had been made, and had failed. He had followed day by day the progress of the inquiry which was instituted by Colonel Phayre, and he was kept informed of the progress of that inquiry. Damodhur Punt has described to us the alternations of fear and hope that filled the breast of His Highness. He has told us how he praised the sagacity of Rowjee, and rejoiced over that witness's liberation ; he has told us how, again, when the Bombay Police came to Baroda, he enjoyed a moment of elation because Yeshwuntrao and Salim had been permitted to return to the Haveli from the Residency, whither they had been sent ; and, again, how he did not permit Salim and Yeshwuntrao to be sent back in the evening to the Residency without having previously cautioned them to say nothing. That the confidence reposed in these men was not misplaced, is proved by the fact that they have said nothing, notwithstanding that my learned friend on behalf of the defence has given them up as scapegoats. My learned friend says they have said nothing, one way or the other, and we may accept that as true, but I say that there is nothing, either in the silence of these men, or in the acts of their master, to exhonorate His Highness from the charges imputed to him. These charges may be conveniently referred to separately, because they group themselves into two heads : in regard to one of which my learned friend has not made much contention. He has expressed himself unable to understand the meaning of the minor charges, and he has not set himself to disprove them. The first is—"That the said Mulharrao Gaekwar did by his agents and in person hold secret communications for improper purposes with some of the servants employed by Colonel Phayre, the Resident at Baroda, or attached to the Residency ;" the second—"That the said Mulharrao Gaekwar gave bribes to some of those servants, or caused such bribes to be given." The third and fourth charges relate to the attempt to poison, and I shall deal with them hereafter ; but, as you will see, the first two charges relate merely to the bribing of servants at the Residency by the Gaekwar or his agents for the purpose of obtaining information which it was not proper he should obtain. Let me read to you what His Highness the Gaekwar himself says upon this matter :—". . declare that I never personally directed any of the Residency servants to act as spies on the Resident or report to me what was going on at the Residency, nor did I ever offer or cause to be paid any money to them for the same purpose." He does not say "he has never personally or by his agents," as he has said in the previous paragraphs. He limits his denial to his own personal acts. He proceeds :—"I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions such as marriage and the like. Information on trifling matters going on both at the Residency or at my own Palace may have been mutually communicated ; but I did not personally hold any intercourse with those servants for this purpose ; nor am I personally cognizant of any payments for the same having been made ; nor did I authorise any measures by which secrets of the Residency should be conveyed to me." This, I think, contains a very material admission. It simply comes to this—that the Maharaja denies that he personally had any communication with the Residency servants for improper purposes, but he allows that money was given to Residency servants which, I think, may be considered as bribes. He also tacitly admits that communications may have been established by his agents with these Residency servants, and that payments may have been made by his agents to these servants for the purposes mentioned in the charges. My Lord, it is not necessary for me to discuss whether or not there is any difference between the information which Colonel Phayre received and the information the Gaekwar received. It appears to me that there

is a wide difference between a British Resident at a native court receiving voluntary information from persons who go to visit him, and a native sovereign stooping to bribe the servants at the Residency in order that they might convey information to him of what was going on there. I think that the difference need only be stated to be appreciated. But that the Maharaja did establish communications with the Residency servants for improper purposes, and did pay those servants for the information they gave him is, I think, established beyond all doubt, not only by the admissions in his own plea, but by the evidence given in this case. I don't think it will strike the Commission as improbable that persons in the position of the Residency servants should have been introduced into the presence of His Highness the Gaekwar. I don't think the Commission will be of opinion that there is anything obviously incredible in the story which the Residency servants have told. I am tolerably sure that the members of this Commission, who have visited His Highness's Palace, the old Haveli, in the city, will be satisfied that the accounts these servants have given of the way they were introduced into the Palace by a door abutting on the Nuzzer Bagh, and how they were taken up a series of stairs to the room where the Maharaja sat, and that the room had mirrors in it, and that there was a bench on which His Highness used to sit—I cannot think that the members of this Commission who have seen the locality will be of opinion that the story, so far as relates to the description of the inferior of the palace, is an invention. It is not suggested by my learned friend that these servants have been taken to the Haveli by the police, or since they made their statements to the police. On the contrary that they have not been taken to the Haveli since they made their statements appears clear from the evidence recorded. That the rooms at the top of the house at that particular corner of the Palace were the rooms occupied by the Maharaja is admitted by Damodur Punt; that the Maharaja would be likely to be found there results as a natural consequence from the fact that these were the rooms which he usually occupied. Although my learned friend has given up Yeshwuntrao and Salim, it is positively certain that these were two of His Highness's attendants, and were most frequently in the habit of accompanying him on his ceremonial visits to the Residency, and therefore these would be the men who would be most useful to him in conducting communications with the Residency servants. My learned friend admits that he is not in a position to quarrel with the account given by the garry-drivers who accompanied the ayah when she went to the Haveli. It was from the statement of one of these garry-drivers that the first clue to this whole story was obtained. It cannot be doubted that the ayah went to the Haveli upon the occasions she has deposed to, and although my learned friend has suggested that she may have gone to see some of the servants of the Palace, I think that that is a suggestion based rather on my learned friend's idea of what would be a likely state of circumstances in a European court than upon what we know are matters of frequent, nay, almost daily, occurrence in the native courts of India. The servants in a native court stand on an entirely different footing from those in a European court, and the relations with their master are much more intimate and unrestrained. There was nothing to show that there was any friendship existing between the ayah and any of the Palace servants except Salim and Yeshwuntrao, and as these she had constant opportunities of seeing at the Residency, there could be no occasion for her going to the Palace for the purpose of visiting them. Moreover, unless it were to see some one of greater importance than the servants at the Palace, is it likely that the servants at the Residency would have made the journey from the Residency to the city at the dead of night? You will remember that even Rowjee said that he felt so much alarmed at going into the town at night that he had a companion—at one time Jugga, and at another time Karbhai—to accompany him there. My learned friend does not suggest that the Maharaja was personated on the occasions when, at these late hours, the Residency servants visited the Palace. Such a suggestion it would have been impossible to make. There could be no mistake about His Highness with any one who had seen him. His appearance is sufficiently remarkable to render him recognizable by any one who had seen him even once, while those Residency servants having an opportunity of seeing him often could make no mistake about his identity. The suggestion, therefore, that any one could have personated the Maharaja upon these occasions would have been a forlorn hope. I take it that it must be held to be established beyond all question that the ayah did, on these three occasions, go to the Palace in the city for the purpose of having a personal interview with the Maharaja. No doubt, the evidence as to the personal interview rests upon the statement of the ayah, and of those who accompanied her on those occasions into His Highness's presence—Faizoo on one occasion, and Kurreem on another. But there is important corroboration of their story upon these points to be found in the letters of the ayah, which are admittedly genuine. These were discovered in the house of the ayah, and passed between her and her husband at the time when one was at Mahableshwur and the other was in Bombay or Baroda. This is a branch of the case to which I don't think my learned friend will extend his argument that the whole of it is a fabrication by the police—not even the ingenuity of a policeman could have fabricated the post-mark's existing upon some of these letters which were exhibited. Exhibits A, B, C, and D show, beyond a doubt, that the ayah was in communication with Yeshwuntrao and Salim in regard to the matters affecting the Maharaja that passed at the Residency; and that she was even in direct communication with the Maharaja himself has been proved by the evidence of Syed Abdool. The letter which was written to the Maharaja does not appear to have been forwarded, because the husband of the ayah found no opportunity of delivering it to the person by whom it was to be conveyed to His Highness. But it shows, does it not, that this ayah was in communication with His Highness upon matters of political importance? She mentions—and this is just one of the things that she would be likely to communicate—that her master and mistress had been dining at Government House, and she affects to give an account of conversations that took place there, and, no doubt, these were the kind of communications that the Maharaja would be desirous of receiving. That that letter was transmitted appears not only from the evidence of Syed Abdool, but also in the reference made in that letters D:—"I do not know whether or not you have delivered the note (*chitti*) enclosed in my last letter to the person for whom it was intended." That person was, the ayah says in her evidence, His Highness the Gaekwar. I take it, therefore, as established upon the evidence, and established clearly, that these communications did exist between the Residency servants and His Highness; that these communications were held in secret, and for improper purposes. I do not suppose it could be contended that it would be a proper thing for a native prince to set household servants to repeat to him anything that passed at a British Resident's house; and when it is remembered that these communications were established

about the time that General Meade's Commission was assembled at Baroda, and continued during the time that that Commission sat, and were continued afterwards, I apprehend there can be no doubt in the minds of this Commission that what the Maharaja first desired was to pick up from what might fall at the Resident's table perhaps from the mouth of some of the members of the Commisssion some private information that might be useful to him in shaping his course in reference to that investigation. Then, let us look at the nature of these communications One of these news-letters is in evidence, and another is referred to in a statement by Wasuntrao Bhow—not a willing witness against his master, but a man who had been director of the State banks or shroffs' shops which had been established here and elsewhere by the Gaekwar, and a man who jumped at the suggestion put to him by my learned friend, Mr. Branson, that he was kept in jail for merely reading these letters, although the fact is that he is kept in custody by Sir Lewis Pelly upon charges of a serious nature. This man says that he was once called upon to read one of those letters that Damodhur Punt has told us about. Damodhur Punt tells us that these letters were passing day after day between the Residency and the Haveli, and that as soon as they were received they were destroyed. And these communications were not merely confined to repeating conversations that might take place at the Residency table, but they extended to other matters; for we have it on the evidence of Damodhur Punt that Rowjee, at Nowsaree, brought an important document to the Maharaja—no less a document than a petition addressed by Jumnabaee, the widow of Khunderao Maharaj, to the Government of Bombay,—and that document was copied by Damodhur Punt by the orders of the Gaekwar, and then restored to Rowjee, who took it back again to the house of his master. Can it be said, my Lord, that these communications were for the mere reporting of idle gossip? Can it be said that these punkawallas, havildars, and other servants, the inferiority of whose position protected them from suspicion, were engaged by the Maharaja for the mere purpose of gathering the chit-chat of the dinner-table? In the short experience that I have had in this country, it strikes me as not at all unnatural that His Highness should endeavour to enlist the sympathy of the ladies of the Residency on his behalf, and for that purpose should seek to get the ayah to communicate with those ladies. This may appear unnatural to my learned friend, but I don't think it will to the Commission. Nor does it appear unnatural that His Highness should wish to enlist on his side Pedro, who had been a long time with the Resident, and from his position as head house servant would be perfectly cognizant of what was going on and able to repeat it to the Maharaja. It does occur to me also that the very men whom he would be anxious to get over to his side would be the head men of the Resident's office establishment—the jemadar and havildar—men who could have access to the private office at all hours of the day; men who would be left in charge of that office during their master's absence, and might select any papers they might fancy would be of use to their employers. Again, if you consider the sums paid to these men for the services they rendered, can you say that these sums are not bribes? My learned friend says that five hundred rupees is a small sum. In some points of view it is a small sum; it might be a small sum to the Maharaja, but it is a large sum to pay to men whose monthly pay is about ten rupees—it is more than four years' pay to them. The payment of that sum to the witness Rowjee has not been disputed. He got it from Yeshwuntrao, through his clerk, who proved the payment in the witness-box, and that clerk, I may say, was not cross-examined by my learned friend; so that that payment must be taken to be proved beyond a doubt. Let me ask what inducement could there be for Yeshwuntrao personally to pay this sum of money? My learned friend says that Yeshwuntrao is an inferior creature, and might be in the service of Damodhur Punt. Then what inducement was there for Damodhur Punt to get this information for which so much money was paid? My learned friend's theory only goes so far as to say that it might have been worth while for Damodhur Punt to poison Colonel Phayre, but not to get information. Yet these five hundred rupees were given, and as my learned friend says, long before, and not after, the poisoning was attempted. We have it in evidence that Yeshwuntrao was a confidential servant of the Gaekwar, and knew the Residency servants. Does it not follow beyond all possibility of doubt that that payment was not made by Damodhur Punt but by the Gaekwar himself through the hands of Yeshwuntrao? But, my Lord, that payment was not the only payment which Rowjee received for giving this information. He divided eight hundred rupees with Nursoo immediately after their return from Nowsaree, and immediately after Jumnabaee's petition to the Government of Bombay had been given to the Maharaja. You have here two large payments to these men in less than six months. I say that these payments were small as compared with the Maharaja's revenues, but they were enormous indeed compared with the salary of the persons who received them. Then there is Pedro. Pedro is a witness upon whom my learned friend relied very much. Pedro admits a payment of sixty Babashai rupees, made to him when he was about to go to Goa, but it does not appear why that money should be given. Is it not likely that it should have been given for some services rendered? Then we have Shaik Kurreem the chobdar, whom we find admitting the receipt of a hundred rupees at the same time that a hundred rupees were paid to the ayah. Again, we have another payment of fifty rupees to the ayah. Now, on referring to the entries put in by Damodhur Punt, you will find that payments corresponding, or nearly so, in amount to some of those bribes were made through the Khangee department at the very time that the servants say that they received those bribes. [The Advocate-General here refers to exhibit E.] This exhibit shows that on the 19th of January 1874, six hundred rupees were paid to Yeshwuntrao and were received by the hand of Salim. That would be about the time on which five hundred rupees were paid by Yeshwuntrao by the hands of his servant Dulput to Rowjee, and as for the balance it would be consistent with what one would expect to find in a case of this kind, that some money should stick to the hands of Yeshwuntrao; so the Maharaja pays six hundred rupees, and Rowjee receives five hundred rupees. Then, again, as to the eight hundred rupees paid to Nursoo jemadar, and which he divided with Rowjee, after their return from Nowsaree, your Lordship will find that A 1 shows a payment made out of the treasury to the extent of one thousand rupees on the 8th of June 1874, and that would be very shortly after the return of His Highness the Gaekwar and of the Resident from Nowsaree. Your Lordship will remember that that took place some time in the end of May. Again, M 1 is a payment of two hundred rupees on the 15th of May 1874, which corresponds very nearly to the payment of the two hundred rupees to Kurreem and the ayah, and without following up these documents further, I think I may state that we find, shown on the records of the Khangee department, payments

out of that department to Salim or Yeshwuntrao nearly corresponding to the sums of money received by the Residency servants, at or about the time that the servants profess to have received those payments. Now, my Lord, I do not think it can be reasonably suggested that all these payments were made by Damodhur Punt to serve his own purposes. I do not think it can be suggested with any show of reason that Yeshwuntrao and Salim were merely agents of Damodhur Punt in this matter. No doubt, the money was passed out of the treasury by Damodhur Punt, but the disbursements were made, I apprehend it is clear beyond a doubt, by the direction of the Maharaja. Of course there could be no reason for Damodhur Punt wishing to obtain information, and paying for it in this way, for himself; but there was a strong reason why he should be found doing so in the service of his master. That Rowjee had money is tolerably clear, because it was one of the matters that first directed the attention of the police to him. They had found out he had been making large purchases of jewellery in the bazaar about the time these monies were paid. Exhibit Y is the list of ornaments put in, and shows at what time these ornaments were made. The first set of ornaments was made in February and March—golden bracelets, and rings, and so forth—and in the month of June when the payment of eight hundred rupees was made, and divided between Nursoo and Rowjee, a silver anklet was purchased of the weight of over seventy rupees; and subsequently to that a necklace of gold venetians appears to have been bought I think there can be no doubt that the money was supplied to Rowjee by the Gaekwar's directions out of the Gaekwar's treasury for the purpose of obtaining information of the character to which the witness has deposed. Couple that fact with the statement you find in His Highness's plea wherein he merely says that he never *personally* had had communications with the Residency servants—he does not deny that they made these communications to him through his agents—and I think the Commission will have no doubt whatever that the first two charges against His Highness are satisfactorily established. My Lord, my learned friend has suggested that an Oriental prince is likely to be surrounded by evil counsellors, and to have things attributed to him for which he cannot justly be held responsible. There can be no doubt that His Highness the Gaekwar was to some extent so surrounded by evil counsellors. I am not here to defend the character of Damodhur Punt. Nothing that my learned friend might say about that man would excite my indignation. He is not a man whom I would put forward as one whose uncorroborated evidence should carry weight to your minds. There is no doubt, from what he has admitted he has done, that he is a very bad man, but when we find that a man of that character is retained by His Highness the Gaekwar as his private secretary, as his most intimate confidant, as his most trusted servant, and when we find him, even after the attempt to poison Colonel Phayre was made and bruited abroad and under investigation, introducing that man to Sir Lewis Pelly at the Residency as his private secretary—I must say that I do not think His Highness can come before this tribunal with any serious expectation of being held entirely irresponsible for anything that that person might do or say on his behalf. My learned friend has referred to Yeshwuntrao and Salim as likely to obey the behests of Damodhur Punt; but they would, my Lord, be more likely to obey the behests of the Maharaja than that of the Maharaja's private secretary. Therefore, if you find a series of witnesses coming forward here to speak of their relations with the Gaekwar and his servants, and if you find one of these servants testifying that he acted in the matters deposed to by the directions of his master the Maharaja, though we may look upon that man with suspicion, and though we may desire not to believe him, yet, nevertheless, looking at the probabilities, I apprehend it is difficult not to give him credit for speaking a certain amount of truth, especially when he says he was merely obeying his master in the matters to which the evidence refers. My learned friend has admitted that Damodhur Punt, Yeshwuntrao, and Salim are three persons who would be likely to take part in any such attempt as is alluded to here in the Viceroy's notification in the third and fourth charges against His Highness. I think that is going a great way. These charges are "that his purposes in holding such communications and giving such bribes were to use the said servants as spies upon Colonel Phayre, and thereby improperly to obtain information of secrets and to cause injury to Colonel Phayre, or to remove him by means of poison; and that, in fact, an attempt to poison Colonel Phayre was made by persons instigated thereto by the said Mulharrao Gaekwar." We have, therefore, this—that in regard to this most serious charge, my learned friend admits if that His Highness was minded to poison Colonel Phayre he could scarcely have found three better instruments than his private secretary and his two confidential attendants. Now, my Lord, before I go into the investigation of the evidence which connects the Gaekwar with the attempt to poison Colonel Phayre, let me briefly refer to one or two matters on which any learned friend has also dwelt at considerable length. I think my learned friend suggested rather than seriously argued that this Commission might come to the conclusion that no attempt to poison Colonel Phayre was in point of fact made by some one on the 9th of November,—when he asked if the Commission were satisfied that such an attempt had been made. I don't think that he himself would dispute that such an attempt was made by some one or another. Nor do I think that my learned friend wished to seriously contend that that attempt was not made by arsenic and diamond dust. A good deal was said by my learned friend upon the colour of the sediment which Colonel Phayre noticed in the glass, and which was also shown to Dr. Seward; but I think that the Commission, looking carefully to the evidence upon that point, can only come to this conclusion, that, although a good deal was said upon this branch of the case, there really is no doubt about it. Colonel Phayre, no doubt, describes the sediment that he noticed as being dark, and undoubtedly, to him, it may have appeared to be so. Some of it was at the bottom of the glass, and the rest was trickling down the side of it. That glass had previously been filled with a preparation of pummelo juice which is of a reddish or pinkish colour. Colonel Phayre, at the time he noticed the sediment at the bottom of the glass, was under the influence of poison, if poison was there at all, and one of the effects produced upon him by the poison he had imbibed was, as you will remember, he stated himself, that his head was dizzy and swimming round. I will give your Lordship the exact words, because they are of considerable importance:—"I felt a sort of dizziness in my head, and as if my head were going round slightly." It may be that Colonel Phayre, seeing the sediment under the circumstances just described, would be very likely to attribute to the sediment a darker colour than the more practised eye and less excited observation of Dr. Seward would attribute to it. Again, the liquid in which the sediment was contained was dark or darkish, and even a white powder put into a dark liquid would probably look dark until separated from the fluid, and supposing the liquid to have been dark, it may be quite natural that

Colonel Phayre should call dark that which Dr. Seward, after separating it from the liquid, described to be of a tawny or fawn colour. My learned friend has made a suggestion, which is a perfectly fair one, and which I accept as a possible explanation of this difference. He says that some people have not that sharp perception of colours which others have, and it may be quite possible that Colonel Phayre has not the same keenness of sight which Dr. Seward has. Another thing is that if Colonel Phayre held the tumbler against a dark table or other dark background, the darkness of the background would be communicated in some degree to the contents of the glass. But whatever the impression produced upon Colonel Phayre's eyes may have been under the circumstances I have detailed, I apprehend there can be no doubt as to the impression produced upon Dr. Seward. He had not imbibed any poison. He came over to the Residency on being called, and he was able to calmly examine the contents of the glass. He says he held the glass against the light and then detected this fawn-coloured powder, and there can be no reason to doubt his evidence. Rowjee described the powder he received as of a dark colour. We all know how natives in this country, in speaking of colour, do not express the gradations that Europeans are accustomed to. Anything in the slightest degree dark would be *kala* to a native. When Rowjee used this word *kala*, he qualified it by pointing to a sun-topee upon the table, and said it was like that. The topee pointed out was of a bluish grey colour. Rowjee qualified that again by saying that although it was like the hat it was perhaps of a still lighter hue.

Serjeant Ballantine—Oh, no. He said it was darker.

The Advocate-General (after referring to the notes) —My learned friend is right. I remember now that some emery powder was shown to Rowjee by Mr. Jardine and he said it was darker than the topee, but lighter than the emery powder. But at all events the darkness he meant was only a little darker than the hat he pointed out. As to Dr. Seward's evidence upon the point, I think there can be no doubt whatever about its correctness. He examined the sendiment with the care of a man of science who would afterwards have to report upon it, for if the glass were found by him to contain any deleterious matter, its presence there would of course be a subject for future investigation. In fact, I think Dr. Seward's evidence should be accepted as perfectly conclusive. That that sediment was found to contain the two ingredients —arsenic and diamond dust—I apprehend there can be no doubt. Dr. Seward by his own experiments detected arsenic by means of the reduction test, and the diamond dust by means of microscopic investigation. The reduction test, though one of the simplest tests, is at the same time one of the surest tests for the discovery of arsenic, and though the metallic ring he saw was not reduced by him into crystals of arsenic, there can be no doubt whatever that that metallic ring by itself established, unless disproved, an almost conclusive proof of the presence of arsenic in the substance from which that ring had been evolved. Dr. Gray subjected the sediment sent to him to the most rigorous investigation. He was not satisfied with the reduction test, although on applying it he found precisely the same sort of metallic ring that had been found by Dr. Seward; but he adopted a number of other tests which I shall not weary you by describing. But having by these tests reduced the sediment to various chemical substances, he from these substances evolved the pure arsenic again. There can be no doubt as to that.

The President (referring to his notes) said he was not sure whether Dr. Gray said he had done that.

The Advocate-General—Yes, my Lord; you will find it at page 68 of the short-hand writer's note. Dr. Gray was asked whether he had extracted the arsenic bodily from parts of the powder, though not by the reduction process, and he replied that had done so by the test called the sublimation test. In regard to Dr. Seward I may mention that although he did not reduce the metallic ring into the form of arsenic, yet under the microscope he discovered octahedral crystals, which constitute another sign of the presence of arsenic. [Page 55 of the short-hand writer's notes referred to.] There can be no doubt whatever, therefore, regarding this scientific evidence, which has not been contradicted in any way, that in the sediment extracted by Dr. Seward on the morning of the 9th from the contents of Colonel Phayre's tumbler he discovered arsenic to the extent of about a grain, though Dr. Seward's appliances did not enable him to determine the exact amount. If these tests were not conclusive there is also the other circumstances which Dr. Seward noticed—namely, the powdery film that was created by gently shaking the fluid in the bottom of the tumbler. This film was noticed before the addition of any water to Dr. Seward's glass, and it is regarded as a very sure sign of the presence of arsenic. Upon the scientific testimony recorded here, I do not think the Commission can come to any other conclusion than that arsenic had been introduced into Colonel Phayre's glass in very considerable quantities. I hardly think that my learned friend would ask your Lordship to hold that in the water poured into the tumbler by Dr. Seward the arsenic was contained. Govind, a witness called here, said that on that morning he had filled the coojah from which Dr. Seward took the water from a *mutka* which was kept for the general use of the house. Although my learned friend asked several questions upon this subject, I do not think the Commission can come to any other conclusion than that there was arsenic in the tumbler before the water was added by Dr. Seward. There is no question whatever that Dr. Seward took every precaution he could in sending the remainder of the sediment to Bombay, and that the examinations conducted by Dr. Gray and himself corroborated each other. Though diamond dust does not offer the same ready means of detection as arsenic, yet there are some processes by which a clear conclusion may be arrived at to show its presence. First of all, there are the particles themselves, which, Dr. Seward has told us, are ditinguished by their lustrousness, and their hardness, and here they are known by the way they withstood the severest test under the spirit-lamp and several powerful chemical agents. Notwithstanding their exiguity he was able, by rubbing two small pieces of glass together, one of which had a small portion of the sendiment upon it, to produce a scratch upon the glass. Dr. Seward said that besides diamonds he knows only one other substance that will scratch glass in this way, namely corundum. My learned friend was referred to Dr. Gray for information on the subject of corundum, but in the cross-examination of Dr. Gray not a single question was asked about it. The microscopic test which was offered to the Commission is still available, but I think that the statements of Dr. Seward and Dr. Gray, both men of science and perfectly independent, will be accepted as conclusive evidence upon the point. Without having had any communication with each other, both of these gentlemen came to the conclusion that the other substance found in the sediment besides arsenic was diamond dust. Dr. Gray's attention to it was not called until he himself had written to inquire whether or not the substance was diamond dust. This conclusion occured to him independently of any information from Baroda. Colonel Phayre's com-

munication from Baroda, in which he mentioned the probable presence of diamond dust, crossed Dr. Gray's letter of inquiry on the way here; so that, as I have said, it was his independent observation that led him to conclude that he had diamond dust before him. [Dr. Gray's letter exhibit U referred to.] I think that the further investigations of Dr. Gray support most conclusively the result of his examination of the sediment sent to him in the first instance by Dr. Seward from Baroda. You will remember that Dr. Gray, being puzzled in his mind, writes to Colonel Phayre, and reminds him that he had said he threw some of the contents of the tumbler out upon the chunam verandah outside his office. Colonel Phayre proceeds there at once, and finds traces of the sherbet which he had thrown out of the window on the morning of the 9th. He scrapes up a portion of the chunam, puts its into a paper, seals it, and sends it to Dr. Gray, by whom the same substances as before, namely arsenic and diamond dust, were discovered in it. Unless it is contended that Colonel Phayre or Dr. Gray deliberately put diamond dust and arsenic into the scrapings so collected, it must be admitted that they formed part of the contents of the tumbler which Colonel Phayre threw on the verandah. In fact, I think there can be no doubt whatever upon the evidence that diamond dust and arsenic were introduced into Colonel Phayre's tumbler on the morning of the 9th November.

It being now four o'clock the Commission rose.

NINETEENTH DAY, WEDNESDAY, MARCH 17.

PRESENT.

Sir Richard Couch (President); H. H. Maharaja of Gwalior, H. H. Maharaja of Jeypore, Sir Richard John Meade, and Mr. Philip Sandys Melvill.

Counsel for the prosecution :—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence :—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs. Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission :—John Jardine, Esquire, Bombay Civil Service.

Interpreters :—Mr. Nowrozjee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

Sir Lewis Pelly, K.C.S.I., was present for a portion of the forenoon and occupied a seat on the right of the Commission.

His Highness the Gaekwar was absent.

The Inquiry was opened at 11 o'clock.

The Advocate-General resumed his address as follows :—My Lord, in the observations which I addressed to the Commission yesterday, I endeavoured to show, and I think I did establish, that the first two charges contained in the Notification of His Excellency the Viceroy had been made out—namely, that the Gaekwar had communicated for improper purposes with certain of the Residency servants, and had given them bribes through his confidential attendants Yeshwuntrao and Salim. My learned friend has already admitted that Domodhur Punt, Yeshwuntrao, and Salim were persons proper to be entrusted with the commission of such a crime as is here charged under the third and fourth heads of charge; and I have shown, I think, that on the 9th of November, in point of fact, an attempt to poison Colonel Phayre was made by the introduction of deleterious ingredients into his tumbler of sherbet. One of these has been proved to be arsenic, which is certainly a poison, and the other is diamond dust, which, my learned friend was fain to admit, is by some persons, or certain classes of persons in India, believed to be a poison. I may in this connection, I think, usefully refer to one point in the case which has always appeared to me to be rather a small point, but on which my learned friend laid some stress, and I therefore cannot pass over, and it is this. It appears to me very clearly on the evidence that no other deleterious ingredients than arsenic and diamond dust were introduced into Colonel Phayre's sherbet. It will be in the recollection of the Commission that the suggestion was thrown out based upon an intimation to Colonel Phayre by Bhow Pooniker, who had himself received it from one Bulwuntrao, that another ingredient, namely copper, had been introduced along with the diamond dust and arsenic. But the scientific investigation of the sediment discovered in the tumbler has shown conclusively that no trace of copper could be detected by analysis. My learned friend dwelt upon the fact that among the symptoms described by Colonel Phayre as resulting from the administration of poison to him, was the experiencing of a metallic taste in the mouth. My learned friend also established, by the evidence of Dr. Gray, that if copper, or a preparation of copper, is taken into the mouth, the taste is experienced at once. Colonel Phayre's evidence is perfectly clear that the metallic taste did not at once present itself. It was not until some twenty minutes or half an hour after he had taken the sherbet that he, among other symptoms, perceived the metallic taste in his mouth. Had there been copper, or a preparation of copper, in the sherbet, Dr. Gray's evidence shows that Colonel Phayre would at once have experienced a metallic taste, but it is very clear that he did not experience this immediately, and it was not until about half an hour afterwards that he noticed the metallic taste together with a feeling of nausea and the other symptoms that he described. The evidence upon that point is very clearly given by Colonel Phayre at pages 48 and 59 of the short-hand writer's notes. At page 48, my learned friend asks Colonel Phayre—"You said previously, didn't you, that there was a coppery taste in the liquid that you had?" And Colonel Phayre replies—"No; I said to Dr. Seward that there was a copper taste in my mouth after drinking it." And again he says—"I did not taste it in the liquid, but in my mouth afterwards." It is perfectly clear from this that there was not such a metallic taste produced upon Colonel Phayre drinking this sherbet as would have been produced had there been any preparation of copper put in with the other poison; but, as I say, it was not till the general symptoms presented themselves that Colonel Phayre experienced this coppery taste. That a metallic taste in the mouth is frequently experienced, or somtimes, at all event, by persons suffering from arsenical poisoning, is shown by Dr. Gray's evidence at page 68 of the short-hand writer's notes, where, after being asked whether a metallic taste was produced by taking arsenic, he replied—"In the course of my experience as Chemical Analyser, regarding arsenical poisoning, a metallic taste is often experienced." That answer is not very correctly taken down; but what Dr. Gray said was that he had known persons suffering from arsenical poison complain of a metallic taste as one of their symptoms. I think the whole of the evidence disproves the suggestion that there was any copper introduced into Colonel Phayre's sherbet, or that anything in point of fact was introduced but diamond dust and arsenic. I may now refer to the quantity of arsenic found. Dr. Gray states that in the two

packets submitted to him—one from the tumbler itself, and the other scraped from the verandah—he found 24 grains of arsenic. Dr. Seward, in the portion examined by him, says he found between one and two grains. (Page 61 of notes referred to.) We have here therefore between three and four grains of arsenic discovered by the chemical analysts in so much of the sediment as was recovered; and how much more there may have been in the sherbet before Colonel Phayre threw the bulk of it away, it is impossible to say. The quantity discovered, however, was more than enough to constitute a fatal dose—a fatal dose, as Dr. Gray told us, being about 2½ grains of arsenic. Another point to which I may refer in regard to this part of the case is, that it is shown perfectly, conclusively by Colonel Phayre's evidence that from the time he put down the glass after taking one or two sips of sherbet, until the time when he handed over the remains of the sherbet together with the sediment to Dr. Seward, no one had any opportunity of tampering with that glass, of approaching it, or putting anything into it. Colonel Phayre's evidence on that point is at page 52 of the notes, and is in these terms:—"From the time when you took two or three sips from the tumbler until the time when you threw away the greater part of its contents, and noticed the black sediment, had any one access to that tumbler?—No." It is therefore clear, if Colonel Phayre is to be believed, that from the time he first took a sip of the sherbet until he handed the remains of it to Dr. Seward, no one had access to the tumbler, and it is equally clear that the poison must have been put in before Colonel Phayre had returned from his walk, and before he took a sip or two from the sherbet he found prepared for him. The next point to which I would invite the attention of the Commission is this. Taking it to be established that arsenic and diamond dust were deposited by some one or other in Colonel Phayre's sherbet on the 9th November, what is the evidence as to the source from which these two articles were obtained? A vulgar poisoner, or one who had not the command of considerable means, would not be likely to resort to diamond dust, albeit he might be likely to resort to arsenic; and the use of diamond dust by a poisoner would therefore argue the possession of considerable wealth, as well as of an intention to employ, no matter at what cost, such means as he believed would be capable of effecting his object. Now, upon the theories that have been put forward by my learned friend, either that Bhow Poonikur and those who were acting with him, or Damodhur Punt and those acting with him, were the persons by whom this dose of poison was sought to be administered, I think it is unlikely that such an expensive article as diamond dust would be resorted to by these persons. These suggestions as to their being the principals in this crime are sufficiently improbable for other reasons to which I shall afterwards call the attention of the Commission. But there would be no improbability in a person in the position of the Gaekwar employing such an expensive ingredient as diamond dust, supposing him to have entertained the belief in its poisonous qualities which Dr. Chevers asserts to be prevalent among the natives of India. From his position he would be perfectly well able to procure either of these articles. He could easily procure arsenic, as indeed most people can in this country. I do not see myself that there is much difficulty in getting almost any quantity of arsenic that is required. We have heard recently of a man, without any explained reason for it, buying in a shop 8 lbs. of arsenic, and I suppose it may be taken for granted that if a man wants to get arsenic in the bazaars of India he can get any quantity. In Baroda, however, there is a greater difficulty. My learned friend brought out the fact that in Baroda arsenic could only be obtained from the Fouzdaree, upon the special order of the Maharaja himself; and Damodhur Punt has produced an order, not from the Maharaja indeed, nor as my learnd friend somewhat inaccurately said, bearing any endorsement of the Maharaja, though it does bear an endorsement in which the Maharaja's name appears, by which the Fouzdar was directed to give arsenic for the purpose of making medicine for a horse. That order is exhibit Z, and is at page 112 of the short-hand writer's notes; and the date of it is the 4th October 1874. Now Damodhur Trimbuck says that that order was written by him at the direction of the Maharaja. In the endorsement, which was made by the Fouzdaree officer upon that document, we find that the name of the Maharaja is introduced. The signature is, I think, Gunputrao Bulwant, and the order is addressed to Datatria, who says that no arsenic was in point of fact issued from the Fouzdaree on that order. He says also that there would have been no difficulty in furnishing arsenic upon that document had the person in whose favour it was drawn out come and applied for it. But Damodhur Trimbuck shows clearly why it was the arsenic was not supplied on that order. He says that Mr. Hormusjee Ardasir Wadia, who was then Fouzdar, refused to issue arsenic upon it till he had communicated with the Maharaja. Mr. Hormusjee is a gentleman of high position and reputation. He arrived in Baroda at the end of last week; he is now sitting at this table; and he has not been called on by the defence to state his reasons for not supplying the arsenic. I apprehend that if it had been possible to disprove Damodhur Punt's evidence upon that point, Mr. Hormusjee Wadia would have been put into the witness-box. I think, therefore, that Damodhur Punt may be taken to be most materially corroborated by the absence of contradiction on this point. I would call the attention of the Commission to this endorsement, which is no the endorsement of the Maharaja, but simply the endorsement of one of the officers of the Fouzdaree department, and is in these terms: "Shrimunt Sirkar, &c." No doubt my learned friend was somewhat misled when he stated that the Gaekwar had endorsed this order. It is not so. There is merely an endorsement in which the Gaekwar's name is mentioned. But when my learned friend says that the obvious answer the Gaekwar would make to any objection on the part of Hormusjee to deliver out arsenic upon the order in question would be, "Why, all the arsenic in the Fouzdaree is mine. Go and get it!" When my learned friend puts that argument, it would be a perfectly good one if it could be shown that the arsenic was for the purpose specified in the order—namely, medicine for a horse. But it does not apply here, as the arsenic seems to have been wanted for the purpose of poisoning Colonel Phayre. I can understand the Maharaja having no objection whatever to putting his name to a paper which was merely to warrant an order for arsenic for medicine for a horse, but he might well hesitate to put his name to an order for arsenic for a human being, and might well, as Damodhur Punt says, be anxious to get the arsenic elsewhere. My learned friend uses the argument:—"If the Gaekwar had been desirous to use poison, the last thing on earth that he would have done would have been to put his name upon the order." But he has never put his name to nor used that order, and I think I may use my learned friend's argument against himself. Then again, as to the obtaining of diamond dust, my learned friend, feeling no doubt that diamond dust would be an article at the command of His Highness, sought to show that had diamond dust been required for

the purpose of poisoning Colonel Phayre, nothing could have been easier than for him to have supplied some diamonds out of his stores for that purpose. Now it is no doubt true, as stated by Nanajee Vithul, that diamonds are kept in the jewel department at the Palace in considerable quantities, that jewellers' work is always going on, and that at the period to which these transactions refer a scabbard and the hilt of a sword were being encrusted with diamonds. But I think it will occur to the native members of the Commission, and probably to all the members of the Commission, that when in the jewel department of a native court diamonds are being used for the purpose of ornamentation, a very strict account is required of the manner in which the stones are applied. For their own protection the workmen requiring these stones would be desirous that such an account should be kept; and if a stone was taken away, they would require, as a safeguard to themselves, that it should be entered in some account or other. Moreover, it does not follow that because a scabbard and hilt were being encrusted, diamond chips of the small size and comparatively inexpensive quality that are alleged to have been used on this occasion would be available. It may be very well to buy small chips and pound them up; but it would be a different thing to take stones of value and pound them up and reduce them to powder when small chips would do as well. And I do not think that the mere fact of diamonds being used about this time for the purpose of ornamentation can countervail the evidence in this case, having regard to the fact I have just suggested that a strict account of all jewels is kept in native courts, and that workmen employed in using them would, if any were withdrawn, require a receipt for them. Even according to the evidence of Hemchund Futteychund, whom my learned friend put forward as a thoroughly trustworthy and credible witness, as a witness whose mistakes and errors were on the same footing as the mistakes and errors of Colonel Phayre, though what errors are alluded to on the part of Colonel Phayre I do not know—at all events, this Hemchund Futteychund, whom my learned friend put on the same level of presumable veracity as an officer in Colonel Phayre's position, says he was asked about the time of the Dusserah to bring small diamonds to the Palace; and that he and other jewellers did so bring small diamonds to the Palace, albeit he says these diamonds were returned to him. We have it, therefore, perfectly clear, according to the evidence of this unimpeachable witness, that small diamonds were required for some purpose or another at the Palace about the time of the attempt to poison. That they were purchased, that they were retained, is proved not only by Damodhur Punt himself, but also by Nanajee Vithul, the head man in the jewel department, and by Atmaram Ragoonath, one of the principal clerks employed there. It is also perfectly certain that whatever Damodhur Punt may say in other matters, he is perfectly correct according to Hemchund, in this statement, that small diamond chips ("bookkie") were required at the time of the Dusserah, that is at or about the 20th October. The only way the diamond chips so required at the Palace can be disposed of on the part of the defence is by the evidence of Hemchund, who swears they were returned to him. As to the value of that evidence I shall have something to say hereafter. At present, however, I may be content to say that diamonds likely to be employed for a purpose of this kind were sent for inspection, and (as we say) purchased about the time of the Dusserah. We, therefore, have at all events the possession of the two ingredients found in the sherbet by persons in the service of the Maharaja about the time that Rowjee and Nursoo say the packets were delivered to them. This is shown by incontrovertible evidence. And as I am upon this point, I may, as conveniently here as at any other part of my argument, refer to the case of the Borah Nooroodin, from whom Damodhur Punt says the arsenic was obtained, and who, my learned friend says, has not been called. My learned friend is quite entitled to the benefit of any inference he may draw from that circumstance. But there was nothing to prevent his being called by my learned friend himself, if he wished to contradict Damodhur Punt's evidence on this point. If a certain course of cross-examination had been adopted by my learned friend, I might have been placed under the necessity of putting Nooroodin into the box. If there had been a challenge whether Nooroodin did, in point of fact, supply this arsenic, I might have been bound to put him in the box. But there was no such challenge. I hear my learned friend, Mr. Branson, making a suggestion on the point, and I will meet it. He says Nooroodin was an enemy of the Gaekwar. I do not know how that is proved. It is proved that a Borah named Nooroodin was a complainant before the last Commission; but it is not shown that his complaint was not then redressed; and that being so there is no reason to suppose that his hostile feelings, if ever entertained, had not disappeared. But at all events, enemy or no enemy, this much is certain that Nooroodin has not been called as a witness by my learned friend, and Damodhur Trimbuck's statement on this point remains entirely uncontradicted. The attornies for the defence have had full access to Noorood in and everybody else whom they wished to see in regard to this case, and no doubt they satisfied themselves as to whether it was desirable to call Nooroodin and others. The result of their discretion is, however, that no witnesses have been called; and the Commission will of course draw such conclusions as it thinks just from that fact. Now, my Lord, the next point to which I would refer, having shown that there was in point of fact an administration of arsenic and diamond dust to Colonel Phayre on the day in question, and having shown that at all events the evidence points to the possession by servants of His Highness, under His Highness's directions, of these two articles at the time they were administered—is by whom were they so administered? It will be in the recollection of the Commission that the evidence shows that Rowjee was the person who received certain packets from Salim, and deposited the contents of one of these packets in Colonel Phayre's glass on the 9th November. It is not suggested that any one else but Rowjee put the poison into the tumbler. My learned friend, fertile in suggestions though he has shown himself to be in the course of this case, did not suggest that any other hand than that of Rowjee's was employed for the purpose of putting the arsenic and diamond dust into Colonel Phayre's tumbler; and so, therefore, we may take it as a fact, undisputed in the case, that Rowjee's was the hand by which the poison was placed in Colonel Phayre's sherbet. Now, my Lord, comes a very important class of considerations to which I beg to draw the attention of the Commission. Whose object could it be to make this attempt upon Colonel Phayre's life? Who could be interested in administering poison to him? Four classes of persons have been suggested by my learned friend as being likely or possibly concerned in the attempt, and the first class is the Residency servants. Now my learned friend made that suggestion only to answer it. He said with perfect truth that they could have no object in administering poison to a man who was a good master, from whom they received wages, and against whom it is not shown they had any cause of complaint. I may take

