

SIR CHARLES WOOD'S

ADMINISTRATION OF

INDIAN AFFAIRS,

FROM 1859 TO 1866.

OF THE RECORDS OF THE
HOME DEPT.
AS THE COLONY OF INDIA

BY

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DEPUTY DIRECTOR OF INDIAN MILITARY FUNDS, AND LATELY
PRIVATE SECRETARY TO

THE RIGHT HON. SIR CHARLES WOOD, BART., M.P., C.C.B.,

AND

THE EARL DE GREY AND RIPON.

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OF THE PROPERTY OF THE
HOME DEPT.
OF THE GOVERNMENT OF INDIA.

TO THE
HEADS OF DEPARTMENTS IN THE INDIA OFFICE,
WHO HAVE HAD THE AMPLEST OPPORTUNITIES OF
OBSERVING THE BENEFICIAL EFFECT OF
Sir Charles Wood's Administration,
AND TO WHOSE UNOBTRUSIVE ASSISTANCE, AND UNSELFISH LABOURS,
NOT ONLY SUCCESSIVE SECRETARIES OF STATE, BUT THE
GOVERNMENT OF INDIA AND THE BRITISH NATION,
OWE A LASTING DEBT OF GRATITUDE—
THIS WORK IS DEDICATED.

As a monument of his ability, industry, and judgment, Sir Charles Wood may fairly point to his six years' administration of India, during a period of transition and unexampled difficulty at home and abroad. He found everything in disorder, and had everything to reconstruct.

He had to recast the whole judicial system of India—to create for her a paper currency—to superintend the remodelling of her taxation, and the reorganization of her finances. He had to develop a railway system, and last, and most difficult of all, to carry through the herculean labour of amalgamating the Queen's armies. If it has been impossible to do justice to every individual, we believe that, upon the whole, the Indian army has been a gainer under the change.

Where is the man possessed of that extent and variety of knowledge, that quickness, industry, and versatility, that acquaintance with matters financial, military, naval, judicial, and political, which will enable him to rule with a firm and unfaltering hand the mighty destinies of 150,000,000 of the human race?—*Times*, Feb. 6, 1866.

No tale in Hindoo mythology is more wonderful than the change which has been wrought in India within the last few years. The enchanters that have worked the spell have been peace, justice, and commerce. It may be added, that the system first fairly tried of governing India through a Secretary of State, directly and personally responsible to Parliament, has proved beyond expectation successful.—*Edinburgh Review*, July, 1864.

PREFACE.



I HOPE the statements contained in the following sketch will be found accurate.

If this merit be conceded to them, the credit will not be due to me, for, great as are the advantages which I have derived from the possession of all the private correspondence of Sir Charles Wood and Lord de Grey with the successive Governor-Generals and other high authorities in India, I feel that accuracy has only been rendered possible by the additions, revisions, and corrections of many friends in and out of the India Office, whose assistance has been freely given, not so much from motives of personal kindness to myself, as from the affection borne by them to their old chief, who, though now sitting in the House of Peers as Viscount Halifax, will ever be remembered in connection with India as Sir Charles Wood.

ALGERNON WEST.

*India Office,
January 1, 1867.*

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SIR CHARLES WOOD'S

ADMINISTRATION OF

INDIAN AFFAIRS.

CHAPTER I.

INTRODUCTION.

It is proposed to show in the following pages, very briefly, the various acts of Sir Charles Wood's administration of India, from June, 1859, to the commencement of 1866.

The subjects with which he had to deal were numerous—the difficulties to be encountered were of no small magnitude. He had, in fact, to reconstruct the Government at home, and to place not only the Government of India, but every branch of its administration, upon such a footing as the experience of recent years and the requirements of modern times rendered necessary. The councils of the Governor-General and of the minor Presidencies, the courts of judicature, the civil service, the army, the navy, and the police, were all to be dealt with. The codification

and administration of the law, the system of land revenue, the finance and the currency, demanded most careful consideration and vigorous action.

It would be impossible that all these questions, distinct as they are from one another, should be dealt with chronologically. They will all therefore be touched upon under separate chapters.

In order that the position of affairs when Sir Charles Wood entered upon office may be clearly understood, it is necessary that a short account should be given of the Parliamentary proceedings of 1858, which resulted in the transfer of the Government of India from the East India Company to the Crown.

The mind of the English people had scarcely recovered from the crushing effect of the first news of the outbreak at Meerut and the capture of Delhi, when a cry arose against the East India Company. Popular indignation, ever seeking a cause and demanding a victim for any national disaster, with some justice and much injustice, selected the Company as its victim, attributing to their neglect or mismanagement all the sorrows and sufferings of the Great Indian Mutiny.

Before the opening of the session of 1858, Lord Palmerston intimated to the Court of Directors the intention of her Majesty's Government to introduce a bill for the transfer of the authority and possessions of the East India Company to the Crown.

This communication called forth an able Memorandum of the improvements in the administration of India during the last thirty years, and a petition from the East India Company to Parliament, which,

immediately on the assembling of the House of Lords, was presented by Lord Grey ; and a debate ensued, in which the Duke of Argyll, without disclosing the measure of the Government, which was to be brought forward in the Lower House, justified the course about to be pursued by the ministry.

During the last century India had afforded subjects enough for trials of party strength, and for feats of oratorical display, among the giants of debate. The sparkling brilliancy of Sheridan, the commanding energy of Fox, the rounded periods of Pitt, the genius of Windham, the eloquence of Grey, the impassioned denunciations of Burke, had all been raised to the highest pitch in the stormy contest of Parliamentary strife engendered by Indian politics ;* but not for a long time had they so completely engrossed the attention of Parliament as they did at the commencement of 1858.

Lord Palmerston introduced his bill in a very different strain from the fierce attacks of Burke, who had asserted in his famous speech on Mr. Fox's bill of 1783, that "there is not a single prince, state, or "potentate, great or small, in India, with whom the "East India Company have come into contact, whom "they have not sold ; that there is not a single treaty "they have ever made which they have not broken ; "that there is not a single prince or state who ever "put any trust in the Company, who is not utterly "ruined."

Lord Palmerston approached the subject in a spirit of conciliation. "not of hostility, to the East India Com-

“pany, or as meaning to imply any blame or censure
 “upon the administration of India under that corpora-
 “tion.” But he showed that its time was past, and that
 the machinery of the double government was cumbrous
 and out of date. He pointed out also that the East
 India Company as an instrument of Government was
 superfluous and irresponsible, and demonstrated the
 advantage likely to ensue from the authority of the
 Company being made over to the Crown, and the vast
 importance of additional Parliamentary control and
 responsibility that would be thus attained.

Sir George Lewis, in one of his ablest speeches,
 insisted on this point:—“I do most confidently
 “maintain,” said he, “that no civilized Government
 “ever existed* on the face of this earth which was
 “more corrupt, more perfidious, and more rapacious,
 “than the Government of the East India Company
 “was from 1758 to 1781, when it was placed under
 “Parliamentary control.”