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It, therefore, upon my learned friend's own admission, that the Residency servants were not the concocters of this attempt for any personal reasons of their own. Then the next class of persons who, it is suggested, would be likely to engage in a conspiracy of this kind were Bhow Poonikur and those who were acting with him. Now, my learned friend was very hard upon Bhow Poonikur. He called him—on what grounds I fail to discover after a careful perusal of the evidence—the Gaekwar's bitterest enemy. He said he was the man who had Colonel Phayre entirely under his control; that he was a spy; and that, in all human probability, he controlled all the actions of Colonel Phayre. My Lord, Colonel Phayre was examined in this case as well as Bhow Poonikur in regard to this point; and the evidence shows that Bhow Poonikur is at all events in Colonel Phayre's opinion—and no evidence to the contrary has been produced—a perfectly honourable and trustworthy man. He has lived in Baroda the greater part of his life, having come here when a child; he has held various appointments, to his conduct in not one of which can anything discreditable be attached. At present he is employed as agent to Mr. Hope, the Collector of Surat, in regard to a ward of the British Government named Meer Zulfikkur Ali, the son of a gentleman whom your Lordship will very well remember, the late titular Nawab of Surat. This young gentleman has considerable estates in the Baroda territory, and Bhow Poonikur, it appears, had such confidence reposed in him that he has been employed by Mr. Hope to look after those estates. He came with a letter of introduction to Colonel Phayre from Mr. Hope; and I do not think Mr. Hope is a man who would give letters of introduction to persons he did not consider perfectly worthy o them. Bhow Poonikur has not only to look after these Baroda estates of the young ward, but he is also trusted with business by many of the Sirdars and Sowcars in the Baroda territory. He has the management of their affairs as well as of those of the son of Mir Jaffir Ali. He lives in Baroda; his life has been open to inspection, and not one single thing has been alleged against him, except that in representing the various interest I have enumerated he found it necessary to bring to the notice of Colonel Meade's Commission four cases on behalf of his employers. I cannot see anything in that to warrant the conclusion that my learned friend has drawn, that he is the Gaekwar's bitterest enemy. Surely something more than has been adduced here should have been substantiated to warrant what has been said against him. As to his influence over Colonel Phayre, that entirely exists in the imagination of my learned friend. He put the question to Colonel Phayre:—"Was he not in the habit of seeing you daily?"—and Colonel Phayre admitted that he did use to come to him almost daily upon business of one kind or another. But because one man comes to see another daily, it is rather a *non sequitur* to argue that therefore he controls the actions of the person he visits. It has been alleged also that he it was who gave information to Colonel Phayre about the preparation of the khureeta of 2nd November; but there is nothing extraordinary in that, Bhow Poonikur says that he heard of it from two or three people connected with the durbar and then mentioned it to Colonel Phayre, and it must be remembered that those Sirdars and Sowcars by whom he was employed would naturally know what was going on at the Gaekwar's durbars, and as naturally these persons, going or coming from the durbar, would mention to their agent any matter of importance that was being discussed. It is not surprising, therefore, that he should be able to inform Colonel Phayre that a khureeta was in course of preparation, although his information did not enable him to go so far as to say, because he did not know, what the nature of it was. I cannot see that there could be any impropriety in his telling Colonel Phayre about that khureeta, because any khureeta either to the Government of Bombay or the Government of India would have to pass through the hands of the Resident before it could be forwarded to its destination. Colonel Phayre has already told the Commission that all khureetas must be sent to the British Resident, accompanied by an English translation, and it was his duty to forward it to the Government to which it was addressed, together with such observations of his own as he deemed it desirable to make. At page 50 of the short-hand writer's notes the Commission will find, in the cross-examination, the statement to which I have just referred. Now, surely these circumstances, which are all that can be urged against Bhow Poonikur, are a very slight foundation indeed upon which my friend has built his sweeping assertion that Bhow Poonikur was the Gaekwar's bitterest enemy, that he controlled Colonel Phayre's actions, and that he was Colonel Phayre's spy. Hard words these, no doubt; but I do not think they will produce much effect, and I think the Commission will prefer to form their own opinion about Bhow Poonikur upon the evidence rather than on my learned friend's harsh and entirely unwarranted account of him. But having regard to the relations between Colonel Phayre and Bhow Poonikur, as described by my learned friend, does it not occur to the Commission as ludicrously improbable that Bhow Poonikur or those acting with him—the very men who, he says, had Colonel Phayre in their hands—a puppet, the wires of which they could pull at any time—does it not seem improbable that these men should desire to see him either removed or killed? It would be to the interest of Bhow Poonikur, whether or not he was an honourable and trustworthy man, engaged in the performance of respectable duties, or whether he really was a wire-puller of the puppet, Colonel Phayre—it would be his interest, I say, and that of those associated with him, to keep Colonel Phayre alive in Baroda rather than conspire to lay him in his grave. As for the utterly wild suggestion that Bhow Poonikur only wished a sham attempt to be made upon Colonel Phayre's life, that he might step in and appear as the *Deus ex machina* who was to save him from the danger which menaced him—how does that consist with the facts proved regarding the enormous quantity of arsenic, more than enough to kill him, that was introduced into Colonel Phayre's glass? And how does it consist with the fact that Bhow Poonikur, instead of rushing on to the scene in the nick of time, snatching the poisoned goblet from Colonel Phayre's uplifted hands, and dashing it to the ground, does not appear until several hours afterwards, when the sediment had been given to Dr. Seward, and then does not say a word about the affair until Colonel Phayre mentions it himself? I think the suggestion that Bhow Poonikur had anything to do with this crime is one which the Commission will dismiss from their mind as entirely incredible and unsupported. Then we come to a suggestion which my learned friend, though not putting it forward as a matter he undertook to prove, nevertheless put forward, not once but several times, as worthy of consideration that Damodhur Punt was the person whose interest it was to get rid of Colonel Phayre, and who therefore might have made the attempt to poison him. My learned friend's argument upon this point rested entirely upon an illusory basis. Damodhar Punt, says my learned friend, had been guilty of

gross frauds and embezzlements of the property of his master. He, according to my learned friend, knew that Colonel Phayre was sifting everything in regard to the Palace affairs, and in order to prevent Colonel Phayre from overhauling his accounts he determined to try and poison him! Now, I cannot immagine upon what information my learned friend was proceeding when he suggested that Colonel Phayre was likely to do any such thing as overhaul Damodhur Punt's accounts. It certainly does not appear from the evidence that Colonel Phayre entertained any such idea. On the contrary, as must be perfectly well known to at least four of the members of the Commission from their own personal experience, and probably also to your Lordship and Mr. Melvill, that to overhaul the Maharaja's khangee or private accounts would be entirely beyond the power of Colonel Phayre. There could be nothing in the duties devolved upon Colonel Phayre by the British Government that would entitle him to interfere with the Maharaja's private accounts, and those were the only accounts with which Damodhur Punt had to do. Damodhur Punt had therefore nothing to fear from Colonel Phayre's investigations. The only investigations which Colonel Phayre could make would relate not to private accounts, but rather to the political relations existing between the ruler of Baroda and the British Government. Nor is there anything in the whole course of the evidence laid before this Commission to show that Colonel Phayre had even anything to do with the examination of the Gaekwar's State accounts at the time when these transactions occurred. Moreover, it is an entire assumption on the part of my learned friend to say that Damodhur Punt had been guilty either of fraud or embezzlement. No frauds or embezzlement have been proved against him. No doubt there is in Damodhur Punt's character ground for suggesting that a man ready to assist in attempting a murder would not hesitate to commit fraud on his own behalf. But no such fraud has been pointed out. There is not the slightest evidence that anything of the kind occured. And though my learned friend thought he made a great point when he asked Damodhur Punt—"Have you a single piece of paper in the handwriting of the Maharaja to show that you had the Maharaja's authority to expend money?" and Damodhur Punt said he had not, I do not think that Damodhur Punt would be likely to have any such writing. He told us that the Maharaja was not in the habit of signing accounts, and it will be consistent with the knowledge of the Commission that the Maharaja would not be likely to sign vouchers like a Bunnia. Damodhur Punt told us that accounts were kept in five different places, and he explains how this was. My learned friend, no doubt following English ideas on the subject, and supposing a native court to do business in the same way as an English banking house, had good grounds for the suggestion he made; but according to the principles of book-keeping that prevailed in the Haveli, Damodhur Punt was perfectly right in saying that he had every means of clearing himself in the event of inquiry. He had the accounts; he produced them here, and they constituted the fullest vouchers. Your Lordship and the other members of the Commission will doubtless remember the form of the yads that Damodhur Punt showed us. There was on them, first of all, a statement or memorandum by a clerk stating the particulars for which the sum of money was to be expended. Following that memorandum was the endorsement of the Khangeewalla or private secretary himself, stating that the permission of the Gaekwar has been obtained for the expenditure. Then came the receipt of the person to whom the payment was made. You will see, therefore, that Damodhur Punt had in these yads the best voucher he could have had for the expenditure made through him, when he possessed the receipt of the person into whose hands the money had passed. When he spoke of five places he had doubtless this in his mind that although it would be easy to forge a yad and get a receipt put upon it, yet, as all these accounts passed through several hands and were recorded in the several books, it would be easy to trace whether the money had been expended as the yad professed. There was not only the yad itself, but a summary of the yads was prepared in the treasury daily; then a monthly account or thalibund was prepared from the daily accounts; and again, an annual statement was compiled from the monthly accounts. Any payment made would therefore have to be traced through five places, and according to the native system of book-keeping that would afford ample means, from one point of view, of discovering whether fraud or embezzlement had been practised, for in order to do so the whole of these books would have had to be falsified, and the whole establishment made parties to the attempted fraud in order to prevent it from being detected. It may be that the servants of the Gaekwar were not of so high and honourable a character as men in their position ought to be; but it seems to be rather hard, upon my learned friend's mere suggestion, to hold that the whole establishment were so tainted with vice, that amongst them all not one honest man could be found. I think, therefore, that the notion that fraud and embezzlement had been committed by Damodhur Punt is one that must have emanated from my learned friend's imagination. If I am right in the contention that there was no danger whatever of the private accounts of the Maharaja being overhauled by Colonel Phayre, my learned friend's theory about Damodhur Punt falls to the ground. Damodhur Punt could only have been anxious to get rid of Colonel Phayre because Colonel Phayre was obnoxious to his master. The evidence is that he had no acquaintance with Colonel Phayre, for although he accompanied the Mahara a on his Highness's visits to the Residency, he used to get out of the carriage at the Shewak's Dhurrumsalla and get into it again when the Maharaja returned. Although the Maharaja introduced him on one occasion to Colonel Sir Lewis Pelly shortly after his arrival here, he had no acquaintance with Colonel Phayre. He could not therefore have wished to get rid of the Resident on his own account, and my learned friend's theory upon that subject can be sustained no better than his theory about Bhow Poonikur. Now, my Lord, we come to the last person mentioned in connection with this matter whose interest it might have been to get rid of Colonel Phayre. I mean the Maharaja himself. My learned friend has stated that in opening this case to the Commission I did not say anything in regard to the motive which His Highness might have had for wishing to poison Colonel Phayre, and my learned friend expressed the opinion, which was perfectly right, that that omission was not inadvertent. I certainly did not go into the question of motive. I was not here to conduct a prosecution. I was here to conduct an inquiry; and to lay before this Commission certain evidence by which the members of it might be able to judge whether or not there was any truth in the charges imputed to His Highness. If the evidence which I was instructed to lay before this Commission were true, that evidence would disclose in the course of the enquiry material from which the Commission could form a clear opinion as to the motives by which His Highness had been animated; and I think that the evidence has conclusively shown, and more particularly the evidence adduced by my

learned friend, what strong motives existed in the mind of the Maharaja for desiring to get rid of Colonel Phayre. Apart from the oral evidence of the witnesses concerned in these transactions my learned friend has referred to documents which, I think, establish in the clearest manner how eager in his desire to get rid of Colonel Phayre His Highness was, and upon this matter I need scarcely do more than refer to the khureeta of the 2nd November 1874, put in by my learned friend, and which is marked No. 1. In that khureeta His Highness describes Colonel Phayre as his persecutor—his persecutor with a determined and strong will and purpose—and says, " that he should now be made to sit in judgment upon me is, I must submit, simply unfair." In the same khureeta His Highness is made to say that " his efforts to carry on the administration according to the advice of the Viceroy would be hopeless, if Colonel Phayre were to continue here as representative of the Paramount Power with his uncompromising bias against me and my officials." He complains also of the harassing and obnoxious treatment he was receiving at the Resident's hands. It is pretty clear, therefore, that although His Highness does not in this document say he has any personal enmity to Colonel Phayre, yet he had the greatest objection to his remaining here as Resident, and considered it was unfair to him that he should be retained in that position. It is difficult in a case of this kind to distinguish between a political and a personal objection. In the plea which has been put in on behalf of His Highness he states the matter in these words:—" I never had, nor I have now, any personal enmity towards Colonel Phayre. It is true that I and my ministers were convinced that, owing to the position taken up by Colonel Phayre during his residency, it would be impossible satisfactorily to carry out the reforms I had instituted, and was endeavouring to complete in deference to the authoritative advice conveyed to me in the khureeta of the 25th July 1874, consequent upon the report of the Commission of 1873." When Colonel Phayre was in the witness-box not a single question was put to him—and indeed no question could be put to him—as to whether he had hampered or interfered with His Highness's administration of the Baroda State after the khureeta passed at the conclusion of Colonel Meade's Commission. Although I see now in this court three of the gentlemen mentioned in His Highness's plea, Mr. Dadabhoy Nowrojee, Mr. Bala Mungesh Waglé, and Mr. Hormusjee Ardaseer Wadia, not one of these gentlemen has been placed in the witness-box to corroborate the statement that Colonel Phayre was interfering with their efforts to reform the State. I can only assume, what I apprehend to be the fact, that there is no foundation whatever for such a statement on the part of His Highness. His Highness goes on to say—" This conviction was shared by all my ministers, and was strengthened by our knowledge of the severe censure which had been passed on Colonel Phayre by the Bombay Government. The removal of Colonel Phayre on the 25th November 1874 shows that our judgment was not erroneous." His Highness does not condescend to state what that severe censure is, but I presume he alludes to that mutilated resolution of the Bombay Government, passed in May 1872, which had come into his hands, nor does he say from what source he had obtained it, or how it was that his attention had been directed to it. Colonel Phayre has told us—and his statement will be believed—that a document of this kind would not be communicated to the Gaekwar in the ordinary course of business. His Highness could have nothing to do with the administration of Upper Scinde; and this document would not be one that would be officially communicated to him, especially as it reflected upon the character of the officer who had been appointed by the very Government by which this condemnatory resolution was passed, to represent British interest at his Court. It cannot be supposed that the Bombay Government would communicate to the Gaekwar a resolution reflecting so injuriously on the character of the officer whom it had selected as its minister. Not being told when or how this document passed into the possession of His Highness, it is impossible to say—and in point of fact it has not been said by His Highness—whether this document was in his possession at the time the khureeta of the 2nd November was despatched, or whether it has come into his possession since the commencement of these proceedings. Certainly, if it had been communicated by the Government of Bombay to His Highness, it would not have been sent to him in the mutilated and garbled form in which it was placed in the hands of my learned friend. In a question put to Colonel Phayre by my learned friend he was asked whether this document had not been shown by Mr. Dadabhoy to Colonel Pelly. But Sir Lewis Pelly was not examined upon the point, nor has Mr. Dadabhoy Nowrojee been put in the witness-box for examination regarding this matter. It may be that this excerpt from the true resolution may have come into the hands of His Highness through Mr Dadabhoy; still we are not told whether at the time of the khureeta of 2nd November it was in the possession either of His Highness or Mr. Dadabhoy Nowrojee; and therefore it is impossible to say whether it could have had any effect in influencing His Highness in framing that khureeta. If it was obtained before the khureeta was written it certainly does afford some confirmation of the charges to which I referred yesterday, not so much in regard to maintaining improper communications with the Residency servants as to having improper communications with Government servants other than Residency servants; and in that way it certainly affords strong colour to the truth of the statements made by the ayah, the havildar, and others, that they were retailing not merely gossip of the table, but also conveying State papers of importance. But however this may be, it is immaterial to determine whether the Gaekwar or the framer of the khureeta, which my learned friend has justly described as a document admirably well composed for the purpose it was intended to serve, must have been acquainted with the existence of the resolution before the penning of the khureeta. We are, therefore, thrown back upon this consideration that, whatever the opinion of the Bombay Government might have been about Colonel Phayre in May 1872, the Gaekwar and his advisers, had they possessed the sagacity with which they ought to be credited, must have known that although, in Indian *parlance*, a " wigging " had been administered to Colonel Phayre, yet the confidence felt in him by Government had not been shaken, because he was afterwards appointed by the same Government to a post of greater responsibility and emolument than that which he held in Upper Scinde. It must occasionally happen to most men who are officials to receive censure more or less strong and more or less deserved, but in this particular case we have the history of the circumstances under which this censure was passed, and it may be worth while to allude to them. The resolution was passed when Colonel Phayre was absent from India, and without the opportunity being given him of making an explanation. On his return to India some six months later, having in the meanwhile heard that this resolution against him was in existence, he asked for a

Copy and obtained it, and thereupon made such explanations regarding it as, I feel compelled to say, would, had they been known before, have prevented that resolution from ever being passed. The result was that he obtained from Government in November a most complete exoneration from the censure which had been passed upon him in the resolution of the previous May. The best proof that the exoneration was complete is that although upon a question of policy—in regard to which your Lordships probably read something in the newspapers the other day—it was not considered desirable that he should return to Scinde, yet he was posted to Pahlanpore upon the same pay and emoluments as he had in Scinde, and was promoted thence to the distinguished post he held in Baroda.

Now, my Lord, to a sagacious mind, not fully cognisant of the whole of the circumstances of the case, the appointment of Colonel Phayre to Baroda would of itself have been proof positive that the censure was withdrawn, and if any proof were necessary that Colonel Phayre in the course of his employment at Baroda possessed in the fullest degree the confidence of the Government, it is supplied by what my learned friend elicited for us regarding certain circumstances which took place at Nowsaree. There we heard the marriage of His Highness to Luxmeebaee took place. Acting under the orders of Government, Colonel Phayre was not present on this occasion, and then this circumstance nothing could have occurred more likely to excite the wrath of the Gaekwar. He complained of it, in a khureeta addressed to the Government of India on the 9th May 1874, as a public outrage and insult to himself. This complaint would have given an occasion on which the Government could have expressed their want of confidence in Colonel Phayre. But what was the result? In spite of this bitter complaint about Colonel Phayre's conduct at the time of the marriage, the Government of India fully approved of what Colonel Phayre had done and informed the Gaekwar he had been acting strictly in conformity with his instructions. Whatever effect therefore might seem to have created at the first blush by the fact that there was on the records of Government the resolution of May 1872, even if Colonel Phayre's position here had not been sufficient proof that that censure was practically withdrawn, you have the fact that in the resolution of the Government of India I have just referred to it was intimated that Colonel Phayre had done perfectly right. The Maharaja had therefore the full assurance of Government that Colonel Phayre possessed its confidence and would be upheld in his proceedings at Baroda. Now let me in this connection direct the attention of the Commission to an important date. It was in the month of May the Maharaja was married; and on the 16th October a son was born to that marriage. It follows that the mother not having been recognised by the British Government, the son, as a matter of necessary consequence, would not be recognised; and this event occuring on the 16th October, at a time when we find, according to the evidence, that the Maharaja was complaining to the Residency servants that the saheb was practising great *zoolum*, shows pretty clearly how the mind of His Highness was working. He attributed it to Colonel Phayre that his marriage was not recognised; and he would also attribute it to him that his no doubt much-hoped-for son would not be recognised either. He had, therefore, the strongest impulse that could have moved an Asiatic prince to desire the removal of a Resident who had recognised neither son nor mother. That date—the 16th October—may be regarded as very much furnishing a key to the whole of the conduct of His Highness. Now, my Lord, with this idea in his mind, I think the conduct of the Gaekwar becomes comprehensible. It is tolerably clear that whatever the desire of His Highness for reforms might be, Damodhur Punt would not be the person to whom he would apply for assistance in that respect, for he would rely in such a matter upon Mr. Dadabhoy Nowrojee; while in other matters, apart from public affairs, he would turn to his private secretary: and it is by no means an improbable thing that while, on the one hand, he should be, with the assistance of Mr. Dadabhoy Nowrojee, writing well-penned khureetas, he should at the same time be adopting a very different and what to his mind would represent itself as a much more safe and reliable course, together with Damodhur Punt. There is nothing improbable in that. I think that the evidence indicates clearly that while His Highness was walking in one direction with his minister, he was walking in an entirely different direction, led, apparently, by the hand of his private secretary. In point of fact, we find that at the very time he was complaining of the saheb's practising *zoolum*, he was instructing Mr. Dadabhoy Nowrojee to prepare the khureeta of the 2nd November. Probably, to judge by the result of the May khureeta, he did not expect to meet with any great success in his complaints in this subsequent khureeta, and that this was so appears to be tolerably clear from a passage in Colonel Phayre's evidence to which I shall presently refer. In regard to the khureeta of the 2nd November, besides the general complaint of Colonel Phayre, to which I have already referred, two particular instances are given, in which his interferences are represented as specially objectionable and unnessary. The instances are in regard to a Sirdar named Chunderao and some Sindee cultivators. Colonel Phayre was asked by me whether the statements in regard to these two charges were true, and he said (see page 52 of the notes) that these matters were entirely untrue as they were stated in the khureeta. It might have been easy to disprove that statement if it were possible to disprove it at all. We have Mr. Dadabhoy Nowrojee here, who had the means of justifying the statements made in that khureeta; but he has not been called, and we have had no opportunity of gaining any further information upon this point beyond Colonel Phayre's assertion that those statements were unfounded. Now, my Lord, that the Gaekwar had not much belief in the effect of this khureeta is clear from the conversation between him and Colonel Phayre after it had been despatched. The conversation is at page 62 of the notes. Colonel Phayre is asked—"Had you at any time any conversation with His Highness the Gaekwar with regard to that khureeta of the 2nd of November?—Yes, I had. —Let me ask you this. All these khureetas are translated and sent to you?—All are sent through me, and copies are given for my information,—When did you have your conversation with His Highness in regard to this khureeta?—The first day that he came after I received it. It was on Monday the 5th November—no, it was Thursday the 5th November. Will you tell us what the conversation was, or the substance of it?—I merely mentioned to His Highness about the khureeta, and I expressed my extreme regret to think that such a khureeta had been sent; and the conversation was to the purport that the allegations were not correct—What did the Gaekwar say in regard to that?—The Gaekwar said that it was Mr. Dadabhoy Nowrojee, his minister, who had written it, and he was responsible for it. I then explained to his Highness that the object of allowing him

to select his own minister was that he himself was to be responsible for all communications made to His Excellency the Viceroy and to the Government of Bombay." We thus find that within three days after the khureeta was written the Gaekwar, so far as he possibly could, disavowed all responsibility for it. It is pretty clear, therefore, that he did not attach much importance to it, and did not expect much fruit to come of it. That he was right is shown by the khureeta of the 25th November 1874, in which it is shown that though Government practically complied with his request by removing Colonel Phayre, they deemed it unnecessary to discuss with His Highness their reasons for allowing a change in the Baroda Residency. I say, therefore, my Lord, that the suggestion that the Maharaja was relying upon the effect of this khureeta to obtain the removal of Colonel Phayre is entirely unsupported by direct evidence in the case, and is inconsistent with the inference to be drawn from that evidence. No doubt, His Highness may have considered it desirable to have two strings to his bow; that Mr. Dadabhoy Nowrojee should be working for him in a straightforward and honest way, while Damodhur Punt should be working in an entirely opposite direction. But to say that the Gaekwar was relying upon Mr. Dadabhoy Nowrojee's exertions alone is to make an assertion which the evidence does not support. I do not think, then, that we need look far for motive in this case. The only person to whom motive can be ascribed in His Highness. He knew that at the time this khureeta was being sent that a progress report was being sent by Colonel Phayre, in which the steps really taken in the direction of reform would be explained; and it strikes me that the khureeta was much more intended to do away with the effect of this progress report than with any expectation of procuring the removal of Colonel Phayre. This progress report appears to bear the same date as the khureeta to which I have just referred. I say, therefore, that if motive is to be sought otherwise than in the acts proved in relation to the attempted poisoning itself, we have from the evidence supplied by the defence themselves ample proof of a motive for His Highness desiring to get rid of Colonel Phayre. Let me now refer to the conduct of His Highness as connected with the considerations I have just put before this Commission. Monday the 9th November was one of the days on which His Highness usually visited Colonel Phayre. Whether His Highness knew before reaching the Residency that an attempt had been made and failed does not conclusively appear on the evidence. It is certain, however, he knew of it as he was driving back from the Residency, and when we take into consideration, too, the hurried ride of Salim towards the city, immediately after the note had been despatched to Dr. Seward, it strikes me as highly probable that Salim went, not merely to Rowjee's quarters in the Camp, in order to secure the destruction of any trace of the powders, but that his ride to the city was not altogether without a purpose. That he went to Rowjee's quarters is shown by the evidence of Damodhur Punt; and that he went in the direction of the city and came back is shown by the evidence of the conservancy peon and the peon Mahomed Buksh, who had been entrusted with the letter to Dr. Seward. Salim knew perfectly well that Dr. Seward had had a letter sent to him by Colonel Phayre, for the Commission will remember that when Colonel Phayre first noticed his symptoms he, unsuspicious of poison, thought it must be the pummelo juice, and got up and threw the remainder away lest he should be tempted to drink it. It was not until he had thrown most of it away that he noticed the dark sediment and dark fluid trickling down the glass. He thereupon wrote to Dr. Seward, giving the note to Rowjee, who was waiting outside the office as usual, and would therefore have had an opportunity of seeing what Colonel Phayre was doing inside the office. Doubtless he had seen what had taken place inside. Rowjee gave the note to Mahomed, who was intercepted on the way by Salim, who gave him a rupee to get some biscuits, and possibly had further conversation with him. That Salim immediately rode off is beyond dispute, not only from the evidence of Mahomed, but also from that of the conservancy peon, who saw him going off in the direction of Rowjee's house, and also galloping to the city and again coming back. Salim took this ride somewhere about eight o'clock, or between eight and nine. Colonel Phayre came in at about seven o'clock, and it would perhaps be about half-past seven and eight o'clock when, after throwing the sherbet away, he sent the note to Dr Seward. This fixes the time at which Salim took this ride in the direction of the city. Where he went to in the city it is impossible to say; what he went for it is not difficult to divine. He was at the Residency very early in the morning, early enough to be informed of what was going on. He had spoken to Rowjee; he knew that the doctor had been sent for, and then he galloped off to the city. He had ample time to communicate to the Maharaja that something was wrong, and to send word to His Highness, at all events, that Dr. Seward had been sent for. This he could tell him before he paid his visit to the Residency, although, as a matter of fact it is difficult to say positively from the evidence whether His Highness knew or did not know before he paid his visit that the attempt had been made and failed. I at all events have not been able to find any passage that places the matter beyond dispute. I do not put it higher than this, that it is highly probable that information had been conveyed to the Maharaja before he made that visit on the morning of Monday the 9th. If this is so, I can see nothing at all wonderful in the circumstance that he preserved his equanimity on that occasion. My learned friend has said that he did not move a muscle of his face. But when His Highness was talking to Colonel Phayre he had had ample time to compose his features and determine upon the course he should adopt. I do not know that His Highness could have taken surer means of ascertaining whether or not the poison, which at all events he may have had reason to believe had been administered to Colonel Phayre, had produced any injurious effects than the conversation he entered into with Colonel Phayre. It is quite true that Colonel Phayre, in his evidence before the Commission, said that he thought he had asked His Highness about his health, and thereupon a certain conversation in regard to health occurred. You will find this at page 34 of the short-hand writer's notes. Colonel Phayre says—"The Maharaja came about half-past nine, I think—his usual hour. Between the time of my giving the remains of the sherbet to Dr. Seward and the Maharaja's arrival I had received no communication from Dr. Seward. I had not mentioned my suspicions of poisoning to any one but Dr. Seward. When the Maharaja came I went out to receive him as usual, and led him into the drawing-room, and he sat down. I asked after His Highness's health, and he said he had not been very well; that there was a good deal of fever about; and that he thought he must have eaten too many of the sweetmeats usual at that time (the Dewalee). He also mentioned that he had had a slight headache and pain in his stomach, but that he was better now. The interview was not a long one." Now, no doubt, Colonel Phayre there intimates that the conversation regarding health was commenced by himself, but in the statement made by him

on the 16th November, at a time when the matter was much more fresh in his memory than it was when he gave evidence here, he said (page 38 of short-hand writer's notes) that " at about twenty minutes or half-past nine p.m. the Maharaja paid me his usual visit. After some common-place remark His Highness observed that the weather was not healthy, that there was a good deal of fever in the city, and that he himself had been suffering from purging and headache and fever from eating the usual Dewalee sweetmeats, but that he had recovered. I made no remarks, but it occurred to me that His Highness had led the conversation to the subject in order to elicit some remarks from me." Now, it seems to me that when Colonel Phayre wrote upon the 16th November, very shortly after the facts occurred, he was more likely to be accurate as to who first broached the subject than he was when he gave his evidence here, and no doubt if Colonel Phayre's attention had been called to what he had said in his written statement he would have modified his evidence before this Commission. But, however that may be, this fact certainly remains, that the turn of the conversation this morning was well calculated to elicit from Colonel Phayre some description of his state of health. And this is certain, that on his drive home the Maharaja in a conversation with Damodhur Punt, whom he had picked up at the dhurrumsalla as usual (see page 113 of the short-hand writer's notes), showed that he knew of the matter then. Damodhur Punt says—" As we were driving back, the Maharaja said, 'There is a noise or a report at the Residency.' I asked, 'What for?' The Maharaja thereupon replied, 'Nursoo was in the habit of coming every day. He did not come to-day, and Rowjee made haste and put it.' I said, 'What was the cause of the haste?' The Maharaja said that " Nursoo was in the habit of sitting outside every day, and if he saw anybody coming he used to whistle. Nursoo was not outside on guard for the purpose of whistling. That is the cause of the noise.' " It is perfectly clear that, if Damodhur Punt is speaking the truth, His Highness knew on his way home that the attempt on Colonel Phayre's life had been made and failed. On the same day, later on, we find the Maharaja conversing on the subject with Nana Khanvelkur and the others at the Palace. I do not think the conversation I have just read is one that Damodhur Punt would have been very likely to have invented. It certainly is not the sort of conversation that the police, intelligent as my friend has admitted them to be, would put into his mouth. I think there is strong internal evidence that it was a conversation which actually did take place, and has been faithfully repeated to the Commission. It is a conversation he would have noticed for his own sake as well as his master's. Doubtless the other conversation, in which Nana Khanvelkur was concerned, also took place. Were it not true, Nana Khanvelkur might have been called by my friend on the other side to disprove it, and so far as the conversation is concerned at present it stands proved by the evidence of Damodhur Punt. Taking it that the Gaekwar knew the attempt had been made on that day—and we have also this important circumstance to consider, that it was notorious over the camp and city on the afternoon of the 9th that an attempt had been made to poison the Resident,—then it occurs to me that supposing His Highness knew nothing of the circumstance before he returned home on the 9th November, the natural thing for him to have done would have been to get into his carriage and hasten to the Residency and congratulate Colonel Phayre upon his escape. It does not seem to me possible that if the Maharaja was entirely innocent of all knowledge of this attempt he would have acted as he did. He does nothing till Thursday, the next day for his usual visit, and then speaks to Colonel Phayre about it amongst other matters. He does not make any official communication to Colonel Phayre upon the subject until two days after his interview on Thursday, and then he says in that communication that he had heard of the attempt from Colonel Phayre, although he does not say that he had heard for the first time from Colonel Phayre that the attempt had been made. Under all the circumstances I think it must be true, as Damodhur Punt says, that His Highness was kept informed of everything that took place. In fact, it is incredible that, being bruited abroad over camp and city as the attempt was, the news should not have reached the ears of His Highness till three days afterwards. Even supposing that Damodhur Punt, Salim, and Yeshwuntrao were implicated in the matter, they or some one would have communicated the discovery of this attempt to His Highness, as mere piece of news. In this conduct of His Highness in postponing all official notice of the attempt for so many days, I find matter which, I submit to the Commission, is well worthy of consideration by the Commission, in connection with the circumstances to which I have already referred, as strong testimony indicative of His Highness's guilt. Well, then, my Lord, let us consider what was done afterwards. Damodhur Punt, whose evidence I shall not particularly refer to, because no doubt the Commission will weigh it carefully for themselves, describes how it was that the Maharaja was kept informed of what was going on at the Residency; how Rowjee was arrested and afterwards released, and arested again, and all the rest of it. Nothing transpired to cause His Highness any anxiety until some time after Mr. Souter arrived. Then his alarms re-commenced. We find him going through the same revulsions of feeling in regard to Salim and Yeshwuntrao as he had done in the case of Rowjee, and on the 23rd December we find him cautioning them on no account to betray him. Now, my Lord, during the whole of the time from the 9th November till the 23rd December, no doubt, His Highness had the fullest opportunity of making himself acquainted with the proceedings which had been taken to discover the authors of this attempt. On the 23rd December he was informed that he himself was implicated. From then until the middle of January he remained upon the Gadee able to take such precautions as he chose. We find him giving instructions to Damodhur Punt during that interval to cause all entries, all records likely to throw light on these transactions, to disappear from his archives. It is during that time we find the clumsy attempt made to erase the name of Salim from the *roz-kheerds*, and it is at that time we find one of the carkoons tearing up a yad in regard to the purchase of diamonds. That such instructions should be given, was only natural under the circumstances, and that such instructions could not be carried out fully was rendered unavoidable by the nature of the accounts kept. My learned friend asked Damodhur Punt why he did not destroy the entries altogether; but Damodhur Punt's answer was a natural one. He said he did not do so because the particulars were kept in five places, and because he would have had to destroy the whole record,—not merely the yads, but the whole system of accounts from the yads to the annual accounts. If a yad disappeared from the duftur the *roz-kheerd* would remain, and if that was destroyed the *thalibund* would have remained, and beyond that there would have been the annual account. No doubt the pouring of ink over the entries might have obliterated them, but that was in such a clumsy expedient that I do not think it could have been the work of the police. It seems to me to be much more like the work of a

clerk in the office who, finding that he was thereby giving the entries too much prominence, stopped his work of obliteration after he had obliterated only a few of them. Even clumsy as it was, however, the plan might have been successful; for but for the statements of Damodhur Punt it would have been impossible to follow up the entries. Unless he had given the clue, these accounts would have been a sealed book to those investigating them. I therefore say we have here in the evidence before the Commission ample motive to connect the Gaekwar with these charges, and ample reason to infer from his subsequent conduct that he was a party to the attempt upon the life of Colonel Phayre.