The Bill proposed that there should be a President,
 with a salary and position equal to that of a Secretary
 of State, and a Council of eight, who were to be
 nominated by the Crown, for eight years, two of them
 retiring by rotation every two years.

In all matters but those of finance the President's
 decision was to be final, the members of the Council,
 should they differ from him, having the privilege of
 recording their dissent. In matters entailing expendi-
 ture from the revenues of India, it was necessary that
 the President should have the concurrence of at least
 four members of his Council.

A majority of 145 in favour of the introduction of the Bill affirmed its principle; but, in a few days after the division, the Government was defeated on the Conspiracy Bill, and Lord Palmerston resigned.

He was succeeded by Lord Derby as Premier; and the new ministry, almost immediately on taking office, considered it advisable to introduce a bill for the better government of India, founded in a great measure on that of their predecessors.

In the second Bill it was proposed that there should be a Secretary of State, and a Council composed of eighteen members; nine were to be nominated by the Crown, and were mentioned by name in the Bill, and nine were to be elected. Four out of these last must have served her Majesty in India for ten years, or have been engaged in trade in that country for fifteen years, and were to be elected by the votes of any one in this country who had served her Majesty or the Government of India for ten years, or any proprietor of capital stock in Indian railways or other public work in India to the amount of 2,000*l.*, or any proprietor of India stock to the amount of 1,000*l.* The other five were to be possessed of the following qualification:—They must have been engaged in commerce in India, or in the exportation of manufactured articles to that country for five years, or must have resided there ten years. These latter were to be elected by the Parliamentary constituencies of London, Manchester, Liverpool, Glasgow, and Belfast.

This Bill, however, found no support, either in the

House, or in the country, and was withdrawn without having reached a second reading.

On Lord John Russell's suggestion, resolutions were proposed in a committee of the whole House, and, after many nights of discussion, and many amendments, a Bill was at last framed in accordance with the resolutions as passed by the House.

A new Secretary of State was created, to whom, aided by a council of fifteen members, was entrusted the home government of India. Of the first fifteen, seven were to be elected from among the existing or late Directors of the East India Company by the Court of Directors, and eight were to be nominated by the Crown. The majority of persons so elected or nominated were to have resided or served in India for ten years, and, excepting in the case of late and present Directors, and officers on the Home Establishment of the East India Company, who had so served, or resided, they were not to have left India for more than ten years preceding the date of their appointment. The Council were to meet once in every week, when they were to be presided over by the Secretary of State, or, in his absence, by a Vice-President appointed by him. Questions were to be determined in Council by the vote of the majority, but, except on any matter involving expenditure from the revenues of India, and in some cases of patronage, the Secretary of State might over-rule the decision of the majority.

In all cases of disagreement, the Secretary of State or any member of the Council might record his opinion,

The Secretary of State had the further power of sending orders without the concurrence of his council, but in these cases the orders were to lie on the table for seven days, and every member of Council might state his views in writing ; and, if those of the majority were opposed to the course adopted by the Secretary of State, he was bound to place his reasons on record.

The Act did not come into operation till the autumn of the year 1858, and for the remainder of the time in which Lord Derby's Government was in power Lord Stanley held the seals of Secretary of State for the India Department ; but his tenure of office was short.

CHAPTER II.

HOME GOVERNMENT.

ON the formation of Lord Palmerston's Government, in June, 1859, Sir Charles Wood accepted the post of Secretary of State for India. His last office had been that of First Lord of the Admiralty, but it was only four years and a half since he had, as President of the Board of Control, taken a leading part in the Home Government of India.

In that short interval a complete change in the form of the Home Government had been effected. The grand old East India Company, with all its prestige and all its associations, which had held sway for a hundred years over India, had, as has been shown, been swept away, and its authority transferred to the Crown. Instead of a President of the Board of Control, sitting in Cannon Row, and the Court of Directors of the East India Company, in Leadenhall Street, there was now a Secretary of State, with a Council.

There can be no question of the great advantage of giving to the Secretary of State for India the aid of a Council composed of persons experienced in one branch or another of Indian administration, and no

one felt this more strongly, or could be more disposed to avail himself of their assistance, than Sir Charles Wood. It must not be forgotten that in the India Office is concentrated the collective business, not merely of a department, but of an empire: finance, currency, legislation, revenue, foreign policy, army, public works—all require the consideration and decision of the minister occupying the position of Secretary of State for India; but no man, however experienced and laborious, could properly direct and control the various interests of so vast an empire, unless he were aided, as Sir Charles Wood was, by men with knowledge of different parts of the country, and possessing an intimate acquaintance with the difficult and complicated subjects involved in the government and welfare of so many incongruous races.

The selection of Councillors had been made with great judgment, and consisted of men of tried ability in various departments, but many of them had no previous experience of the mode of conducting business in England. The official staff consisted of men selected partly from the officers of the old East India House, and partly from those of the Board of Control. It is superfluous to say anything of the merits of a service which has been so justly celebrated, from the time of Charles Lamb, James Mill, his yet more distinguished son, John Stuart Mill, Sir James Melvill, Mr. Hawkins, and Mr. Waterfield, to the present day, when it counts among its ranks the accomplished historian of Affghanistan and the Sepoy war, and many men whose financial, legal, and literary reputations have far out-reached

the narrow limits of a Government Office. Practically, however, the working of the department in its new form of a Secretary of State's office, with a Council and an establishment nominally consolidated from those of Leadenhall Street and Cannon Row, was inharmonious and crude, and the whole procedure of official business had still to be adapted to the new order of things.

Although there were, therefore, ample materials of the best quality at the command of the Secretary of State for conducting the business even of so extensive a territory as our Indian Empire, it needed the power and organization of a master-mind to arrange these materials in such a manner as to turn them to the best account, and this was the first task which Sir Charles Wood had to encounter.

In order to give an accurate idea of the official difficulties which attended the change of Government from the East India Company and Board of Control to a Secretary of State in Council, it will be necessary to show the order of business that existed under the former system. The initiation of despatches on all subjects rested with the heads of departments in the East India House, either under the instructions or subject to the approval of the chairman and deputy chairman ; the drafts of despatches, technically termed previous communications, were then submitted by the "Chairs" to the President of the Board of Control, who made such alterations as he thought necessary, and returned them to the "Chairs," by whom they were then sent to one or other of the three com-

mittees ; when passed by that committee, they were laid before the full court, and, when sanctioned by them, were officially forwarded for the final approval of the Board.

When Sir Charles Wood took office, he found the Council divided into three committees, in nearly the same manner as the Court of Directors of the East India Company had been. The despatches were prepared by the Secretaries of the Department, as in the old India House, but instead of being brought in any way before the Secretary of State, they were sent directly to one of the committees, and only reached the eye of the Secretary of State when the members of that committee were pledged to the views which they had already approved.

It is obvious that this mode of conducting the business was not only inconsistent with the principle of the Secretary of State's directing the policy, but actually placed him in a worse position than the President of the Board of Control ; whereas there can be no doubt that the great object of the change in the constitution of the Home Department of the India Government was to increase the power and responsibility of its chief, who was for that purpose created a Secretary of State. It is true that, unlike other Secretaries of State, a council was added to assist him with their advice, and supply local Indian experience, but on the Secretary of State rested the responsibility, and with the responsibility the power. " The minister," said Lord Stanley, " is bound to hear the advice given " by his council, but he is not bound to take it. It is

“ for him to decide whether he will take or reject it ;
 “ and, whether he takes or rejects it, he will equally
 “ act upon his own responsibility.”

Sir Charles Wood at once discerned this very serious defect in the mode of business, and took immediate steps to remedy it by assuming to himself the initiatory power, and placing the office, as had been intended, on the usual footing of that of a Secretary of State, his Council taking their proper position as his advisers. He divided the Council into six committees, of five members each, every member being on two committees, the chairman being selected by the Secretary of State. The drafts of the despatches were prepared, as before, by the secretary of the department, and when seen by one of the under-secretaries, were submitted to the Secretary of State, who, after making such alterations as he thought fit, referred them to one of the committees. The draft, as considered and amended, if necessary, by the committee, was returned to the Secretary of State, and by him sent to Council in such shape as he might determine for final consideration and decision. .

In addition to this alteration in the system of business, the arrangement of departments in the India Office was generally revised. The military and marine branches had hitherto been distinct from the general correspondence department, to the duties of which the work of those branches was analogous, and to which they were now united.

The system of account, pay, and audit was cumbersome and expensive, and, at the same time, inefficient ;

for although there was an accountant-general, a cashier, and an auditor, exclusive of the auditor appointed under the Act for the better government of India (General Jameson), with a separate staff to each, there was no adequate check on expenditure, nor any sufficient examination of accounts. By the combination of the three departments under the accountant-general, a more efficient and economical system was introduced; the *final* audit, which has been, and is, completely satisfactory, being entrusted to General Jameson.

In the Store Department, where a complete revision was made of the manner by which stores were supplied to the various Governments in India, the system which had been continued from the trading days of the East India Company was found to be defective in many respects, and especially in the absence of direct responsibility on the part of any one person. It was, accordingly, determined to place the supply of stores on a footing which, while insuring a more perfect responsibility, should be thoroughly efficient to meet the rapidly increasing requirements of our great Eastern dependency.

With this view a department was constituted, under a Director-General, who was to represent the Secretary of State in Council in regard to all contracts with the public, and in whom was to be vested the general responsibility for the supply, examination, and shipment of all stores. To assist him in the latter branches of the business, an Inspector of stores was appointed, subordinate to him; and, this post being

the sole causes which led to rapid changes in the India Office. The illness and consequent resignation of the Earl of Carlisle, the Lord Lieutenant of Ireland, removed Lord Wodehouse, in 1864, to a higher position, where his firmness and decision of character were eminently displayed in grappling with the discontent and agitation of that unhappy country. Once more the Ministerial ranks were reinforced, by the addition of Lord Dufferin, who, formerly known as a daring yachtsman, and a graceful writer, and subsequently as an able diplomatist in Syria, has by his lucid speeches on the vexed questions of the Indian Army, and land tenure in Ireland, raised yet higher the hopes entertained of the distinguished career that in all probability awaits him.

These constantly recurring changes diminished, to a great extent, the practical advantage which the Secretary of State would otherwise have derived from the undoubted abilities of his Parliamentary Under Secretaries; for scarcely were they enabled to master the rudiments of Indian government, when their services were transferred to some other department. Indeed, the position of the Under Secretaries of State for India has never been on a proper footing.

In the same relation as other Under Secretaries of State to their chief, they had no recognized place in the Council, and were unable to take any part in the deliberations of that body. Sir Charles Wood did all in his power to remedy this anomaly, by causing all papers to be referred to them, and arranging that one of the Under Secretaries should always attend the

periodical meetings of Council, so that he might have an opportunity of at least hearing their discussions : but this, it must be admitted, is scarcely a fitting position for the Under Secretary of State who would have to defend, either in the House of Lords or House of Commons, the policy of the Home Government.

It was well, therefore, for Sir Charles Wood that, in his permanent Council, he found not only experienced advice, but most ready assistance, of which he gladly and largely availed himself. Not satisfied with the mere formal reference of documents to the committees, it was his constant practice to consult his councillors individually, and to invite them to state their opinions freely. Very few days ever elapsed without his seeing many of the members of Council. The chairmen of the committees were requested to confer with him on papers awaiting their consideration ; and, in matters of more than ordinary difficulty, he would himself attend the committees and personally take part in their discussion. To this friendly communication, no doubt, is in a great measure due the smoothing down of many difficulties, and removal of many stumbling-blocks from the path, which might have caused trouble, if opinions had been placed on record in a full committee, before an opportunity occurred for the discussion and interchange of ideas on the subject with the Secretary of State.

It has never been imputed to Sir Charles Wood that he is wanting in self-reliance, or that he is too easily led by the opinion of others. It is, therefore, a convincing testimony to the skill and tact with

which he availed himself of the abilities and experience of the members of his Council, and of the practical utility of the mode of transacting the business which he introduced, that, during his whole tenure of office, Sir Charles Wood overruled them only four times, on all of which occasions subjects of minor importance only were involved.

With these few exceptions, and the larger and imperial question of the discontinuance of a local European army, to which reference will be made hereafter, Sir Charles Wood has carried with him the majority of his Council on all the varied measures which were inaugurated and executed at home and in India. Indeed, so complete was the agreement between them, that, in the House of Lords, in the session of 1863, a complaint was made “that they never heard of what the Council of India did—occasionally there was a dissent, and nothing more.” The names of Sir John Lawrence, Sir George Clerk, and many others are sufficient evidence that this unanimity was not the result of any lack of independence on the part of the Council, but was a proof of their earnest and willing co-operation with a Secretary of State, whose far-sighted views were fully appreciated and perceived by them to be advantageous to the great interests entrusted to their charge.

One of the main features of the success of Sir Charles Wood’s administration, was the constant personal communication he held, not only with his Councillors, and with the members of the India Office secretariat, but with others unconnected with the

department. No man ever came from India, whatever his position, with information likely to be of use to the public service, but found easy access to the private ear of the Secretary of State. Quick, and somewhat intolerant as he was of those lengthy narratives of purely personal interest often attempted to be placed before him, and which he keenly felt did but waste the time due to more important business, no man ever bestowed a more impartial or patient hearing on those whose experience or knowledge entitled them to attention. Many were those who, on leaving his room after one of these interviews, expressed their astonishment at the perfect intimacy he displayed with matters supposed by them to be technical, or only to be attained after a long residence in India, and by years of application to a particular subject.

CHAPTER III.

GOVERNMENT OF INDIA AND PARLIAMENTARY LEGISLATION.

WHILE changes in Indian affairs had occurred rapidly at home, how was it in the East, since Sir Charles Wood had ceased to be president of the Board of Control four short years ago ?