I shall now proceed to consider certain portions of the direct evidence, on which my learned friend so carefully and so ably commented. My learned friend says that the witnesses who have been called before the Commission ought not to be believed, and regarding each one he has given special reasons why he should not be believed. I propose to take those witnesses one after the other, and to point out the fallacy of my friend's argument. Minute criticism, I am sure, of the evidence of the ordinary run of natives in this country may easily be carried so far as to destroy their evidence altogether. I think your Lordship will bear me out when I say that no ordinary native witness would probably be found to give his evidence in such a way as to withstand the tests applied by my learned friend, although he might in the main be telling the truth. Natives have a loose way of talking, particularly in regard to dates, and in regard to details generally, and it is one of the most difficult, as it is one of the most important functions performed by tribunals in this county, to separate the wheat from the chaff, and determine from a general consideration of their evidence rather than a minute examination of it whether or not they are speaking the truth. Now, I apprehend that these witnesses who speak to interviews with the Maharaja can none of them, with the exception of Damodhur Punt, be considered educated persons. You have the ayah, a couple of puttawallas, and others, all occupying a low rank in the social scale, who deposed to these interviews, and I apprehend it is not surprising to find that they did not agree in details, although they agreed substantially. These people are not so accurate as English witnesses. Take one specimen of their evidence. My learned friend referred to it yesterday, and I will accept it as a fair sample of the looseness with which native witnesses speak as to dates. It will be familiar to the Commission how difficult it is to find a witness who can fix a date accurately. They may remember the day of the week and so fix it, or it may be at the time of some native festival, and then it is fixed by relation to that; or they may fix it by some event in their own lives; but when they come to speak of a transaction, they generally say it is two or four days after, or five or seven days, or fifteen or twenty days. They always allow themselves some sort of margin. It is unfortunate they do so. Still, want of accuracy in this respect does not, I think, in general, weigh with judges in this country as showing witnesses to be altogether unworthy of credit. Now this third visit of the ayah before the 9th November, which was referred to by my learned friend, is an instance of what I have been arguing. She says it was about twenty days or a month before she heard about the poison being given, which would make it about the 20th October. Her husband, Shaik Abdoola, fixes it by the month, and says it was about the 16th or 18th of the month Ramzan, which began on the 12th October, which would make it the 28th or 30th October; and Shaik Dawood fixes it at three or four days before the Dewallee, which would carry us into November. Here we have an instance of what I have just mentioned. Three persons fix entirely different dates for the same transaction, but I hardly think that these discrepancies would be considered sufficient to justify the rejection of the evidence of these three witnesses. You have a considerable divergence, but not necessarily an untruth; on the contrary, that very divergence appears to me to be a test of truth in this way, that it disproves the idea of the witnesses having been tutored by the police. The police must have had more than human ingenuity if they tutor these three persons to mention dates so entirely different. Another observation I may make in regard to the general character of some of these witnesses, and particularly those witnesses who were attached as servants to the Residency. I quite agree with my learned friend that it was not probable that the Residency servants wanted to take away Colonel Phayre's life. That is the opinion I have always entertained since I first read the statements of the witnesses in this case. It is very natural that they should not be desirous of putting to death the master they served, when they no doubt considered that they could render the service required by the Maharaja in a less dangerous and equally effectual way. This accounts for what Rowjee said to the Maharaja when the matter of poison was first mentioned. He asked if this poison would take immediate effect, and was assured that it would not, but would be effective after some months. This is also a perfect explanation of what Rowjee did when he got the powders and was told to mix them together. He having an idea very likely that the white powder was arsenic, puts only a pinch of it into a third part of the diamond dust which he put into Colonel Phayre's glass. It would very likely occur to him that if Colonel Phayre were murdered at once, there would be an immediate inquiry. There would be a great disturbance; the murder would out; and his crime would be discovered. It would naturally strike him that if he could give his master only enough of this poison to make him ill so that he would have to go home, he would have done what the Maharaja wanted, and would get his guerdon all the same, while at the same time he would run less risk, and have less on his conscience. Of course, on this point, I may refer not merely to his not putting the whole of the arsenic into the sherbet, but also to his dealing with the contents of the bottle which was given to him, and which contained the physician's stuff, as my learned friend termed it. Finding that a few drops exuding from the bottle produced unpleasant blisters on his stomach, he probably thought, "dear me, if a little of this causes so much pain, it will not be safe for me to put the whole of it into Colonel Phayre's bath," and accordingly he threw away the contents of the bottle. But not only may this consideration well be borne in mind by the members of the Commission in determining whether or not these servants desired at once and suddenly to take away Colonel Phayre's life, but it has an important bearing in regard to their readiness, which was much commented upon by my learned friend, to accede to the Maharaja's desire that they should act as his instruments in poisoning Colonel Phayre when the proposition was made to them in the first instance. It was not until they were completely in the Maharaja's power until he had got them under his control and had made them furnish him with information and paid them bribes, that he spoke to them of administering poison, or that they entertained the proposition. We see it in the case of all of them. It is first of all, "Give me information, take money from me," two proceedings to which a colour might easily be given on the part of the Maharaja which would be

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quite sufficient to ruin the men. It would have been easy for the Maharaja just to send down to Colonel Phayre when Rowjee or Nursoo brought him a paper, saying, "Look here, here is one of your servants come to me with this paper which he has taken out of your office." It would have been easy for the Maharaja to say, "These men have been applying to me for money for the purpose of communicating information, and I have paid it to them, and I now send them to you to show that these men have in point of fact taken the money." Deeming the Maharaja to be an unscrupulous man, they, bearing these things in mind, must have felt they were completely in his power; and if they speak the truth, the method of their employment was singularly judicious. The ayah and those working with her do not appear to have known directly anything of the fact that Rowjee and Nursoo were also working in their own direction on the part of the Maharaja. There is no connection between the parties. Any one of the informants might therefore have been sacrified without the necessity of exposing the others. In the same way, as I have already suggested, His Highness appears to have been working through Mr. Dadabhoy Nowrojee for the public view of these transactions, so we find him working not merely through Damodhur Punt in regard to the secret conspiracy, but we find him working with Rowjee and Nursoo as one class, and with the ayah and others as another class; and Damodhur Punt, though strange to say, the head of the whole thing, is not brought into contact with any one of the servants. The strings of this conspiracy, when the machinery is worked, all operate in the same direction, yet the motive power is kept hidden. That, I think, explains many of the peculiarities of this case. I think it may be taken to account, for what otherwise is a somewhat unaccountable circumstance. Colonel Phayre says on the 6th and 7th of November he suffered from the same symptoms as on the 9th. Rowjee says that on the 6th and 7th he put nothing into the sherbet. It may perfectly well be that though Rowjee had not put anything into the sherbet on these dates, some other of the Residency servants in the pay of the Maharaja had done so, and thus produced the effects described by Colonel Phayre. My learned friend was fain to suggest that Colonel Phayre's imagination was stimulated by his having heard or read Rowjee's statements. But that is not so. Rowjee's statement is perfectly inconsistent with Colonel Phayre having formed any idea from it in regard to the transactions of the 6th and 7th, for he distinctly says that after the two powders had been given to him, and he had mixed them together and put them into the sherbet two or three times when no one was at hand to see him, as a few days elapsed without anything happening, the Maharaja evidently became impatient and sent for him and the jemadar again. It is therefore clear that nothing Rowjee had said before Mr. Souter or before this Commission could have suggested to Colonel Phayre that his sherbet had been drugged on the 6th or 7th. It may be that considering the wholesale system of bribery that seems to have been adopted with the Residency servants, some other of the servants had drugged the sherbet on these two particular days. Now, my Lord, my learned friend, taking the witnesses *seriatim*, asked the Court not to believe them; and, first of all, I will refer to what he said about the ayah Ameena. With regard to her, it is perfectly clear, from Mr. Souter's evidence at page 175 of the short-hand writer's notes, that Mr. Souter saw the ayah before any of the police had had an interview with her. The ayah, it will be remembered, was seriously ill at the time, and her recollection of what took place when she was first examined cannot be expected to be as accurate as the recollection of Mr. Souter. In answer to the question, "Do you remember examining the ayah Ameena in reference to this matter?" Mr. Souter says—"Perfectly. I first saw her on the 16th December between five and six o'clock in the afternoon. I saw her in her own room in Mr. Boevey's compound. On that first occasion she did not make a detailed statement to me, and I did not take it down on that day because she was very ill and unfit to give a detailed statement on that occasion. She stated that she had been at the Maharaja Mulharrao's Palace, and also that she had received certain sums of money from him. She had high fever on at the time, and begged me to come and see her at some other time when she would give me all the details. Before I saw the ayah on this evening, to the best of my belief none of my police had seen her." Therefore it would appear to be perfectly clear from Mr. Souter's evidence that when attention was first directed to the fact of the ayah having been driven by the cart-man to the Haveli on some day in the month of Ramzan, and Mr. Souter proceeded to the ayah's quarters, he found her in a state of health that did not admit of her being particularly examined; and he was obliged to remain satisfied with the statement that she had been to the Maharaja's Palace and received money from His Highness. Two days after this her illness having increased, so that she had to be removed to the hospital, Mr. Souter went and took her statement, marked D 2. Now, it is tolerably clear that the police, supposing them to have invented what the ayah said on the 18th, must have had almost superhuman powers. They had got to deal with a woman who was suffering from high fever, who could not be in a position to profit by their instructions, and they would have, moreover, to make her understand the details of a tale about which they themselves knew nothing, because at that time the only information the police had was that which was supplied by Dawood the cartman. Then the ayah's evidence gave a clue to much that was subsequently discovered. She was able to point to the persons who had accompanied her to or into the Palace on the occasions to which she referred, and these witnesses being examined, were found to corroborate her on every point. It has not been contended that these witnesses were not substantially speaking the truth, and they do confirm the ayah in regard to these portions of her statement. But, says my learned friend, the ayah's reference to poison was an after-thought, and he would have the Commission suppose that that after-thought was suggested by the police. Now, to consider the value of that suggestion, we have to consider the state the ayah was in. She was still very ill in hospital in a separate room, at the door of which a policeman was stationed. This policeman was not one of the heads of police but an ordinary sepoy, to whom the task of instructing the ayah on a point of this magnitude would scarcely have been entrusted. Dr. Seward goes to see the ayah, and my learned friend made a point regarding that visit which I was surprised to hear him make. It seems to me perfectly natural that Dr. Seward should go to see the ayah, not merely because she had been under his care before, but because she was the ayah of a friend of his, and it was natural also, considering the evidence she had given, that he should desire to see how she was progressing towards recovery. I cannot see anything unnatural or improper in his paying that visit, and he knew that his friend Dr. Lewis would not object. When he gets there he sees the ayah, and does no more than any other physician of experience would do. He notices her condition; he does not think her physical condition is

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sufficient to account for her state; and it occurs to him, as it would occur to any medical man, that she had something on her mind. Then, again, I find nothing at all improbable or unnatural in the woman, on being spoken to, desiring to complete her statement to Mr. Souter. That there was no connivance between Mr. Souter and Dr. Seward is clear from this, that when Mr. Souter went he knew so little of what she was going to say that he did not expect any further deposition, and took no writing materials with him. When he comes, the woman makes the statement, which was recorded by Mr. Souter on the following day, the 18th, in which she speaks of the Maharaja speaking in a guarded way about the poison. Now, my learned friend asked the Commission to compare what Mr. Souter took down from her statement on this occasion with what she had said before the Commission. I ask the Commission to do the same, and I think they will come to the conclusion that the two statements substantially agree. The words in the statement must be taken to be rather the words of Mr. Souter than those of the ayah. Mr. Souter does not profess to have literally translated them, but has simply given in his own language what he understood her to say. My learned friend says that he did not think it at all likely an ayah would use such expressions as some of those contained in the statement. No doubt "threw out a feeler" is not an exact translation of the vernacular expression used by the ayah, but it is an expression that is perfectly comprehensible, and conveys the idea it is intended to convey. When the ayah is examined before the Commission she said substantially the same thing. She speaks about *choochas or muntras*, and you find the Maharaja speaking to her, guardedly as he would be likely to speak upon such a matter. Now, asking a native, at all events in the class of life to which this woman belongs, about *muntras*, charms, and so on, would be perfectly well understood, I apprehend, by every one of the Commission to be something very like "throwing out a feeler" regarding more than mere sorcery. Before this Commission she was of course examined at much greater length, and much more particularly than she was examined before Mr. Souter; but she told the same story, and her statement was amply corroborated. Another point with regard to her evidence which my learned friend dwelt upon was her statement that she had been threatened by the police. Now, I have no doubt, though it is some days since the circumstances occurred under which that expression was used by her, they will be clearly in the recollection of the members of the Commission. The evidence is at page 9 of the notes. My learned friend asked her—"Did either Abdool Ali or Akbar Ali say to you that the Maharaja must have said something about it?" and she answered, "Yes, they threatened me and said, if anything of the kind was said, do you state it, and then I said I have stated all that I know." Now what she said with regard to the answer translated threatened was *dum kia*, but she went on at once to say what sort of threat it was that had been used, and I think that the true rendering of the expression should have been "they threatened me *by* saying." When her attention was called to the "threatening," by the question whether Mr. Souter threatened her, she said at once, "No one threatened me;" and then afterwards, "when asked what made her say she was threatened," she says, "I did not say so." The short-hand writer's notes were read to her, and she said "I don't think I said so; I did not mean it." In fact, she used the expression not in the sense we attach to it, but in a very much milder sense. I think, therefore, that in the circumstances of the taking of the ayah's evidence there is everything to support its substantial accuracy and nothing whatever to detract from its value in the minds of the Commission. As to the threats, they appear to have been of the most innocent character. The question is put to her as to whether the Maharaja had spoken on a certain topic; but as to ill-usage or harsh treatment, nothing of the kind is mentioned by her, nor does she complain of it. Now the next witness, and one who is of course a much more important one than the ayah, to whose evidence I propose to direct my observations, is Rowjee, whom I find the ayah mentioned in the course of her statements, so that the police had their attention directed towards him, and found out that, though a peon employed at the Residency on small wages, he had been spending large sums of money in the bazaar. The police made enquiries and found there was foundation, at all events, for the story that he had been spending money in this way; and accordingly, on the 22nd of December, he was arrested. His evidence will be found at page 80 of the short-hand writer's notes, in which he speaks of making a statement before Mr. Souter, and the circumstances under which he made it. The correctness of that statement was confirmed by Mr. Souter. Your Lordship will also remember what Sir Lewis Pelly said about Rowjee's statement. He was examined as to that, and he tells us how he and Mr. Souter, considering that there was no prospect of really discovering any clue as to who made the attempt to poison Colonel Phayre, were going to Bombay on the 23rd, and were arranging to spend their Christmas holidays there. That is very good proof that so far as Ameena's statement was concerned very much importance was not attached to it by itself. But at this time Rowjee makes his statement; the proposed journey to Bombay is put off; and Sir Lewis Pelly says he would like to see the man and judge for himself. He sees the man on that day, and hears his statement, and he says the statement was substantially the same as had been given before the Commission. We have here Rowjee's statement—a statement perfectly voluntarily made and under the most natural circumstances in the world. Mr. Souter is obliged to have him arrested, as it is known he spent money in the bazaar. He says nothing to Mr. Souter upon the morning of his arrest, but he is kept under surveillance. He is in the Residency compound along with the other servants, and they say to him, "We have told all about it. You had better save yourself"—a perfectly good reason to operate on the mind of a man like Rowjee. He therefore sends for a police havildar and asks to be taken to the Khan Saheb, who immediately takes him to Mr. Souter; and ultimately he makes a statement before Sir Lewis Pelly and Mr. Souter, who accordingly remain in Baroda to pursue further investigations. The statement is reduced to writing, not apparently on the day it was made, but on the following day, when Mr. Souter found opportunity. I may here mention that Rowjee's statement, made to Sir Lewis Pelly and Mr. Souter, gravely implicated Nursoo, his superior officer, and the jemadar was arrested the next morning as soon as he came to the Residency. That was the 23rd. I shall by and bye speak of the opportunities of communication with Rowjee and Nursoo had with each other. Nursoo, being apprehended on the 23rd, makes his statement, and makes it at a time when it was perfectly impossible that he could have been coached up as to what Rowjee had said, because Rowjee's statement had not then been taken in writing. Not only then was there no intercommunication between Nursoo and Rowjee, except that short interview at which Rowjee said, "*Dekko, baba*, I have said everything *yantuk*—everything up to my neck,"

But there was no one in a position to state the details of Rowjee's confession to Nursoo, inasmuch as Rowjee's confession had not then been reduced to writing. Mr. Souter, Sir Lewis Pelly, and the native policeman who had heard Rowjee's statement on the previous day might have had some general idea as to what the statement amounted to, but could scarcely have carried all the details in their minds. Nevertheless, as the Commission will perceive—and I shall ask the Commission to compare the statements of the two witnesses,—it was perfectly impossible that the police, from the information they themselves had, could have communicated to the one what the other had said in the detail in which they must have communicated it in order to render it practicable for the one to repeat substantially what the other had stated. Nursoo does not look like a clever man, and supposing the police to have had the villainy to repeat and the cleverness to remember, point by point, the details of what Rowjees aid—is it to be supposed for a moment that a man with Nursoo's dullness of intellect could so aptly learn what, it is suggested, thepolice had taught him? The only explanation is, I think, that both men are speaking substantially the truth. Now, there were three main points in which my learned friend impeached Rowjee's story, and the first of these points to which I would refer—for it appears to me to be one of the most important—is his story with regard to Pedro. Rowjee boldly charges Pedro with having accompanied him to the Haveli to see the Maharaja. Pedro as stoutly denies that he did so. My learned friend says Pedro is introduced as a truthful witness, and must be believed. Well, I do not know that my learned friend is entitled to say he was introduced as a truthful witness. He is introduced pretty much on the same footing as all the witnesses were introduced by me —not as being specially truthful or trustworthy. I do not think I used a single such expression in regard to him. I simply said he would prove the receipt of money from His Highness. These witnesses were not introduced by me as being special witnesses of truth, but rather as persons who had made certain statements into which the Government of India had considered it desirable an enquiry should be held. I did not vouch for their truth, and it is this Commission that must decide as to their credibility. However, Pedro has, no doubt, the advantage of coming before the Commission as an old servant of Colonel Phayre's, and so far must be taken to be a respectable man. He denies point-blank that there was any truth in Rowjee's story about him. He denied that he had ever been to the Maharaja, but it is to be observed that his denial begins as soon as admission would be dangerous to himself. I do not think there is anything to be inferred from the fact of his being examined before Mr. Edginton in Bombay. Mr. Edginton, no doubt, fully deserves the commendation bestowed upon him. He is Mr. Souter's representative, his deputy, and he is now acting for him in Bombay, and he is, as we all know, a very capable and excellent officer. But I don't think that there is any reason to suggest that Pedro gave his evidence before Mr Edginton under any greater advantage than he would have enjoyed if he had given his evidence before Mr. Souter. He was taken before Mr. Edginton by the direction of Mr. Souter, and by Mr. Souter's officers. He was taken before Mr. Edginton, I may mention, by the Khan Saheb. His denial of knowledge of these transactions, however, as I have stated, begins as soon as his admission would be fatal to him; as soon as his admission would have involved him in connection with the offence, he ceases to admit. There is therefore this to be said, that by a denial of this kind he not only saves his character with his master, which may be dear to him, but also saves himself, for the moment, from being charged with being an accomplice in these transactions. But I must say that it occurs to me as a curious thing that, long before the attempt to murder Colonel Phayre was discovered, Pedro should have been in everybody's mouth as being in high favour with the Maharaja, and as a person who, at the instigation of the Maharaja, had undertaken to administer poison to Colonel Phayre. Such evidence is not conclusive, but it is something when you find a man's name associated not exactly with bazaar gup, but talked about by the Residency servants as being in the pay of the Maharaja; and when you see this very witness mentioned by the Residency servants in their conversations one with another, and with persons of their own condition and creed, who were in the habit of frequenting the Residency, as being in the pay of the Maharaja and being in such favour because he had consented to poison Colonel Phayre—when you find that Pedro is associated with Rowjee,—the very man who admitted that he himself had attempted to poison Colonel Phayre on the morning of the 9th of November—I think these are circumstances that merit consideration on the part of the Commission. Pedro himself shows that Rowjee was cognizant of his dealings with the Maharaja, for he says in cross-examination by my learned friend that he told Rowjee of the present which he had received from the Maharaja. Why should he have done that unless there was some link between them? At page 30 of the short-hand writer's notes we find this:—"Did you yourself ask Rowjee to go with you to the Maharaja? Answer—I did not say anything to Rowjee except as to the payment of rupees sixty." Why should he have told Rowjee about the receipt of those sixty rupees unless there was some link binding them, both together in the service of the Maharaja? It seems to me to be a very reasonable inference from that answer that Pedro knew a good deal more than, being in fear for his life, he was ready to admit. Moreover, I do not think the Commission can have failed to observe that Pedro gave his evidence with considerable reluctance. His evidence begins at page 29. He admits that Salim used to ask him to go to the Maharaja's, and that it would be well for him if he did. He says, "I declined to go," and being asked as to the receipt of the rupees sixty, he says, "I have deposed to particulars in my deposition."

The President—Excuse me, Mr. Advocate-General. Except the ayah's statement before Mr. Souter and the examination here, is there anything on the subject of the conversations?

The Advocate-General—Nothing. It only occurs in the ayah's statement, and in her evidence given before the Commission. It was brought out in the cross-examination by my learned friend. Of course I could not ask him anything about this conversation. Your Lordship will find that they are referred to in page 7.

Mr. Branson—She first said it was Pedro and Rowjee who had told her, and then she turned round and said it was Kurreem and the other man. Then Kurreem was called and was not asked a question on the subject.

The Advocate-General—As to what my learned friend has just referred to, the mistake on the ayah's part was so palpable that I am astonished he has referred to it. But the evidence is clear that what she was told was that Pedro and Rowjee were men who were in high favour with the Maharaja; and that when she heard Pedro and Rowjee thus spoken of, and connected it with the proposal to apply a charm to Colonel Phayre, she became alarmed and entertained suspicions that

really serious attempts were on foot to take Colonel Phayre's life. As to whether Kurreem knew anything about it, of course it would have been impossible for me to put the question in examination-in-chief, and the point was not followed up in cross-examination by my learned friend, and I had therefore no opportunity of putting it in the re-examination. The principal thing is the ayah's statement to Mr. Souter, which clearly points to this very connection of Pedro with Rowjee. We find from Rowjee that Pedro had propositions made to him by Salim which he agreed to carry out; and the Commission will note the manner in which Pedro gave his evidence. Instead of stating, as one would expect a man to do who had done nothing more than receive a casual present, we find Pedro saying, "I said to Salim I was going to Goa, and he brought me sixty rupees. I have deposed to the particulars in my deposition," obviously wanting to just limit himself to that deposition, and say nothing more. Now, my Lord, I don't wish to say anything about Pedro more than is necessary. He is not here on his trial, but I submit that upon these circumstances the Commission may well doubt, and very gravely doubt, whether Pedro was telling the whole truth before them; and that there is not much improbability, but much reason to believe that as Rowjee says, Pedro was a person acting with him in the attempt to poison Colonel Phayre. If Pedro was to do nothing—not to be concerned in any way and to be of no use for the Maharaja,—it is difficult to understand why he should have got a present of money from the Maharaja. Certainly, something would be expected of him in return for what he had received, and though the evidence is not direct in the case, there is, I think, quite enough on record before this Commission to induce this Commission to say that they are not satisfied with Pedro's evidence, and that the account he gives of himself is not satisfactory. Rowjee could have had no motive to accuse Pedro; it is not suggested that they had had any quarrel; but Rowjee, having to tell his story, mentioned the name of Pedro as a circumstance just in the same way as he mentioned the circumstances as connecting him with Nursoo and others in the same transactions.

It being now past 2 o'clock, the Commission adjourned for tiffin.

On the re-assembling of the Commission at a quarter to 3 o'clock, the Advocate-General resumed his address as under:—

I have discussed, my Lord, the effect which the episode in regard to Pedro may be taken to produce upon the evidence of Rowjee.

The President—Before you proceed further, there seems to be some considerable doubt from the notes whether Nursoo's statement was made on the 23rd December. Sir Lewis Pelly says that it was made on the 24th, but I have taken it down from you that Nursoo made his statement on the 23rd.

The Advocate-General—It was, in point of fact, made on the 24th.

The President—Mr. Souter seems to have left it a little uncertain.

The Advocate-General—It will be found at page 176, that Mr. Souter says—"Nursoo was apprehended on the 23rd. I think he was apprehended on the 23rd—it may be on the 24th." The 24th would be Thursday, and that was the day on which the Maharaja paid his usual visit to the Residency. Probably Mr. Souter may be wrong in saying it was the 23rd, and Sir Lewis Pelly would be right. But Mr. Souter, as your Lordship sees, does not speak positively as to the date. He says, "I *think* Nursoo was apprehended on the 23rd," and that before taking his statement he mentioned it to Sir Lewis Pelly.

The President—Sir Lewis Pelly fixes it as the 24th.

The Advocate-General—Taking it to be the 24th, that will not in the slightest degree interfere with the argument I was presenting to the Commission before the adjournment, because it was not until the 24th that Rowjee's statement was reduced into writing. Whether it was the 23rd or 24th, there would still be the same observation, that no one would be so familiar with the details of Rowjee's statement as to be able to communicate them to Nursoo. Now, my Lord, the next episode in the evidence of Rowjee, upon which my learned friend dwelt, was the episode of the bottle, and there I venture to think that my learned friend fell into an entire error. The evidence of Damodhur Punt in regard to this bottle was that after having received from Goojaba, Nana Khanvelkur's man, a large bottle containing the physician's stuff, he poured a portion of the contents of that larger bottle into a smaller bottle of his own, and the bottle into which he so poured it was not, as my learned friend assumed, an otto-of-rose bottle, but a bottle in which uttar had been kept—that is the expression that Damodhur Punt used, that is, at page 113—"This bottle was this length (showing about a finger and a half). This bottle contained some medicine. The Maharaja had asked me to pour the medicine into another bottle—which I did. The bottle I poured the medicine into was a bottle which belonged to me and used to contain otto-of-roses." Now my learned friend from that jumped to the conclusion that this was one of those bottles which we all of us have seen, and which come from Turkey or Persia, which are generally ornamented with gold leaf, and which have a very slight perforation running down the centure of a solid mass of glass, into which one or two drops of the precious uttar is poured—a bottle which could not be used for the purpose for which this bottle was professedly used by the witness. Of course, it could not have been such an ornamented bottle, decorated with gold leaf and containing only a very narrow hole into which one could put in but two drops; but it was a bottle simply which had contained, and which the man had used, for keeping uttar in. In calling it an otto-of-rose bottle the Interpreter used rather a loose translation. The passage of which I was thinking just now is at page 129. He says—"It was a small bottle of this length (shows finger), and that I poured it into a bottle which had contained otto-of-roses." The word uttar was translated otto-of-roses. We know perfectly well that the uttar used in this country is not the pure otto-of-roses, not the delicate decoction, or whatever it may be, that is contained in the small bottles which my learned friend obviously had in his mind's eye at the time. In the statement he made to Mr. Richey he merely mentions uttar, which is an essential extract from the rose, and a preparation not at all as agreeable to the smell. It is perfectly certain that my learned friend's theory about this being an otto-de-rose bottle, such as is to be found in the bazaars of Constantinople or Teheran, will not hold water, because the uttar bottle that was used by Rowjee is described not only by himself, but also by Damodhur Punt in a manner which is perfectly inconsistent with my learned friend's theory. In the first place, an otto-of-rose bottle proper is a bottle which will contain only one or two drops of any liquid whatsoever, whilst this bottle was used by Rowjee to shake up one of the powders which he had prepared from the packets given to him, in water, previous to pouring it in Colonel Phayre's sherbet, an operation which could not by any possibility have

been performed in an otto-of-rose bottle such as my learned friend was thinking of. I think it is at the foot of page 87 that Rowjee gives a description of the bottle. "How large was the bottle?" he was asked; and he answers, "About the length of my finger, and about a quarter of an inch in width; it was a round bottle." Then Damodhur Punt described the bottles—the two bottles that were received by him, or at least that were in his possession—the one that he received from Goojaba, and the other which was his own—and he says that the one he received from Goojaba was about as long as that (pointing to about an inch below the fore-finger), and that the other bottle, which had contained the uttar, and which used to contain a portion of the physician's stuff, was about the length of his finger.

Mr. Serjeant Ballantine—Pardon me, he said about the length of half his finger.

The Advocate General—I think my learned friend will find that he said that the larger bottle was longer than his finger and going down to the middle of his hand, and that the smaller bottle was a little less than his finger. But whatever the size of the bottle may be—whether as long only as two or three joints of his finger—it certainly was a bottle larger than one which would contain but two or three drops; otherwise the operation referred to could not have been parformed with it. I will read the other report:—"It was about this length (showing from the top of his finger to the bottom of his hand). The Maharaja asked me to pour the contents of his vial into another bottle—a bottle which had contained otto-of-roses. It is a small bottle of this size (pointing to about two joints of his fore-finger). I kept the bottle in my place." I am perfectly willing to take it that it was only the length of the two first joints of his fore-finger; but it is perfectly certain that this small vial, which the man spoke of, could not have been such a bottle as my learned friend had in his contemplation when he was speaking about it: it was not a bottle which contained merely a small perforation in the glass into which but a drop or two could be poured, but one into which it was possible to pour not an inconsiderable portion of the medicine which the physician had prepared, and which was in the larger bottle sent to Damodhur by the hands of Goojaba. But whatever was the length of the bottle, is not a very material point. There is no doubt whatever that it was a small bottle, and there is also no doubt that it was not a bottle of the description that my learned friend suggested. It was not an otto-of-rose bottle proper such as my learned friend may have purchased during his passage through Egypt——

Mr. Serjeant Ballantine—I can assure you that I did not buy an otto-de-rose bottle during my passage through Egypt. (Laughter.)

The Advocate-General—It was a bottle which had contained uttar, and which he had by him. It was a bottle large enough for the purpose stated by the witness; it was a round bottle, and not constructed in the way my learned friend suggested, and it was capable of containing some considerable quantity of the medicine contained in the larger bottle, handed to him by Goojaba. No purpose could have been served by pouring two drops of the physician's stuff into the phial, nor after the exudation from that bottle would there have been anything to throw away. I take it that it was an ordinary phial—an ordinary glass bottle—a round bottle which used to contain not two or three drops of a precious liquid, but which could be used, if the evidence is true, for the purpose, as Rowjee says it was used, namely, of making the powder become dissolved in water. From a bottle of that kind, not sealed with sealing-wax, not fastened with any cork, but simply confined by a wisp of cotton, covered with a little bees' wax, there cannot be any difficulty in assuming that something would exude when placed where the witness says he placed it. He tied it to the string of his drawers. We saw when he was in Court, the sort of way in which that garment was worn by him, and that the string would be in immediate contact with his skin; and that some scar or wound existed upon the portion of his stomach which comes in immediate contact with the string of his drawers in front, was proved by Dr. Gray. Rowjee says that having tied the bottle, fastened in the way I have described, to the string of his pyjamas, he took his way homewards. Now the natural effect of his walking would make this bottle sway about with his body—and, being imperfectly fastened, as it was with bees' wax and cotton, nothing would be more likely than that some of its contents should exude on to his skin. Dr. Gray has told us, and, although my learned friend appeared to entertain some doubt—the proposition may have been novel to him,—there can be no doubt whatever that arsenic is a caustic; all the works of authority upon that subject agree in the statement, that arsenic may produce such an effect as was spoken to by Dr. Gray and the witness Rowjee, and that arsenic in suspension, as Dr. Gray has stated, would, if it escaped from a bottle of this kind, and found a lodgment on the skin, be calculated to produce the blister which Rowjee spoke of. A good deal was said about its being a boil that was produced and not a blister, and that was owing to an infirmity of expression on the part of the Interpreter, of which we have had occasionally to complain. The Interpreter's better judgment induced him to call it a blister. There is no doubt whatever, from the explanation that the witness himself used, that what he meant was a "blister," but the Interpreter followed rather the language used by my learned friend in the course of the cross-examination in putting his questions when he spoke of it as a boil. The witness spoke of it as a "blister," and if the word "blister" had been used throughout by the Interpreter, as it was used in the first instance, I think my learned friend's argument on that point would have been a good deal disposed of. Rowjee's examination in regard to this point will be found at page 78; he says, "I took the bottle with me. I tucked the bottle up in my drawers, and it produced a wound or sort of swelling. Mr. Melvill—He said he put it between his strings. The Interpreter—His meaning is that he put it between the strings of his drawers and the drawers. Examination continued:—The injury was like a boil. Interpreter—I think he means a blister. Witness (asked for explanation)—It was a boil. When a man gets a burn it produces that kind of thing. The wound was here. (Showing his stomach)."—Now, my Lord, if there is one thing perfectly in the knowledge of every one in this Court it is that if a man gets a burn it does not produce a boil, but a blister; and if the Interpreter had translated the word *poodi* as "blister" throughout, it would have saved some trouble, for "boil" apparently there was none. The word "boil" was adopted by the Interpreter somewhat unfortunately, but the description given by the witness, who sustained it, was that it produced not a "boil" but rather an injury that is really commonly known by the name of "blister."

Sir Richard Meade—"Blister" was what he said.

The Advocate-General—And as to the fact that a blister may be produced by caustic, Dr. Gray gave a clear opinion; he examined the man, he found the marks, and gave his opinion on the subject to the Commission. There can be no doubt whatever, therefore, that so far as this question of the boil is concerned, Rowjee's statement is thoroughly corroborated. Now, my Lord, at the time that Dr. Gray examined the

person of Rowjee, and found upon him these signs, Damodhur Punt had not been examined, and he gave a description of the contents of the bottle, of the stuff which the physician had made, and which my learned friend read from the statement made by Damodhur Punt, before Mr. Richey, on the 29th January 1875; and if that statement be true, it proves this—that not only was there arsenic in the composition which the physician had made, and which was contained in the bottle brought by Goojaba——

Mr. Serjeant Ballantine—There was no arsenic in the bottle.

The Advocate-General—I beg my learned friend's pardon, there was. I will read the statement made by Damodhur Punt:—"At the same time, namely, when the Resident had the open wound, the big physician's younger brother brought a bottle of poison made up by the physician, but as there were many of us present, he did not give it that time, and he may also have wanted something for it. In the evening one day, when Col. Phayre had the boil on his forehead, the Maharaja told me to get some blister flies." Those are the same insects which were described by the Interpreter here as large ants. Whether it is a blister fly or large ant I cannot say; but the same word *Muckaria* has been used by the witness both before Mr. Richey and before the Commission:—"To send to the younger brother of the big physician. He told me to send through the Fouzdaree and have the Wagrees sent to catch some flies and taken to the physician. I told Narayen Rao Wakusker, who is in the Fouzdaree, accordingly. The next morning the Maharaja told Hariba, in my presence, that the physician's younger brother wanted some snakes to make medicine. The snakeman came to me two or three days after, saying he had the snakes that had been ordered, and I told him to take them to Hariba and take his order before going with them to the physician. Narayen Rao brought the blister flies then taken by the Wagrees and showed them to me, and the next day Goojaba, a servant of Nana Khanvelkur, came and showed me some blister flies of the same kind, and I told him to take them to the physician's brother and submit them for his approval. About the same time the Maharaja told me that the physician's younger brother wanted the urine of a black horse, and I gave orders to Bapoojee, the Kamdar of the Khas Paga, to take some urine accordingly to the physician's brother. At the same time some arsenic was given from the Fouzdaree, but not through me. I don't know how much was given. Had I known of its being given I would not have got some more from the Borah. Some days after the supply *of these articles* the physician's brother brought the bottle, as above stated, not getting what he wanted for it. The Maharaja wanted the stuff, but did not want to give what the man demanded, so suggested to Nana Khanvelkur to get some of the contents of the bottle, and a day or two after, about 9 o'clock at night, Goojaba came to me with the bottle which the physician had made, and told me that he had taken it to the Maharaja and that he had been ordered to bring it to me, and that I was to take some out of the bottle, and keep it till the next day, and then give it to Salim." That is the portion of Damodhur Punt's evidence taken before Mr. Richey, to which my learned friend referred as showing what the ingredients of the physician's stuff were. And according to Damodhur Punt—and here he most distinctly says so—that in addition to the blister flies, and the snakes, and the rest of the things of which the stuff was prepared, arsenic brought from the Fouzdaree was supplied. I think, therefore, that upon that statement—a statement referred to by my learned friend—I have a right to say that the evidence is that arsenic was one of the component parts of this horrible stuff which the physician is alleged to have made. And taking it, as Dr. Gray has told us, that arsenic itself is a caustic, and that arsenic in suspension in water would, if the water in which it was suspended found a lodgment upon the skin, cause a blister to follow—especially when we find that arsenic is connected, as it is in this instance, with other articles of an irritant character—blister flies, large ants or whatever they may be—and the venom of snakes—to say nothing of the other articles, with the qualities of which I have not the slightest acquaintance—that would certainly appear to be sufficient to produce the effects which Rowjee says were caused by the exudation of the contents of the bottle on the skin of his stomach. What these makharyas are I cannot profess to say. The translation is two-fold—Mr. Nowrozjee Furdoonjee translated them as large ants: they were translated before Mr. Richey as blister flies. I suppose it may be taken that they are insects which bear some resemblance to Spanish flies, or cantharides, and that they would be likely to produce the effect on the stomach of Rowjee which he has described. I have already referred to the fact of Rowjee, probably as my learned friend suggested, not desiring to give anything to Colonel Phayre that should produce an immediate effect, and this is a strong confirmation of that theory of my learned friend which I entirely adopt. He found that the slight exudation from this bottle produced the effect upon his stomach which he has described, causing a painful blister, and he said to himself, "Dear me, if I put the whole of this, as I am directed, in Colonel Phayre's bathing water the effect upon him may be expected to be similar to that produced upon myself, and there will at once be an enquiry, and I may get into trouble." And consequently, instead of pouring the contents of the bottle into the bathing water, he threw them away. No doubt he told Nursoo, as he says, that he poured it into the bathing water. It is not surprising that he should have said so, as Nursoo would have reported him to the Maharaja, on the next visit, for not paying attention to the orders he had received. There cannot be the slightest doubt, I think, upon the evidence, that Rowjee and Nursoo took advantage of the accidental application of the collodion plaster to Colonel Phayre's boil to make up the story they did, that arsenic had been put on the plaster, which, having been applied, burnt Colonel Phayre and caused him to take it off. They seem to have taken advantage of what Colonel Phayre told us was the effect of this application of collodion, causing him to remove the plaster, which he did with considerable difficulty, and much irritation to the boil. No doubt that would be a circumstance that would be noticed, and which would be reported, and it would be seized upon by these men in order to satisfy the Maharaja that they had been obeying his orders, and had done, in point of fact, something to Colonel Phayre which by reason of the strength of the medicine applied, at once attracted his attention and caused him to remove the plaster. I think, taking what Colonel Phayre said about removing the collodion which he had applied to his head, in connection with the instructions given to Rowjee to administer to him through the medium of his bathing water, or otherwise, this physician's stuff, the stories may read well together, and the one very well explain the other. Damodher Punt, as the Commission will remember, mentions Rowjee's having told the Maharaja about this, and in the statement made to Mr. Richey, Damodhur Punt says that at the time Colonel Phayre had this sore, as he calls it, on his forehead, "I heard Salim talking to the Maharaja in the picture room, and say that Colonel Phayre had felt it burning, and torn it off—and that that was because Rowjee had doctored the plaster." Now, it is

very difficult indeed to conceive how Damodhur Punt could have invented this story as to Colonel Phayre's having felt the plaster burn, unless he had had the information from the persons from whom he professed to have received it. He could not have heard anything about Dr. Seward's having prescribed collodion, or that Colonel Phayre had rashly used it himself, instead of waiting for Dr. Seward to come and dress the boil; and unless it is true that this representation was made by Rowjee to Salim as to what he had done in regard to the boil, and was made in Damodhur Punt's presence, it is very difficult indeed to understand how Damodhur Punt could have got hold of this story. The passage to which I have referred will be found at page 171 of the short-hand writer's report. As regards the bottle and the boil, therefore, I think that Rowjee's evidence, instead of being in the slightest degree invalidated by the argument of my learned friend, comes out of the ordeal in a perfectly satisfactory manner. The date of the giving of the bottle appears to be fixed by the time at which the boil existed. The purpose for which the bottle was given is illustrated by what Damodhur Punt says of the report made by Rowjee through Salim to the Maharaja as to what he had done in regard to the boil, and unless it is to be supposed that the police were in the confidence of Dr. Seward and of Colonel Phayre, with regard to the treatment of the boil, it is difficult to understand how they could have suggested to Damodhur Punt the story which he told, not only before Mr. Richey in the passage to which I have referred, but also before the Commission, as will be found at pages 128 and 129 of the short-hand writer's notes. Then, my Lord, another episode in Rowjee's evidence upon which my learned friend dwelt strongly, was the episode of the belt. Now, no doubt, that was a subject in regard to which there was an opening for my learned friend, and an opening of which he availed himself; but it was an opening of which he could take full advantage only by introducing into the conspiracy, as an active agent, Mr. Souter. I have already referred to that part of my learned friend's argument, and shown what reasons there are, *a priori*, for believing it to be perfectly impossible that Mr. Souter should have taken that part in the transaction which my learned friend suggests. And when we look at the history of the transaction as recorded in the evidence, it appears to me so utterly unnecessary for my learned friend to have framed that theory, that I cannot forbear expressing my surprise that he should have done so. What is the transaction? Akbar Ali, an experienced officer, knowing that Rowjee had kept the powders which he had put from time to time in Colonel Phayre's sherbet, in his belt—having heard that from Rowjee—wishes to examine the belt. He says to Rowjee—"What has become of your belt?" He naturally would wish to look at the belt, both for the purpose of seeing in what part of it the powders had been kept, and for the purpose of seeing also whether from the packets of powder anything had escaped of which a trace could be found in the belt. To suppose that on receiving this information from Rowjee as to the receptacle in which the powders were placed, he all at once formed the idea of introducing a packet of arsenic into the belt, is to suppose him guilty of an act of the most shameless infamy—a supposition for which the previous character of Akbar Ali affords no justification, and a supposition also, which, from the circumstances under which the examination of the belt occurred, is entirely inadmissible. What was there to make Akbar Ali believe that Mr. Souter would go away into the dressing-room to dress for breakfast at the time the belt was brought back? The Commission will remember how it all happened. Rowjee said, "I used to keep it in my belt." Akbar Ali says, "What has become of your belt?" Rowjee replies that it has been given to Bhooda. Akbar Ali does not go himself to get the belt, but sends a by-standing policeman to go and call Bhooda Nursey. He fetches him, and Bhooda comes with the belt on him. It cannot be supposed that the police messenger who was sent to call Bhooda could have put this packet into the belt, for it is suggested to be the work of Akbar Ali. The order is given to get the belt while Mr. Souter is in the room, and he probably may have supposed that nothing much would come of it, that the powders had been made away with, and that there was very little chance of finding any stray arsenic powder in the belt, and as it was between eight and nine o'clock, he went into the adjoining room to dress for breakfast. Mr. Souter told my learned friend, just before he began his address, that there was no reason for his not remaining in the room, but that it was near breakfast time and he went to dress. His dressing-room was immediately adjoining the present dining-room of the Residency, where he and his officers were then carrying on their enquiries, a chick only separating one room from the other. He went to dress, and while he was dressing there, the belt was brought and the examination of it began. Akbar Ali examined the belt. He found what has been called the slide in it through which a sword or a truncheon, as the case might be, could be passed, but found no pocket immediately apparent in this belt, and he asked Rowjee where the pocket was, in which these powders used to be kept. Rowjee immediately pointed to the secret pocket which was shown to the Commission the other day. Akbar Ali introduced his fingers, until he came in contact with a substance—that substance proved to be paper. Naturally the idea struck him that possibly one of these packets still remain in the belt, but of this he at that time knew nothing, so he broke open the threads at the bottom, when the packet of paper is disclosed. He summons Mr. Souter, who comes and finds the pocket torn open by the police and takes out the paper from that pocket—a paper which contained not only arsenic, but arsenic possessing precisely the same physical characteristics as the arsenic found in the sediment from Colonel Phayre's tumbler. I cannot conceive anything more simple than that story. Mr. Souter attached no importance apparently to the examination of the belt—not expecting that anything would come of it—not supposing that at that distance of time anything would be found in it,—supposing naturally enough that Rowjee would have taken good care on the 9th to have got rid of all suspicious articles he might have had about him. Now, surely, if there was nothing in the character of the police to protect them against the supposition that they put the packet there, as they are suggested to have done, and if it were not denied by Akbar Ali on oath that he had anything to do with it, it is really giving the police credit for an amount of sagacity almost superhuman, not only that they should have conceived the idea of putting the arsenic in the belt, but that they should have been so careful as to the arsenic that they procured, that it should have presented under chemical analysis exactly the same characteristics as the arsenic found in Colonel Phayre's tumbler. A policeman, supposing him to be the abandoned villain my learned friend would suppose him to be, might, perhaps, think of putting some arsenic in a place of this kind; but would he think that the microscope would detect him if he did not produce arsenic precisely of the same character as that used in the perpetration of the offence under investigation? That I do not suppose my learned friend would admit would be a likely thing for him to do. In fact, it is a thing so improbable as to render it perfectly incredible. It is much

more probable—it is supported by the evidence and by the character of the witnesses—that instead of this being a nefarious conspiracy, as my learned friend suggested, that it was a most simple discovery arising out of the carelessness of one of the principal parties concerned, in having left this packet of arsenic which had remained over from the quantity originally supplied to him, in the belt. The belt was taken from him on the 9th November; the belt did not go into his possession again; from the 9th it is handed over to Bhooda Nursey, who certainly had no suspicions as to its contents; it is only by chance that it is sent for, not with the expectation of making any great discovery; it is examined, and when it is examined, this packet is found, and the police inspector, Akbar Ali, did no more than his duty. I am sure the Commission will consider, in stopping the investigation, as soon as he found there was something in the belt, and sending for his chief in order that it might be examined in his presence. Abdool Ali and Gujanund were also present at the time, and they have both been open to cross-examination by my learned friend, but not a single question was put to them on this point, although an imputation of a most grave kind has been made against them.