In that infinitesimal period of a country's history, what a wonderful alteration had taken place in India itself ! The little cloud on the horizon, spoken of by Lord Canning before taking his departure from England, had not then arisen. India, it was hoped, had entered upon an era of peace and advancement which was to be undisturbed by aggression or aggrandizement. The whole empire was in a state of tranquillity ; the revenue was flourishing, and it might well have been anticipated that the only coming task of the Government would be the development of the resources of the country, the education of the people, the improved administration of justice, and the prosecution of public works. But now it had come to pass that the heaven was black with cloud and wind, the mutiny had passed over the land, marking its fiery course in bloodshed, ruin, and confusion.

The finances were disordered, confidence was destroyed, a flourishing condition of revenue had changed into a chronic state of yearly deficits and loans. The Sepoy army, hitherto blindly trusted and beloved, had been dissolved, and the conduct of the East India Company's European troops had verged on mutiny.

It was not unnatural, when all men's energies had been strained to the uttermost by the exciting scenes of the mutiny, that there should follow a period of inaction; and the *Friend of India* observed that "the events of the year 1859 might best be expressed in negatives; nothing has been done for public works, and nothing for education. The police has not been reformed, a road system has not been organized, civilization has not advanced, and the administration has not improved."

Lord Stanley's tenure of office, though long enough to show that in him ability and statesmanship were joined to great application, and a yet greater interest in the affairs of India, had been too short to enable him to carry out great reforms in the administration.

The session of 1860, so far as regarded Indian affairs, was fully occupied with the pressing questions connected with the change in the European forces and Native army of India; but in the session of 1861 Sir Charles Wood introduced into Parliament three bills, all deeply affecting the welfare of India. These three measures were all carried with but little discussion, and with no opposition worthy of the name.

The first of these bills was to make better provision

for the constitution of the Council of the Governor-General, and the local government of the several presidencies and provinces of India, so as to render the legislative authority more suited to the requirements of the times, and to the altered state of circumstances in that country.

It is unnecessary to refer to earlier days, but from 1833 to 1861 legislative enactments for all India had their origin and their completion with the Governor-General in Council at Calcutta. The minor Presidencies of Madras and Bombay were powerless to make a law on the most trivial subject affecting their own local interests.

With regard to the Council of the Governor-General, the Act of 1833 had added to it a member appointed from England, whose presence was necessary for the passing of any legislative enactment required for any part of British India. This constitution of the central legislative body lasted up to 1853, when members of the Civil Service from each Presidency and Lieutenant-Governorship, as well as two of the judges of the Supreme Court, were added, in accordance with the provisions of a bill which was introduced into Parliament by Sir Charles Wood, at that time President of the Board of Control, for the purpose of gaining their experience of the varying conditions, habits, and requirements of the people, and of giving material assistance in the then increasing labours of the Council. The working, however, of this Council was not found to be altogether satisfactory; Lord Canning was most anxious to see it placed on

a better footing, and pointed out its defects, as well as the general nature of the improvements which were desired in India.

The English settlers were anxious to be represented in a Calcutta Parliament, but, as has been well said in the *Edinburgh Review*, "A Calcutta legislature would be the legislature of a class in its worst and most aggravated form. The public opinion of India is virtually the opinion of the small but powerful European community; its interests are mainly commercial, and its ideas of policy and of law are liable to the bias and insuperable temptations which commercial interests involve."

In the opinion of Sir Charles Wood, a claim to a place in the body by which laws for all India were to be passed, equally strong with that of the English settlers, existed on the part of the natives of India. By the legislation of the Governor-General's Council the interests of millions of the native population were affected, and, however well acquainted with them might be those members of the Civil Service who had passed great part of their lives in the provinces, it could not be but that natives should still more faithfully represent their interests and wishes.

Sir Charles Wood was deeply impressed with the importance of the subject, and was also anxious to have the advantage of Lord Canning's services in carrying out the alterations of the Council, as his thorough knowledge of the question rendered him by far the fittest man for completing so desirable a change. As soon, therefore, as he was fully in pos-

session of Lord Canning's views, Sir Charles Wood lost no time in introducing a bill for the purpose.

Under the provisions of the Act, the two judges of the Supreme Court were omitted from the Council, and a second member to be named by the Crown was added; in order to provide for admitting members of the non-official communities of India to a share in the government of the country, and for assuring to the natives alike a voice in the deliberations of the Council, and at the same time of maintaining such restrictions as would at all times secure to the Government the power of guarding against any legislation which might seem likely to lead to mischievous results, it was enacted that, when the Governor-General's Council met for the purpose of making laws and regulations, he should summon, besides the ordinary members, not less than six, nor more than twelve additional members (each nominated for a period of two years), of whom one-half, at least, should not be officials under Government.

The additional members might be chosen from any rank or profession, and might be either Europeans or natives. By this measure, for the first time in the history of India, did Sir Charles Wood provide, not only for the employment of Europeans, independent of Government, in the work of legislation, but also for the admission of natives into the Council, for the purpose of aiding in the formation of laws and regulations for their own country.

The first Council under the new Act contained, besides the Governor-General, the Lieutenant-Governor

of Bengal, and the ordinary members of Council, a civil servant recommended by the Governor of each of the Presidencies, together with three native noblemen, and two gentlemen selected from among the commercial classes of Calcutta.

Authority was given for the Council of the Governor-General to meet in any place within the territories of India to which it might be summoned by him; and the first Council held out of Calcutta assembled at Simla in 1862.

The Governor-General was also authorized to make rules and orders from time to time for the guidance of his Council, and, in consequence of the arrangements made, a system of departmental responsibility has sprung up, which has greatly improved and facilitated the despatch of business by the chief executive Government in India. It has, however, been carefully kept in view, that there should be nothing in the measure to detract from the supreme authority of the Viceroy and his Council; indeed a new and extraordinary power was conferred on the Governor-General, of making and promulgating ordinances, in cases of emergency, on his own responsibility.

Councils of a somewhat similar constitution were created in Madras, Bombay, and Bengal, to which non-official Europeans and natives were to be admitted.

On any questions connected with the debt, the customs, the army, and other matters affecting the whole empire, the local legislatures were prohibited from entering, without the previous sanction of the Governor-General; but they were empowered to legis-

late on all internal matters peculiar to their own Presidencies.

The authorities in Madras and Bombay were not backward in availing themselves of the power of admitting natives conferred on them by the Act. A native gentleman was immediately appointed to the Council in Madras ; and in Bombay, Sir George Clerk selected for this high honour no less than four, whose usefulness in Council fully justified the confidence he had reposed in them.

One other provision in this Act must not be unnoticed, and that is the succession to the office of Governor-General, in the event of a vacancy happening when no one in India had been provisionally appointed to that office. Previously to this Act, the senior member of Council assumed the post of Governor-General on the occurrence of an unexpected vacancy, but now the Governor of Madras or Bombay, whichever of the two might happen to be the senior in date of appointment, would, as a matter of course, act as Governor-General in such circumstances.

The next step in legislating for India, at home, was taken by the introduction of a bill for establishing High Courts of Judicature in India. The idea had been long contemplated of substituting for the Supreme and Sudder Court, a single court, which should combine the legal power and authority of the former, with the intimate knowledge of the customs and of the natives of the country possessed by the judges of the latter, and should exercise jurisdiction both over the provinces which had been under the Sudder Courts,

and over the Presidency towns in which the Supreme Court had entire local jurisdiction.

Before these Courts were formed, if an Englishman, at whatever distance from the Presidency town, was accused of a crime, it was necessary that he should be brought down with all the witnesses to Calcutta; and it cannot be denied that the inconvenience and expense of such a course frustrated the ends of justice in a large number of cases. This has now been remedied by the power given in the Act for trying Europeans elsewhere than in the Presidency towns.

The new law gave authority for the formation of High Courts by the issue of letters patent under the great seal, and accordingly they were, in 1862, constituted in all the Presidency towns; and later, in 1866, a similar course was pursued in establishing a High Court for the North-Western Provinces.

A native judge now sits on the bench of the High Court of Calcutta, with great honour to himself and advantage to the administration of law; and, with such a prospect of advancement, it may be confidently hoped that other native gentlemen will in time qualify themselves for similar high positions of responsibility.

It was a matter of no slight difficulty to amalgamate the Supreme and Sudder Courts, and to bring the judges, so dissimilar in every respect in their education and training, to work harmoniously together.

The greatest credit is due to the Chief Justice, Sir Barnes Peacock, for the hearty way in which he worked to overcome these difficulties; and the success that has signally attended the measure in Calcutta is

in a great degree owing to his exertion, zeal, and discretion.

The third measure introduced into Parliament during this session was the Civil Service Bill, which, in the first instance, rendered valid nominations to certain appointments which, it was stated, had been made by the local government, in violation of the law requiring that they should be filled by members of the Covenanted Civil Service only. The number of that service had for some years been found inadequate to supply the demands upon it; and the practice of appointing to important posts, contrary to the letter of the law, gentlemen who were not members of the Civil Service, had largely increased in the non-regulation provinces, as they were termed, which the great extension of the British empire during the administration of Lord Dalhousie brought under our rule. It was incumbent on the Government to provide a remedy for such a state of things as soon as it was brought to their notice.

After the necessary provisions for this purpose, the Act proceeds to declare what offices shall ordinarily be held by members of the Civil Service, provision being made for appointing other than civil servants to such offices under special circumstances, subject to the approval of the Secretary of State in Council, to whom the appointment is immediately to be reported.

The Act, though objected to in the first instance by the Council of India, was ultimately passed with general approval, and many posts of considerable importance have been thus thrown open to persons not

in the Civil Service. An instance of its working has been shown in the appointment, by Lord Canning, of a military officer, Colonel Durand, to the high position of Foreign Secretary, his peculiar qualifications and fitness for the place being a valid justification for the departure from ordinary rules.

This appointment, the nomination of the new councillors, and the arrangements for the business of his Council, were among the last acts of Lord Canning's administration. At the time, indeed, when these measures were under consideration, his period of office was fast drawing to an honourable close; but Sir Charles Wood felt of what paramount importance it was that he should remain for a time to carry out at least some of the many wise and beneficial measures already initiated by him. It was fitting that to him, rather than to any other, it should be given to inaugurate a new policy in new circumstances; and, as to him belonged the priceless honour of having conducted with a firm yet merciful hand the government of the country through the sore trial of the mutiny, so it was right that to him should also belong the honour of pacification and reconstruction.

Ever ready to postpone his own wishes to the public good, he determined to remain for one year more—that fatal one year more, which sent him home, as it had sent Lord Dalhousie home, with his health ruined, and constitution shattered, by the cares and anxieties of his eventful viceroyalty. Lord Canning's departure from the scene of his great

achievements, when it did come, was a matter of deep sorrow to all in India. His calm demeanour and steadfast perseverance in the path which he had marked out for his conduct in India, no less than the series of great measures which he had set on foot for the benefit of the people, had long ago silenced those (and they had been not a few) who, themselves overpowered by the events of the mutiny, had not minds sufficiently enlarged to admire and respect the man, who, amidst their fears and terrors, had calmly stood his ground, and had dealt justice fearlessly and unshrinkingly to all, little heeding their petty jeers and their paltry clamour, and earning for himself the name of "Clemency Canning," which, instead of being a byword of reproach, will for ever entitle him to respect and admiration.

That after Lord Canning it would be difficult to obtain a fitting successor to occupy his post, was only too obvious. At the close of 1861, however, it became necessary for Sir Charles Wood to recommend a new Governor-General to the Queen, and his choice fell on the Earl of Elgin, who had already had large experience, in various capacities, in most quarters of the globe. After a brilliant career at Oxford, he had commenced his public services as Governor of Jamaica. He was subsequently appointed to the Governor-Generalship of Canada, where he remained eight years, and concluded the well-known treaty of reciprocity between the United States and the North American Colonies, which has produced so much advantage to those countries. His two expeditions to China, and

his treaties of Tientsin and Jeddo, evinced in him a singular combination of firmness and conciliation ; but it must have been with feelings of heavy responsibility that he assumed an office so important as that of Governor-General of India.

How he might have performed such high duties, what might have been his policy, what his ultimate success, it has not been given to us to know ; for, after a short viceroyalty, he was seized with a mortal illness, whilst traversing the Himalayas at a point 13,000 feet above the sea, from which he never rallied. It was towards the end of November, 1863, that the news of his illness and resignation reached London, too soon followed by the intelligence of his death. Again the responsibility of selecting a Governor-General devolved on Sir Charles Wood. The circumstances of India at the time rendered it desirable that no delay should occur in filling up the appointment, and, within three days of receiving the intelligence of Lord Elgin's death, Sir Charles Wood submitted the name of his successor to the Queen. At that time, hard at work at his post in the India Office, sat the man who of all men was pre-eminently entitled from his past services to claim at the hands of the ministers the office of Governor-General of India. No claim, no request, ever came from Sir John Lawrence. With the modesty always characteristic of true greatness, he did not even suspect that the vacant appointment would be offered to him ; but, when the Queen's commands were conveyed to him by Sir Charles Wood, unexpected as they were, they did not deprive him of his

ready power of decision, for, before leaving the room, he had virtually undertaken the weighty cares and responsibilities of the government of the greatest country under British rule, the most important office that can be offered by any Government to any man.

In recording the rapid succession of Governor-Generals, it is impossible to avoid glancing at the havoc which has been made by death among the great men with whom Sir Charles Wood's administration of India was associated.