Mr. Serjeant Ballantine—You put no questions to them on the subject.

The Advocate-General—And it was no part of my case to clear them from an imputation which I could not think was likely to be made. I think, therefore, that the Commission will come to the conclusion that the finding of this poison in the belt of Rowjee is very strong confirmatory evidence of the truth of his story in this case. My learned friend has referred to Rowjee's statement given before Mr. Souter, and to Rowjee's evidence here as containing contradictions. I think my theory shows that there is no contradiction at all. The presence of this paper—this packet of arsenic—in the belt, was a matter which Rowjee had entirely forgotten till the belt was examined. My learned friend read the statement Rowjee made to Mr. Souter, in which he said in the first instance, before the belt was produced,—"A few days after this the jemadar gave me two powders, and told me that equal parts of each should be administered for two or three days, and in such quantity as to consume the whole in that time. This had also been carefully explained to me by Yeshwuntrao and Salim in the presence of the Maharaja. I did not commence to administer the powders for two or three days, as no favourable opportunity presented itself for so doing." And then further on he says, "The packet of poison which the jemadar first gave me I made into small doses, as directed, and kept the powder in the secret pocket of my cross-belt. The powder taken from the secret pocket of my cross-belt this morning (25th December 1874) is one of the powders made up from the packet given to me by the jemadar, and I used always to keep the powders in the same place." It seems to me that if this belt episode was, to use a common expression, a "plant" on the part of the police, what they would have found in Rowjee's belt would have been not pure arsenic, but arsenic and diamond dust, because what Rowjee was told to do was to "take equal parts of each," and so make up the powders. If this was a police plant, surely the intelligent policeman who could be guilty of an act of the kind could not have procured arsenic only, but arsenic and diamond dust. He would say, "Oh, yes, the man said he was to mix the powders, taking equal parts of each; so let arsenic and diamond dust be mixed that they may be found in his belt"—not pure arsenic, because that would be at variance with the theory. That, however, not having been restored to, proves that this is not a police plant, but a true story. When the witness is asked before Mr. Souter whether the powder taken from his secret pocket is one of those given to him by the jemadar, he says it is; but he does not say that it is one of the packets made up of a combination of diamond dust and arsenic; he says, "it is one of the packets made up from the packets given to me by the jemadar," and he explains when he is examined before the Commission, how that packet was made, and he follows the theory which my learned friend adopts, and which I also adopt, that he did not wish to poison his master, but knowing or believing the white powder was very deleterious, he only put in one pinch out of the white packet into each powder; he did not put in a third of it, but merely a pinch, keeping the rest back so that would account for the remnant of the arsenic being found in his belt; and it was there found under such circumstances as to be entirely denuded of suspicion, and to be incapable of bearing the construction put upon them by my learned friend. I think a careful review of the whole of the circumstances connected with the finding of this powder in the belt will go far to satisfy the Commission that Rowjee was speaking the truth in regard to this point. There was yet one other point in Rowjee's evidence on which my learned friend relied, and that was this, that when he was examined by Colonel Phayre on the 9th or 10th of November, or at a later date—I am not quite certain as to the date—he charged Faizoo with being the person concerned in this attempt. No doubt that was a base and false charge, so far as the events of the 9th of November were concerned, but he has given a reason, which I think will be considered satisfactory as a *reason*, to the Commission, although I dare say, it will not be satisfactory to them in a moral point of view. Faizoo was a man who was charged, not by Rowjee only, but by all the servants, and they had apparently good reason for doing so, because the Commission will not fail to remember that Faizoo was a man who was practically in the pay of the Durbar. Faizoo had a little son, who was enrolled in His Highness's service as a sowar, and Faizoo received the pay of the appointment. His son was a child when he got the appointment, and at this very time he was very little more than a child, being only about sixteen years of age. There can be no doubt, therefore, that Faizoo is practically in the Gaekwar's service, or that the appointment of the son was practically the means of making some payment to the father. You have it also stated—with what truth I do not care to enquire—but it is stated by these servants that Faizoo was a man who had been previously charged with improprieties of conduct in regard to various matters, to have been concerned in plots, to have had a hand in khutput and intrigues, in the time of both the late and the present Maharajas, and he was, therefore, a man whom the other servants under the circumstances naturally fixed upon as a scape-goat. Faizoo tells us that during an interval of non-employment at the Residency, he had himself been in the service of the Maharaja, and that was an additional reason why his fellow servants may have supposed that suspicion would readily rest upon him. It was a gross untruth on the part of Rowjee to say that he suspected Faizoo in regard to the transactions of the 9th of November, but it is unquestionably also obvious that he had good reason to suppose it would be a device likely to be successful—and it was in point of fact successful—in diverting suspicion from himself. I don't defend his conduct—God forbid that I should,—but it was a natural course for a man of Rowjee's character, and concerned as he was in these transactions, to adopt. Now, those were the

points in Rowjee's evidence to which my learned friend especially referred as showing that he ought not to be believed. I think that I have given good reasons to the Commission for holding that not one of those objections will be found to be sustainable upon careful investigation. They do not go to show that Rowjee is a man of high character, but they do not invalidate the general truth of his testimony; they are perfectly consistent with the account that he gives of himself, and with the accounts he gives of the transactions in which he took so important a part; and unless he is to be disbelieved altogether by the Commission I say that there is nothing in any one of those objections which should deter the Commission from holding that in regard to these transactions with the Maharaja he has spoken substantially the truth. My Lord, I was in hopes that I should have been able to finish what I had to say to-day, but it is now past four o'clock, and as I have further observations to make, I shall not be able to do so. I hope I shall not be thought to have addressed the Commission at too great a length.

The President—We do not for a moment think that you have gone on at any unnecessary length, and I do not think that you ought to attempt to condense your observations in a case of this kind. We had better adjourn now.

Mr. Serjeant Ballantine—I am sure that my learned friend has not expended a single moment of time that was not quite necessary.

The Commission rose at a quarter-past four o'clock.

TWENTIETH DAY, THURSDAY, MARCH 18.

PRESENT.

Sir Richard Couch (President); H. H. Maharajah of Jeypore; Sir Richard John Meade, and Mr. Philip Sandys Melvill.

Counsel for the prosecution:—The Hon. Andrew R. Scoble, Advocate-General of Bombay, and J. D. Inverarity, instructed by Messrs. Hearn, Cleveland, and Lee-Warner, Solicitors in this matter for the Government of India.

Counsel for the defence:—Serjeant Ballantine, R. A. Branson, Henry F. Purcell, and Shantaram Narayen, instructed by Messrs Jefferson and Payne, Attornies, Bombay.

Secretary to the Commission:—John Jardine, Esq., Bombay Civil Service.

Interpreters:—Mr. Nowroz ee Furdoonjee, and Khan Bahadoor Cursetjee Rustomjee Thanawalla.

Sir Lewis Pelly, K.C.S.I., was present for a portion of the forenoon and occupied a seat on the right of the Commission.

His Highness the Gaekwar was absent.

The Inquiry was opened at 11 o'clock.

The President said that His Highness the Maharaja Scindia would not be able to attend that day, neither would Sir Dinkur Rao; but that arrangements would be made to have a copy of the Advocate-General's address supplied to them, so that they would be able to have a full opportunity of considering his argument upon the whole case.

The Advocate-General said that they must all regret that His Highness and Sir Dinkur Rao should have suffered from the patience and industry they had bestowed on the case, but he was sure that though absent, they would still continue to acquaint themselves with all that had been done.

The Advocate-General then continued his address to the Commission as follows:—I now come to the evidence of Nursoo, and in regard to that witness, as with regard to the other witnesses, I put the same question that I have put already to the Commission—What cause has been shown that he should not be believed by you? My learned friend has said that Nursoo was an unnecessary witness, and was only brought into the case to corroborate Rowjee, and that as far as any services he could have rendered to carry out the schemes in which he is alleged to have been implicated, he might as well have been left out altogether. I think, however, that the Commission will see upon a consideration of the whole evidence that Nursoo was not only a necessary, but an indispensable person to be drawn into this conspiracy. His assistance was necessary, not only in regard to the matter of the poisoning, but also in regard to the other matters which are the subject of the inquiry here. He lived in the city, and used to go to the Residency in the morning, returning home at night. His agency was, therefore, of importance for the purpose of conveying from the Residency to the Palace those news-letters which Rowjee was in the habit of transmitting from day to day. It was a natural and perfectly simple thing for Nursoo to go, after his day's work, to Yeshwuntrao's house in the city, and on arrival there, at the house of Yushwuntrao or Salim, to deliver over those news-letters to the Maharaja's agent, whoever he might be. Another reason why his assistance was necessary was this—he was the head man, the jemadar, under whom Rowjee was employed as a havildar. Had his co-operation not been obtained, he would have been a constant and uncomfortable spy upon all that Rowjee was doing at the Residency. No doubt he would have had his attention directed to the conversations that were going on between Rowjee and the servants of the Maharaja, and would also have had his attention directed to the visits Rowjee was in the habit of paying to Colonel Phayre's office; so that he would have had a good opportunity of detecting anything done by Rowjee in the matter of purloining documents. To secure him, therefore, became a most important object on the part of those engaged in this plot, and when we remember what the Maharaja himself is stated to have said to Damodhur Punt, we see how especially necessary it was that Nursoo should be secured. You will remember that His Highness on the morning of the 9th of November attributed the discovery of the attempt to poison Colonel Phayre to the absence of Nursoo from the Residency, for he said that Nursoo was in the habit of keeping on the watch and whistling, and

he was not there on this morning, and therefore the attempt was discovered. Now, it was very possible that some one on this morning might have seen Rowjee putting the powder into the glass containing the sherbet, although he fancied he was secure from observation, and no doubt that possibility was present to the mind of the Maharaja when he spoke of the absence of Nursoo. Surely, this shows how important it was felt that Nursoo should have been on the watch, in order that Rowjee might carry out his schemes, either of ransacking his master's office for papers, or administering poison, as we have seen. It appears that on that morning Nursoo did not present himself at the Residency until 8 o'clock, and it is no small corroboration of the truth of Damodhur Punt's story that that circumstance should have been mentioned to the Maharaja, and mentioned by the Maharaja in turn to the private secretary. That is one of the innumerable small points which, to my mind, proves that the story of Damodhur Punt could not have been a fabrication made up between him and the officers of the police, as suggested by my learned fri nd. That Nursoo was not present that morning is no after-thought of his, because it was stated in the original statement which Damodhur Punt made before Mr. Richey, and he could easily have been contradicted by the other servants if he had said on the subject that which was not true. Now, my Lord, that was one of the principal grounds—that Nursoo was an unnecessary witness introduced by the police in order to bolster up Rowjee's statements—on which it was attempted to impeach the character of the police officers. It seems to me that my learned friend might have judged of Nursoo when that witness appeared in the witness-box. Nursoo did not strike me as being a man of superior intelligence ; he was an old servant who had, probably, risen to his position at the Residency by seniority rather than by merit, and such a person, it seemed to me, would have been a most difficult pupil for the police to teach the story which he has told. My learned friend was also very jocose about the episode of the well. No doubt there was some confusion about the story which the jemadar told before the Commission in regard to that matter ; but I may here refer the Commission to the account which he gives of the circumstance at page 92 of the short-hand writer's reports :—"Since my arrest, I have been under a military guard at the Residency. For a short time it was a native guard, and latterly it has been European soldiers. On the very day that my statement was made and taken down I remember going into the garden near the Residency. I fell into a well. After a long service this had happened, and I thought I could not show my face to any one after it. That was my fate. I had taken my meal, and after finishing it I saw a number of people near the well. I saw my fellow-servants of old standing. I said, after my long service, this is my fate. I fell into the well. I saw a number of people. My head turned and I fell into a well." Now, my learned friend made a great point in one part of his address in urging that there was no attempt at self-destruction made by Nursoo, and that it is idle upon this statement to assume that he fell otherwise than accidentally into the well. To that suggestion I think the best answer is conveyed in the answer which Sir Lewis Pelly made to a question put to him upon the subject, when you will remember, he invited the Commission to see the well for themselves, and say whether such an accidental fall could have been possible. My learned friend was not willing that Sir Lewis Pelly should state particularly what took place when he saw Nursoo taken from the well, and I did not press that question ; but I think it would be impossible for any man, seeing that well, the manner in which it is constructed, and the position in which it is placed, to suppose that the witness Nursoo could have accidentally fallen into it ; or to come to any other conclusion but that to have fallen into it must have been the result, on his part, of a deliberate attempt to destroy himself. That that design did exist in his mind is, I think, perfectly clear from his story, when he says that seeing his old fellow-servants standing around and knowing the disgrace he had fallen into, he could not bear his fate, and felt he would rather die than face that disgrace for the future. I think that is a very strong corroboration of the truthfulness of his story. The feelings he entertained at the time were no doubt such feelings as a man of ordinary constitution of mind and heart would be likely to entertain under Nursoo's circumstances. He told his story simply ; he saw that he was disgraced ; and he sought to destroy himself. But, my Lord, I think there was another episode in regard to Nursoo's evidence which occurred when he stood in the witness-box, and which I think proves him to be a witness of truth. No one who was present here on the day on which Nursoo was examined could forget what took place between him and Sir Dinkur Rao at the close of his evidence. The man had made his statement, and then from the bench, from a countryman of his own—a man whom he would naturally respect from the position he held here, as well as venerable for his age, his appearance and the caste to which he belongs, a series of searching questions were put to Nursoo which were in point of fact solemn adjurations as to whether he was telling the truth. I am sure, every one will remember how forcibly the appeal was made to Nursoo, by one so venerable, one so worthy of respect, one so calculated to inspire confidence. The test was a most severe one—it was almost an invitation to the man in the box to retract, if he could, all that he had previously told us ; it was a solemn moment most assuredly, not only for the unhappy man himself, but for all who heard him ; and, my Lord, how was that appeal met ? The story is found at page 95 of the short-hand writer's notes :—"Sir Dinkur Rao—It is a very serious thing to poison one. Would anybody do such a matter in the presence of ten or twelve persons ?—

There were not ten persons. There were two of his servants and two of ours.—Was the quantity of poison used small or large, and was it administered three times ?—In my life I have not given any poison. A packet was given to me, and I was told to give it to Rowjee, and I gave it to him. The arrangements as to how much to use and not, lay with Rowjee.—What servant said that accusations should be made against Faizoo ?—No one said so. They mentioncd his name in the statements, and therefore I also caused it to be written.—Who mentioned his name ?—Abdoola, Pedro, and the hamals : five or six persons altogether.—At the first meeting the Maharaja called you a rogue. How, then, did he come to trust you in such a serious matter ?—Rowjee, Salim, and Yeshwuntrao took me and they assured the Maharaja.—Are you a Hindoo?—Yes.—What is your castle ?—A Telingan Camatee.—Are you afraid of the police.—Why ? Why should there be fear for speaking the truth ?—Do you yourself believe that you are guilty?—It is my bad luck. I also am concerned.—If you were granted a pardon, would you in the presence of God tell the truth ?—It is not because I may get a pardon that I tell the truth. Whether or not the Sirkar gives me a pardon, they are my parents. Mr. Melvill—That is not a correct interpretation. What the witness said was, If I were offered a pardon I would speak the truth. I am speaking the truth now. (Question repeated.) Witness— know nothing more than this which is true. The President—Sir Dinkur Rao's question, as I under stand it, was whether if the witness were offered a pardon, he would tell a more truthful statement than he is now giving. Repeat that question (Question repeated by Interpreter.) Witness—What was truth I have said. Besides that there is no other truth. The Sircar may kill me if they like. By Sir Dinkur Rao—You have served a person thirty-four years, against whom you have done basely. Now, as you, if you were in the presence of God, state the truth. Do not be afraid, whatever is in your mind state it without fear in the presence of God ?—I have stated without fear what I had to say. (The President to Interpreter)—Put the question in this way—In the presence of God will you tell the truth. (Question repeated by Interpreter.) Witness—In the presence of God I have stated what was the truth. I have not stated an untruth. I have stated the truth." My Lord, it is scarcely possible to imagine a man in the class of life, of the class of mind, and of the character of the witness Nursoo, exposed to a more trying ordeal than the one I have now read to you, but, in the presence of God, and on a solemn adjuration, he avers that he has spoken the truth—and even when told that there was a prospect of pardon for him if he told the truth, he only replied that he had already told the truth, and that other truth there was none. There can scarcely be a greater corroboration of the truthfulness of the witness than is furnished by that which I have just read from the reporter's notes. Now, my Lord, I come to the last of the more important witnesses whom my learned friend dealt with in his address to the Commission, and that is Damodhur Punt. He was, as my learned friend has said, a man of a different stamp from the other witnesses. He was a man who was in the confidence of His Highness the Gaekwar ; he held the most confidential position that it was possible for a man to hold in the Gaekwar's employment. It is not suggested that there is any quarrel between Damodhur Punt and His Highness ; on the contrary, it is perfectly clear that after the attempt to poison Colonel Phayre was made, Damodhur Punt, if possible, was higher in the favour of his master than he had ever been before, for whereas the Gaekwar had not taken him to the Residency during Colonel Phayre's time, he introduced him to Sir Lewis Pelly as his private secretary. There was, therefore, no interruption of confidence between the Maharaja and his secretary, by reason of the attempt to poison Colonel Phayre having been discovered. It has not been suggested that there has been, since the time he was introduced to Sir Lewis Pelly up to the present moment, anything to disturb the cordial relations existing between Damodhur Punt and the Maharaja. Up to the time of the Maharaja's arrest there does not appear to be any ground whatever for supposing that the confidence existing between the two had been broken. He was arrested on the same day as his master, at the Palace, where he was discharging his ordinary duties. There could, therefore, be no reason why Damodhur Punt should invent a story to the detriment of his master, such as is described to us in the evidence. There would be more reason why he should hold his tongue rather than invent such a story, because, by holding his tongue, if the charges against his master were not proved, he would have every expectation of receiving a large reward from his grateful sovereign. There was nothing in any part of the evidence that was on record, at the time of His Highness's arrest, to implicate Damodhur Punt in the attempt to poison Colonel Phayre. It is a curious thing as I have already observed that although there were many strings pulled in this business, the various persons who were to be moved were not aware that others besides themselves were engaged in the same plot. Thus Damodhur Punt knew nothing about the visits to the Palace of Nursoo and Rowjee, and the only occasion on which he saw Rowjee was at Nowsaree, when Ranee Jumnabaee's petition was brought to the Maharaja. So far as Damodhur Punt is concerned, the arrest he was put under at the Palace on the 13th of January was only such an arrest as the various other servants at the Palace were subjected to. They were not kept in any confinement, but were simply looked after, and that by a guard of the Gaekwar's own troops. There was, therefore, nothing for Damodhur Punt to fear—nothing to implicate him—nothing to show that he had any concern whatever in these transactions. After remaining for some days under a guard of the Gaek-

war's troops in the Senaputtee's Cutcherry in the Palace, he was removed to the Residency, and there placed under a European guard. That there was reason for that step, we may well imagine, though those reasons, probably, had nothing to do with any matters relating to this case. He remained under this guard without any interference on the part of the police at all. He was brought one day from the European guard, under which he was confined, to a tent in the Residency compound, in order that he might be present at the time that certain papers, which had been sealed up at the Palace, were examined, and the seals were broken before him. He was present at that investigation, but does not appear to have taken any very active part in pointing out the documents found in the packets then unsealed. The clerks employed under him were there, going through the papers, in connection with the police. He was present, apparently, when those four cash books, or *roz-kheerds*, on which the splotches of ink had been made, were discovered. The appearance of these may have led him to suppose that something might be discovered in regard to him also, and upon that same occasion he is spoken to by one of the police officers, Gujanund Vithul, who tells him simply, that it would be better for him if he speaks the truth, if he knows anything at all about the matter. Nothing more, apparently, is said to him. He returns to his confinement under the European guard; he remains there for two days, making up his mind perhaps, and then communicates with Gujanund Vithul, saying that if he gets a pardon he will speak the truth. He accordingly gets an offer of pardon, and makes his statement, not to the police, not to Mr Souter, not to Akbar Ali or Abdool Ali, not to Gujanund, but to Mr. Richey, the Assistant Resident, who records his deposition. I apprehend these are facts which will weigh with the Commission, in considering whether or not Damodhur Punt ought to be believed. He has told us that although he knew that Rowjee and Nursoo had been arrested, and had made their statements, he did not know what they had stated, and that, I apprehend, is a matter which may be taken as one of almost absolute certainty. Up to the time Damodhur Punt was arrested, the statements made by Nursoo and Rowjee would be most carefully guarded. These were the materials upon which His Excellency the Viceroy had to act, and it cannot be supposed for a moment that documents of so important a nature would be communicated to any one: on the contrary, it may be supposed that these documents would be most carefully guarded from inspection by all persons other than those who had a right to see them. Damodhur Punt makes his statement, and his statement is in evidence before the Commission. As I have already stated, he does not implicate Rowjee and Nursoo in regard to the visits to the Palace, because, as he says, he knew nothing about those visits: and all he does is to give evidence which most seriously implicates the Maharaja, and he gives it in a manner which shows that it could not possibly be the result of tutoring by the police or of Damodhur Punt's own imagination. The police could not have had the slightest inkling as to most of the matters he speaks of, and knowing that Rowjee and Nursoo had made statements, he could not possibly have given to these statements the accidental corroboration he has given, unless he had been speaking the truth. Let us suppose that it was a police conspiracy,—would not the first thing that would occur to the police be to say to Damodhur Punt that "Rowjee and Nursoo were in the habit of going to the Haveli, and say that they went in by the entrance at the back by the Nuzzur Bagh, and used to see the Maharaja there. You were about the Palace from morning to night, and you must have seen them there?" He does not describe the whole affair at all, and truly a remarkable characteristic of his statement is that, although he speaks mostly as to matters passing between himself and the Maharaja, he makes no attempt whatever to connect Rowjee and Nursoo with the matters under enquiry, except by stating that he saw Rowjee at Nowsaree, and mentioning a packet that he had to give to Rowjee. But Nursoo he does not mention at all, and the ayah he does not mention. In point of fact, none of the other persons who visited the Palace from the Residency are mentioned by him. He only says that he heard Rowjee used to write letters almost daily to the Palace about what was going on at the Residency. It is important to notice that all he says about Rowjee is, that he saw Rowjee at Nowsaree, and that he was told to give a packet to Salim to give to Rowjee, and that he did so. Now, it has been sought here to discredit the evidence of Damodhur Punt by the evidence of Hemchund Futteychund. Hemchund had made a statement to Mr. Souter, which statement he had repeated to Sir Lewis Pelly. To these officers he had declared that his statement was true, and had appended his signature to it But when he came into the witness-box here, he was so eager to show that he had come to unsay all that he had said previously, that it was quite painful to notice the obvious perjury he was committing. The evidence of Hemchund will be found at page 137 of the short-hand writer's notes. I may best convey an idea of his eagerness to depose against his former statement, by reading the first few answers he gave: "My name is Hemchund Futteychund. I lived at Baroda. I carry on business as a jeweller. I know Nanajee Vithul well. He is in the service of the Gaekwar. I have never taken any jewels to him." Mr. Inverarity repeated the question—"Have you never taken any jewels to Nanajee Vithul?—Witness—Of what value?—Have you ever done so?—At what month or what date?—About last Dusserah?—No, I didn't take anything about last Dusserah. I never took any diamonds to Nanajee Vithul. I have not taken any diamonds to the Haveli lately. I did so about the time

the last Dusserah. Nanjee Vithul said 'Bring some diamonds.' I did take some, but they were given back to me. I took them to Nanajee Vithul from our house. I never took these diamonds back to the Haveli again. I never went back with any diamonds to the Haveli. After that occasion I never took any diamonds to the Haveli. About the time of last Dusserah no diamonds were purchased from me by Nanajee Vithul. I have never received any money in payment or in part payment of diamonds from Nanajee Vithul. In the month of Kartak Macksa (corresponding to October and November) I received from Nanajee Vithul a sum of money that was due to me." He began by saying that he had never taken any diamonds at the time of the Dusserah, and then he says that he did so. In fact he is so eager to unsay what he had previously said, that he forgets to discriminate between that which he might admit without any danger, and that which he might not admit without danger to His Highness. He says, that after the diamonds were returned, he never took diamonds to the Haveli, but he goes on to say—"I know Venayekrao Venketish. I have taken diamonds to him at the Palace. I took them on the 7th or 8th of Assoo-vud (31st October and 1st November 1874). Venayekrao is the brother-in-law of Nanajee Vithul. He is employed at the Gaekwar's jewelkhana. I gave these diamonds to Venayekrao at the jewelkhana. I took them there by Venayekrao's direction. On that occasion I took two packets of diamonds to Venayekrao. These packets were not bought. The diamonds were rose diamonds." Then my learned friend, with the permission of the Commission, put to him the statement he had made before Mr. Souter, and read out the passages to him as they had been taken down by Mr. Souter from the deposition, and he was asked, "Did you make that statement to Mr. Souter?" He answered, "I did not. They caused me to write what they liked." "Who are they?" "I mean Gujanund Vithul." "How much of that statement that has been read to you is incorrect?" Answer, "It is all false." This although at the beginning of his evidence, after all the quibbling and shuffling to which I have just called your attention, he admitted that a great part of it was true. Reliance upon the evidence of a witness of this kind is perfectly impossible. He does not discriminate between what he wishes to represent as true and false. He boldly states that all he had stated before was false, and at the same time admits that a considerable part of it was true. Hemchund has been shown to be a man having very large dealings with His Highness—not only in made-up ornaments, but also in loose precious stones. In fact he appears to have had his best customer in His Highness, and doubtless he had a great desire to do him a service, if he could, even at the risk of his conscience, and he has rendered that service in the way I have described—a way which has deprived his testimony of all value. He says that all that was recorded in his statement by Gujanund was put down by himself, but that there is not a single word of truth in it. It strikes me as singular, that when his deposition was read over to him before Sir Lewis Pelly, he should not have turned round and said that the police had forced him to make it, and that he wanted to be protected. Had he made such an appeal, it would have been listened to, and the result would have been a most searching inquiry into the conduct of the police which would have been of greater service to the Maharaja than his demeanour in the witness-box has been. I pass over the obvious falsehoods he told us about not knowing Hindoostanee. The innocent air with which he asked, "What is Hindoostanee?"—apparently not knowing that there was such a language at all—was astonishing, the fact being that Mr. Souter addressed him in Hindoostanee at the time when he first saw him. I merely mention, *en passant*, the way in which he equivocated about the statement he had undoubtedly given before Mr. Souter. He at first said that the signature did not look like his, and then, afterwards, he admitted that it was his signature; and a variety of other matters in his evidence showed him to be a man utterly unscrupulous and incapable of distinguishing between truth and falsehood. He professed that he did not recognise Mr. Souter, although he was told to look at him in the presence of the Commission. Now the more important part of his evidence to be considered is his story about his book. He says this book was made up for him by the police. Here, again, one is tempted to express extreme surprise at the extraordinary stupidity attributed to the police. Supposing my learned friend's theory is true, can any one imagine a police officer so utterly regardless of what was plausible under these circumstances as to make such entries in Hemchund's books as Hemchund says Gujanund caused him to write? These two entries at the end of the book, as the Commission will remember, appear under date the 7th or 8th November 1874. Now, the evidence of Hemchund is that the diamonds were taken by him to the Palace about the time of the Dusserah. The evidence of other witnesses shows that the date on which he took these jewels would be about the 27th October—and can any one suppose a police officer causing a man to write in his books an entry which did not correspond with the oral evidence that he proposed to adduce before the Court? I must say that I cannot understand a police officer causing a man to make an entry in his books which did not correspond with the statements that the police officer intended to bring forward. Yet that is what my learned friend would seek to lead the Commission to infer from Hemchund Futteychund's story. Now, the witness Hurjeewundas, who was called as an expert, showed perfectly clearly that this Jungud Nond had been tampered with by some one in a very serious and comprehensive way. There were five juz which were genuine—the former part of the original book. There was a sixth juz, the paper of which corresponded with the paper of the first five juz—from which one leaf was missing—and then came these two juz, the 7th and the 8th, composed of different paper, which, according to the opinion of this expert, must have been put into the book at a time subsequent to the original making of the book. Now, to give colour to the man's story about the police making these entries, the Commission must suppose that the whole of the alterations from the end of the 5th juz were made by the police. The fifth juz ended with a part of an entry which was continued on the sixth juz, in different handwriting. This perhaps is not very important, because the witness said that he used to get any body that was passing his shop to make en-

tries in his books for him, and that may account for the difference in the handwriting; or, at all events, it may have occured in this way—supposing the sixth juz to have been tampered with, he was obliged to destroy the writing between the last page of the fifth *juz* and the six and could not get the same man to continue the writing on the sixth *juz*. But, however, that may be, the Commission has the fact before it that the book has been tampered with, according to the statement of Hemchund Futtoychund before Mr. Souter and Sir Lewis Pelly. The story that he gives as to this tampering is contained in page 139 of the short-hand writer's notes, but that statement is certainly not in accord with the condition of his books, and is not in accord with the story he has told us here. It is not pretended that the entries on all the pages of the last *juz* with the exception of the two entries at the end regarding the diamond chips are not genuine. He says they are all genuine on the fifth *juz*, and they are also all genuine on the six jus, and they are also all genuine on the seventh, but there is a missing page on the sixth juz, which he does not attempt to account for. He says that all the following entries are perfectly true, until you get to the last ones, which he says he was compelled by Gujanand to make. Now, if his story as to the tampering with his book is to hang together consistently with the rest of the evidence he has given before the Commission, it is perfectly clear that all the *juzes* after the 5th should have been subjected to manipulation by Gujanund Vithul, but he says that was not so, but that all the entries are genuine until we get to the last entries in question. Now it seems to be much more probable that his original story was the true one, and that the missing page was removed in order to conceal the original entry about the diamonds, and that he himself made the subsequent entries in order that he might not be without some record of his having taken these diamonds to the Palace, and that at the same time there should be nothing to show but that he took these diamonds at a time when no improper purpose could be attributed to them. Now there is only one page gone from the 6th juz, and the whole of the 7th juz is new. It is perfectly clear that either upon that page, or upon some part of the following juz this transaction as to the diamonds must have been originally entered. Now, my learned friend, in regard to the evidence of this witness, urged it strongly as a reason for believing that the police should have fabricated the two entries, that the hoondees were not mentioned by Gujanand in the statement which he drew up for Hemchund to sign. My learned friend obviously knew all about the history of these hoondees, from which it is reasonable to suppose that Hemchund had been in communication with those who are instructing my learned friend. These hoondees are entered as of the date of June, they bear on the face of them dates in the following month of July, and the tranaction is closed long before we come to the time of the Dusserah or Dewali. No doubt he had a record in his books of a transaction with one Sivchund Khoosalchund, and he says the account belongs to Nanajee Vithul and relates to some ornaments bought by Nanajee from Sivchund; but that transaction was closed with the hoondees. The purchase money was Rs. 7,000, and the amount of the hoondees was Rs. 7,000. But it became necessary, in in order to conceal these transactions in regard to the diamonds, that Sivchund's account should be re-opened, although there were no transactions with that person subsequently to July. In order to divert attention from the transaction in regard to the diamond chips, it became necessary, as I have already said, to continue this account of Sivchund. Sivchund is a Poona man, and the mention of his name in the books would not be likely to attract attention. Accordingly the payments sworn to by witnesses here as having been made in regard to diamond chips are entered in Hemchund's books in the account with Sivchund, notwithstanding that there was no account with Sivchund at the time. Hemchund says that the account which continued in the name of Sivchund was really the account of Nanajee Vithul. I think it is perfectly clear that the transaction referring to the jewels purchased by Nanajee Vithul from Sivchund was the origin of this account, but that this account was closed, so far as Nanajee Vithul was concerned when the hoondees were paid, and there was therefore no further account in the book of Hemchund to which Sivchund was properly a party. The subsequent payment entered in Sivchund's account were made in regard to the diamond chips. There were two payments, one of two thousand rupees, and another which amounted to one thousand rupees. The latter was really a payment of two thousand rupees, but part of it was accounted for by a hoondee for Rs. 750 in favour of Venaye rao Venkatesh, and part by a cash payment transactions with which Sivchund had nothing whatever to do. Both payments are, however, credited to Sivchund. When were those payments made? One in December, and the other in January, long after the attempt to poison Colonel Phayre had been discovered—long after the attention of the Maharaja and his servants had been called to the necessity of not allowing any documentary evidence to exist which might implicate His Highness in the plot. We have had distinctly shown by the books of Hemchund that these payments were made on the dates stated, and from what funds were those payments made? Not from the private funds of Nanajee, or any other private fund, but from the State funds of His Highness the Gaekwar, the payments having been made by a carkoon in charge of the Dumala Mahal, a public officer. My learned friend says that this man Nanchund Talluckchund was not called, but having before us the admission in Hemchund's books that the payment was made by the Dumala Carkoon, it was quite unnecessary to call him. Nanajee Vithul says he gave instructions to Nanchund to pay the money, and it was paid. Further proof would not be necessary. Nanajee was not asked a question by my learned friend as to whether he had embezzled this money, and I think it has been admitted that it was paid out of the Gaekwar's funds. Then we have Damodhur Punt's statement as to how the Rs. 3,000 paid to Hemchund was obtained. He has shown you the two entries that were made, the two yads that were prepared, one exhibiting a saving on the lighting account, and another exhibiting the proceeds of certain coins received as nuzzerana; and he says that by the order of His Highness that money was directed to be appropriated for the payment of these diamond chips. Rs. 3,600 was the aggregate of these savings, and out of that amount Rs. 3,000 was paid by Nanajee Vithul in the way I have described. The method of concealing the payments in Hemchund's books I have already described. They were said to be paid to Sivchund, although the latter had nothing whatever to do with them, and detection of this fact would have been almost impossible had it not been for the original statement made by Hemchund. Your Lordships will remember that these payments of the diamonds were ordered to be entered in the Gaekwar's books as for a Brahman feast, but the priest of the Swamee Narayen temple has been called, and he has proved that no such payment was made. I think, my Lord, that after what I have stated you will agree that the books of Hemchund, so far from vouching for the truth of his story, absolu-

tely disprove it, and that the explanations given by Damodhur Punt and Nanajee Vithul show clearly what the transactions were and the ingenious means employed to conceal them. The entry in the accounts at the Palace was easily made to disappear. It consisted of a yad which was torn up at the time the attempt to poison Colonel Phayre was discovered. There was no receipt on the face of the yad because no money had then been paid. There would therefore be no entry of payment in any of the ordinary books of the Palace. The record of it, so far as the Palace was concerned, existed simply in the yad, and when that yad was asked for at the time of the discovery of the attempt to poison Colonel Phayre, the witness Atmaram Rughoonath, like a veteran carkoon, asked why he should give it up, and Nanajee Vithul tells him that the jewels had been returned to Humchund Futteychund, which of course was a natural excuse, though Atmaram evidently had his doubts upon that subject, for he told us here that he did not know whether the diamonds had really been returned or not. As to the blotted daily cash-books, it may be as well to remember that they were sealed up in the Palace on the day of the Maharaja's arrest, in the presence of Damodhur Punt, to whose department they belonged, and that no one except the military guards over them had anything to do with them until they were brought to the tent in the Residency compound and opened in the presence of Damodhur Punt. Damodhur had made no statement at the time. He was not expected to make any statement; he was asked to be present simply that he might say whether the seals were intact, and whether the documents belonged to his department. He comes and sees that the seals are intact; and you will bear in mind that when one of these obliterated documents was discovered, Gujanund Vithul went and told Mr. Souter about it. Mr. Souter came and three more are discovered in like manner as the first. Now, it certainly is very remarkable that these documents should have been discovered in the way I have described, unless they really existed in that state at the time they were sealed up in the Palace. They were not discovered by the police, but by the Palace carkoons who were examining them. My learned friend suggests that this obliteration was done by the police, but, as I have already said, that would be a singularly clumsy device to adopt, and it was more likely to have been done by some clerk who had been told to obliterate Salim's name from the duftur, and stopped doing so when he found that what a mess he was making. Why it was desired to obliterate these entries is tolerably clear. The obliterated daily cash accounts refer to the yads which are in evidence as N 1, O 1, P 1, Q 1, the very first of which relates to the payment of Rs. 1,000 to Salim on the 8th June 1874, which I have already referred to as corresponding to the payment of Rs. 800 to Nursoo and Rowjee. This document, for instance, must have appeared to Damodhur Punt one that it was very desirable to get rid of. Indeed, it seems to me, my Lord, that the only reasonable explanation that can be given of these obliterated cash accounts is the one Damodhur Punt has supplied, and any other suggestion regarding them is so incredible as to be undeserving of serious attention. I have already referred to Hemchund's evidence as being on the face of it utterly untrustworthy, and I think it must have been clear to all who heard him how he came to give it. He was not under the charge of the police but lived in the city, where he was therefore accessible to the influence of any injudicious friend of His Highness who might wish him to alter the statements he had previously given. It seems to me to be a matter of almost necessary inference that he has been worked upon by some injudicious friend of His Highness to come here and perjure himself in the way he has done. Now, my Lord, I have gone through the particular portions of the evidence of these four witnesses to whom my learned friend referred as supplying a reason why they should not be credited, and I think I have answered every one of my learned friend's arguments in regard to these witnesses. It is, I think, established that each of the four material witnesses made his statement in complete ignorance of what the others had said. I call attention to the statement at page 80 of the notes where Rowjee alludes to the only communication he had with Nursoo after his arrest, and to page 91 at which Nursoo describes the interview at somewhat greater length. Akbar Ali's evidence on the point at page 106 and Gujanund's at page 164 are also worth referring to. Then, again, Sir Lewis Pelly's evidence (page 179) as to the manner in which Nursoo gave his statement ought to show conclusively to the Commission that it was given without any pressure of any kind and after considerable time for deliberation had been granted to him. It must be remembered also that Nursoo has always been under charge of a military and not a police guard. My learned friend said—and no doubt there was a certain amount of poetical justice in his complaint—that it was hard that Nursoo, who was probably the least villain among the chief witnesses, should have been the only man who was refused a pardon; but what would my learned friend have said if Nursoo had come here also to give his evidence with a pardon? Of course he would have said,—Why, all those men have agreed to ruin the Maharaja because they know they are free from all fear of punishment. There is a great deal of force in the observations made by my learned friend as to the undesirability of having statements made before the police. In the regulation districts of India provision is made that that shall not be done, but special cases require special procedure, and it must be remembered that this was an enquiry under special instructions from the Viceroy, who sent the police here on this special duty. There was no magistrate before whom these witnesses could conveniently have been taken. The Maharaja was still on the gadee in possession of his power, and it would have been, I won't say improper, but indelicate, had Sir Lewis Pelly undertaken the duty of taking the depositions in the case.