Three of the foremost returned only to die in England, and to receive all that their grateful country could offer to her most distinguished sons, as a tribute of her gratitude and admiration. Thrice during seven years have the lofty gates of our old Abbey opened to receive the remains of Indian statesmen and soldiers; Lord Canning, Sir James Outram, and Lord Clyde, who in life were joined in one common struggle and endeavour to maintain our power in India, in death are united in the holy fellowship of one common resting-place. But these are not all on whom the hand of death has fallen: Lord Elgin, buried in the picturesque little village of Durmsala in the Himalayas; Lord Elphinstone, whose able governorship of Bombay was productive of the most happy results to that Presidency, and pointed him out, had he been spared, as the successor to Lord Canning; Sir Henry Ward, who, during the few months he governed Madras, well maintained in India the reputation gained in the Ionian Islands and Ceylon, of an able administrator and loyal servant of the

Crown,—all played a conspicuous part in the history of their own country and of India.

Time would fail to tell of all who, though of lower rank and less prominent position, were not less earnest in walking the path of their appointed duties, or less ready to yield up their lives in the discharge of their allotted task.

The chasms, however, which were thus made by death in the ranks of Indian administrators, were worthily filled by those on whom the choice of the Home Government fell.

On Sir Henry Ward's death, Sir William Denison was transferred from the colony of New South Wales, which he had ably ruled for eight years, to the government of Madras, for the superintendence of the important public works in which Presidency his professional knowledge as an engineer pointed him out as being especially fitted. The appointments to Bombay of Sir George Clerk and of his successor, Sir Bartle Frere, were successful beyond all question; and their subsequent nomination to the Council of India at home, one by a Whig, and one by a Tory, Secretary of State, show how well their services have been appreciated in England.

OF THE PROPERTY OF THE
HOME DEPT.
OF THE GOVERNMENT OF INDIA

CHAPTER IV.

LAW AND JUSTICE.

ONE of the greatest blessings conferred on the people of India in recent years has been the codification of the criminal law, and of the procedure, civil and criminal, of the courts of justice.

So long ago as 1833, a commission, of which the late Lord Macaulay was the first president, commenced at Calcutta the arduous task of compiling a penal code for India. This code was prepared in 1837, but did not assume the form of an enactment until 1860, when it was passed by the Legislative Council, and is now, as the Indian Penal Code, in active and successful operation throughout all the British possessions in India.

Another commission was appointed, for the purpose of revising the laws of India, by Sir Charles Wood, when he was President of the Board of Control in 1853, which brought to bear on the subject the professional knowledge of such men as Sir John Jervis, Lord Romilly, Sir Edward Ryan, Mr. Lowe, and Mr. Flower Ellis, and the practical and intimate acquaintance with the customs and laws of India,

which was possessed by Mr. Cameron, Mr. Macleod, and Mr. Hawkins.

By this commission were prepared the admirable codes of civil and criminal procedure, which, substituting, as they did, simplicity and expedition for the complicated forms of pleading which had hitherto existed in the courts of India, became law in 1859 and 1861 respectively, and may now be said to be in force throughout nearly the whole of India.

In most of the non-regulation districts, and in Bengal, including the North-Western Provinces, their introduction has been attended with marked success; and the Lieutenant-Governor of Bengal has reported the prevailing opinion on the merits of the civil code in the following words:—"The result of all
 " the inquiries I have made of the native judges,
 " by whom nearly all original suits are tried, and
 " of whom I have now seen many, in different parts
 " of the Lower Provinces, is that the new procedure
 " in working has been successful even above all
 " hope;" while the Lieutenant-Governor of the
 North-West Provinces affirms the measure to have
 " been one of the best that has ever been passed
 " by the legislature."

In 1861 Sir Charles Wood appointed another commission to prepare a code of civil law for India. Although mainly composed of the same members as the commission of 1853, it was strengthened by the addition of two of the most able judges of the land, Sir William Erle and Sir James Willes. The first part of this code has been embodied in Act X. of 1865,

and comprises the law of succession and inheritance generally applicable to all classes domiciled in British India, other than Hindoo and Mahomedan, each of which portion of the community has laws of its own on such subjects.

An Act has recently been passed in India, giving a law of succession to the wealthy community of Parsees, who reside chiefly in Bombay, and who were previously subject to the law, very distasteful to them, administered by the Supreme Court, in matters of succession.

Small Cause Courts, with a simple procedure, have existed for many years within the limits of the presidency towns; but until recently no such courts had been established in the provinces. There, every case, of the most simple kind and of the smallest importance, was tried under a lengthy and complicated form of procedure, the tendency of which, by the obstacles it interposed in the way of a speedy decision, was to promote litigation, and to lead to a contest in many cases in which, under other circumstances, there would have been no contest at all. To add to the difficulties of obtaining prompt justice under such a system, every decision of every court was subject to appeal to a higher court, and in some cases to a second or special appeal to the highest court of all, the right of appeal being considered the great security for the efficient administration of justice by the subordinate tribunals. In 1860 an Act was passed by the Government of India for the establishment of courts in the provinces "with a view to the more "easy recovery of small debts and demands." These

courts, instituted by the executive Government at places where they might be considered necessary, were to exercise jurisdiction to the extent of 50l., and were required to conduct their proceedings according to the new code of civil procedure, to which reference has already been made. They were to be presided over by competent native or European judges, selected by the Government from among persons of judicial attainments, whether in or out of the service of Government, and their decisions were to be final, with the power of granting immediate execution, on the verbal application of the party in whose favour the decree was passed. On the same day an Act was passed abolishing the right of special appeal in any suit of a nature cognizable in Courts of Small Causes, when brought in any other court than a Small Cause Court. The working of the Small Cause Courts was carefully watched; measures were promptly taken for supplying omissions discovered in the legislative provisions under which they were originally constituted; and in 1865 an Act was passed, consolidating and amending the law relating to Small Cause Courts in the provinces. By this Act power was given to the local government to extend the jurisdiction of Small Cause Courts to 100l., and to invest any person, for a limited period, with the powers of a judge of a Small Cause Court. In other respects the principles and rules applicable to these courts on their first establishment were strictly followed. Under the foregoing provisions, Small Cause Courts have been established in various places in the several presidencies of India,

and succession to which he can look for guidance in these important matters, while the fundamental rule of administering their own laws in such cases, to the Hindoo and Mahomedan subjects of the Crown in India, has been strictly adhered to; that almost the entire administration of civil and criminal justice in the British possessions in India is now under the supervision and control of trained judges, whereas, in 1860, no such judge could exercise jurisdiction in any of the proceedings of the provincial courts; that, whereas a European British subject could previously be tried only by the Supreme Court at the presidency town, he may now be tried at any place, nearest to that of the commission of his crime, at which a jury can be brought together; and that the proceedings of the courts, civil and criminal, are now regulated by codes of procedure vastly superior to those which preceded them. It may be said, without exaggeration, that no such progress has been made in improving the judicial administration of British India at any period, or, indeed, during the whole of the period, since the date of the Cornwallis code, as within the last seven years.