The President—Was there no one on the spot exercising the powers of a magistrate?

The Advocate-General—There was the Cantonment Magistrate, Dr. Seward, but he has no jurisdiction over the Residency or the city, and was himself an important witness in the case. It would have been inconsistent with Sir Lewis Pelly's position to take any active part in the investigation, and it was in consequence of his own desire and feeling that it would not be right for him to do so that Mr. Souter was appointed to come here on special duty. Besides, the general work of administration in relation to the State was quite enough to occupy the whole time both of Sir Lewis Pelly and his assistant Mr. Richey. Now, my Lord, I apprehend that having regard to the fact that the person incriminated was in exercise of almost sovereign power, and that this was an enquiry into an attempt made upon the previous Resident's life, it is perfectly obvious that that inquiry could not have been left to the officers engaged in the discharge of their political duties with His Highness or to Dr. Seward, who besides having no jurisdiction beyond the limits of the cantonment, was also a material witness in the case, I think, therefore, that as far as this part of the question is concerned, the observations of

my learned friend loose all their point, and no fault can be found with the special procedure adopted in this case. My learned friend has said that in pursuing their investigations, the police really practised torture on the witnesses. I fail to find, on the record, evidence of any statement or expression which can, in the slightest degree, justify that phrase unless we are to take it that leaving witnesses by themselves, and telling them that other witnesses had spoken the truth, was torture. There is a torture, no doubt, to which these witnesses who took an active part in the conspiracy, may have been subject—I mean the torture of their own consciences, but that was not a torture inflicted upon them by the police; other torture there was none—the torture, as I have said, was the torture conscisnce worked upon men who had made themselves instruments of crime. In regard to the observations made by my learned friend as to the impropriety of telling a person who have been apprehended that others engaged in the same transaction had made a confession, and that therefore the persons so informed should themselves speak the truth, although, no doubt, in past years, under the decision of the Courts in England, it was held that it was improper to tell a witness that he had better tell the truth. I think the doctrine so laid down has long ago been exploded. I do not wish to refer to any cases in England, and I have refrained from doing so throughout the case, but on this particular point I may mention the case of the Queen v Jervis which is reported in the first volume, Crown Cases Reserved, in the new Series of the Law Reports at page 96 - the Commission will find there a most important judgment of Chief Baron Kelly, in which he holds that a statement made by a prisoner after being advised to speak the truth was admissible against him.

The President asked as to the date of the case alluded to.

The Advocate-General said that he had not the report with him, but that he thought it was in 1868 or 1869.

The President also asked the Advocate-General if he knew who the person was who told the witness to tell the truth.

The Advocate-General said that he could not remember at that moment, but he requested permission to read from Taylor's well known work on Evidence some observations with regard to the principle he had just referred to—"But when confessions have been rejected in consequence of such expressions as the following having been used:—'It will be better for you to speak the truth;' 'It is of no use for you to deny it, for there are the man and boy who will swear they saw you do it;' 'Now be cautious in the answers you give me to the questions I am going to put to you about this watch;' 'Whatever you say will be taken down and used against you;' 'Do not say anything to prejudice yourself, as what you say I shall take down, and it will be used for you or against you at your trial;' 'What you are charged with is a very heavy offence, and you must be very careful in making any statement to me, or anybody else that may tend to injure you; but anything you can say in your defence, we shall be ready to hear, or send to assist you;' in these and the like cases, it is only too apparent, that justice and common sense have been sacrificed on the shrine of mercy. Indeed, the judges themselves have of late years come to this conclusion, and after solemn discussion of the subject in the Court of Criminal Appeal, they have expressly overruled the last three decisions cited above, as cases which are discreditable to the law. So anxious was the court at one time to exclude evidence of confessions, that exhortations not to tell lies, but to speak the truth, have been deemed likely to induce a false acknowledgment of guilt; and consequently, admissions made after such exhortations have more than once been rejected. But this paradoxical opinion is now happily exploded." Now, my Lord, there is nothing more shown to have taken place here. The witnesses have been severely cross-examined, but nothing more has been shown than that the witnesses were confronted one with another, and that Rowjee said to Nursoo, "I have told the truth up to my neck"—and that the only advice given to Damodhur Punt by Gujanund was to the effect that he should tell the truth and so cautious, I may say, was Damodhur Punt, as to the promise of pardon, that Gujanund had to show him the part of the Criminal Procedure Code which relates to the granting of pardons. I submit, therefore, that there is nothing whatever to justify the assumption of my learned friend that this is a police case, or that it was got up by the police, or that the witnesses have been subject to intimidation. So far as the statement of witness Ameena ayah was concerned, and the statements of the other witnesses by whom she was corroborated, these statements related to charges which the police were not then engaged in investigating—for they were then only engaged in trying to find out who had attempted to poison Colonel Phayre, and it was not until the Gaekwar had been suspended that the charge of holding improper communications with the Residency servants was brought forward.

The Advocate-General concluded his address as follows:—My Lord, I think that upon a review of the circumstances under which these statements were made to the police, upon a consideration of the evidence which has been given before the Commission, and upon a comparison of that evidence so given under circumstances which allowed to the defence the fullest opportunity of cross-examination, with the statements originally made by the witnesses to Mr. Souter and Mr. Richey. I think this Commission cannot but come to the conclusion that the witnesses examined here have substantially spoken the truth. That my learned friend's ingenuity should have found discrepancies in their evidence, I am not surprised, nor, I believe, are the members of the Commission; but that these discrepancies do not affect the main facts of the story will, I think, be abundantly clear to the Commission when they come to review the evidence. The only witness who has not adhered to his statement is Hemchund Futteychund, who has perjured himself in the face of the Commission, perjured himself under circumstances which, I think, fully justified the police in detaining the other witnesses in such a manner that they also should not be exposed to the baneful influences which have obviously been brought to bear upon Hemchund Futteychund. Against the mass of the testimony brought forward here in support of the charges against His Highness the Gaekwar, not a single tittle of evidence has been adduced. I have in the course of my address to the Commission pointed out the numerous matters in which it should have been possible and easy for my learned friend, had he been so advised, to have produced witnesses to contradict the statements put forward by the witnesses called by me. Not one of these witnesses was produced by my learned friend, and the Commission will draw their own conclusions from that circumstance. As to Yeshwuntrao and Salim, my learned friend has stated that in the exercise of what, I am sure, was the soundest discretion, he had decided not to call them. My learned friend was not able to speak in terms of much approval of Yeshwuntrao and Salim, but when it is remembered

that these two men were the confidential servants of His Highness the Gaekwar up to the time of their arrest, and that ever since their arrest they have been kept under a military guard, that they have had no communication whatever with the police, and that since the arrest of His Highness his solicitors have been allowed the most unrestricted private communication with them, I must say it strikes me as very surprising that my learned friend has not called upon them to give their evidence, though, as I have said, I have no doubt whatever that my learned friend has exercised the soundest discretion in not putting these men into the witness-box. There is, therefore, no testimony to oppose to that which has been marshalled against the Gaekwar, and unless the Commission should reject altogether the evidence which has been so marshalled as utterly unworthy of credit, I apprehend there can be no doubt whatever but that it will be the painful duty of your Lordships to find these four charges against His Highness amply proved. I have no necessity to make any appeal to your Lordships in regard to the view that you should take in this matter ; it is not my province ; it would not become me to do so ; and I have no desire to go one step outside the evidence in the case. I will only say this, that if there is anything in the arguments which I have offered for your consideration upon the evidence which has been recorded, and if there is any truth in the evidence so recorded, then there is no room for sympathy with His Highness. The " persecuted prince," to whom my learned friend has referred so frequently disappears, and the Commission have before them only a criminal worthy of condign punishment. I do not think I need make any further observations upon the case than those I have offered to you, as calmly, I trust, and as dispassionately, as it was my duty to do. There are many small points which I have not dwelt upon, because I have deemed it right to address myself only to more important parts of the evidence, although I am aware that the consideration of these smaller points may help to show the story told by the witnesses to be true, and that the theory put forward upon the part of the defence is totally unsustainable. I thank this Commission most sincerely for the patient and courteous attention with which they have listened to the observations which I have ventured to address to them ; and I pray God that your deliberations may be conducted to a righteous conclusion.

The Commission then rose at one o'clock, without any remarks passing between the bench and the bar.

GSL

RESOLUTION OF THE GOVERNMENT OF INDIA.

Extract from the Proceedings of the Government of India in the Foreign Department (Political), —dated Simla, the 21st April 1875.

Read the undermentioned papers :—

Resolution No. 1106P., dated 21st April, and the documents thereto appended.

RESOLUTION.—His Highness Mulhar Rao Gaekwar, was suspended from the exercise of power, and the administration of the Baroda State was temporarily assumed by the British Government, in order that a public enquiry might be made into the truth of the imputation that His Highness had instigated an attempt to poison Colonel R. Phayre, C.B., the late Representative of the British Government at the Court of Baroda, and that every opportunity should be given to His Highness of freeing himself from the said imputation.

Sir R. Couch, Chief Justice of Bengal, the Maharaja of Gwalior, the Maharaja of Jeypore, Colonel Sir R. Meade, Chief Commissioner of Mysore and Coorg, Raja Sir Dinkur Rao, and Mr. P. S. Melvill, of the Bengal Civil Service, were appointed Commissioners for the purpose of enquiring into the said imputation, and of reporting to the Viceroy and Governor-General in Council how far the same was true to the best of their judgment and belief.

The Government of India desire to convey to the Chief Justice and the Members of the Commission their thanks for having accepted this onerous and responsible duty.

The reports of the Commissioners, who are divided in opinion, are now published for general information, together with the conclusions at which the Government of India have arrived after a full and deliberate consideration of the evidence, the arguments of counsel, and the opinions which the Commissioners have expressed.

ORDER.—Ordered, that the foregoing Resolution and the documents therein referred to be transmitted to Her Majesty's Secretary of State for India in Council, and that they also be published in the *Gazette of India*.

By order of His Excellency the Viceroy and Governor-General in Council,

C. U. AITCHISON,
Secretary to the Government of India.

RESOLUTION.

Read the following papers* :—

1. Proclamation, dated 18th January 1875, suspending His Highness Mulhar Rao Gaekwar in order to enquire into the imputation that he instigated an attempt to poison the British Resident at Baroda.
2. Notification, dated 15th February 1875, appointing a Commission to enquire into the imputation.
3. Official notes of evidence and exhibits in the case (the vernacular documents being translated.)
4. Printed notes of the arguments of counsel.
5. Joint Report, dated 31st March 1875, and signed by Sir R. Couch, Sir R. Meade, and Mr. P. S. Melvill.
6. Separate opinion by Maharaja Scindia, dated 27th March 1875.
7. Separate opinion by the Maharaja of Jeypore, dated 27th March 1875.
8. Separate opinion by Raja Sir Dinkur Rao, dated 26th March 1875.

1. The documents which are above-mentioned as read, and which are also appended to this Resolution, show the steps taken in the enquiry relative to the conduct of His Highness Mulhar Rao, Gaekwar of Baroda, and it will not be necessary here to refer to the particulars shown therein, except for the purpose of elucidating the conclusion about to be expressed. The princes and gentlemen who have served on the Commission of Enquiry have completed their laborious task by submitting their several opinions on the case. It now remains for the Government of India to express the conclusions at which they have arrived after full consideration of the evidence, the arguments of counsel, and the various opinions entertained by the Commissioners.

2. Sir Richard Couch, Sir Richard Meade, and Mr. Melvill are all agreed that the Gaekwar is guilty of the offences imputed to him. To repeat here the most heinous and comprehensive of those imputations, they find "that an attempt to poison Colonel Phayre was made by persons instigated thereto by Mulhar Rao Gaekwar."

3. The Maharaja Scindia appears to assume that the existence of communications between the Gaekwar and the servants of the Residency, and also that the actual administration of poison to Colonel Phayre, are proved, though he does not expressly state those conclusions. But of the communications with servants he says :—"As regards the communication with servants night or day, this is no matter of importance. These visits and requests for presents on marriage and other festive occasions and the means to secure the favour of the Resident, as well as the procuring of information regarding each other, are matters in accordance with the practice of other Native Princes and persons who have connection with the Residency." And he thinks that the connection of the Gaekwar with the act of poisoning is not proved. His conclusion is thus stated: "As to the attempt at poisoning, from the whole case as it came before me, as far as my judgment and belief go, I am not convinced that the charge is proved against Mulhar Rao."

4. The Maharaja of Jeypore thinks that it is proved that the Gaekwar gave sums of money to the Residency servants, and also that poison was administered to Colonel Phayre. Of the communications with servants he speaks thus : "The statements made by Amina, ayah, and several other Residency servants

* NOTE.—Nos. 1 and 2 have already been published in the *Gazette of India* of the 16th January and 20th February 1875 respectively; Nos 3 and 4, being bulky, will be published hereafter.

establish the fact that sums of money had actually been given to the ayah and to other servants of the Residency at different times, by order of His Highness the Gaekwar. These sums of money, however, do not appear to have been given out of any motives to tamper with the Residency servants for improper purposes, but simply as presents from the Gaekwar, and such as are generally given on occasions of marriage and national festivals." His Highness then proceeds to dwell upon various defects in the evidence, which will presently be noticed more at length, and concludes thus: "For reasons stated above, I cannot persuade myself to believe that the Gaekwar was in any way implicated in the charge, notwithstanding the fact of poison having been found in Colonel Phayre's tumbler of sherbet, and the uncorroborated evidence of the three accomplices, Raoji, Nursoo, and Damodhur Punt."

5. The opinion of Raja Sir Dinkur Rao is almost identical with that of the Maharaja Sindia, and need not be stated more in detail here.

6. No one of the Commissioners suggests that the poison could have been administered by any other person than the Residency servant Raoji, aided by his superior, Nursoo.

7. If the matter were simply left to stand upon the opinions given by the Commissioners, it would follow that the Gaekwar, having had the opportunity afforded him to clear himself from the imputations made against him, has not cleared himself. Three out of the six Commissioners who have entered upon the enquiry are of opinion that he is proved to be guilty. Now, when three gentlemen, of great experience in the ways of this country and in weighing and drawing inferences from evidence, unite in an opinion condemnatory of a person into whose actions it has been their duty to enquire, and that opinion is not set aside by superior authority, it is impossible to say but that there must rest at least a grave suspicion on the person so condemned.

8. But the Government of India do not think it right to leave the matter as it stands on the reports of the Commissioners. The Commission was not a judicial tribunal, but was appointed for the purpose of informing the mind of the Government of India by enquiry and report. Even had the Commissioners been unanimous, the Government of India would have thought it their duty to examine the matter for themselves, to form and pronounce an opinion. As the Commissioners are at variance with one another, it is due to them, and to all parties concerned in the matter, that the Government of India should not only express their conclusions, but should also state the principal considerations which have led them to form those conclusions.

9. The opinions of the three Commissioners who have signed separate reports, the tenor of which has been stated, are founded partly on points of conduct or general improbabilities affecting the evidence given by the witnesses against the Gaekwar, and partly on special points of inconsistency or infirmity in the evidence itself. The Government of India will take the former class of considerations first. They propose to notice the main points of dispute, but not to give here a detailed narration of the body of the evidence, for which reference must be made to the documents contained in the Appendix.

10. In the first place, then, it is to be observed that the intercourse which is proved to have taken place between the Gaekwar and the Residency servants was personal intercourse, carried on by night and in a secret way, and was accompanied by considerable gift of money. This is proved by a number of independent witnesses, who speak directly to the facts, whose evidence is quite consistent upon the main points was unshaken by cross-examination, and when it could be tested by reference to external facts, such as the character of the building to which they were taken, the recollections of the persons who took them there, and the recollections of the persons who were privy to the payment of money, was found to answer to the test. There is no counter-evidence on these points. Indeed, the Gaekwar himself does not deny the facts He has put in a carefully-worded statement in which he says not that he did not hold personal intercourse with, or that he did not cause money to be paid to, the Residency servants, but only that he did not do so for the purpose of getting information.

11. Neither is there any counter-evidence, nor, so far as the Government of India observe, any suggestion, to displace the assertion of Raoji that his hand administered the poison which was administered to Colonel Phayre, or that of Nursoo that he aided Raoji in that matter.

12. It appears then to the Government of India that the evidence establishes beyond the possibility of contradiction two cardinal points: first, that the Gaekwar was in personal secret communication carried on by night with five servants employed at the Residency, and that he gave money to Raoji, Nursoo, and Amina, three of those servants: and secondly, that a serious attempt was made to administer a fatal dose of poison to Colonel Phayre by the agency of two of those servants, *viz.*, Raoji and Nursoo. And they do not collect that any one of the three Commissioners who have signed separate reports, means to dissent from either of these two propositions, though their assent has not been expressed in so many terms.

13. Now, the proof of these two points carries the case a very long way. The great difficulty at the outset was the antecedent improbability that such a personage as the Gaekwar of Baroda should carry on frequent secret personal intercourse by night with a number of the Residency servants. When it becomes clear that he did so, the only question is whether such intercourse is wholly disconnected with the acts which those servants did, or whether the acts were the designed outcome of the intercourse. And on this question the antecedent improbability is all the other way. No motive whatever has been assigned for the action of Raoji and Nursoo, except the motive of earning reward from the Gaekwar. And it is much more probable that the two series of proved phenomena, which have been mentioned, should be connected

as cause and effect, than that they should be wholly independent of one another.

14. It is indeed true that the three Commissioners who have signed separate reports treat the Gaekwar's intercourse with the Residency servants in a very light manner. Their opinions have been set forth above in paragraphs 3 and 4. But whatever the custom may be at other Native Courts, the Government of India think that these opinions must have been written without due consideration of the facts which actually appear in evidence against the Gaekwar.

15. There is no evidence of any general distribution by the Gaekwar of gifts among the Residency servants on marriage or other festive occasions, such as, if made in moderation, might be of an innocent character. The evidence shows that gifts were made only to certain servants with whom the Gaekwar sought personal intercourse, and that those gifts were, relatively to the position of the servants, of very large amount. For example, a single gift to Raoji amounted to about four times his annual pay. The evidence, therefore, points not to a mere desire on the part of the Gaekwar to gain the general good-will and good offices of the Residency servants, but to an intention on his part to bribe some of them to the performance of important services.

16. Moreover, it is observable that the Gaekwar himself seems anxious to disconnect himself from the very practice which the passage quoted from the report of the Maharaja Sindia ascribes to him, while excusing it on the ground of its frequency, *viz.*, payment of money in order to procure information. In his written statement the Gaekwar speaks as follows :—

"I declare that I never personally directed any of the Residency servants to act as spies on the Resident, or report to me what was going on at the Residency, nor did I ever offer or cause to be paid any money to them for such purposes.

"I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions, such as marriage and the like. Information on trifling matters going on both at the Residency or at my Palace may have been mutually communicated, but I did not personally hold any intercourse with those servants for this purpose; nor am I personally cognizant of any payments for the same having been made; nor did I authorise any measures by which secrets of the Residency should be conveyed to me."

17. There is yet further evidence that the payments made to the Residency servants were transactions not calculated to bear the light. No entries of such payments were found in the Gaekwar's private accounts. On the other hand there are a number of entries, ranging in time from the 24th November 1873 to the 13th October 1874, showing payments of large sums of money to Salim and Yeshwunt Rao. The payments purport to be for goods supplied by those persons, but in point of fact the entries are false, and no such goods were supplied. Now Salim and Yeshwunt Rao are the two confidential agents of the Gaekwar, by whose hands all the payments to the Residency servants were made. Here, then, are funds from which payments could be made for any species of secret service. The Gaekwar's Private Secretary, Dámodhur Punt, says that the Residency servants were paid by means of such funds. He is no doubt a most justly suspected witness, but in this instance he is only stating the natural inference to be drawn from the document and circumstances and he is not contradicted, as he might most easily have been had he spoken falsely.

18 The question now to be asked is whether the other evidence shows any connection, and if any, what connection, between the two cardinal points already established,—on the one hand, the fact that the Gaekwar was in secret communication with some of the Residency servants and paid money to them; and on the other hand, the fact that two of those servants, viz., Raoji and Nursoo, were the actual agents in administering poison to Colonel Phayre. There is undoubtedly evidence to this effect, of the most conclusive nature, if only it is to be believed. The great body of it is supplied by Raoji and Nursoo themselves, and if they have not woven the most elaborate and marvellous tissue of falsehoods, they make it clear that the proceedings of the Gaekwar, which began by bribing the servants to give secret information and to exercise influence in his favour, ended in direct machinations against Colonel Phayre's person.

19. Is there, then, any sufficient ground for disbelieving what these witnesses say? It is said that, whoever committed the crime, they are accomplices in it, and that by their own showing they are very wicked men, who have not scrupled to attempt the life of a kind master and to aid in throwing the blame on an innocent fellow-servant. That is quite true, and it must excite the greatest suspicion of their evidence and instil the greatest caution into the minds of those who examine it. At the same time, it must be remembered that direct evidence of nefarious plots is not often procured except from accomplices; and that to reject such evidence merely on account of the source from whence it comes, would be contrary to common sense and to universal practice, and would frequently prevent the discovery of truth. What is necessary in such cases is to apply to the evidence given such tests as are usually employed as the touch-stones of truth, and to require the evidence to withstand the tests much more severely and rigidly than if it had come from an unsuspected source.

20. Throughout this case it is constantly to be borne in mind that there are proved facts which require explanation. If we find secret intrigue at one end, and action at the other end, of a series of transactions by the same persons, the presumption is that the two are connected, and their coincidence ought to be explained in some way. The Government of India then ask the following questions :—

(*a*).—Is the explanation given by the witnesses credible in itself?

(*b*).—Are the stories they tell consistent with themselves?

(*c*).—Are those stories consistent with one another in essentials?

(*d*).—When they mention external circumstan-

ces with which they can be confronted, are the stories essentially consistent with those circumstances? And are they essentially consistent with evidence given by independent witnesses?

(*e*).—Have the witnesses any interest in telling the story they have told?

(*f*).—Is any probability shown that they have colluded with one another?

(*g*).—Is any probability shown that they have been tutored by some common authority?

(*h*).—Was their demeanor under examination such as to induce a belief in their truthfulness, or the contrary?

(*i*).—Has their evidence been boldly and confidently met by the party it implicates?

21(*a*). There is nothing impossible or incredible in the stories told by these two witnesses; nor indeed, when the two cardinal points above mentioned have been once established, is any particular related by them so improbable but that a reasonable amount of evidence may establish it. It may be asked why the Gaekwar, having secured the services of Raoji, should also seek to employ Nursoo, and thus bring in an additional accomplice and an additional danger. It is often difficult to say why, in preparing a plot, a particular course has been taken instead of some other course which on review seems a more prudent one. But in this case an answer can readily be given. Raoji lived at the Camp. Nursoo was in the City.

The latter, therefore, was a more convenient means of communication with the Palace. But what is more important is, that Nursoo was Raoji's superior officer, and was usually in attendance in Colonel Phayre's verandah. It is clear, therefore, that Raoji would have run very serious risk of failure or detection if the jemadar Nursoo were not first secured.

22(*b*). The Government of India have failed to discover any material inconsistency in these stories as compared with themselves. A considerable period of time elapsed between the earliest statements of the witnesses and their latest. They were subjected to a rigid cross-examination by a counsel of the greatest skill. And yet they have not contradicted their first evidence on any essential point. They are uncertain as to dates, but every person who has to deal with the natives of this country, at all events the uneducated ones, knows how hopeless it is to expect accuracy in such matters from them, and what a complete denial of justice there would be throughout the land if testimony was considered incredible on account of such inaccuracies. Raoji shows that he was vacillating in conduct, but that is not at all inconsistent with what we know of men working themselves up to commit wicked actions. There are also portions of his story which are obscure, as, for instance, the episode of the bottle, which he says he obtained from the Gaekwar, but which he did not mention in his first statement. But the substance of the story originally told by each witness remains intact. The secret interviews, the persons who were present at them, the receipt of money, the requests made by the Gaekwar to poison Colonel Phayre, the conveyance of the poison from the Gaekwar to Raoji, the deposit of it in Colonel Phayre's sherbet on the 9th November—all these things stand as they did in the first instance. Nor do the Government of India observe that the three Commissioners who have signed separate reports mention any contradiction of these two witnesses by themselves.

23(*c*). Equally certain is it that in the essential points the stories of the two witnesses are consistent with each other. They differ in particulars; but if they did not, they would justly be suspected of collusion. They differ as to dates, a point which has been before remarked on; they differ as to the number of visits paid by them to the Gaekwar; they differ in many expressions; and they differ when one purports to state something that happened to, or was done by, the other, and to which the narrator was no immediate party. The Government of India entirely agree with the opinions expressed by the three Commissioners in paragraphs 34 and 42 of their joint report, respecting the discrepancies between Raoji and Nursoo, and they think that, so far from showing that the stories are false, those discrepancies serve to show the absence of collusion between the witnesses or of tutoring by the police.

24(*d*). Again, the Government of India find an amount of consistency between these stories on the one hand and external circumstances and evidence on the other, which would be unlikely if the stories were not true. The witnesses are correct about the character of the building and room to which they say they were taken; the asserted payment of Rupees 500 to Raoji is proved to have actually taken place; the evidence of his companions, Jugga and Karbhai, corresponds with his statements about his visits to the Palace; the evidence of Jugga and the letter produced tallies with the assertion that information was actually sent by Raoji and Nursoo to the Palace: the evidence of Jugga and Dalput corresponds with the circumstances mentioned by Raoji as attending the payment of the Rupees 500; the lavish expenditure of Raoji is consistent with his having received large sums of money from some quarter, and indeed was the main circumtance which fastened suspicion upon him and caused his arrest.

25. One piece of external evidence is of so remarkable a character that it deserves rather more detailed mention. On the 9th of November, when all Colonel Phayre's servants were put under examination, Raoji's belt of office was taken away from him and was hung up in a room. On the 15th of December the belt was given to another peon named Budhar. At that time nobody could anticipate the story that Raoji had to tell, or that he had any story to tell at all. He was arrested on the 22nd December, and made statements on the 24th and 25th. It then occurred to Akbar Ali, the head of the Bombay Detective Police, that there might be some trace of some of the powders spoken of by Raoji, and he asked him where he used to keep his packets of powder. Raoji said that he kept them in his belt. Budhar was sent for and came wearing the belt, which he had had in his possession ever since the 15th. Budhar gave the belt to Akbar Ali, and Raoji showed

him where he kept the packets. Akbar Ali searched and found a piece of white thread and a packet of paper. He immediately called Mr. Souter, the Police Commissioner, who was in the next room, and Mr. Souter took out the packet of paper and opened it. The paper contained a white powder, which on being analysed was found to be arsenic. Dr. Gray states that in physical characters there are varieties of white arsenic, but that his examination of the powder taken from Raoji's belt enabled him to know that it was of the same character as the arsenic which was found in Colonel Phayre's sherbet.

26. Now up to this time Raoji had not stated anything about a powder remaining in his possession. He had made a statement in which he said that he had received powders on two occasions. On the second occasion he had received a single packet, the whole contents of which he put into Colonel Phayre's sherbet on the 9th November. On the first occasion he had received two packets, which he had mixed, and put into the sherbet on two or three days. When the packet was found in his belt, he recollected that he had not used the whole of one of the powders—a point which he further explained in his examination before the Commission.

27. Now the only explanation which is suggested of this corroborative circumstance is that the whole thing was a plot of the police—a point which the counsel for the Gaekwar endeavoured to establish. But he could elicit no evidence in his favour, and the hypothesis is one which, if not impossible, is of the highest improbability. Why the police should have thought of producing a remnant of poison in the teeth of Raoji's statement that he had used the whole; why they should have put into the belt pure arsenic and not mixed arsenic and diamond dust, which was the material said to have been used; how they came to pitch upon the very quality of arsenic used to poison Colonel Phayre; how they could have secretly got it into the belt which Budhar had continuously possessed from the 15th of December till the moment of discovery; these difficulties and others besides must be explained before the hypothesis of a plot by the police can be made on even plausible grounds.

28(*e*). Have, then, these witnesses any interest to tell the story they have told? Nobody has suggested that either of them has any enmity against the Gaekwar, or could gain anything by his downfall. Raoji, it is true, had an interest to tell some story, because he was promised a pardon for himself if he would speak the truth. But his interest was to earn his pardon, and therefore to tell a true story; or if he told a false one, his interest was not to tell one in which a number of other persons were mixed up by whom he could be refuted, nor one implicating a great personage with every means at his command for exposing the falsehood, but one carefully isolated from other persons and from specific circumstances, so as to afford the smallest possible opportunity for contradiction, and one implicating only meaner people who could not so well defend themselves. As for Nursoo, he spoke at the peril of his life. He was expressly warned that he would not earn a pardon. His interest was to be silent, or else to tell a story in which he should not be one of the principal actors in the commission of the crime. The conclusion on this point must be that if the witnesses have spoken falsely, they have not spoken in accordance with their own interests, and that one of them has spoken directly against his own interest.

29. It might have been alleged that Colonel Phayre's strong feeling against the Gaekwar was well known to the Residency servants, and therefore that Raoji and Nursoo might have supposed that their accusation of the Gaekwar would have been agreeable to Colonel Phayre. But it is to be observed that the accusation was not brought forward while Colonel Phayre was Resident at Baroda, and when the first inquiry was made by him. The evidence of Raoji and Nursoo implicating the Gaekwar was not given until Colonel Phayre had been removed from the office of Resident at Baroda, when no advantage could have been expected by them from his favour. This circumstance combines with others to show that the confessions of these men were not the outcome of any plot, but were due to their knowledge that enquiry had at length got upon the right track, and that they had better give themselves up.

30 (*f*). The suggestion of collusion is refuted both by internal and external evidence. If these stories were fictitious, agreed on by Raoji and Nursoo, it is hardly conceivable that they would not, especially under the stress of a skilful cross-examination, betray evidence of their origin. They would be found jarring with one another on some essential point, in some irreconcilable manner, or else agreeing in such minute particulars as are always the subject of difference when related independently by different persons. But the inference drawn by the Government of India from their consideration of the points of resemblance and difference between the two stories has been before stated. As regards external evidence, it is stated positively, and nowhere contradicted, that Raojee and Nursoo were kept apart from the first arrest of the former on the 22nd December; that neither was ever informed of the statement of the other; and that when Nursoo was brought into Raoji's presence on the 23rd December, all that he was informed of Raoji's doings was by means of Raoji's statement that he had told all *up to his neck*.

31(*g*). But it may be suggested that the stories of Raoji and Nursoo are due to their having been tutored by some authority to whom they were subject—in other words, that they were invented by the police. Indeed suggestions of this kind form a very prominent part of the argument delivered on behalf of the Gaekwar. The Gaekwar's counsel attacked the characters of the police, from Mr. Souter downwards, using even the expression that they had applied torture to the witnesses; and repeatedly sought to deliver himself from the difficulties of the evidence by attributing its origin to the police. The sole evidence which he was able to elicit in support of these attacks was that of the witness Hemchund, who was called with reference to a minor part of the case, viz., the purchase of diamonds.

He was one of the witnesses who were not kept under arrest, and by his evidence before the Commissioners he contradicted his original statement made to the police. To justify his contradiction, he said that his original statement was made under compulsion by Gujanund Vithul, one of the police officers, who even forced him to make a false entry in his books. Of this witness Hemchund, the three Commissioners who signed the joint report say, that he contradicted himself violently, and that no reliance can be placed on his evidence generally. When before the Commissioners, he denied his own signature, and falsely pretended not to understand any Hindustani, or even to know that such a language existed. The three Commissioners disbelieve that the compulsion he speaks of was put upon him. So do the Government of India. It is sufficient here to say that his original statement was not taken down by Gujanund Vithul, but by Mr. Souter, and that two days afterwards it was signed by Hemchund in the presence of Sir Lewis Pelly, and that he made no remonstrance to either of those gentlemen, though he must have known that at least Sir Lewis Pelly would afford him as complete and instant protection from Gujanund Vithul as the Commissioners themselves would. This circumstance, coupled with the patent mendacity of the witness and his eagerness to disconnect himself from every portion of the case, compel the Government of India to say that his evidence must be wholly set aside.

32. But when Hemchund is set aside, there remains no evidence at all to support the suggestion that the police have invented any part of the story told by Raoji and Nursoo, or drilled the witnesses. Why they should think of inventing such a story is not easy to understand, for they certainly could not suppose that by doing so they were doing any welcome service to the Government of India. Mr. Souter, Akbar Ali, Abdool Ali, and Gujanund Vithul, are all men distinguished in the service of the Bombay Government. Mr. Ballantine could elicit nothing to their discredit in cross-examination, though in the case of Gujanund Vithul he was instructed to make the attempt. All were acting under the instructions of Sir Lewis Pelly, who would have taken instant and severe notice of any species of unfairness. From the time of his arrest Nursoo was not under the custody of the police, but under a military guard. There is no evidence whatever to show that the police had such access to them as would have rendered it possible that an elaborate plot could have been successfully concocted and the witnesses instructed for their performance before the Commission. Moreover, the same internal evidence which bears against the theory of collusion between Raoji and Nursoo, bears equally against the theory of invention by the police. Under these circumstances, the Government of India think it a matter of moral certainty that the stories told by Raoji and Nursoo were not the inventions of the police. They wish to express their concurrence in the remarks which fell from the Advocate General of Bombay on this subject. And they add that the great reliance placed by Mr. Ballantine on the resource of attacking the police, unsupported as his attacks are by any evidence, is, to their minds, a strong proof of the weakness of the case he had to support.

33(*h*). As regards the demeanor of these two men under examination the Government of India find no suggestion even from the Gaekwar's counsel that it told against them while the three Commissioners who have signed the joint report have put it on record that Nursoo's manner impressed them favourably. He certainly was urged most powerfully by Sir Dinkur Rao, a gentleman of his own religion and one likely to have great influence with him; and the result of that urgency so far as it can be gathered from writing, was such as to give a strong impression of the man's sincerity. The Government of India subjoin here what passed, taking the account from the short-hand writer's notes, not because they are at variance with the official notes but because the questions are given as well as the answers, and so it is shown in a more striking way how the witness was urged and how he insisted that there was but one truth, and that was the truth which he had told :—

"By Sir Dinkur Rao—You are a servant of thirty-four years. Have you been in the habit of visiting the Maharaja from the time of the previous Commission or before?—From the time of the previous Commission I visited the Maharaja, but not previously. I never used to go before Khunderao except in Kutcherry with the Sahib.

"Have you never gone to the Maharaja Khunderao's to ask for Dusserah presents?—Some minor Sirdars used to give presents, but it was not customary for the Durbar to give presents. The Dewan Rao Sahib used to give directly, but there was no such custom in the Durbar.

"When the Maharaja instigated you to poison, this was a very bad thing. Did you make arrangements for the support of your family?—I did nothing. He said merely by words what was said through Raoji.

"The Advocate-General objected to the interpretation. He said that what the witness said was: 'He gave me a verbal assurance.'

"Mr. Melvill—What the witness really said was, 'He relied upon what the Maharaja said.'

"Sir Dinkur Rao—It is a very serious thing to poison one. Would anybody do such a matter in the presence of ten or twelve persons?—There were not ten persons. There were two of his servants and two of ours.

"Was the quantity of poison used small or large, and was it administered three times?—In my life I have not given any poison. A packet was given to me, and I was told to give it to Raoji, and I gave it to him. The arrangements as to how much to use and not lay with Raoji.

"What servants said that accusations should be made against Faizu?—No one said so. They mentioned his name in the statements, and therefore I also caused it to be written.

"Who mentioned his name?—Abdoola, Pedro, and the Hamals—five or six persons altogether.

"At the first meeting the Maharaja called you a rogue. How, then, did he come to trust you in such a serious matter?—Raoji, Salim and Yeshwunt Rao took me and they assured the Maharaja.

"Are you a Hindoo?—Yes.

"What is your caste?—A Telingan Camatee.

"Are you afraid of the Police?—Why? Why should there be fear for speaking the truth?

"Do you yourself believe that you are guilty?—It is my bad luck; I also am concerned.

"If you were granted a pardon, would you in the presence of God tell the truth?—It is not because I may get a pardon that I tell the truth. Whether or not the Sirkar gives me a pardon, they are my parents.

"Mr. Melvill—That is not a correct interpretation. What the witness said was: 'If I were offered a pardon, I would speak the truth. I am speaking the truth now.'

"(Question repeated.)

"Witness—I know nothing more than this, which is true.

"The President—Sir Dinkur Rao's question, as I understand it, was, whether if the witness were offered a pardon he would tell a more truthful statement than he is now giving. Repeat that question.

"(Question repeated by Interpreter.)

"Witness—What was truth I have said. Beside that there is no other truth. The Sirkar may kill me if they like.

"By Sir Dinkur Rao—You have served a person thirty-four years, against whom you have done basely. Now, as you, if you were in the presence of God, state the truth. Do not be afraid. Whatever is in your mind state it without fear in the presence of God?—I have stated without fear what I had to say

"The President (to Interpreter)—Put the question in this way: 'In the presence of God will you tell the truth?'

"(Question repeated by Interpreter.)

"Witness—In the presence of God I have stated what was the truth. I have not stated an untruth. I have stated the truth.

"Witness then retired."

34 (*i*) It remains to ask how the evidence of these men has been met on the part of the Gaekwar. The answer is that his advisers preferred to rely on discrepancies between witnesses, on their infirmities of memory, on improbabilities, and on attacks upon the agents of the Government, instead of bringing forward the persons who, if the charges against the Gaekwar were false, could at once disprove them by direct evidence. According to the stories told by Raoji and Nursoo, as well as by the ayah, Amina, and the several other witnesses who prove the secret interviews, there were two men, Salim and Yeshwunt Rao, who intervened at every turn of the transactions. They were the confidential agents of the Gaekwar. It has been above shown (in paragraph 17) that they received large sums of secret service money. When arrested these men were placed under a military guard, and were not in the hands of the Police. It was stated by the Advocate General of Bombay openly and without contradiction "that they have had no communication whatever with the Police, and that since the arrest of His Highness his solicitors have been allowed the most unrestricted private communication with them." They never volunteered any information as other accomplices did, and it was their strongest interest to assert the innocence of the Gaekwar. The legal advisers of the Government of India had no reason to believe that the interests of truth, as the evidence before them showed it to be, would be any way promoted by the examination of these men. But the Gaekwar was in a very different position. He knows, of his own knowledge, though others can only infer from evidence, what the truth is: and he knows that it is known to Salim and Yeshwunt Rao. According to his case the truth is that there was no plot in the Palace against Colonel Phayre, and that Salim and Yeshwunt Rao knew the fact as well as himself. Why, then, were not these men called upon to say what was at once the righteous thing and the thing most advantageous to themselves and to the master they served? The reasons assigned by his counsel are that "he (the Gaekwar) cannot tell, and his advisers are unable to suggest with any certainty, whether these men are or are not accomplices with Damodhur Punt," and "that they would have come out of a custody from which nothing could be safe." If the second of these reasons is meant to be an addition to the numerous suggestions of conspiracy by the Police, it is founded on an error in fact. Yet it can hardly have been meant to suggest that the military also are parties to a plot against the Gaekwar. But the reasons may be left to speak for themselves. The Government of India have no hesitation in saying that the refusal on the Gaekwar's part to call upon Salim and Yeshwunt Rao to come forward to speak to honest truth, and to confound Raoji, Nursoo and the others, lends a strong probability to the truthfulness of the charges against him.

35. It is next to be seen what support the evidence of Raoji and Nursoo receives from independent witnesses, so far as it relates to the actual instigation to poison. It must be remembered that so far as it relates to interviews with the Gaekwar and the receipt of money from him, it has received ample support of this kind.

36. It receives some material support from the ayah, Amina, an ignorant and timid witness, but one against whose truthfulness no imputation can be maintained. At her last interview with the Gaekwar, which was probably during the latter part of October, the subject of machinations against the person of Colonel Phayre was broached. It does not seem that poison was mentioned, and it is not clear, nor perhaps is it very material, whether or no the witness thought that poison was hinted at under the expression of a "charm," or of "something being given." What remains certain is that some physical operation on Colonel Phayre for the purpose of producing either a physical or a mental effect was spoken of, that Amina was thoroughly frightened, that she warned the Gaekwar not to make attempts against Colonel Phayre, for that if he did so he would be ruined, and that she went away and never returned again.

37. Amina is corroborated by her husband, Sheikh Abdulla, who says that she told him on the following morning that the Gaekwar had enquired if anything could be given to these people to bring about a union between the hearts of himself and the Saheb, and that she had warned him against giving the Saheb anything

to eat. By the expression "the Saheb," Colonel Phayre is meant.

38. Nor must the evidence of Damodhur Punt, the Gaekwar's Private Secretary, be forgotten. The position of this witness is very unsatisfactory, for he is, by his own account, a guilty accomplice, and he spoke under promise of pardon and, as he says, because he was weary of confinement. The three Commissioners who have signed the joint report have accordingly dealt cautiously with his evidence, which, however, they think to be probable in its essential points. The Government of India think it right to give the utmost weight to the drawbacks from this evidence, and not to use it except when it receives some support from other evidence. But after allowing full scope to doubts, they find a substantial correspondence between the story told by Damodhur Punt and those told by Raoji and Nursoo, of which he was in ignorance; and in addition, there are two specific instances in which Damodhur Punt's story is corroborated by trustworthy extrinsic evidence.

39. First, Exhibit Z. is an undoubtedly genuine document, and that shows that, as early as the 4th October 1874, arsenic was wanted by Damodhur Punt for some purpose, and that he alleged it to be required by the Gaekwar. The arsenic was not given out, because a written order could not be, or at all events was not, obtained from the Gaekwar for the purpose. It is impossible to suppose that an allegation appearing on this document upon the 4th October was any part of a plot against the Gaekwar. Exhibit Z. requires some explanation, and none has been given except that of Damodhur Punt, *viz.*, that the Gaekwar did actually order him to get some arsenic.

40. Secondly, Nanaji Vithul, the keeper of the jewels, a witness not implicated in the plot against Colonel Phayre, shows that, some little time before the 20th October, diamonds were wanted, not for any ordinary purpose, but, as was stated, for medicinal purposes; "to be made ashes," as he says, "for medicine." He never knew of such a thing before. That the Palace accounts have been tampered with and falsified so as to conceal some transactions with diamonds about this time, is proved by Exhibit T1, as explained by the evidence of the Brahmin, Rameshwar Moroji, and of Nanaji Vithul and his subordinate Atmaram. Again, these phenomena require some explanation, and none is given except that of Damodhur Punt, *viz.*, that the Gaekwar did want some diamonds for the purpose of making a poisonous powder.

41. With regard to the points to which a large part of the evidence of Damodhur Punt has been directed, *viz.*, the proof of the purchase of arsenic and diamonds in particular quarters, the three Commissioners who have signed the joint report think that the purchase of the former is probable and that of the latter is proved. The Government of India are unable to attach much importance to these points. It has never occurred to them that the Gaekwar could have had any difficulty in procuring as much arsenic and as many diamonds as he wished, nor do they suppose that their legal advisers would have spent any pains in procuring evidence on such points, only that Damodhur Punt volunteered information about them as part of the story he had to tell. But the evidence of Damodhur Punt was no part of the evidence laid before the Government of India on which they directed this enquiry, and which they were advised would, if unshaken, warrant conclusions against the Gaekwar.

42. The Government of India think it right now to notice in detail the reasons given by the three Commissioners, who have signed separate reports, for thinking that the evidence given by the witnesses on the charge of poisoning is so far defective that it cannot be taken as proving the offence imputed to the Gaekwar.

43. The Maharaja Scindia says that out of a large number of persons connected with the case only three witnesses, Raoji, Nursoo, and Damodhur Punt have given their evidence in reference to the above charge, and that all these widely differ in their statements. His Highness has, however, overlooked the evidence of Amina, which, as above shown, has an important bearing on this charge. As to the witnesses all differing widely in their statements, the Government of India hardly know what differences between Raoji and Nursoo on the one hand, and Damodhur Punt on the other, are referred to. The differences between Raoji and Nursoo do not, as above stated, touch the essential points of their story. The circumstance that there are only four witnesses, or even only three, to give direct evidence upon a particular charge, does not make the evidence incredible or even weak. It must stand the test of a rigid examination, and if it does, it is not to be rejected because the witnesses are not numerous.

44. The Maharaja then says that the evidence of Pedro and Abdulla (clearly meaning Abdulla, the 17th witness) is in favour of the accused. Now the Government of India cannot see how the evidence of Abdulla bears upon the point at all. As for Pedro, he was inculpated by Raoji, and he denies all complicity in the plot. He, therefore, contradicts Raoji upon the one point of his own complicity, and with which of them the truth lies cannot easily be told. He says nothing to implicate the Gaekwar in the attempt to poison, but in no other sense is his evidence in favour of the Gaekwar. On the contrary, he confirms Raoji's evidence so far as it relates to intercourse between the Gaekwar and the Residency servants. He admits that he received money from the Gaekwar, not on the occasion of any festivity, nor for any apparent reason, unless it was an inducement to him to visit the Gaekwar, which he was urged to do by Salim but says that he refused to do.

45. Again, the Maharaja says that the non-production of Salim, Yeshwunt Rao, Khanvelkar, Gujaba, Nurudin Borah, and the Hakim is in favor of the accused. There is a distinction to be taken between these persons. Nurudin Borah is a vendor of drugs, and Damodhur Punt alleges that the arsenic employed to poison Colonel Phayre was procured from him. Nothing is alleged against Nurudin Borah's innocence in the matter. The only point to which he could have spoken is the purchase or non-purchase of arsenic by Damodhur Punt. Now it has been above stated that this matter of the purchase of arsenic was a portion, but a very immaterial portion of Damodhur Punt's statement. That

statement was given in its integrity, and for what it was worth. His assertion that he purchased arsenic of Nurudin Borâh is not sustained by any other evidence. Nurudin Borah should have been called upon to prove it if that had been material, and as he was not called, the Gaekwar is entitled to the benefit of the observation that the purchase has not been proved. Beyond that the non-production of Nurudin Borah does not affect the case.

46. The case is very different with respect to the other witnesses. It has been already shown how it stands with respect to Salim and Yeshwunt Rao; that the inference from their non-appearance is that the Gaekwar, who knew exactly what they could truthfully say, was afraid of it. The same observations, though in a far minor degree are applicable to Khanvelkar, Gujaba and the Hakim. These witnesses could only speak to the minor question of the procurement of the materials for poison. They were in intimate connection with the Gaekwar, and are all represented by Damodhur Punt as accomplices in the plot against Colonel Phayre. If he has spoken untruly of them, they might have most effectually contradicted him, and the Gaekwar knew whether or no they could do so.

47. Then the Maharaja Scindia feels a difficulty because the poison was given in small quantities, and the transactions extended over a long time. The first observation that occurs upon this is that the difficulty about the quantities applies also to any other theory which may be framed to account for the undoubted fact of the poisoning: for it is pretty clear that small doses must have been administered to Colonel Phayre before the large dose of the 9th November. But the mode of operation is explained naturally enough by Raoji's fear of producing a sudden effect which he thought would lead to his detection. The length of time over which the whole transactions extended is not very accurately ascertainable, because the beginning is not fixed; but, allowing the greatest latitude consistent with the evidence, the time extends over some six or seven weeks, and that does not seem a long time for a plan requiring much contrivance, the watching of opportunites, and an allowance for the failure of agents, such as Raoji states to have occurred twice with himself.

48. Then it is observed that there is no sufficient proof of the purchase of diamonds, arsenic or copper, and no paper whatsoever signed by the Gaekwar, involving him in the matter. But it has been already shown, in paragraphs 41 and 45, how unnecessary it is to prove any such purchase. And as for papers signed by the Gaekwar, it is not likely that any such papers should be forthcoming in such a case. Certainly the Government of India did not expect to find any.

49. The objections to the evidence which are felt by the Maharaja of Jeypore and Sir Dinkur Rao, do not differ in principle from those felt by the Maharaja Scindia, and most of them have been already observed on, but a few additional details are given, in which it is thought that some important objections to the evidence are to be found.

50. The Maharaja of Jeypore thinks it important that Raoji should have stated that the Gaekwar promised him and Nursoo a lakh of rupees each, while Nursoo only mentions indefinite promises of reward. Now, this is exactly one of those discrepancies which appear to the Government of India to preclude the supposition that the stories of these two witnesses are the result of collusion. The essential point is that a reward was promised. The nature of the reward may easily have been stated differently to, or have been understood differently by each, especially as it is stated that both Salim and Yeshwunt Rao took part in the conversation. But supposing the story to have been agreed upon between the two, or to have been invented by some third person and taught to the witnesses, it is very difficult to conceive that so obvious and simple a point as the promise of a lakh of rupees would not be dwelt upon, or that one so easy to remember would not have been faithfully reproduced when they came to deliver their evidence.

51. The Maharaja of Jeypore points out truly that the yads produced out of the records of the private office under Damodhur Punt, do not show any specific sums of money having been paid for diamonds, or for poison of any kind. He proceeds as follows: "The sums mentioned in the yads were for giving feasts to Brahmins, and other charitable and useful purposes. There is sufficient evidence also to prove that these sums were actually spent on such purposes." The Government of India hardly know on what view of the evidence respecting the Exhibit T1. the general bearing of which has been stated above this opinion of the Maharaja is based. To their apprehension it is proved that a number of fictitious entries were made in the Gaekwar's accounts in order to cover payments the nature of which it was desired to conceal. And it so happens that the particular payment now specified, viz., the payment for a feast to Brahmins mentioned in Exhibit T1. is the one whose false character is shown by the most unassailable evidence. For the Brahmin himself who is named in the entry as the recipient of Rupees 3,632-13-3 in December 1874, was called and proved that no such money was ever paid to him. He pointed out the difference between an entry of money really paid (Exhibit Y1) and the false entry T1. And it so happens that the sum mentioned in T1. is the exact equivalent of the sums mentioned in Exhibits R1 and S1, and paid to Nanaji Vithal, the Superintendent of the Jewel Department.* It was evidently thought desirable to get rid of these sums by some false statement in the accounts. This entry then, which seems satisfactory to the Maharaja of Jeypore, seems, on the contrary, to the Government of India, to be one confirmation of the evidence of Damodhur Punt, as is stated above in paragraph 38.

52. Again, the Maharaja of Jeypore says that copper is mentioned as having been one of the poisons administered to Colonel Phayre, and that it was not detected by the chemical analysis. But that is not according to the evidence. All that appears on that subject is that Bhow Poone-

* The three Commissioners who have signed the joint report have fallen into an arithmetical error on this point.

far, speaking from mere heresay, told Colonel Phayre that copper was administered.

53. The Government of India do not understand on what grounds the Maharaja of Jeypore should say that there were no means of ascertaining whether Salim and Yeshwunt Rao made any statements on the subject before the Bombay Police. If either the Gaekwar's counsel or the Commissioners themselves desired to ask any question on this subject, they certainly would have been answered both by the Police officers and by the men themselves.

54. The only points added by Sir Dinkur Rao are some discrepancies with respect to dates, on which some general observations have before been made, and some comparisons between the evidence of Raoji and that of Damodhur Punt in which though the witnesses speak of different occurrences, and though it may be said that the two narratives when put together do not make up a complete whole, but leave something untold, the Government of India fail to see any contradiction at all.

55. The result then is that, notwithstanding the doubts entertained by the Maharaja Scindia and Sir Dinkur Rao, and the more positive opinion of the Maharaja of Jeypore, the examination of the evidence by the Government of India leads them to concur with the three Commissioners who signed the joint report, that it bears on its face a trustworthy character, and contains no such contradictions or obscurities as would justify them in disbelieving the witnesses on their own showing. Counter-evidence, it has been already stated, there is none; the Gaekwar's advisers have refrained from calling upon his agents to attest his innocence. His counsel, at the close of his argument, boldly maintained that it was not for him to make out a case on behalf of the Gaekwar. The Government of India think differently. One of the main objects of the enquiry was to afford the Gaekwar an opportunity of freeing himself from the grave suspicion which attached to him. The Government of India think that it was for the Gaekwar's advisers to make out a case, if they could honestly do it, to rebut the strong evidence brought against him, and cannot see any ground for their refusal to do it, except their inability. Neither is there any counter-theory to explain the evidence before the Commission. It is true that the Gaekwar's counsel rather suggested than argued that Damodhur Punt or Bhow Poonekur might be the authors of the attempt to poison. But there is not a particle of evidence to support either suggestion, and both are justly dismissed in very brief terms by the three Commissioners who have signed the joint report.

56. It is therefore with great regret that the Government of India are compelled to express their decided opinion that all the offences imputed to the Gaekwar previously to the enquiry have been sustained upon the enquiry, and that he did instigate Raoji and Nursoo to administer poison to Colonel Phayre.

By order of the Governor-General of India in Council,

C. U. AITCHISON,
Secretary to the Govt. of India.

Simla, Foreign Department,
Political, 21st April 1875.

REPORT OF THE EUROPEAN COMMISSIONERS.

WHEREAS by a Commission issued by order of the Viceroy and Governor-General of India in Council under the hand of C. U. Aitchison, Secretary to the Government of India, notified in the *Gazette of India*, dated the 15th of February 1875, and addressed to

The Honourable Sir Richard Couch, Knight, Bachelor, and Chief Justice of Her Majesty's High Court of Judicature at Fort William in Bengal;

His Highness Mookhtar-ool-Moolk, Azeem-ool-Iktidar Rufi-oos-shan, Walla Shikoe, Mohtashin-i-Dowran, Oomdut-ool-Oomrah, Maharajah Dheeraj, Alijah Maharaja Jeeajee Rao Scindiah Bahadoor, Shreensth, Munsoor i Zaman, Fidvee-i Huzrut Malikah-i-Mooazuma, Rafi-ood-Durjeh-i-Inglistan, Maharaja of Gwalior, Knight Grand Command of the Most Exalted Order of the Star of India,

His Highness Siramad-i-Rajaha-i Hindoostan, Raj Rajendra Sree Maharaja Dheeraj Sewaee Ramsing Bahadoor, Maharaja of Jeypoor, Knight Grand Commander, of the Most Exalted Order of the Star of India;

Colonel Sir Richard John Meade, Knight Commander of the Most Exalted Order of the Star of India, and Chief Commissioner of Mysore and Coorg;

Raja Sir Dinkur Rao, Knight Commander of the Most Exalted Order of the Star of India; and

Philip Sandys Melvill, Esquire, of the Bengal Civil Service, and a Commissioner in the Punjab;

reciting that an attempt had been made at Baroda to poison Colonel R. Phayre, C.B., the late British Resident at the Court of His Highness Mullar Rao Gaekwar, and that the following offences were imputed against the said Mulhar Rao Gaekwar, that is to say:—

I.—That the said Mulhar Rao Gaekwar did by his agents and in person hold secret communications for improper purposes with some of the servants employed by Colonel Phayre, the Resident at Baroda, or attached to the Residency.

II.—That the said Mulhar Rao Gaekwar gave bribes to some of those servants, or caused such bribes to be given.

III.—That his purposes in holding such communications and giving such bribes were to use the said servants as spies upon Colonel Phayre, and thereby improperly to obtain information of secrets, and to cause injury to Colonel Phayre or to remove him by means of poison.

IV.—That, in fact, an attempt to poison Colonel Phayre was made by persons instigated thereto by the said Mulhar Rao Gaekwar.

And that the Viceroy and Governor-General in Council had temporarily assumed the administration of the Baroda State for the purpose of instituting public enquiry into the truth of the said imputations, and of affording His Highness Mulhar Rao Gaekwar an opportunity of freeing himself from the grave suspicion which attached to him.

Therefore the Viceroy and Governor-General

of India in Council appointed the said Sir Richard Couch, the said Maharaja of Gwalior, the said Maharaja of Jeypoor, the said Sir Richard John Meade, the said Sir Dinkur Rao, and the said Philip Sandys Melvill, Esquire, to be Commissioners for the purpose of enquiring into the truth of the said imputations and of reporting to the Viceroy and Governor-General in Council how far the same were true to the best of their judgment and belief.

And the said Viceroy and Governor General in Council appointed the said Sir Richard Couch to be President of the Commission, with full power to appoint times and places of meeting, to adjourn meetings, to adjust and arrange the method of procedure, to settle the course which the enquiry shall take to call for and to receive or reject evidence, documentary or otherwise, to hear such persons as he should think fit on behalf either of the Viceroy and Governor-General of India in Council, or of His Highness Mulhar Rao Gaekwar, and generally to guide the whole course of the proceedings of the Commission as from time to time should appear to him to be proper for the purpose thereof.

And after reciting that certain other matters of importance pending between the British Government and His Highness Mulhar Rao Gaekwar were enquired into and reported upon by a Commission appointed by the Viceroy and Governor-General in Council by orders dated 23rd October 1873; and that the enquiry which the said Commissioners were appointed to make was not connected with such matters. For the better understanding of their functions, the said Viceroy and Governor-General in Council thereby declared his desire that they should not extend their enquiry to other matters than the offences imputed to His Highness Mulhar Rao Gaekwar as aforesaid, and that they should not permit any such other matters to be submitted to them for consideration or enquiry.

And the said Viceroy and Governor-General in Council desired that in the event of any of their number being prevented by sickness or other cause from taking his place as Commissioner, or from remaining as Commissioner till the conclusion of their enquiry, the other Commissioners should nevertheless conduct and complete their enquiry in the same way as if the number of Commissioners present or remaining were the whole number appointed thereby.

And the said Viceroy and Governor-General in Council thereby appointed John Jardine, Esquire, of the Bombay Civil Service, to be their Secretary.

And whereas the said Commissioners so appointed as aforesaid met together in the Military Cantonment at Baroda, and commenced the said enquiry on Tuesday, the 23rd day of February 1875. And the said Viceroy and Governor-General of India in Council appeared before them by counsel.

And His Highness Mulhar Rao Gaekwar also appeared by counsel and was personally present.

And the said Commissioners met from time to time by adjournment at the place aforesaid, and received the evidence, oral and documentary, produced on behalf of the Viceroy and Governor-General of India in Council, and on behalf of His Highness Mulhar Rao Gaekwar, and a statement in writing of the said Mulhar Rao Gaekwar, and heard counsel respectively on behalf of the Viceroy and Governor-General of India in Council and His Highness Mulhar Rao Gaekwar.

Now we the undersigned three of the Commissioners appointed as aforesaid do make the following report upon the matters so as aforesaid directed to be enquired into:—

1. It is desirable first to record the dates on which some of the important events connected with this enquiry occurred. They are as follows:—

Colonel Phayre assumed his office as Resident of Baroda on the 18th of March 1873.

The Commission of Enquiry into the complaint of mal-administration on the part of the Gaekwar's Government, brought by the Resident, Colonel Phayre, sat from the beginning of November to the 24th of December 1873.

The Gaekwar Mulhar Rao went to Nausari to celebrate his marriage with Lakshmi Bai accompanied by Colonel Phayre on the 2nd of April 1874, and returned on the 16th of May 1874. The marriage occurred on the 7th of that month.

Lakashmi Bai was delivered of a son on the 16th of October 1874.

The date of the kharita addressed by the Gaekwar to the Viceroy requesting the removal of Colonel Phayre from Baroda is the 2nd of November 1874.

The date of the kharita of the Viceroy announcing the removal of Colonel Phayre from the post of Resident at Baroda, and the appointment of Colonel Sir Lewis Pelly, K. C. S. I., is the 25th of November 1874.

2. The evidence on the record proves in our opinion that an attempt was made on the 9th of November 1873 to poison Colonel Phayre by administering common white arsenic and diamond dust in the glass of sherbet made of pummelo juice which he was in the habit of drinking on his return from his early morning walk. Colonel Phayre returned home at five minutes to seven on that morning, and was met by Raoji, the havildar of his peons, who made a salaam to him. Colonel Phayre then entered the room he used as an office and dressing room in a small building which adjoins the main block of the Residency. Having entered that room he found the glass of sherbet placed as usual on the wash-hand stand, and he took two or three sips, replacing the glass on the wash-hand-stand. He then sat down to write, and in twenty minutes or half an hour felt a sudden sensation of nausea. Thinking that the sherbet disagreed with him, and fearing, as he said, that he might be tempted to drink more of it, he flung the contents of the tumbler into the verandah outside the office room. The greater portion of the contents fell in the verandah, but a portion also reached the ground outside the verandah. When replacing the tumbler on the wash-hand-stand, Colonel Phayre's attention was attracted by the colour of a sediment which had remained in the tumbler and of which a portion was still trickling down the side. He describes the sediment as being of a dark colour, and he adds that on holding up the tumbler and looking at it the thought occurred to his mind that he had been poisoned. This was at about 7-30 A. M.

Colonel Phayre at once wrote a note to Dr. Seward, the Residency Surgeon, asking him to come over, and Dr. Seward arrived in half or three-quarters of an hour, or about 8 o'clock. Colonel Phayre handed over to Dr. Seward the tumbler containing the remains of the sherbet, amounting, according to Colonel Phayre's account, to 1½ or 2 tea-spoonsful, according to Dr. Seward to less than a desert spoonful. Dr. Seward observed " a little powdery film arise" in the sediment as he shook the tumbler and held it up to the light; and on adding a little water " observed the play of colour on the glistening part of the sediment." Colonel Phayre described the symptoms he experienced to Dr. Seward, who took the tumbler and its contents to his own house for the purpose of ascertaining what the contents were. Colonel Phayre has deposed that no person had access to the tumbler from the time he sipped the sherbet till the time that he made it over to Dr. Seward. The symptoms experienced by Colonel Phayre are described in a letter, (Exhibit F.) written by him to Dr. Seward at 11 A. M. on the same day, of which an extract here follows :—

" Although I only took two or three sips of the pummelo juice which the tumbler contained, I felt within about an hour, as I described to you, a most unusual sickness of stomach, accompanied by dizziness of the head and of sight, producing confusion of thought, also a most unpleasant metallic taste in the mouth, with slight salivation such as I have never experienced till within the last few days, and which I attributed partly to a slight attack of fever which had, however, quite gone off, and partly to an idea that the pummelos from which the juice daily placed on my table had been extracted were not fresh ones."

The metallic taste referred to has been described by Colonel Phayre as being a " coppery" taste; and he states that it commenced about three quarter of an hour after sipping the sherbet, which he says was quite clear in the upper part of the tumbler and had no unpleasant taste.

3. Dr. Seward explains the processes he used for ascertaining the contents of the sediment in the tumbler. He took about one-third of the sediment, equal to from one to two grains in weight, and of a faint fawn or pale grey colour; and mixing a little charcoal with it, put it into a test tube, which he heated over a spirit lamp, with the result of producing a metallic ring on the tube. Again heating the tube, he saw above and below the metallic ring a crystalline deposit which was found under the microscope to consist of octohedral crystals. The metallic ring and the octohedral crystals are stated by this witness to indicate almost entirely the existence of arsenic, and he adds that no other mineral poison would yield the same appearance. The rising of the film in the sediment is also an indication of the same poison.

The remainder of the sediment which Dr. Seward had not experimented upon he sent on the morning of the 10th of November to Dr. Gray, the Chemical Analyser to Government at Bombay, having reduced it to the condition of powder by the application of a blotting paper filter and heat.

4. Some days after having made the test of reduction by charcoal as above related, Dr. Seward made a further experiment which he thus describes, with the substance that remained in his test tube. He removed the mixture from the tube and threw it upon the surface of some water. Allowing the heavier particles to sink to the bottom, he rapidly poured off that which was floating. After repeating this process several times, he collected the sediment, and placed it on some glass slides, which he produced before the Commission. He put the slides under a microscope, and perceived that the sediment consisted mainly of lustrous crystalline fragments. Passing a clean glass slide over one of the slides covered with the sediment, he found that its surface was scratched. He repeated this experiment before the Commission, the clean slide being readily scratched on being rubbed against the charged slide. Dr. Seward explains that he did not test for copper, but only for arsenic, and that the poisonous portion of the sediment was the arsenic and not the diamond dust. He did not weigh the sediment that he obtained in the tumbler.

5. Before going on to describe the result of Dr. Gray's analysis of the powder sent to him by Dr. Seward on the 10th of November, it is necessary to refer to two other packets that were also sent to Dr. Gray for analysis. These are first, a packet containing scrapings of the chunam floor of the verandah into which Colonel Phayre threw the sherbet. Colonel Phayre's evidence and his (Exhibit I.) letter to Dr. Gray show that in consequence of a suggestion thrown out by Dr. Gray to Dr. Seward, and communicated by Dr. Seward to Colonel Phayre, the latter witness, on the morning of the 15th of November, caused one of his peons, in his presence, to scrape as much deposit as could be found on the chunam floor of the verandah where the contents of the tumbler fell. These scrapings were made up by Colonel Phayre himself with a packet, which was forwarded to Dr. Gray on the 16th of November under due precautions. The second packet was found in Raoji's belt on the 25th of December 1874 in the presence of the Commissioner of Police, Mr. Souter, by whom it was taken to Bombay and delivered to Dr. Gray on the 30th idem.

6. The following is an abstract of the evidence of Dr. Gray, Chemical Analyser to Government at Bombay. He received the three packets above referred to in such a condition and in such a way as to exclude any idea of their having been tampered with *en route*.

The first packet forwarded to him by Dr. Seward contained 1½ grains of powder of a greyish colour, composed partially of glittering particles. He applied the test by sublimation to a small portion of the powder, the result by microscopical examination being the existence of eight-sided crystals. He made a solution of the crystals by boiling them in water. Taking part of the solution, he added to it ammonio-nitrate of silver, and it produced a pale yellow precipitate.

To another part of the solution he added ammonio-sulphate of copper, and the result was a pale green precipitate.

In the remainder of the solution he put muria-

tic acid, boiled the solution, and passed sulphuretted hydrogen gas through it, the result being a bright yellow precipitate.

He then added ammonia to the three precipitates, reserving, however, a portion of the third precipitate. They all dissolved.

The reserved portion of the third precipitate he boiled with strong muriatic acid, and it did not dissolve.

All these tests satisfied Dr Gray that the crystals he had produced by the process of sublimation were crystals of white arsenic.

He made further experiments with the powder he received from Dr. Seward. He boiled a small portion of it with water and muriatic acid, and threw two pieces of clean copper-foil into the boiling liquid, which continued to boil. In a few seconds the copper-foil became covered with a grey metallic deposit. One of the pieces of copper-foil he dried and heated in a test tube, on the side of which a white sublimate formed consisting of eight sided crystals. To these crystals he applied the same kind of tests as those already described and with the same results.

7. Dr. Gray also tried the test by reduction with charcoal on a portion of the powder received from Dr. Seward. He produced before the Commission the test tube with the metallic ring, which he states is one of the signs of the presence of arsenic. He did not reduce the ring to white arsenic by heating.

8. In regard to the glittering particles contained in the powder received from Dr. Seward, Dr. Gray deposes that they were not in any way affected by the experiments above described. He examined them under a microscope, and at first thought they might be powdered glass or quartz; but on looking at them on the following day (the 12th of November) on the piece of blotting-paper, he was led by simple inspection to think that they were diamonds on account of their brilliancy. He tried to dissolve them in all the ordinary acids, and with an alkali, but the particles were not soluble: and he came to the conclusion that they were diamond dust as the result of his independent enquiries, he not having at that time (the 13th of November) received any intimation that the powder might contain diamond dust.

9. The second packet forwarded by Colonel Phayre with Exhibit I was received by Dr. Gray no the 17th of November. It contained earthy matter, in weight 17 grains, which on examination by the same test as those applied to the contents of the first packet, proved to be arsenic, sand, and diamond dust. One grain of arsenic was found by Dr. Gray in the packet forwarded by Dr. Seward, and 1¼ grain in that forwarded by Colonel Phayre, total 2¼ grains. Under circumstances favourable for its action 2½ grains are, Dr. Gray says, a fatal dose for an adult, and the effect of arsenic shows itself, in the majority of cases, in from half an hour to an hour. Diamond dust according to the best authorities has no injurious effect on the human body.

Dr. Gray considers the rising of the film in the sediment, as described by Dr. Seward, to be a likely result of the presence of arsenic in the tumbler.

10. The third packet delivered by Mr. Souter on the 30th of December 1874, Dr. Gray found to contain 7 grains of white arsenic of the same description and physical character as that found in the other two. He judged this from ocular inspection with a microscope.

11. The alleged existence of a metallic taste in the mouth of persons suffering from arsenical poisoning is a fact which has once come under Dr. Gray's personal experience, and one that is constantly referred to in cases that are sent up to him in his capacity of Chemical Analyser. He himself has taken arsenic for the purpose of ascertaining whether it has any taste, but has found it to be tasteless.

Dr. Gray directed his attention to the discovery of copper in the powders, but found no trace of it.

12. The usual symptoms of poisoning by arsenic are stated by Dr. Gray to be dizziness, nausea followed by vomiting, burning pain in the stomach, and purging. Chronic poisoning, or repeated small doses of arsenic, he says, cause watering of the eyes; and if arsenic is applied to a wound it produces injurious effects which may end in the death of the sufferer. He thinks that Colonel Phayre must have taken very little arsenic, but that he took sufficient to cause nausea, which would produce salivation, nausea being a preliminary of salivation.

13. In connection with this part of the case it is to be observed that Colonel Phayre in his evidence states that he was ailing from about the middle of September 1874. He had a cold in his head and a boil on his forehead, for which Dr. Seward attended him. A plaster was put on the boil by Dr. Seward, and the spare plaster used to remain on a table in his office room. Collodion was applied by Colonel Phayre himself to the boil in such a way that he had difficulty in removing the lint with which he had applied it. This occurred one morning between 8 and 9 o'clock, when Colonel Phayre was standing near the wash-hand-stand in his office, whence he would be visible to the peons who had their post in the verandah leading into that room. Both before and after the application of the plaster Colonel Phayre suffered from slight fever and fulness in the head, and the eyes watered a great deal. He suspected that his sherbet was not properly made from the beginning of October 1874. On the 6th of November he took a sip or two of the sherbet and felt unwell, having fulness in the head, and being sleepy, and generally having sensations like those he had experienced in the early part of October. On the 7th of November he also took a little of the sherbet, and was conscious of having the same symptoms as on the previous day, though in a worse degree. On the 8th he took no sherbet, as he had felt so ill on the preceding day.

The mention of the symptoms Colonel Phayre had noticed between the middle of September and the 9th of November will be found to be of some importance with reference to the evidence of some of the later witnesses in this enquiry.

14. It is obvious that as 2¼ grains of arsenic were found in the sediment of the tumbler, and in the scrapings of the verandah, a larger quantity of arsenic than would suffice to produce a

fatal result must have been put into the tumbler, for it is not possible that all the arsenic contained in the sherbet was recovered from the verandah, and the quantity of the arsenic reproduced in the form of crystals by Dr. Seward's experiments is not known.

15. Having shown that poison was actually placed in Colonel Phayre's glass, the next question to consider is, by whom it was given. Abdulla Khan, who had been Colonel Phayre's servant for 15 or 16 years, was charged with the duty of preparing the sherbet daily, but in his absence it was the duty of the butler to prepare it. Abdulla prepared it on the morning of the 9th of November from pure pummelo juice, and placed the tumbler containing it on the wash-hand-stand in the office room, which, at the time he did so (about 6·30 A.M.) Govind Balu and Yellapa were sweeping and cleaning. Abdulla, having taken out his master's clothes for the day, left the room. Govind Balu, house-servant at the Residency, states that he and Yellappa cleaned out the office room on the morning of the 9th of November during the time Colonel Phayre was out for his walk; that he put fresh water into the water-bottle on the wash-hand-stand, doubtless the bottle from which Dr. Seward poured a little water into the tumbler containing the sediment; that he got that water from the earthen vessel standing in the verandah of the main building from which water was supplied to the European inhabitants of the Residency; and that he left the room at about 7 o'clock before Colonel Phayre's return. He states that he saw Abdulla come into the room, arrange his master's clothes, and go out, but that he did not observe that he brought the sherbet. Lakshiman Dariao Singh, peon, was outside the room. After Abdulla left the room, Govind Balu states that Raoji, havildar of peons, (a petty officer, the lowest grade of officers is naik; then above him is the havildar, and above him the jemadar.) entered Colonel Phayre's office room, and was in it for 5 or 6 minutes, during which time he emptied the waste-paper basket which stood near the writing-table into another basket, which was kept in the ante-room through which access is obtained to the office room. It may be here noticed, as a fact within the personal cognizance of some of the members of the Commission, that the office room is of small dimensions.

Yellappa confirms Govind Balu's statement that he was also employed in cleaning out the office room on that morning, but he gives no further particulars. Lakshiman Dariao Singh deposes to his having arranged Colonel Phayre's writing table on the morning of the 9th of November, having done which he sat at the place allotted to the peons in attendance, and observed nothing further.

16. There does not appear to be any ground for suspecting that any of these persons put poison into the sherbet. Raoji confesses that he did so, and we think that his evidence on this point may be accepted as true.

17. It is now necessary to consider in detail the evidence of Raoji and other witnesses with a view to ascertaining whether Raoji was instigated to poison Colonel Phayre, and if so, by whom he was so instigated.

18. The evidence of Raoji is to the following effect:—

He was appointed by Colonel Phayre to be havildar of peons a year or a year and a quarter ago, and lived in the bazaar in the Baroda camp. Two months before the Commission of 1873 commenced its sittings, Salim made repeated overtures to him to visit the Gaekwar. He at last consented, and went at about that time, *i. e.*, two months before the sitting of the Commission, with Salim and Eshwunt Rao whom he met at Eshwunt Rao's house in the city of Baroda, to the Gaekwar's Palace in the city, and there had an interview with the Gaekwar in the presence of Salim and Eshwunt Rao.

The Gaekwar asked him to send him information about the Residency, promising to give him rewards if he did so, and enquired whether Narsu, jemadar of peons at the Residency, was his friend. Raoji agreed to send the information desired, said that Narsu was his friend, and on being requested by the Gaekwar to do so, consented to bring Narsu to see His Highness. The next day Raoji told Narsu of this visit and of the invitation which had been sent to him, but Narsu excused himself from going then on the plea of want of leisure.

19. Before proceeding further with the evidence of this witness, it will be convenient to explain that Salim is an Arab, living in the city of Baroda, and that he was a horseman (sowar) in the service of, and in constant attendance on, the Gaekwar. Eshwunt Rao is a Jasud (called also Jasus) or personal messenger of the Gaekwar, and also resided in the city. The room in which this interview is said to have taken place is the same as that in which all the interviews which will be described between the Gaekwar and the Residency servants were held. It was inspected by some members of the Commission, and it may be described as a small room on the third storey, entered at one corner by the narrow flight of stairs which leads from the entrance of the Palace close to the rear and the Nazar bagh (garden). The stairs terminate inside this little room, and they are not shut off by a door. The room is in fact an ante-room, in which there is a single door leading into the private apartment of the Gaekwar, where he had a bed and a bathing chair, and appliances for ablution. In the ante-room there are several mirrors attached to the walls, and there is a low and broad wooden bench on which His Highness is said to have sat on nearly every occasion of his meeting the servants. We now resume the thread of Raoji's statement.

20. Raoji paid three or four other visits to the Gaekwar, before the Commission of 1873 sat, and he paid three visits while the Commission was sitting. On each of these occasions he first went to Eshwunt Rao's house, and from thence he went to the Palace, accompanied by Eshwunt Rao and Salim. At these visits Raoji told the Gaekwar about the persons who came to the Residency, the events that happened there, and the complaints that were made against the Gaek-

war's administration at the Residency and before the Commission.

21. At one of the visits paid on a Friday while the Commission was sitting, Raoji informed the Gaekwar that he was going to be married, and the Gaekwar directed Eshwunt Rao to remind him of it. On the following Monday, when the Gaekwar visited the Residency, Eshwunt Rao informed Raoji that he had brought Rupees 500 for him, and desired him to go to his house in the evening and receive that sum. Accordingly Raoji went in the evening to Eshwunt Rao's house accompanied by Jagga, a punkah-puller employed at the Residency, and there he received from Dalpat, Eshwunt Rao's clerk, Rupees 500, Jagga being present but not Eshwunt Rao, who was upstairs, Rupees 400 were spent by Raoji in the purchase of ornaments for his marriage, and Rupees 100 he deposited with Jagga. There is no evidence on the record which directly corroborates the truth of Raoji's statement in regard to any of the visits above related except that on which the present of Rupees 500 was spoken about. But it will be shown further on that about the time these earlier visits were being paid, the Gaekwar was also receiving visits from the woman, Amina, who was an ayah in the service first of Mrs. Phayre, and subsequently of Mrs. Boevey, Mrs. Phayre's daughter, and wife of the Assistant Resident at Baroda. There is, however, evidence to corroborate the payment of the Rupees 500, and to this it is expedient now to draw attention, leaving Raoji's further narrative for the present.

22. Jagga (No. 28, son of Bhagwan) states that he accompanied Raoji to Eshwunt Rao's house one evening "fourteen or fifteen months ago," which would be about December 1873, (the Commission, it will be remembered, was sitting during November and December 1873), and that the Rupees 500 were paid to Raoji by Eshwunt Rao's *karkun* or clerk, of which sum Raoji took away Rupees 400 and gave Rupees 100 to him, Jagga, to keep.

Dalpat, the clerk, deposes to having paid 500 Baroda rupees at 8 P. M. twelve or fourteen months ago to Raoji and Jagga by the order of Eshwunt Rao, who at the time of the payment was upstairs, and not, therefore, present.

Dajiba (No. 30) was the person employed by Raoji to get the ornaments for his marriage made. He shows that about the time of the last dewali, (a Hindu festival) but one, which was on the 20th of October 1873, he employed Shivlal Vithul, a goldsmith, to make up for Raoji various gold and silver ornaments for the person. These ornaments were delivered on two or three occasions as they were ready, and Dajiba got the list. (Exhibit Y.) with the prices from the goldsmith. This list he delivered to the police when the present enquiry was set on foot, and it shows that ornaments to the value of Rupees 558-6-0 were made by Shivlal Vithul for Raoji between November 1873 and March 1874.

Shivlal Vithul corroborates Dajiba in regard to the time of making the ornaments, and the description of ornaments, and he states their value from memory to be Rupees 475 or Rupees 500. He was paid in full for the ornaments by Dajiba and Raoji from time to time.

Dulab, another goldsmith, deposes to having made various ornaments of gold for Raoji in June and August 1874 to the value of Rupees 79-8-0.

Shivlal Vithul and Dulab identified the ornaments they had respectively made, and Raoji admits that they are his property.

Raoji's salary, it may here be noted, was Rupees 10 per mensem.

23. To return to Raoji's evidence, which goes on to describe the visits paid to the Gaekwar after the Commission of 1873 had left Baroda and up to the time that the Gaekwar went to Nausari.