Most of these reforms in the administration of the law first assumed a definite shape in the form of bills laid before the Council of the Governor-General; but they had always been previously discussed, and to a certain degree determined upon, in private communication between Sir Charles Wood and Mr. Maine, the legislative member of Council, and Mr. Hawkins, the secretary of the Judicial Department in the India Office at home.

It was impossible that two men could be better qualified to give advice on such subjects.

Mr. Maine had early distinguished himself, as the most elegant scholar of his day, at Cambridge, where he was head of the classical tripos in 1845. Shortly after taking his degree he became Regius Professor of Civil Law, which appointment he retained until elected Reader in Roman Law and Jurisprudence at the Middle Temple. His comprehensive work on ancient law, and other writings, added largely to his reputation in this country; and his appointment to the Council of the Governor-General in India has afforded him a fitting, and an ample, field for the exercise of all his powers.

To a familiar acquaintance with the habits and customs of the people of India, acquired during a residence of twenty-seven years in that country, Mr. Hawkins added a deep and intimate knowledge of Indian law and the ripe experience of an official life. Originally a member of the Civil Service, he had occupied, for ten years, the important post of Registrar of the Sudder Court of Calcutta, and two years that of Judge of the Court.

In 1853 he was appointed a member of the Indian Law Commission, and in 1854 became its secretary. In 1856 the Court of Directors, ever happy in its selection of their public servants, appointed him to the judicial and legislative department of the East India House, from which he was, to the regret of all who knew him, compelled by illness to retire at the commencement of 1866.

CHAPTER V.

INDIGO AND CONTRACT LAW, AND RENT.

OUT of an attempt to alter one of the provisions of the Penal Code, as to the description of breaches of contract which was to be dealt with as criminal, arose a question which convulsed society in Bengal to its centre, and was discussed with much violence and acrimony soon after Sir Charles Wood's accession to office. For the better understanding of the wise and consistent course pursued by him in this matter, it will be necessary to advert briefly to the situation in which he found what was usually called the contract question.

A peculiar class of contracts is common in India, by which the planter makes advances of money to the ryot, who in return pledges himself to cultivate a particular crop on his land. In regard to many of the articles in connection with which this system prevailed, such as sugar, silk, &c., no difficulty has ever arisen ; but the case in part of Bengal was otherwise where indigo was concerned.

As far back as 1830, although special legislation was not required on the subject of breaches of contract for the production of any other article of Indian agricul-

tural produce, or, indeed, of indigo itself, except in the lower provinces of Bengal, the Indian Government deemed it necessary to make enactments for the special advantage of the indigo planter. "All persons," it was provided, "who may have received advances, and "have entered into written agreements, for the cultivation of indigo plant in the manner indicated in "Regulation VI. of 1823, and who, without good "and sufficient cause, shall wilfully neglect or refuse "to sow or cultivate the ground specified in such "agreement, shall be deemed guilty of misdemeanor, "and, on conviction before a magistrate or joint "magistrate, shall be liable to a sentence of imprisonment not exceeding one month."

The above provisions were disallowed by the Court of Directors, who considered that a law treating only one of the parties to a civil contract as a criminal if he failed to fulfil it, was manifestly unjust and oppressive.

Since that time legislation on behalf of the indigo planters has been continuously called for. They alleged that the disallowance of the penal provision of 1830 was their ruin.

Between 1854 and 1856 there was much correspondence on the subject between the Government of Bengal and its subordinate officers; but things continued in the same state, at any rate without any penal law against the ryots, until the year 1859, when the ryots refused any longer to cultivate indigo, and the Bengal indigo system came virtually to an end.

In 1860, an Act, No. XI., was passed to enforce

the fulfilment of indigo contracts during the current season. This Act contains very stringent provisions for the protection of the planter, but very lenient ones against him.

“ In this special legislation,” says a writer in the *Edinburgh Review*, “ which was unfortunately adopted
“ by the Government of India for the enforcement of
“ indigo contracts, we have a conclusive proof of the
“ necessity of having a controlling authority at home
“ which shall be competent, vigilant, and strong.”

Upon the receipt in England of the despatch forwarding this Act, Sir Charles Wood showed himself
“ competent, vigilant, and strong,” for he lost no
time in replying to the Governor-General, and on the
24th of July, 1860, he wrote :—

“ The object of the Act XI. of 1860 is twofold :—
“ first, to make temporary provision for enforcing by
“ summary process the execution of agreements entered
“ into for the cultivation of the indigo plant;—and,
“ secondly, to provide for the appointment of a com-
“ mission to inquire into and report on the system and
“ practice of indigo planting in Bengal, and the rela-
“ tions between the indigo planters and the ryots, and
“ holders of land there. In regard to the first point,
“ it is to be observed that the authority of the
“ magistrate is to be called into action on the com-
“ plaint of the planter for the enforcement of indigo
“ contracts, under specified penalties, in the event
“ of a failure to perform the same. The provision
“ of the Act, by which a violation by a ryot of a civil
“ contract, of the nature specified in the Act, is made

“ the ground of a criminal prosecution by the planter,
 “ appears to the Home Government to be open to
 “ serious objection.”

~~The~~ Act however had already been brought into operation, and, being limited to the indigo season of that year, and having been passed to provide for the emergency which had suddenly arisen, was not disallowed by the Secretary of State in Council.

The system of indigo planting in Bengal, and the relation between the planter and the ryot, were notoriously of such a character as imperatively to call for inquiry. The Act of 1860 provided for the appointment of a commission for this purpose, and, in the despatch sanctioning the Act, Sir Charles Wood took the opportunity of urging the Government of India to lose no time in carrying this intention into effect.

A commission was accordingly appointed by Lord Canning, consisting of six members, two of them belonging to the Civil Service, one missionary, two native gentlemen, and the sixth Mr. Fergusson, who was specially selected as a fitting representative of the planting interest. In May, 1860, they commenced their labours, which lasted upwards of three months, and accumulated a very large and valuable mass of evidence on many points connected with the social condition of Bengal. They very properly gave prominent attention to the relations existing between the planter and the ryot, and to the elucidation of that which is in fact the pith and marrow of the whole question, viz., whether the cultivation of indigo, as

carried on in Bengal, was free or forced, profitable or unprofitable, to the ryot.