Raoji states that eight, nine or ten days after the Commission left Baroda, which would be about the 3rd of January 1874, he visited the Gaekwar at his palace in company with Narsu, jemadar of the Residency peons, Salim having previously informed Raoji that he had brought Narsu over to agreeing to come. The day was Sunday, and according to agreement Narsu, whose house was in the city of Baroda, went to Eshwunt Rao's house. Raoji started in company with either Jagga or Karbhai, both of whom were punkah-pullers at the Residency, and went to Eshwunt Rao's house, where he found Narsu, Eshwunt Rao, and Salim, all of whom accompanied him and his companion (Jagga or Karbhai) to the Gaekwar's Palace. Arrived there Salim went upstairs to inform the Gaekwar, and shortly summoned him and Narsu to the presence. At the interview the persons present were Raoji, Narsu, Eshwunt Rao, and Salim. Raoji describes the conversation between the Gaekwar and Narsu on this occasion. The Gaekwar told Narsu that as he lived in the city he should bring information from the Residency every day, and that being an old resident of Baroda, and acquainted with the Sirdars (Nobles,) he should tell him the names of the Sirdars who went to the Residency. The jemadar, Narsu consented, and said that both he and Raoji would communicate the information through Salim; on which the Gaekwar desired that if there was anything of importance to communicate, it should be committed to writing, the jemadar bringing the letter when he came to his house in the city, and giving it to Salim. Nursoo said to the Gaekwar that his brother's pension had been stopped, and he begged the Gaekwar to make some arrangement about it. The Gaekwar told Nursoo to give a petition to the Resident on the subject, promising to make some arrangement if the Resident spoke to him. Two brothers of Nursoo were then in the Gaekwar's service as commandant and jemadar of cavalry.

24. Jagga and Karbhai (Nos. 28 and 29) both depose to having gone to the Gaekwar's Palace with Raoji, Nursoo, Eshwunt Rao, and Salim, and to having been left downstairs when those persons went up to see the Gaekwar. There are no means of identifying the man who went with the party on this occasion, but there can be no doubt that it was either Jagga or Karbhai. Nursoo merely states that Raoji had a companion with him, but he does not mention his name.

25. Raoji then goes on to say that he and Nursoo visited the Gaekwar again four or five

times about or before the departure of His Highness for Nausari (2nd of April 1874,) and that on these occasions they gave information to the Gaekwar of doings at the Residency. It may here be noted that Nursoo only speaks of one such visit at this time, viz., his second visit.

26. Raoji states that he and Narsu went to Nausari in attendance on Colonel Phayre, and that he saw among other persons there Salim and Damodhur Punt. Raoji paid one visit to the Gaekwar when at Nausari, introduced by Salam, and the Gaekwar asked him about Bhau Koonekur and others who went to the Residency.

27. We now come to Raoji's account of his visits to the Gaekwar after the return from Nausari, which was about the 18th of May 1874, and here we remark that Raoji states that in the visits up to this time the only thing the Gaekwar desired was information about the Residency, and that it was after this event that poison was first mentioned by His Highness.

28. These visits after the return from Nausari are stated by Raoji to have been paid, some in company with Pedro de Souza, some in company with Narsu. Pedro was Colonel Phayre's butler, and had been employed in that capacity for fifteen years, having been in his service altogether for 26 years.

Pedro took leave for a month to Goa; and three of the visits in his company are fixed by Raoji as occurring before his going to Goa, and one after his return from that place. Raoji says that Pedro invited him to go with him to the palace, stating that he (Pedro) had been asked to go there by Salim. Raoji describes the first visit and the conversation thereat with the Gaekwar which he limits to enquiries regarding the conversation at the Residency dinner table, and to a request on the Gaekwar's part that Pedro should send him information through Salim. No details are given in relation to the other two visits.

The last visit with Pedro is stated by Raoji to have been two or three days after Pedro's return from Goa. Now Pedro in his evidence before this Commission does not give the date of his return from Goa; but in his statement before Mr. Edginton, the Deputy Commissioner of Police at Bombay, on the 5th of January 1875, he states that he returned to Barode from leave on the 3rd of November 1874. Raoji recites the conversation between Pedro and the Gaekwar. After asking Pedro when he had returned from Goa, the Gaekwar said to him—"If I give you something, will you do it?" Pedro said he would, if it were possible. The Gaekwar then spoke to Eshwunt Rao, who handed a paper packet to His Highness, who put it into Pedro's hands. Pedro asked what it was. The Gaekwar said it was poison, and that it should be put into Colonel Phayre's food. Pedro objected that if Colonel Phayre were to die suddenly, he (Pedro) would be taken up and be ruined. The Gaekwar then assured Pedro that nothing would happen suddenly, but that Colonel Phayre would die in two or three months. Raoji believes that Pedro kept the powder or packet, but does not know whether he used it or not. Pedro informed Raoji that he had received money from Salim before he started for Goa.

Pedro in his deposition admits that he went to Nausari, and that Salim urged him to go to the palace, but he denies ever having gone there, or having ever spoken to the Gaekwar. He admits that he asked Salim a short time before he went to Goa for money for his expenses by the way, and that Salim gave him 60 Baroda rupees, saying that the Gaekwar had sent them for the expenses of his journey. He also admits having told Raoji that he had received the Rupees 60, although he says he was not intimate with him, and was only on speaking terms with him.

Whether Pedro did go to the palace at all, or Raoji did accompany him in visits to the Gaekwar, or not, must remain uncertain. There is no corroboration whatever of Raoji's statements on this point.

29. Raoji's first visit to the Gaekwar with Nursu is stated by him to have occurred two or three days after the return from Nausari. This would be the 20th or 21st of May 1874. Karbhai, punkah-puller, accompanied them. Fifteen days after the return from Nausari Raoji received Rupees 300 from Nursu as his share of a present from the Gaekwar.

30. At the time Colonel Phayre had a boil on his forehead (September—October 1874), Raoji states that he again visited the Gaekwar with Nursu, and that the Gaekwar gave him a bottle containing a white liquid like water telling him to put it into Colonel Phayre's bathing or washing water. The mouth of the bottle was stopped with cotton and bees' wax. Raoji put it inside his drawers or trousers, which were tied round the waist with a string, the bottle being pressed against his body by the string, some of the liquid exuded, or was jerked out in walking, on to Raoji's stomach and a swelling with a burning sensation was the result. Raoji took the bottle or phial with him to the Residency, and, in reply to Narsu's question, said that he had put its contents into Colonel Phayre's water. This, however, Raoji says was a lie, in order to stave off the importunity that was manifested by a sowar who came daily to ask if he had done the business. In point of fact he says he flung away the contents of the bottle because he thought they would injure his master, Colonel Phayre. Raoji showed to Narsu the injury on his stomach. The bottle was kept under a box which was in the verandah of the Residency near the bench where the attendant messenger sat. The bottle was as long as Raoji's forefinger and thin.

The evidence of Dr. Gray, who was examined specially with reference to the injury on Raoji's stomach, is to the effect that the three marks visible thereon above the navel, where the drawer strings are tied, were caused either by caustic or burning from a hot iron; that arsenic is a caustic; and that arsenic in suspension might cause an injury, leaving such marks as those existing on Raoji's belly, if kept in contact with the skin for an hour, even though the surface of the skin were unbroken before the contact. Dr. Gray is of opinion that the injury on Raoji's person may have been caused in the way described by the witness, supposing

arsenic to have been contained in the bottle. Our opinion on this episode of the bottle will be given when considering the evidence of Damodhur Punt.

31. Raoji describes another visit he paid one evening to the Gaekwar in the palace four or five months after receiving the Rupees 300 from Narsu. This would make the visit to fall in October or November 1874. Raoji thinks it was 15 or 20 days before the 9th of November. The room in which the interview with the Gaekwar is said to have been held is described by Raoji as His Highness' bath-room, the time 7 P M, or somewhat later, and the persons present, Salim, Eshwunt Rao, Narsu, and Raoji. The following is Raoji's account of the conversation that passed :—"The Maharaja (the Gaekwar is commonly referred to as the Maharaja, which is one of his titles) said to us—"The Saheb (meaning Colonel Phayre) prac-"tises great oppression (*zulum*) on me. I will "tell you something; will you listen to it!' "Then I and the jemadar said, 'We will listen.' Then the Maharaja said, 'What is the Saheb in the habit of eating?' I then said, 'He does not eat anything in my presence, but he drinks juice (*ras*) sherbet.' Then the Maharaja said to us, 'If I give you something will you put it in (*dalna*)?' Then we said 'What will be the effect of it (*kya hoega*)?' Narsu it was who said this. Then the Maharaja said to us, 'I will send a packet by the hands of Salim, sowar.' I thereupon asked the Maharaja 'What will be the effect of it?' (The Interpreter, Mr. Nowrojee, says the word interpreted as packet may also mean powder, *puri*). When I asked What substance is it? (or rather 'thing')? Then the Maharaja said, 'It is poison, (*zahar*).' I then said to the Maharaja, 'If I put it in and if anything happens to the Saheb all of a sudden, what then?' The Maharaja said, 'It will not produce any immediate effect, but will produce an effect in the course of two or three months.' Then the Maharaja said to us, 'I will give you a present of a lakh each, if you will do this thing, and I will employ you, or give you service, and I will protect your children and family. Do not entertain any apprehensions.' I myself asked the Maharaja, 'In what manner shall I put this in?' Then the Maharaja said, 'Take a small bottle, put some water and the powder in it, shake it well, and put that in.' Then I asked the Maharaja 'If I put the powder thus, what will be the effect?' The Maharaja said, 'If without shaking it you put it in the juice, it will come to the top, therefore you should shake it before putting it in.' Then Salim, sowar, and Eshwunt Rao both said, 'It will be good for you if you do this job, do not have any apprehensions.' The Maharaja said, 'Make three powders of this, and finish them in three days.' At that time no powder was shown me; nothing was shown me then. The Maharaja said, 'I will send it to the jemadar's house by the hands of Salim or Eshwunt Rao.' I said 'very well.'"

32. The day following this interview Narsu brought and gave to Raoji a packet containing two powders, one white and the other rose-coloured; the quantity in each being, as shown to the Court by the witness, about a teaspoonful; the white powder, however, being rather more than the others. Raoji then made up these two powders into three, by dividing the rose-coloured powder into three portions, and adding a pinch of the white powder, which he believed to be arsenic, to each. There was thus a remnant of the white powder which Raoji put into the secret pocket of his belt in paper; and three compound powders he placed in another pocket of the belt. The belt is a band of thick cloth lined, encircling one shoulder and falling down to the hip on the other side. There it is joined, and a slide is sewn on for a sword. The waist band (*kammurband*) is tied over the belt, leaving the slide open underneath it. The three compound powders Raoji states he put into Colonel Phayre's sherbet in his office room, one at a time, on alternate days, having first shaken up the powder in water in a phial.

33. This is a convenient place to consider the matter of the discovery of the arsenic powder which has been referred to as the third packet examined by Dr. Gray.

Colonel Phayre has shown that he put Raoji under arrest on suspicion on the evening of the 9th of November, and Raoji states that he was released on the 11th, but was not allowed to resume duty, and went to his house. Raoji also states that on the morning of the 9th of November before he was arrested he was suspended, and that he put his belt of office in the office room occupied by Colonel Phayre at the Residency. Mr. Boevey, who was Assistant Resident at the time, shows, however, that Raoji hung up the belt, when he was deprived of it, on a peg in the room adjoining Colonel Phayre's office, and this, no doubt, is the correct statement.

Raoji was arrested by the Police on the 22nd of December 1874, their suspicions having been directed against him by information they had obtained of the large expenditure, with reference to his means, that he had been incurring in the town. On the 24th, 25th and 26th of December the statements of Raoji were recorded by Mr. Souter, and on the 25th, Akbar Ali, head of the Detective Police of Bombay, asked Raoji where he kept the powders he had brought from the palace. Raoji replied that he used to put them in his belt, which was then with Bhudar, who had been appointed to succeed him. Bhudar was at once sent for, and came to the room in the Residency where the Police were carrying on their investigation under Mr. Souter, who was also living there, and took off the belt which he was wearing, and handed it to Akbar Ali. Mr. Souter was at that time dressing. Akbar Ali at once examined the belt, and when his finger came in contact with a bit of paper inside the pocket, he called to Mr. Souter, who was in the adjoining room, and in Mr. Souter's presence the packet of arsenic, and a piece of thread were found. It is clear from the evidence of Raoji, Akbar Ali, Bhudar, and Mr. Souter that Raoji had forgotten all about this powder, and that it was not until it was found that he recollected the circumstance. There appears to be no reason whatever for suspecting any foul play on the part of the Police in connection with this discovery, which certainly corroborates Raoji's statement in regard to his

treatment of the two powders. Raoji explains that he knew the white powder to be arsenic, and that he put only a little of it into each of the rose coloured powders for fear lest the action of the poison should be too rapid.

33*a*. We now come to Raoji's last visit to the Gaekwar, which he states to have been made on Friday night (the 6th of November 1874) with Narsu, in consequence of a message brought by Salim. He first went to Eshwunt Rao's house, and thence proceeded to the palace with Eshwunt Rao, Salim, and Narsu, who were all present with Raoji at the interview with the Gaekwar. The room in which the interview is said to have been held is the "bath-room." The Gaekwar abused Raoji for having done nothing, on which Raoji replied that he had done it, and could not account for the absence of the result. The Gaekwar said he would give him something else to put in. As Raoji was leaving, Salim put something into the jemadar's hand, which he (Raoji) did not see. Next day (Saturday, November, the 7th) Narsu gave Raoji a dark grey powder in a piece of paper. On Sunday, the 8th, Raoji did not go to the Residency, but he went at 6-30 A. M. on Monday, the 9th, and put the whole of the powder into Colonel Phayre's glass of sherbet, having first shaken it up with water in the phial. Raoji says that it was two days before he got this last powder that Pedro received the powder from the Gaekwar (at the last visit he paid to the Gaekwar with Raoji), so that Pedro must have received his powder, if Raoji speaks the truth, on the 5th of November. Raoji explained that he gave the whole of the last powder in one dose, as it was small in quantity, and he did not think it would take effect at once, and moreover, he was urged to be quick.

34. We now come to the evidence of Narsu. Raoji appears before the Commission as a tainted witness, a principal in a capital offence, under promise of pardon conditional on his speaking the truth. Narsu, on the other hand, was distinctly informed by Sir Lewis Pelly that no pardon should be given to him, and his statement or confession, orally made before the Police and Sir Lewis Pelly on the 24th of December, was not recorded till the 26th idem, in order, as Sir Lewis Pelly explains, that he might have time to think over the matter, and that he might not be induced by any reason to make a statement which would not bear scrutiny. It is therefore necessary to look for facts corroborative of the general truth of Raoji's evidence. Narsu, with regard to the circumstances under which he appears seems to us to be a truthful witness and his manner impressed us favourably. Discrepancies between his and Raoji's evidence there undoubtedly are, and they are to be expected when men are relating occurrences which happened some considerable time before their recital. To show how witnesses on whose veracity no suspicion can rest may differ, it will suffice to refer to the accounts given by Mr. Souter and Sir Lewis Pelly of the reason why Narsu's statement was not recorded on the day that it was first made; Mr. Souter saying that he was too busy to take it down that day; Sir L. Pelly saying that it was because he ordered that time should be given to Narsu to think over the matter.

35. Narsu states that he was jemadar of peons at the Residency on Rs. 14 per mensem, having occupied that post for some 17 years, and been employed at the Residency for 32 or 34 years altogether. His house was in the city of Baroda. His usual time for going to the Residency in the morning was 7½ or 8 o'clock, and he returned home at 6½, 7, or 8 o'clock in the evening. He corroborates Raoji's statement in regard to the invitation which was made to him to visit the Gaekwar before or about the time the Commission of 1873 assembled, and his refusal on the plea of want of leisure. He corroborates in all essential particulars the first visit to the Gaekwar described by Raoji as having been made in his company after the Commission dispersed. Between this first visit and the trip to Nausari, Narsu alludes to only one visit with Raoji in the evening whereas Raoji alludes to four or five visits. When at Nausari, Narsu says he paid no visit to the Gaekwar, except in company with the Resident, and Raoji does not say that Narsu did visit the Gaekwar there with him. But Narsu relates a circumstance not mentioned by Raoji, and this is a fair instance of the absence of all connivance between Raoji and Narsu in the evidence they have given. Narsu says that when at Nausari, Raoji caused a present of Rupees 250 to be given to him (Narsu). Narsu not knowing what to do with the money there, Raoji left it with Salim, who was then going to Baroda. When Narsu returned home, he ascertained that the money had actually been paid on his account to his brother. There is no corroborative evidence of the truth of this story, which is not mentioned by Raoji, but there is no reason apparent for discrediting it, and the inference of course is that the money came from the Gaekwar.

36. Narsu describes his first visit after his return from Nausari. His description corresponds substantially with Raoji's account, but Narsu gives the date of the visit as the middle of June or July 1874, whereas Raoji would make it about the middle of May.

Native witnesses are so notoriously inaccurate in regard to time that discrepancies of this sort do not make their evidence untrustworthy on other points. Narsu says that Raoji, after some conversation with the Gaekwar, suggested that a present should be given in connection with His Highness' marriage (with Lakshmi Bai), and the Gaekwar promised that one should be given. Accordingly 10 or 15 days afterwards Salim brought Rs. 800 to Nursoo, of which he gave Rs. 400 to Raoji (who paid Rs. 100 to Jagga) and took Rs. 400 for himself. Nursoo gave Rs. 100 of his share to Salim, thus keeping Rs 300 for himself. Jagga, however, says no thing of having received the Rs. 100 referred to by Narsu, and it is rather to be inferred that he did not receive them although he admits having been once to the palace in company with Raoji, Narsu, Eshwunt Rao, and Salim. Raoji, it will be remembered, acknowledged the receipt of Rs. 300 from Narsu.

37. Raoji states that Narsu was with him when he visited the Gaekwar at the time Colonel

Phayre had a boil on his forehead, and received the bottle from the Gaekwar. But Narsu says he did not see the bottle given. He saw the bottle at the Residency, where Raoji explained that he shook up the poison in it with water, and he knows that it was kept under the box close to the peons' bench at the Residency.

38. Up to this time no allusion to poison had been made before Narsu, who now goes on to recite the circumstances of the last two visits to the Gaekwar, corresponding with Raoji's last two visits. One visit was paid 20 or 25 days before the 9th November, thus corresponding pretty nearly with the time stated by Raoji. The place of the visit is the ante-room alluded to above, of the Gaekwar's private room, or bath-room, according to Narsu's account, and not the bathroom as stated by Raoji. There seems to be no reason for believing that any of the visits were paid in the inner or bathroom. They were, we believe, all paid in the ante-room. Narsu says that Karbhai was with him, whereas Raoji does not mention Karbhai. Karbhai's evidence leaves it uncertain whether he was with Narsu and the rest on this occasion. It is not pretended by any one that he ever went into the Gaekwar's presence. The names of the persons present at this interview, as given by Narsu, correspond with those mentioned by Raoji, and the following extract from Narsu's evidence contains a description of what passed on the occasion corresponding essentially with Raoji's description :—

"The Maharaja had some talk with Raoji, I was present, heard and took part. The Maharaja said, 'The Saheb now becomes very angry and some endeavours should be made regarding it.' Eshwunt Rao said, 'It is the intention (*irada*) of the Maharaja. The Maharaja will give you something. You try to put it in (*dalna*).' The Maharaja said, 'Yes, you should do something by which the thing should go into his stomach.' I said, 'With regard to the food, that does not lie in my province. I won't be able to do it.' Then Raoji said, 'If you like I will put it in the pummelo sherbet which he drinks.' The Maharaja said, 'Very well, try to do it.' The Maharaja said, 'I will send a packet (*puri*) which should be given to Raoji.' Eshwunt Rao and Salim said, 'With regard to what the Maharaja says, when he gives it to us, we will bring it.' The Maharaja said, 'If the thing is done, it will be good for you.' Eshwunt Rao repeated the same thing. By the words 'It will be good for you' was meant, 'you will get your meat and drink well, so that you will not depend on service.' The Maharaja said this. Salim and Eshwunt Rao said the same thing. This interview lasted ten minutes, or a quarter of an hour. I don't remember the month. The occasion was 15 days or 20 days or 25 days, or a month before Colonel Phayre discovered poison in his tumbler. At that interview no packet was given me. After it was over Salim gave me a packet the next day. Salim gave it me at my house. The packet was as long as my forefinger, made up in Ahmedabad paper. Salim said to me, 'This is the packet to which the Maharaja referred, give it to Raoji.' I did not open it, but kept it in my turban. When I came to the Residency at 8 o'clock I gave it to Raoji." In his cross-examination Narsu explained that he joined in this conspiracy, thinking he should get money and advancement from the Gaekwar.

39. The date of the final visit with Raoji to the Gaekwar Narsu gives as the 2nd or 3rd of November. Raoji says it was the 6th. Narsu went as usual to Eshwunt Rao's house at 8 P.M., and the party consisting of Raoji, Narsu, Karbhai and Jagga proceeded to the palace, where they saw the Gaekwar in the ante-room as usual, introduced by Eshwunt Rao and Salim. Narsu gives the following account of what passed :— "The Maharaja said, 'You are a *lucha* (a loose fellow)' and used a coarse expression. 'You have done nothing as yet.' I said, 'Raoji knows that.' Raoji then said, 'As far as I am concerned, I did put it in.' Raoji added, 'What can I do if your medicine (*dawa*) is not good?' The Maharaja said to Raoji 'Very well, I will send another packet, and you do it properly (*barabar karo*).' He added, 'Put it in well.' Raoji said, 'Very well.' Eshwunt Rao and the Maharaja both said, 'It will be brought to you to-morrow by Salim. Give it to Raoji.'" Narsu then says that the following day Salim gave him a packet like the previous one near his house, and that he handed it over to Raoji at the Residency. Raoji says that as he was leaving the palace, Salim put something into the jemadar's hand, which he did not see. There is here a discrepancy which has not been cleared up.

40. On the 9th of November Narsu went to the Residency at 8 A.M., and after Dr. Seward had left, Raoji told him that he had put the poison in the tumbler of sherbet, and that the 'Doctor Saheb' (meaning Dr. Seward) had taken it away. Narsu remained on duty at the Residency till he was arrested by the Police on the 23rd of December 1874.

41. It is now desirable to allude to the evidence of Raoji and Narsu in regard to letters sent by the former to the palace. Narsu states that during the rainy season of 1874 (June—September) he received 20 or 25 letters from Raoji containing the names of visitors and information for delivery to Salim, and that he did deliver them. They were not written on Monday and Thursday. Raoji says that he sent some letters of this kind; some of which he wrote himself, and one or two he got Jagga to write. Jagga corroborates this statement, and identifies one letter (Exhibit X) as having been written by himself by direction of Raoji and Narsu. Exhibit X is a letter giving information about visits paid by certain persons to the Resident and the conversations that occurred. The letter was found in Salam's house, as proved on the evidence of Chagan Lall, Imam Ali, and Manibhai.

42. The evidence that has been produced leads to the belief that Raoji and Narsu had no opportunity of conversing after they were arrested, and that their evidence is the result of their individual experience. Raoji's statement had not been recorded when Narsu appeared before Sir Lewis Pelly and made his statement on the 24th of December, and it is, therefore, impossible that the Police could have instructed Narsu as to the particulars of the statement he was to make. Both these witnesses remained unshaken

under cross-examination, and we believe that their evidence in the matters wherein they substantially agree is true. Narsu when adjured by Sir Dinkur Rao at the close of his evidence to tell the truth without fear, and as in the presence of God, declared that he had spoken the whole truth and that the offer of a dardon could not induce him to say anything else. We also observe that Narsu, after having had his statement and confession taken down by Mr. Souter on the 26th of December 1874, threw himself into a well in the Residency compound, being covered with shame at the part he had taken against a man whom both he and Raoji describe as a kind master. Narsu hesitated in Court to say that he had actually thrown himself into the well, and said that his head had become giddy from seeing some of his fellow servants and that he had fallen in; but having inspected the well, it is difficult to us to conceive that his fall into it could have been accidental, and there is good ground for the presumption that it was intentional on this part.

43. The evidence of Damodhur Punt must now be examined. He used to attend at the Gaekwar's palace daily from 7 A. M till 10 P. M. and received a salary of Rs. 200 per mensem. He was the Gaekwar's Private Secretary and states that he had all His Highness' private accounts under his control. In the dark half of the month Bhadrapad (September and October 1874) he was directed by the Gaekwar to get two tolas of arsenic for itch, and to write for it to the Foujdari department. There was an edict that arsenic could only be had in the Foujdari, and it could always be had under the Gaekwar's order. Accordingly Damodhur Punt wrote to the Foujdari officer the letter which has been produced (Exhibit Z). It bears date the 4th of October 1874, and directs that a pass be sent for two tolas of arsenic for "medicine for a horse." The son of Ganpat Rao Balwant, the City Foujdar, endorsed an order on this in his father's name to Dattatraya Ramchandar on the 5th of October as follows:—"The Shrimant Sirkar Maharaj has ordered to give arsenic, tolas two, as above, on receiving the price; therefore, giving to the said person arsenic as above, take the price." Damodhur Punt states that he mentioned the horse because he was so directed by the Gaekwar. Hormusjee Wadia was the Huzoor Foujdar, and he informed Damodhur Punt that he would give the arsenic after asking the Gaekwar's permission. Damodhur Punt told the Gaekwar of this, and the Gaekwar told him to get the arsenic somehow or other from Nurudin, a Borah living in the Baroda Camp, who had business with the Gaekwar's *Sillehkana*. (this word generally denotes an arsenal, but in Baroda it is used to indicate the State Medicine Store: possibly from the place having formerly been used as an arsenal), or dispensary. Damodhur Punt accordingly got a packet that was said to contain two tolas of arsenic from Nurudin, either that day or the next (the 5th or 6th October 1874), and gave it, by the Gaekwar's directions, to Salim shortly afterwards: the Gaekwar saying that Salim would convert it into medicine for itch and bring it. No arsenic was got from the Foujdari.

Dattatraya Ramchundar, employed in the Gaekwar's Foujdari Office, deposes that he received Exhibit Z, and that it remained in the Foujdari Office till it was sent for by the present head of that office three weeks previously to his giving his evidence; that no arsenic was given on that order; that an order had been in force for the past eighteen months that arsenic and other poisons were not to be given out except under an order from the Gaekwar; and that this document does not contain the Gaekwar's order, though it is stated in the endorsement that the Gaekwar had given sanction.

44. Damodhur Punt then goes on to state that about eight days after he got the arsenic, the Gaekwar ordered him to get one tola of diamonds and give them to Eshwunt Rao. He got a packet, said to contain diamonds from Nanaji Vithul, the clerk of the jewel department under him, and gave it, after asking the Gaekwar for instructions, and in accordance with those instructions, to Eshwunt Rao.

45. He further says that eight or four days after this, Gujaba, servant of Nana Khanvelkur, brother-in-law and hereditary minister of the Gaekwar, brought to him a small bottle containing some medicine. The Gaekwar had previously given Damodhur Punt orders to send (probably blister flies are meant) large ants, snakes, and the urine of a black horse to the Hakim (Gaekwar's doctor), and the contents of the bottle brought by Gujaba were a concoction made by the Hakim. The Gaekwar having desired Damodhur Punt to pour the stuff into another bottle, Damodhur Punt poured it into a smaller bottle of his own, about half a forefinger's length, which had contained *attar*, or essential oil of roses. Whether the witness used the words attar of roses, or merely attar, which might mean any essential oil, is doubtful. The record has it attar of roses. The point is not very material, and it is clear to us that the small bottle referred to is not one of the usual otto of rose bottles known in Europe which contain only a few drops. Having poured the stuff into this smaller bottle, Damodhur Punt closed the mouth with cotton and bees' wax. The next day Damodhur Punt gave the bottle to Salim in accordance with the Gaekwar's verbal order given to him, and directed Salim to give the bottle to Raoji. Damodhur Punt is not very certain about the time he gave the bottle, but he is sure it was after August 1874, and he indicates the Dusserah (20th October) as the time about which he did so. He states that he knew the bottle was to be used to poison Colonel Phayre. We are unable to come to a satisfactory conclusion as to the precise manner in which Raoji became possessed of this bottle, but we are disposed to believe that he did, directly or indirectly, receive from the Maharaja a bottle containing some noxious liquid which was intended to be used to injure Colonel Phayre.

46. Subsequently Damodhur Punt got two more tolas of arsenic from Nurudin by the Gaekwar's orders, which he also gave to Salim.

47. He also, in obedience to the Gaekwar's orders, got from Nanaji Vithul a second tolah of diamonds. Nanaji Vithul delivered a

packet to Damodhur Punt, which he said contained 3 mashas of diamond dust and 9 mashas of diamonds. This packet Damodhur Punt, by the Gaekwar's order, gave to Eshwunt Rao, who, in reply to a question put by Damodhur Punt, said that they were to be made into a powder and given to Colonel Phayre. This packet of diamonds was given to Eshwunt Rao five or seven days before the 9th of November 1874. The Gaekwar told Damodhur Punt that these diamonds were for a crown for the high priest of Akalkote.

48. It should here be observed that there is no evidence whatever to confirm Damodhur Punt's statement in regard to the procurement of the arsenic from Nurudin. That the Gaekwar desired to obtain arsenic may be held to be proved by the evidence of Damodhur Punt and by Exhibit Z. That arsenic was obtained by Damodhur Punt in the way he describes we consider highly probable. We are also of opinion that it is proved by the evidence of Raoji and Narsu that the poison used against Colonel Phayre came from Salim. That the arsenic which Damodhur Punt gave to Salim is the same that was used to poison Colonel Phayre is certainly probable. We are not prepared, however, in the absence of corroborative evidence of the truth of Damodhur Punt's statement to say that it is proved that the arsenic administered by Raoji was that, Damodhur Punt says, he obtained from Nurudin and gave to Salam.

49. In regard to the purchase of the diamonds, there is the following further evidence: Nanaji Vithul, the Darogáh or chief officer of the Gaekwar's jewel department, deposes that shortly before the last Dusserah (20th of October 1874) he purchased by Damodhur Punt's orders 68 or 68½ ratties of flat rose diamonds, 1 to 4 diamonds per ratti, from Hemchund, son of Fattehchund. He instructed a clerk to prepare a memorandum (*yad*) of the purchase. Seven or eight days afterwards he purchased from Hemchund about 74 ratties weight of diamonds of the same kind by Damodhur Punt's orders, and an entry of their purchase was made on the same memorandum. Both lots of diamonds were given to Damodhur Punt as they were purchased, and Damodhur Punt told this witness that the diamonds were to be reduced to powder or ashes to be used as medicine. The total price was Rs. 6,003. Rs. 3,000 were paid by Nanaji Vithul to Hemchund as follows:— Rs. 2,000 were paid through Nanchund, Shroff of the Domala Mahal, out of two items aggregating Rs. 3,629-13-3, (Exhibits R1 and S1.) which were obtained by savings in the lighting department, and sale of gold coins presented as *nazarana* and credited to the Gaekwar's private account. Rs. 1,000 were paid by Nanaji Vithul himself. He says that the *yad* on which the purchases of these diamonds were entered was written by Atmaram, clerk, and that about the end of the Dewalee (the Dewalee began on the 8th November and ended on the 11th November 1874, the principal day being the 9th) Damodhur Punt took it away, in consequence of which the diamonds do not appear in any of the accounts of the jewel-room.

Atmaram, clerk in the Gaekwar's State jewel-room under Nanaji Vithul, deposes that diamonds were bought from Hemchund about eight days before the last Dewalee a yad being prepared by Venaik Rao, son of Venkatesh, and kept by witness till after the report was known of Colonel Phayre having been poisoned, when Nanaji Vithul took it from him. This witness stated also that there was a large quantity of diamonds, loose as well as set, in the Gaekwar's jewel-room, and that at the time of the purchase of these diamonds the ornamentation of a sword handle, scabbard, and jacket with small diamonds procured from the Gaekwar's jewel store was proceeding, there being a balance of such stones going on from year to year. He also stated in cross-examination that after Nanaji had taken away the *yad*, he (Atmaram) asked Hemchund whether he had received his diamonds back and he replied in the affirmative, Nanaji Vithul also having said at the time of taking away the *yad* that the diamonds were not to be purchased, and that he wished to return them.

50. Damodhur Punt gives the following account about the payment for these diamonds which he received from Nanaji Vithul. He received verbal orders from the Gaekwar to pay for them, and he directed Nanaji Vithul to disburse the money from funds which he had received on the Gaekwar's private account. Those funds he describes as the sum shown in Exhibits R1 and S1 above referred to. The total sum shown in those exhibits to have been credited to the private account is Rs. 3,629-13-3. The order for the payment to the jewellers for these diamonds is stated by Damodhur Punt to be Exhibit T1, dated the 31st Dec. 1874, which sets forth that Rs. 3,632-13-3 have been given by the Gaekwar for a feast to the Brahmins at Swami Narain's temple. Damodhur Punt states that this was a fictitious order, made to conceal the real purpose for which the money was required.

There can be no doubt that this is the case, because Rameshwar, mentioned in the order as the payée and provider of the feast, deposes that he did not receive the amount, and corroborates Damodhur Punt's statement that a receipt was always affixed to the order by the payée, by referring to a true order (Exhibit Y1), on which there is a receipt of his, whereas T1 has no such receipt. But* there is a doubt whether T1 is really the equivalent of the sums shown in R1 and S1, because, in the first place, the total of R1 and S1 is Rs. 3,629-13-3, whereas the total of T1 is Rs. 3,632-13-3; and, secondly, the date of T1 is the 31st of December 1874, whereas R1 is dated the 1st of January 1875. It is clear, however, that Nanaji Vithul did, as he admits, receive the amounts shown in R1 and S1, and it is also clear that T1 put into the hands or power of Damodhur Punt a sum of money which might be used for secret service. Indeed Damodhur Punt shows clearly that large sums were from time to

*Subsequently added by Mr. P. S. Melvill, Commissioner. The doubt expressed in paragraphed 50 in regard to the total of Exhibit T1 not agreeing with the totals of Exhibits R1 and S1 was caused by misreading a badly printed figure 6 in Exhibit R1 for a 3. In reality the total of T1 does agree with the totals of R1 and S1.

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time set aside as secret service money. Exhibits A1 to Q1, bearing date from the 24th of November 1873 to the 13th of October 1874, are fictitious orders for payment to Salim and Eshwunt Rao on account of goods alleged to have been purchased by them for the Gaekwar; and the proof of their fictitiousness, as explained by Damodhur Punt, is that they contain no details of the goods or of the names of the merchants from whom they were purchased. One difference between the orders A1 to Q1 and the order T1 is this, that the former bear in each case the acknowledgment of the payée, whereas T1 does not. It is, therefore, evident that T1 is not only fictitious in its purposes, but is also made so as to conceal the name of the person to whom payment was made, and it may be regarded as corroborating Damodhur Punt's statement that he directed Nanaji Vithul to pay for the diamonds. Damodhur Punt also said, and in this he is corroborated by Nanaji Vithul and Atmaram, that the diamonds were not credited or entered in the jewel accounts, as the Gaekwar said they were for medicine, and that only a yad or memorandum to that effect was prepared in the jewel department, which yad the Gaekwar, on being asked by Damodhur Punt about it after the attempt to poison Colonel Phayre on the 9th November had become known, directed should be destroyed, Damodhar Punt accordingly told Nanaji Vithul to remove the yad, which he did, and the amount was shown as paid to Swami Narain (T1.)

51. It now remains to examine the evidence of Hemchund in regard to these diamonds. This witness contradicted himself in the most violent way and no reliance can be placed on his evidence generally. His object seemed to be to deny all connection with the purchase of the diamonds. He admits that he took two packets of diamonds to Venaik Rao (brother-in-law of Nanaji Vithul and employed in the Gaekwar's jewel department) on the 31st of October or 1st of November 1874, but he says that they were returned to him. He denies ever having sold diamonds to Damodhur Punt, Nanaji Vithul, or Venaik Rao. He admits having received Rs. 2,000 from Nanaji Vithul on the 3rd of December 1874, and another 2,000 on the 2nd and 3rd of January 1875, but he states that these were on account of Hundi (bill of exchange) transactions. The Hundi transactions are entered in the name of Shivchund Khusalchund, Poona firm. Nanaji Vithul having purchased from that firm goods to the value of Rupees 7,000, and remitted Hundies to that amount procured from him (Hemchund). It is not at all established to our satisfaction that these payments of Rs. 2,000 each on the 3rd of December 1874, and the 2nd and 3rd of January 1875, were on account of the Hundi transactions. More probably does it appear that the payments were really for the diamonds as stated by Nanaji Vithul. Hemchund admits that the Rs. 2,000 paid on the 2nd and 3rd of January were received from the Karkoon of the Domala villages, as stated by Nanaji Vithul, and the date of payment is consistent with Nanaji Vithul's statement that the money was in part of the sum covered by the order No. T1, which bears date the first of January 1875. In regard to the Rs. 2,000 paid on the 3rd of December 1874, Nanaji Vithul deposes that he did pay that sum to Hemchund, but that he received back a Hundi and cash to the amount of Rs. 1,000, leaving the Rs. 1,000 net to be credited; and Hemchund admits that he did give to Venaik Rao, son of Venkatesh and brother-in-law of Nanaji Vithul, a Hundi for Rs. 750 on the 8th of December 1874, the premium on the Hundi being Rs. 155-10 and Rs. 94-6 having been paid in cash to Venaik Rao—total Rs. 1,000. It is, therefore, clear that this transaction, which left a net credit to Nanaji Vithul's account of Rs. 1,000, either had no connection with the payment for the diamonds, or that it was entered by Nanaji Vithul before, so far as is known, any funds had been placed in his hands with a view to paying for the diamonds. Hemchund's books afford but little assistance in corroborating Damodhur Punt's statement in regard to the purchase of the diamonds. Only one of these books (marked A 2) has been put in before us, and it has been tampered with. We find no grounds for considering that the police had anything to do with the tampering. There is an entry of the 7th and 8th of November 1874 of the purchase by Nanaji, on account of Damodhur Punt, of diamonds to the value of Rs. 6,270; and Hemchund admits that this entry is in his own hand-writing, but he urges that it was made under compulsion exercised by Gujanund, inspector of police, on the evening of the day he made his first statement before Mr. Souter (the 6th of February 1875). As stated above, we do not believe that Gajanund did exercise any such compulsion, because the entries are contradictory to some extent to the statement made by Hemchund before Mr. Souter, and it is not to be supposed that Gajanund, an astute man, would be guilty of a gross anachronism. But with advertence to the undoubted fact that this book has been altered, we prefer not to place any reliance on it. The only portion of Hemchund's evidence which has an important bearing on the case is that which relates to the taking of diamonds to the palace, and the payment of Rupees 3,000 net.

52. The conclusion we draw on the question of the purchase of the diamonds is that there is reason to believe that Damodhur Punt in October, and the beginning of November 1874, under directions from the Gaekwar, got diamonds from Nanaji Vithul, which he gave to Eshwunt Rao; that Nanaji bought them from Hemchund; and that the palace accounts and Hemchund's accounts have been falsified so as to conceal the purchase of the diamonds.

The natives of Baroda, in common with the natives of India generally, probably believe in the poisonous properties of pounded diamonds, although there is apparently no well grounded reason for such a belief. The question naturally arises why Damodhur Punt did not get the diamonds from the Gaekwar's jewel room, where there was a stock in hand. The only answer to this question that can be suggested is that it was probably thought easier to conceal a purchase of new diamonds than to take them from a store, the keeper of which would be bound to exhibit the transaction in his accounts.

53. Damodhur Punt was arrested on the evening of the day the Gaekwar was put into confinement (14th January 1875). He was confined for two days in the Senapati's Office at the palace, and then he was brought to the Residency, where he was placed under a guard of European soldiers for 16 days, and afterwards under a police guard. He was present at the palace when his papers there were sealed up after the Gaekwar's arrest. Being, he states, tired of the European guard, and thinking that he could not otherwise get out of confinement, Damodhur Punt made a confession to Mr. Richey, Assistant Resident, on the 29th and 30th of January 1875, and this confession was attested before Sir Lewis Pelly on the 2nd of February 1875. It is substantially the same as his evidence before the Commission, and it was made under a promise of pardon from Sir L. Pelly.

54. After his confession, his box containing the private papers of the Gaekwar was unsealed in his presence, and the exhibits (A 1 to Y 1) were found therein. He states that although before his arrest he used to hear from Salim what he had heard regarding the statements of Raoji and others, yet he never was informed of any of the details of Raoji and Narsu's confessions up to the time he made his own confession to Mr. Richey. It is impossible for us to say that this assertion should be accepted as true, but no evidence has been produced to contradict it. It is to be noticed that Damodhur Punt never went to the Residency in Colonel Phayre's time, and that he accompanied the Gaekwar on one occasion only, after Sir L. Pelly had assumed office at Baroda. He never saw Raoji at the palace, but he mentions that Salim said to the Gaekwar in his presence, at the time when Colonel Phayre was suffering from the boil in September, that he had induced Raoji to put a pinch of arsenic on the plaster used for the boil, and that this had caused a burning sensation, which led Colonel Phayre to remove the plaster.

He repeats several conversations he alleges he had with the Gaekwar, beginning with 9th of November, and ending with date of his arrest. These conversations, if they really occurred, and have been truly related, show that the Gaekwar was cognizant of the rumour which had spread on the 9th of November of the attempt having been made on that day to poison Colonel Phayre. There is one circumstance noticed in the conversation of the 9th of November which is corroborated by independent evidence, and, so far as it goes, it supports Damodhur Punt's account for these conversations. The Gaekwar, when returning from the Residency on the morning of the 9th of November, said to Damodhur Punt that Salim had run that morning to Raoji's house for the purpose of getting hold of any packets of the poison that might have remained and throwing them into the fire. Natha Jagga in charge of the conservancy of the Sadar Bazaar in the Baroda Camp where Raoji lived, saw Salim riding towards the Sadar Bazaar from the direction of the city on the 9th of November, and he saw him riding back towards the city about 5 minutes afterwards. Mahomed Ali Baksh, a Residency messenger, spoke to Salim at the Residency before Colonel Phayre returned from his walk that morning; and as he was coming back to the Residency from the Sadar Bazaar after leaving Dr. Seward's house, where he had taken the letter given to him by Colonel Phayre, (evidently alluding to the first letter Colonel Phayre wrote asking Dr. Seward to come to the Residency) he saw Salim riding back towards the city. Now this evidence of Natha Jagga and Mahomed Ali Baksh, though not conclusive as to the fact that Salim went to Raoji's house on the morning of the 9th, shows that very probably he did so; and as Salim must have returned to the Gaekwar before His Highness paid his usual visit that morning to the Resident, the fact which the Gaekwar mentioned to Damodhur Punt, viz., that Salim had gone to Raoji's house to destroy any powders that might have remained is probably true, and it is difficult to conceive that Damodhur Punt could havd fabricated the statement alleged to have been made to him by the Gaekwar.

Damodhur Punt also says that the Gaekwar in his presence repeatedly cautioned Salim and Eshwunt Rao not to say anything about the poisoning when alarm had been caused by the inquiry that was set on foot. These persons have not been called as witness in this investigation either for the prosecution or the defence.

55. Damodhur Punt describes the system of accounts prevailing in his (the private or *khangi*, department: and it will be sufficient here to mention that the first paper is the memorandum or *yad* which recites the order for payment, and is receipted by the payée. From the *yad* a daily journal is prepared, and from the daily journal a monthly account, and from this a yearly account. The *yad* and daily journal could easily be destroyed; but when once the monthly account had been made and incorporated in the yearly account, the difficulty of making away with all trace of any particular item would be greatly increased, and this was the reason assigned by Damodhur Punt in cross-examination for not destroying all the papers which in any way bear on the transactions which have resulted in this enquiry. An attempt was made to obliterate entries in four daily journals. (Exhibits U1, V1, W1, X1.) Damodhur Punt says that he caused Balwant Rao, clerk, to make these obliterations by pouring ink over that part in each which contains the name of Salim. Balwant Rao denies having made the obliterations, which are most clumsily done, though they have been effectual. Damodhur Punt states that he had the entries obliterated in order to hide Salim's share in these transactions and to screen the Gaekwar, and that he did so in obedience to the Gaekwar's orders. He admits now that it was unwise to do so, as the ink splotches attract attention to the papers. These papers were part of those under Damodhur Punt's control which were sealed up at the palace on the day the Gaekwar was arrested, and the evidence of Gujanand and Mr. Souter shows that when the papers were subsequently opened in Damodhur Punt's presence, they were in the same condition as that in which they were when produced before us. Lastly, Damodhur Punt states that no payment was made to Nuruddin for the arsenic, as he was promised the business

of the Gaekwar's Sillekhana (dispensary) in consideration of his having given it. Nurudin has been arrested, but he has not been put into the withness box.

56. The remaining evidence in the case is that of the ayah, Amina, and of those connected with her. She was in the service first of Mrs. Phayre, and accompanied that lady to Bombay in March 1874. She then remained in Bombay for a month, and, on returning to Baroda, entered the service of Mrs. Boevey, who was then residing at the Residency. She describes three visits she paid to the Gaekwar in the palace, it being the evening time on each occasion.

The first visit she paid with Faizu (stick in waiting), at the time the Commission of 1873 was coming to a close, and she states that she went at Faizu's solicitation. She and Faizu were introduced to the Gaekwar by Salim, whom they picked up on the way. The Gaekwar asked Amina whether she had heard Mrs. Phayre say anything about the Commission, and he directed her to send word by Salim or Eshwunt Rao if she did say anything. Faizu, although he denies having persuaded Amina, states that he did accompany her to the Gaekwar, Karbhai being the driver. He heard the conversation between the ayah and the Gaekwar. The Gaekwar asked the ayah to speak to Mrs. Phayre in his favour, as many persons were making representations about him, and the ayah replied that she could not make any solicitation to Mrs. Phayre. Karbhai deposes to having driven the ayah and Faizu to the palace on this occasion.

57. The second visit the ayah says she paid in June 1874 after the Gaekwar's return from Nausari, on the invitation of Salim and Karim (naik of the Residency peons). She was accompanied by Karim, and was joined by Salim, who took her and Karim to the Gaekwar, who asked her if Mrs. Boevey had said anything about the marriage at Nausari, Amina replied that she had heard nothing, but that when Mrs. Phayre returned from England some good thing would happen to the Gaekwar, as she and Colonel Phayre were favourably disposed towards him. The Gaekwar then told Karim to say something in his favour to Mr. Boevey. As Amina and Karim were taking their leave, the Gaekwar told Salim to give them something. Salim then told Karim to go the next day to Eshwunt Rao's house; and the next evening Karim came to Amina, saying that he had got Rs. 200, of which he gave her half the next morning. She understood the present to have reference to the Nausari marriage. Karim corroborates the ayah in regard to the visit and as to the general purport of the conversation. He says, however, that the Gaekwar asked Amina whether the Resident was angry with him on account of the marriage (alluding to the marriage with Lakshmi Bai.) He states that he went the next day to Eshwunt Rao's house, where Salim gave him Rs. 200 as a Nausari present, half being for himself and half for Amina to whom he gave Rs. 100. This witness contradicts the ayah about his having asked her to go, and he says that she took him.

Sundal was the carriage-driver on this occasion, and he proves that he drove Amina and Karim to the palace.

58. The third visit the ayah says occurred in the month of Ramzan, and her husband, Abdulla, gives the time as the 15th or 18th of that month. The Ramzan in 1874 began on the 12th of October, so that this visit, according to Abdulla, would have occurred on the 27th or 30th of October. Amina said that Salim brought her a message that the Gaekwar wished to see her, and that she and her servant boy, Chotu, went in a carriage procured by her husband, and that she called for Salim on the way, and went up with him into the presence of the Gaekwar, with whom she held the following conversation :—" The Maharajah first asked me this—'Has the Madam Saheb been saying anything about the child?' The Madam Saheb was Mrs. Boevey, and the child was one born to the Maharaja. I said, 'The Madam Saheb has said nothing and I know nothing.' I then said, 'When the senior Madam Sahib (meaning Mrs Phayre) comes something good will occur to you. She and Colonel Phayre both wish you well.' I then said to the Maharaja, 'When the Madam Saheb comes back something good will happen to you. Do you attend to what the Saheb says, Don't be afraid.' Then Salim said, 'Can any charm be used.' Salim it was who first spoke of charm. Salim said, 'Should a charm be used will the Saheb's heart be turned?' but I did not exactly understand his meaning. I then said to Salim, as well as to the Maharaja, 'don't you use any *jadu* (arts of sorcery) for the Saheb, for they will have no effect on a Saheb.' The reason I gave for that was this, that the Saheb people had faith in God. Then Salim said to me, 'Should anything be given to a Saheb, what do you think the effect would be?' At this I felt very much alarmed, because before that I had heard something stated by two persons. I then said, 'Maharaja, I am going away.' I don't see the Maharaja here now; if he were here, he would corroborate me. Then Salim, addressing me, said, 'Hear what the Maharaja will tell you, and if you attend to him, you will have enough to live on for the rest of your life.' Salim then said to me, 'your husband will also get employment, and you too will not have to serve any more.' I said in return to Salim, 'I have not been starving all this time back. I have spent all my life hitherto, serving the English.' Just then as I was about to go away, I said to the Maharaja, 'Don't you listen to what any body may tell you to do to the Saheb; for if anything injurious should happen to the Saheb, you will be ruined.' Then it seemed to me that the Maharaja got angry at this, because he said to Salim, 'Take the ayah away.' I and Salim then went downstairs to the place where the *gari* had stopped."

It will be recollected that Lakshmi Bai's son was borne on the 16th of October 1874. The next time Salim came to the Residency, he told Amina that he had placed Rupees 50 under her cot, and there she found them. Chotu corroborates the Ayah in regard to going to the palace with her on this occasion, and so does Daud, the driver of the carriage, who states the date of the visit to have been two or four days before the last Dewalee.

The Dewalee of 1874 fell on the 9th of November.

59. Abdulla, husband of Amina, states that Salim used to go to Faizu's room in the Residency premises to drink water; he was informed by his wife of the first and second visits, and was aware of her having received the Rupees 100, and he recites the substance of her conversation with the Gaekwar on the third visit as told to him by her. He knew that his wife got Rupees 50 after the third visit. He received a letter from Amina when she was at Bombay, and he was at Baroda, in which there was an enclosure for the Gaekwar.

60. There were several letters (Exhibts A, B, C, D) put in that passed between Amina and Abdulla when they were residing in different places in 1874. Allusions are made in all of them to Salim and Eshwunt Rao, on matters connected with the Baroda State. In letter D. dated the 29th of March 1874, written for Amina to Abdulla, the addressee is asked whether he received that enclosure contained in Amina's preceding letter. Amina, Abdulla, and Abdul Rahman [*alias* Rahim Saheb], the writer of the letters for Amina, depose that this enclosure was a letter to the Gaekwar. Abdulla states that he gave the letter back to Amina on his meeting her at Bombay on his way to Mahableshwar, and there is no reason for doubting that Amina did write such a letter, the contents of which Abdul Rahman describes from memory as being a request to the Gaekwar for money, and a statement that there had been a dinner at the Governor's at Bombay where Amina had "made enquiries," ending with the words "do not be apprehensive." This letter to the Gaekwar is not forthcoming, but it is clear that it was never delivered to him. It is to be noted that Colonel Phayre deposes that what he Bombay in March 1874 he did go to lunch with the Governor.

61. We believe that Amina did pay the three visits above related, and that conversations of the character and to the general effect deposed to by her did take place between her and the Gaekwar.

62. When the case for the prosecution had been closed, a written statement [Exhibit No. 5] by the Gaekwar was put in by his counsel. No witnesses were called on behalf of the Gaekwar, nor were any questions put to His Highness before the Commission. The important part of the statement is as follows:—"I never had, nor have I now, any personal enmity towards Colonel Phayre. It is true that I and my Ministers were convinced that, owing to the position taken up by Colonel Phayre during his Residency, it would be impossible satisfactorily to carry out the reforms I had instituted, and was endeavouring to complete, in deference to the authoritative advice conveyed to me in the khureeta of the 25th of July 1874, consequent upon the report of the Commission of 1873. Acting on this conviction, and after a long and anxious deliberation with my Ministers, Messieurs Dadabhoy Nowrojee, Bala Mungesh Wagle, Hormusjee Ardasir Wadia, Kazi Shahabudeen and others, I caused the khureeta of the 2nd of November 1874 to be despatched to His Excellency the Governor-General through Colonel Phayre, and, notwithstanding his remonstrances, feeling assured that when the true state of affairs was placed before His Excellency the Viceroy my appeal would be successful. This conviction was shared by all my Ministers, and was strengthened by our knowledge of the severe censure which had been passed on Colonel Phayre by the Bombay Government. The removal of Colonel Phayre on the 25th of November 1874 shows that our judgment was not erroneous. Thus, neither personal nor political motives existed to induce me to attempt the crime with which I am charged, and I solemnly declare that I never personally, or through any agent, procured, or asked the procurement of any poison whatsoever for the purpose of attempting the life of Colonel Phayre; that I never personally, or through any agent, directed any such attempt to be made; and I declare that the whole of the evidence of the ayah, Amina, of Raoji, Narsu, and Damodhur Trimbuck on this point is absolutely untrue. I declare that I never personally directed any of the Residency servants to act as spies on the Resident, or report to me what was going on at the Residency nor did I ever offer or cause to be paid any money to them for such purposes. I say nothing as to the presents that may perhaps have been made to servants of the Residency on festive occasions, such as marriage and the like. Information on trifling matters going on both at the Residency or at my own Palace may have been mutually communicated, but I did not personally hold any intercourse with those servants for this purpose, nor am I personally cognizant of any payments for the same having been made, nor did I authorize any measures by which secrets of the Residency should be conveyed to me.

63. We have now given a summary of all the evidence that it was necessary to give for a comprehension of the case. Other portions of the evidence will be alluded to in the general remarks which we now proceed to offer.

64. We have stated our belief that poison was put into Colonel Phayre's glass of sherbet on the 9th of November 1874, and we have no doubt that it was so put with the intention of causing Colonel Phayre's death. We are further of opinion that there is good ground for the belief that previous attempts were made to poison Colonel Phayre between the latter end of September and the 9th of November; some of them being made by Raoji when he administered the three compound powders, and, had he not had a fear of putting in the full doses of arsenic, the probability is that Colonel Phayre would then have become seriously ill, even if his life had not been destroyed.

65. We have also stated our belief that the poison was put into the sherbet on the 9th November by Raoji, acting in concert with Narsu, though Narsu was not actually present at the time the poison was mixed. We consider that Raoji and Narsu had no personal motive for wishing to injure their master by these attempts, and that they were instigated by some other person to make them, and it is our belief that the Gaekwar Mulharrao was the person who so instigated them. The evidence of Raoji, Narsu,

and Damodhur Punt appears to us to prove this. The compound powders first administered by Raoji contained arsenic as one of the ingredients: the powder administered on the 9th of November contained arsenic and diamond dust, or pounded diamonds.

66. The motive that actuated the Gaekwar to give the poison was a strong feeling of hostility towards Colonel Phayre and a determination to get him removed. The khureeta (letter exhibit No. 1) of the 2nd November 1874, written by Mr. Dadabhoy Nowrojee, the Gaekwar's Minister, in the name of the Gaekwar to the Viceroy, abundantly shows the strong feeling which the Gaekwar entertained against Colonel Phayre.—"It had occurred to me.....whether I should not solicit your Excellency's attention to the position which the present Resident, Colonel Phayre, had all along taken up towards me, and to submit for your Excellency's consideration whether with the want of sympathy which existed between us I could expect an unbiassed and fair treatment at his hands in future." It then alludes to the "more determined and active opposition towards me and my administration than before," and proceeds to give an account of two instances in which Colonel Phayre's conduct is criticised.

"These two instances which I have taken as representative ones can hardly give an idea of the harassing and vexatious treatment I am at present receiving at the Resident's hands.

"This attitude on the part of the British Representative has naturally become a source of serious anxiety to me, especially as in such times persons are not wanting who for their private ends take advantage of this state of things to misrepresent me, and to instigate continuous resistance to my authority among my subjects. The result will be a great loss of revenue this year, and a continuance of the unsettled state of the minds of the people. How seriously this state of affairs must embarrass and obstruct me in my intended reforms it is not difficult to conceive. Your Excellency knows well the extent and nature of the work before me, and I owe it to myself and those whom I have engaged for that work to submit how hopeless any efforts on my part would be if Colonel Phayre were to continue here as representative of the Paramount Power, with his uncompromising bias against me and my officials.

"I beg it to be understood that I do not impute other than conscientious motives to Colonel Phayre. But he is too far committed to a distinct line of policy, and to certain extreme views and opinions, and he naturally feels himself bound to support all and everything he has hitherto said or done."

67. In reply to this letter, the Viceroy deemed it unnecessary to discuss the reasons given by His Highness for "desiring a change in the Baroda Residency;" but "after a careful consideration of the circumstances that have taken place, and, moreover, in pursuance of the determination of the Government of India to afford your Highness every opportunity of inaugurating a new system of administration with success." His Excellency [Letter of 25th of November 1874] communicated to the Gaekwar his determination to appoint Colonel Sir Lewis Pelly, K.C.S.I., to be Agent at Baroda in place of Colonel Phayre.

68. It is perhaps unnecessary to show by any further reference to the evidence on the record of this enquiry that the Gaekwar entertained strong feelings of hostility to Colonel Phayre. It is true that the Gaekwar, when spoken to by Colonel Phayre about the khureeta of the 2nd November, stated that Mr. Dadabhoy Nowrojee, the Minister had written it, and that he (the Minister) was responsible for it. This, it is clear, was a subterfuge, and as explained by Colonel Phayre to the Gaekwar, the object of allowing His Highness to select his own Minister was that he himself might be responsible for all communications sent to the Viceroy or the Bombay Government. Moreover the Gaekwar in the written statement which he has put in before us admits that he did cause the khureeta to be despatched. The absence of Colonel Phayre from the Gaekwar's nuptial ceremonies at Nausari albeit in accordance with the orders of the Government of India must have been displeasing to the Gaekwar. His allusion to the subject in his conversation with Amina can bear no other construction than that he was, to say the least, anxious on the subject of the marriage, and it cannot be doubted that his feelings on this head must have been intensified after the birth of the child.

69. It is difficult to distinguish political from personal dislike in the mind of the Gaekwar towards Colonel Phayre. There has been nothing elicited in this enquiry to show that there was any personal discourtesy exhibited by Colonel Phayre to the Gaekwar. The hostility between Colonel Phayre and His Highness arose entirely, so far as we can see, from differences of opinion in matters of State, but there can be no doubt that the dislike entertained by the Gaekwar was both political and personal, and we are unable to admit the correctness of his statement that he had no personal enmity towards Colonel Phayre.

70. The manner in which the communications opened by the Gaekwar with Raoji, Nursoo, and the ayah, Amina, culminated in a plot to poison Resident has been shown in the evidence which we have summarized. At first in the end of 1873 and beginning of 1874 the Gaekwar's object was apparently only to obtain information of what went on in the Residency in reference to the affairs of the Baroda State. He kept the strings entirely in his own hands, using as his agents Salim and Eshwunt Rao, and keeping even his Private Secretary, Damodhur Punt, ignorant of what was going on. He dealt with Amina separately from Raoji and Nursoo. At last when he had become exasperated at the refusal of the Resident to acknowledge the marriage with Lakshmi Bai and the birth of her son, the idea of using poison was entertained and carried out. The inducement held out to Raoji and Nursoo was personal advancement and remuneration, of which they had received a considerable guarantee in the payments that had been made to them when as yet the ostensible object of their employment was simply to obtain information of what passed at the Residency. Raoji received in the end of 1873 Rs. 500 from the Gaekwar on the occasion of his (Raoji's) marriage. Subsequently, in May or June 1874,

he received a further sum of Rs. 300 as a present on the occasion of the Gaekwar's marriage, making a total sum of Rs. 800. Nursoo got Rs. 330 on the latter occasion as a present for the Nausari marriage, and Rs. 250 he had received without any specification of the cause, making a total of Rs. 550. These sums, even after allowing for the difference in value of Baroda and Queen's rupees, were absolutely large, considering the small rates of pay received by Raoji and Narsu at the Residency, and the same remark applies to the Rs. 150 which the ayah received on two occasions in 1874, the first occasion being on account of the Gaekwar marriage, and the second, when Rs. 50 were given, being after the ayah's last visit in October 1874, and unconnected with any special event. We have no hesitation in expressing our opinion that these presents were given to these servants to induce them to give from time to time information about what passed at the Residency relating to the affairs of the Gaekwar, and that they were not the ordinary presents which His Highness might be expected, in accordance with custom, to give on occasions of rejoicing to the servants of the Resident. We should consider payments made under such circumstances to be bribes, but we are unable to say that the Gaekwar regarded them in the same light.

71. But it may be asked, would the Gaekwar expect Raoji and Narsu to commit a murder for a sum so incommensurate with the work to be done? To this, it may be replied that the Gaekwar had bound them to himself by the payments he has made, and by acts of visiting the palace and giving information which he had caused them to do, and that he had given a promise of large reward in the event of success. Raoji describes the promise as of a lakh of rupees to him, and a similar sum to Narsu. Narsu describes the promise as of a provison for life for themselves and their families. To poor men already committed to the Gaekwar, these promises doubtless appeared a sufficient inducement to get rid of Colonel Phayre, in, as they thought, a way that would not be instantaneous, and therefore likely to lead to their detection, but by a gradual and slow process.

72. The conduct of the Gaekwar on or after the 9th of November 1874, is not consistent with the view of his innocence. The evidence of Damodhur Punt leads to the belief that the Gaekwar knew that the attempt to poison had been made when His Highness visited Colonel Phayre at 10 o'clock that morning. But even if he had not known of it then he must have known it before the evening of that day. Colonel Phayre and other witnesses have deposed that the fact of the poison having been given was commonly known in the Baroda Camp on the 9th of November. The city is not a mile from the camp. Salim had been at the Residency that morning, and had been told by Raoji that the business had been done. It is not conceivable that Salim, who was in constant attendance on the Gaekwar, should have failed to inform his master of what had been done and yet we find the Gaekwar visiting Colonel Phayre on the following Thursday (12th November) for the first time, after Monday, the 9th of November, and then stating that he had heard the report of the attempt at poisoning on the previous day, the 11th, and it was not till the 14th November that the following (Exhibit H.) letter was written:—

"At a personal interview with you the day before yesterday, I learnt from you the particulars about the attempt made by some bad man to poison you, for which I am very sorry. But it was the favor of God that his cruel design did not meet with success. If it becomes necessary to obtain my assistance in proving this criminal guilty, the same will be given. This was written for your information. Dated 14th November 1874."

73. The question naturally arises why should the Gaekwar, having sent the khureeta of the 2nd of November 1874, have taken in hand the plan for getting rid of Colonel Phayre by poison? Supposing the khureeta to have been a *bona fide* endeavour to obtain a change of Residents, the only answer that can be given to the question is that the sending of the khureeta may have been suggested by Mr. Dadabhoy Nowrojee by whom it was prepared, and who was of course ignorant of the poisoning scheme. The Gaekwar, it may be presumed, would have at once approved of the suggestion.

74. The course that the Gaekwar might have been expected to take, had he been innocent of complicity, was to at once hasten to Colonel Phayre and express his concern, and make repeated inquiries after his health. He might have been expected to send a letter expressing his indignation at the occurrence, and his extreme regret that his hospitality had been violated by so vile an attempt in his own territory. His feelings of dislike to Colonel Phayre might have been expected to make him doubly solicitous to put himself clear with the British Government in the matter. Instead of this he holds back, and, after considerable delay, sends a cold formal letter. This conduct could hardly be explained on any other supposition than that of his having instigated the act of poisoning. We are compelled to regard the Gaekwar's denial of such investigation as being unworthy of credence.

75. With reference to the suggestion which has been thrown out that Damodhur Punt may have set on foot the plot for poisoning Colonel Phayre in order to hide his own delinquencies, we observe that there is no evidence to show that Damodhur Punt had been guilty of any act which he desired to conceal from the Gaekwar, or that he had any motive for desiring Colonel Phayre's death or removal from Baroda. It is not shown that Damodhur Punt had embezzled any of his master's property. His answer to the inquiry how he could justify himself with the Gaekwar in regard to the sums devoted to payments for secret service seems to us to be sufficient, viz, that the receipt of the payée was affixed to the order for payment, although the order was so framed as to hide the real nature of the transaction. The only exception to this rule that has come to our notice is in the case of the Exhibit T1. But even supposing that Damodhur Punt had been guilty of malversation it is unreasonable to suppose that he was not perfectly well

aware that it was beyond the scope of Colonel Phayre's power to make any inquiry into the transactions which he conducted in his capacity of Private Secretary to the Gaekwar.

76. A future suggestion has been raised that Bhow Poonekur, who may be admitted to have been unfriendly to the Gaekwar got up the appearance of an attempt to poison Colonel Phayre in order to bring the Gaekwar to trouble or to prevent the removal of Colonel Phayre.

This suggestion might have been deserving of some consideration had the attempt been a feigned attempt: but in point of fact the attempt was made with every intention of its being successful and it was only the accident of Colonel Phayre failing to drink the whole of the sherbet on the 9th of November that prevented a fatal result.

77. Regarding the case from every point of view, we are unable to find any sufficient reason which would justify our declaring the Gaekwar not guilty of the offence imputed to him.

78. The Maharajas of Gwalior and Jeypoor and Raja Sir Dinkur Rao do not concur in the view we have taken of this case. We have considered the reasons for their opinions as contained in the separate reports which each of those members of the Commission has rendered. We believe that the evidence, after making every reasonable allowance on the score of the character of the witness, proves—

1st.—That an attempt to poison Colonel Phayre was made by persons instigated thereto by Mulharrao, Gaekwar.

2nd.—That the said Mulharrao, Gaekwar, did by his agents and in person hold secret communications with some of the servants employed by Colonel Phayre, the Resident at Baroda, or attached to the Residency.

3rd.—That the said Mulharrao, Gaekwar, caused monies to be given to some of those servants.

4th.—That his purpose in holding such communications and causing such monies to be given were,—*1st*, to obtain information of what passed at the Residency relating to himself and the affairs of his State; and, *2nd*, to cause injury to Colonel Phayre by means of poison.

R. COUCH.
R. J. MEADE.
Bombay, March 31, 1875. P. S. MELVILL.

OPINIONS OF THE NATIVE MEMBERS OF THE COMMISSION.

OPINION OF HIS HIGHNESS THE MAHARAJA JEEAJEE RAO SCINDIA ALIJAH BAHADOOR, G.C.S.I., IN THE CASE OF THE MAHARAJA MULHARRAO, GAEKWAR OF BARODA.

As to the attempt at poisoning, from the whole case as it came before me, as far as my judgment and belief go, I am not convinced that the charge is proved against Mulharrao.

There appears to me no sufficient proof of the purchase of diamonds, arsenic, or copper, or document, signed by the Gaekwar for the payment of monies, for the above purposes, but Damodhur Punt's statement. Nor, indeed, is there any paper whatsoever, signed by the Gaekwar, involving him in this matter.

Out of a large number of persons connected with this case, only three witnesses,—Raoji, Nursoo, and Damodhur Punt,—have given their evidence in reference to the above charge. All these widely differ in their statements; and the reasons are given in the proceedings. How could they be considered trustworthy? The evidence of Pedro, the butler, and Abdulla, and the non-production of Salim, Yeshwunt Rao, Khanvelker, Gujaba, Nurudin, Borah, and the Hakim, are in favour of the accused. Further, it is far from my belief, that the measures for poisoning should have continued so long a time, and in so open a manner.

Such an act is performed by one or two confidentials, and not by such a large number of people.

Now, when a small quantity of poison, once administered, could put an end to a man's life, there appears to be no reason why it was given and drank so repeatedly. I see no grounds to reject the chief arguments of the able gentleman, Serjeant Ballantine. It is a fact worthy of consideration that Mulharrao made no hesitation whatsoever in handing over Salim and Yeshwunt Rao at once to Sir Lewis Pelly, and expressed his desire to give him every assistance in his power.

As regards the communication with servants night or day, this is no matter of importance. These visits and requests for presents on marriage and other festive occasions, and the means to secure the favour of the Resident, as well as the procuring of information regarding each other, are matters in accordance with the practice of other Native Princes and persons who have connection with the Residency.

In conclusion, I remark that the chief points for enquiry are—

1st.—Attempt to poison.

2nd.—Tampering with the servants.

My opinion on the above subjects I place before you.

[*Vernacular signature of His Highness*]
the Maharaja of Gwalior.

Bombay, March 27th, 1875.

OPINION OF HIS HIGHNESS THE MAHARAJA OF JEYPOOR, G.C.S.I.

After carefully considering the nature of the evidence placed before the Commission in regard to the offences imputed against His Highness Mulharrao, Gaekwar of Baroda, I have the following remarks to submit.

The statements made by Amina, ayah, and several other Residency servants establish the fact that sums of money had actually been given to the ayah and to other servants of the Residency at different times, by order of His Highness the Gaekwar. These sums of money, however, do not appear to have been given out of any motives to tamper with the Residency servants for improper purposes, but simply as presents from the Gaekwar, and such as are generally given on occasions of marriage and national festivals.

With regard to the graver charge against the

Gaekwar, Raoji, havildar, states that he did put poison into Colonel Phayre's tumbler of sherbet, as the Gaekwar had instigated him to do, and that a packet of poison was handed over to him by Nursoo. Nursoo says he had received the packet from Salim, the Gaekwar's sowar, and that he made it over to Raoji, havildar. On the other hand, Damodhur Punt, the Gaekwar's so-called Private Secretary, states that the Maharaja had ordered him to procure arsenic and diamonds, and that he had instructions from His Highness to give the arsenic to Salim and the diamonds to Yeshwunt Rao, the Gaekwar's Jassoos. Salim and Yeshwunt Rao, who, according to Damodhur Punt's statement, are to be regarded as the connecting links between himself and Nursoo in the above affair, were not produced before the Commission, and there is no means of ascertaining whether they made any statements on the subject before the Bombay Police. Further, there is no evidence as to their having conveyed packets of poison from DamodhurPunt to Nursoo, excepting the bare assertions of the two accomplices—Damodhur and Nursoo.

Damodhur Punt's statement, as to his having procured arsenic and diamonds, is not confirmed by any corroborative evidence. He says the diamonds were procured through Nanaji Vithul, Darogah of the Gaekwar's jewel department. Nanaji, it is stated, purchased them from Hemchund Futteychund, the jeweller; but Hemchund declared before the Commission that diamonds were not purchased of him, though he had submitted some for inspection. These, he says, were returned to him by Nanaji. Atmaram, who is a Karkoon in the Gaekwar's State jewel room, also stated before the Commission that the diamonds tendered by Hemchund were not approved, and therefore returned to him.

Nurudin, Borah, from whom arsenic is said to have been procured was not brought before the Commission. It was however admitted by Akbar Ali, Khan Bahadur, of the Bombay Police, in the course of his cross-examination by Serjeant Ballantine, that the Borah was kept in confinement. It is therefore to be inferred that the Borah was far from confirming Damodhur Punt's statement with regard to the purchase of arsenic.

The several *yads*, or official memoranda, produced before the Commission out of the records of the private office under Damodhur Punt, do not show any specific sums of money having been paid for diamonds, or for poison of any kind. The sums mentioned in the *yads* were for giving feasts to Brahmins and other charitable and useful purposes. There is sufficient evidence also to prove that these sums were actually spent in such purposes.

Damodhur Punt also mentions a bottle containing some poisonous liquid, prepared of "large ants, snakes, and the urine of a black horse." This poisonous liquid, according to Damodhur's statement, was prepared by a Hakim, and sent to Damodhur's house through one Gujaba, servant of Khanvelkar, the Maharaja's brother-in-law. Neither the Hakim nor Gujaba was placed in the witness-box, so it is unknown what these men had to say. It appears from the above circumstances that there is hardly any statement of Damodhur Punt with regard to purchase of poisons that has any ground to stand upon, excepting Damodhur Punt's own evidence.

Copper is also mentioned as having been one of the poisonous ingredients put into Colone Phayre's sherbet, but no clue whatever can bel obtained as to who introduced it into the tumbler of sherbet, nor is it detected by the analyses of Doctors Seward and Gray.

The three witnesses, Damodhur Punt, Raoji, and Nursoo, whose testimony is considered to form the basis of this grave charge against the Gaekwar, are accomplices, and their evidence is not corroborated by a single respectable witness, nor is their evidence altogether free from suspicion of falsehood. Moreover, two of these accomplices made their statements under promise of pardon. In consideration of all these circumstances, I know not what degree of importance to attach to their evidence.

No documentary evidence, or evidence of a convincing nature was forthcoming from Damodhur Punt, notwithstanding his position as Private Secretary to the Gaekwar and the command he had over the records of the Maharaja's private office.

Raoji and Nursoo, the other two accomplices, who state they had direct intercourse with the Maharaja and they were asked by His Highness to poison Colonel Phayre, contradict each other, is some important points. For instance, Raoji states that the Gaekwar had promised to give him, as well as to Nursoo, a lakh of rupees each for poisoning Colonel Phayre. Nursoo, on the other hand, expresses utter ignorance of any such promise having been made by the Gaekwar. Another important statement of Raoji is strongly contradicted by Pedro, and Raoji states that packets of poison were given to Pedro and others by the Maharaja, and, while Pedro stoutly denies what Raoji alleges, no clue can be obtained as to who the others were.

Besides the above circumstances, the facts elicited by Serjeant Ballantine in the course of cross-examination of the witnesses, as well as the features of the evidence pointed out by that gentleman, are, in my estimation, weighty and deserving of consideration.

For reasons stated above, I cannot persuade myself to believe that the Gaekwar was in any way implicated in the charge, notwithstanding the fact of poison having been found in Colonel Phayre's tumbler of sherbet, and the uncorroborated evidence of the three accomplices—Raoji, Nursoo, and Damodhur Punt.

RAM SING.

Bombay, March 27th, 1875.

OPINION OF RAJA SIR DINKUR RAO, K.C.S.I. DATED BOMBAY THE 26TH OF MARCH 1875, IN THE CASE OF MAHARAJA MULHAR RAO, GAEKWAR OF BARODA.

As to the attempt at poisoning, from the whole case as it came on before me, I am not convinced as far as my judgment and belief go, that the charge is proved against Maharaja Mulharrao.

No proof of the purchase of diamonds, arsenic, or copper, or of the preparations of the poisons, no use of money (even of a rupee) in regard thereto, and no document in the hand-writing of the Maharaja or other papers about the poisons, although his Private Secretary, Damodhur Punt, became against him. Out of a large number of persons connected with the case, only three witnesses, viz., Raoji, Nursoo, and Damodhur Punt, have given their evidence in reference to the above charge. All these three differ in their statements. Damodhur Punt's statement as to the purchase of diamonds is disproved by the evidence of Hemchund and Atmaram. He stated that he had not opened the packets to see the diamonds and arsenic. Damodhur's name has not been mentioned either by Raoji or Nursoo. It is stated by Damodhur Punt himself, that he made his statement owing to the troubles he suffered from his having remained in the custody of European soldiers for sixteen days, his object being to get himself rid by making statements of some kind. The statements of Raoji and Colonel Phayre differ with regard to the putting in of the poison on the alleged dates. Raoji sates, that he got the bottle from the Maharaja, while Damodhur states that he gave it to Salim Again, Raoji says that he put the packets into his belt, while Damodhur deposes that, in order to burn the packets, Salim ran to Raoji's house, where Raoji also followed. Raoji further says that the Maharaja gave the packets to "Pedro, me, and others." Pedro has entirely denied to have received any packets. Who and how many men were the "others?" Raoji states that the Maharaja promised to pay a lakh of rupees each, while Nursoo denies this. From Raoji's statement it appears that he got the bottle about a month and a half before the 9th of November, whereas from what Nursoo has stated, it seems that the bottle was got only a few days before that date. Nursoo says "all the other servants caused Faizu's name to be written down in the depositions, and I did the same, though I knew it to be false. The three witnesses having become against their masters, and two of them having been granted a pardon, how could their statements be considered to be trustworthy? The evidence of Pedro, the butler, and Abdulla, the sherbet-maker (the Residency servants), and the non-production of Salim, Yeshwunt Rao, Khanvelkur, Gujaba, Nurudin Borah, and the Hakim, are in favour of the accused. Further, it is far from belief that the measures for poisoning should have continued for a long time, and in so open a manner. Such an act is done by one or two confidentials, and not by a multitude, and when a small quantity of poison, if once administered, would put an end to a man's life, there appears to be no reason why it was given and drunk so repeatedly. These with other particulars are developed in the proceedings, and the chief arguments of the able gentleman, Serjeant Ballantine, are deserving of consideration.

As regards the communication with servants at night or day it is not an important matter. Their visits and requests for presents on festive and marriage occasions, &c., and the means used to secure the favour of the Resident, as well as the procuring of informations regarding each other (the Prince and the Resident), are matters in accordance with the practice of the other Native Princes and persons, who have connection with the Residency.

In conclusion, I beg to submit, that the chief points for enquiry being the attempt at poisoning and communication with servants, I have expressed my opinion on them as above.

DINKUR RAO.

C. U. AITCHISON,
Secy. to the Govt. of India.

PROCLAMATION BY THE GOVERNMENT OF INDIA.

To all whom it may concern : His Highness Mulhar Rao, Gaekwar, was suspended from the exercise of power, and the administration of the Baroda State was temporarily assumed by the British Government, in order that a public inquiry might be made into the truth of the imputation that His Highness had instigated an attempt to poison Colonel R. Phayre, C. B., the late representative of the British Government at the Court of Baroda, and that every opportunity should be given to His Highness of freeing himself from the said imputation.

The proceedings of the Commission having been brought to a close, Her Majesty's Government have taken into consideration the question whether His Highness Mulhar Rao, Gaekwar, shall be restored to the exercise of Sovereign power in the State of Baroda.

The Commissioners being divided in opinion, Her Majesty's Government have not based their decision on the inquiry or report of the Commission, nor have they assumed that the result of the inquiry has been to prove the truth of the imputations against His Highness.

Having regard, however, to all the circumstances relating to the affairs of Baroda from the accession of His Highness Mulhar Rao Gaekwar, to the present time, his notorious misconduct, his gross misgovernment of the State, and his evident incapacity to carry into effect the necessary reforms ; having also considered the opinion of the Government of India that it would be detrimental to the interests of the people of Baroda and inconsistent with the maintenance of the relations which ought to subsist between the British Government and the Baroda State that His Highness should be restored to power, Her Majesty's Government have decided that His Highness Mulhar Rao Gaekwar shall be deposed from the Sovereignty of Baroda, and that he and his issue shall be hereafter precluded from all rights, honours, and privileges thereto appertaining.

Accordingly, His Excellency the Viceroy and Governor-General in Council hereby declares that His Highness Mulhar Rao, Gaekwar, is deposed from the Sovereignty of the Baroda State, and that he and his issue are precluded from all rights, honours, and privileges thereto appertaining.

Mulhar Rao will be permitted to select some place in British India, which may be approved by the Government of India, where he and his family shall reside with a suitable establishment and allowances to be provided from the revenues of the Baroda State.

Her Most Gracious Majesty the Queen, in re-establishing a native administration in the Baroda State, being desirous to mark her sense of the loyal services of His Highness Khundi Rao, Gaekwar, in 1857, has been pleased to accede to the request of his widow, Her Highness Jumnabaee, that she may be allowed to adopt some member of the Gaekwar House whom the Government of India may select as the most suitable person upon whom to confer the Sovereignty of the Baroda State.

The necessary steps will accordingly be immediately taken to carry into effect Her

Majesty's commands. In the meantime, with the consent of His Highness the Maharaja of Indore, Sir Madawa Rao, K.C.S.I., will at once proceed to Baroda, and conduct the administration of the State as Prime Minister, under instructions which he will receive from the Governor-General's Agent and Special Commissioner at Baroda.

In conferring the Sovereignty of the Baroda State, no alteration will be made in the treaty engagements which exist between the British Government and the Gaekwars of Baroda, and the new Gaekwar will enjoy all the privileges and advantages which were conveyed to the Gaekwar of Baroda in the sunnud of Earl Canning, dated the 11th of March 1862.

By order of His Excellency the Viceroy and Governor-General of India in Council,

C. U. AITCHISON,
Secretary to the Government of India.

Simla, 19th April, 1875.

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