That the evils complained of did not necessarily arise from the system of giving a portion of the payment in advance, at the commencement of the season, is shown by Mr. Yule, the judge of Rungpore, who thus writes on the subject:—"The great crops of Bengal—rice, sugar, silk, fibres, oilseeds, &c.—are advanced upon to an extent to which indigo advances can bear no comparison. The advancers would doubtless be glad of the aid of a summary law, but still the ryots generally fulfil their contracts without being compelled to do so, either by bands of armed men or bribed zemindars. I fully allow that the necessity of keeping up extensive buildings and a large establishment, renders a breach of contract by the ryots more injurious to the planter, than it is to the advancer on produce which requires no manufacturing process to fit it for the market; but that is no reason for changing the law in his favour, and, if it was, it applies to silk, sugar, lac, and other branches of trade, as well as to indigo planting; but in all these trades there is no general complaint that the ryots will not fulfil their contracts; why should indigo planting be an exception? I believe there is only one answer to that question, and that is, in Mr. Beaufort's words,—'Because the ryots, reasonably or unreasonably, are averse to indigo, believing that there are many other crops which yield a more certain as well as a better profit. I cannot

“ ‘ account for the universal dislike shown to indigo
 “ ‘ by the cultivators in any other way. I cannot
 “ ‘ show in figures that indigo is less profitable than
 “ ‘ other crops. The ryots believe that it is so, and
 “ ‘ they ought to know best. They take the advances
 “ ‘ under pressure of some kind or other, and, having
 “ ‘ satisfied the present necessity, endeavour to escape
 “ ‘ from what they know to be a losing contract.’ ”

That the cultivation was unprofitable there could be little doubt, for what else had led to the “ burning indignation with which indigo planting was regarded by the native population, and the bitter hostility entertained amongst the ryots towards the planters and the ruling authorities generally ; what else had led to a rising among these poor and timid Bengalee ryots ? ”

The conclusion that the indigo cultivation was unprofitable to the ryot was arrived at by the commission, and was supported by an amount of evidence which was irresistible. The ryots declared that it was so, with scarcely a dissentient voice ; the landholders asserted it ; the missionaries affirmed it ; the officers of government proved it ; and the planters themselves admitted it ; and they admitted more, that the ryot had been unfairly saddled with many of the expenses connected with the cultivation of indigo. The most striking and conclusive evidence of all, however, on this point, is to be found in the comparative statement in the Report of the Commission, “ showing the fluctuation or rise in the price of articles of ordinary use and consumption, and in the remuneration for labour in

“ the years 1855 and 1860, in districts in which “ indigo cultivation is carried on.” While the price of every thing had greatly risen, in some instances to the extent of a hundred per cent., that of indigo had generally speaking been kept down to a point at which remuneration was all but impossible, and loss all but certain.

The unprofitableness of the cultivation being established, it will at once be conceded that it is not a free cultivation on the part of the ryots. The proof of this point is to be found in such abundance, in the minutes of evidence which follow the report, as to make selection the only matter of difficulty in dealing with it.

A few specimens of the statements in reference to the compulsory character of the measures adopted by the planters, and the unwillingness of the ryots to cultivate, taken from the evidence of the planter himself, will be enough, without any of the statements of the missionaries, the zemindars, or the ryots.

Mr. Sage, who had had experience of factories in Kishnaghur, Jessore, and Rungpore, when asked whether he had known of cases in which ryots were kept under restraint, first at one factory, and then at another, for the purpose of eluding the police, if their friends complained of their detention, said, “ Yes, rather frequently at one time ; of late years “ not often ; and at any time only by a very small “ proportion of the planters.” Again, in order to obtain a renewal of indigo contracts, “ harsh treatment,” says Mr. Sage, “ is never used until all

“ fair means fail ; ” and again, “ Within your knowledge, are the ryots ever beaten by the planter ? ”

“ Very rarely, I believe.”

“ Are their houses ever attacked, burnt, or thrown down ? ”

“ Yes, I have known of such acts being done.”

“ Was that done to compel the ryots to take advances, or to sow in consequence of having taken advances ? ”

“ Chiefly as a warning to others not to resist.”

“ Are the cattle of the ryots ever seized, with a view of inducing them to take advances ? ”

“ I believe they are.”

“ Is this rare or frequent ? ”

“ It was a general custom.”

Mr. Fergusson, who represented the planters' interest in the commission, subscribed, together with Mr. Temple, a minute, in which the following statements and remarks are to be found :—

“ That indigo can directly add to the wealth of the ryots, at the rates lately given, is an untenable position ; ” and, in his own separate minute, this gentleman says, “ The recent crisis, though accelerated by an unfounded belief on the part of the ryots, that the Government was opposed to the cultivation of indigo, must have sooner or later occurred, owing to the disturbance which has taken place in the relative returns to the ryot from indigo, as compared with cereal and other cultivations ; and the planters would have done well, had they paid earlier attention to the above facts, and

“met the ryots with a more proportionate remuneration.”

There is nothing more condemnatory of the indigo system in Bengal than the oppression practised by the native servants of the factories, and, in some instances, by the planters themselves, and the amount of violence and crime to which it has given rise.

There were cases officially reported to the Government of India, where loathsome lepers, infants, men so bedridden from age or disease as to be unable to walk, who were brought in carts and doolies, and whom it was necessary to prop up in court when their case was under trial, were charged with having received advances, under covenant, to sow and deliver Indigo plant!

Kidnapping, confining, and removing ryots from place to place, were found to have been offences of no uncommon occurrence.. Mr. Sage, part of whose evidence has been quoted above, was of opinion that these cases were less common than they had been formerly. Mr. Eden, a member of the Civil Service, considered that the seizing of ryots and the confinement within factory walls had increased, as violent acts had decreased, in consequence of the establishment of numerous magisterial sub-divisions throughout Bengal. In one instance, a man had been taken from factory to factory, until he died under the treatment he received. In another, an indigo planter objected to the establishment of a deputy magistrate's court in his neighbourhood; the court was established, and no sooner was this step taken, than the discovery was made that the

neighbouring factory was used as a place of illegal imprisonment for recusant or defaulting ryots.

The mode of executing contracts between the planter and the ryot also conduced to the unpopularity of the indigo cultivation; and the commissioners observed that their inquiries had placed beyond a doubt the startling fact that, in almost every concern, the contract to sow, though generally drawn up for a term of years, was renewed, or supposed to be renewed, every year, at the expense of the ryot; for, whether actually executed or not, the ryot was charged for the stamp required for the contract.

The usual mode of executing these contracts was for the ryot to put his signature or mark to a blank paper, which might be filled up or not at the discretion of the factory.

Some of the planters explained this startling fact, by alleging that the practice had been customary, and that, as the charge was a trifle, it excited no attention. Another, however, stated that the object was to keep the contract always at the full term of years for which it was originally made; and another said that the annual charge for the stamp was considered as binding the ryot. There can be little doubt that, originally, the annual renewal of a contract for a term of years was resorted to for the purpose of converting a ryot into a life cultivator for the factory; and the solution of the difficulty, if any difficulty there be, is to be found in the following pregnant sentences taken from the evidence of Mr. Cockburn, once employed as an indigo planter, now a deputy magistrate. “Many

“ ryots are anxious to get rid of their engagements,
 “ and to sow no more. There were some individuals
 “ who could clear themselves, if we would let them,
 “ but we would not clear them, on principle, inas-
 “ much as it would be tantamount to closing the
 “ factory. It is my belief that many ryots would
 “ borrow money to get free, if allowed.”

In the autumn of 1860 things were indeed critical. “ I assure you,” said Lord Canning, “ that for about
 “ a week it caused me more anxiety than I have had
 “ since the days of Delhi,” and Lord Canning was not a man who was easily made anxious. Sir John Peter Grant, the Lieutenant-Governor of Bengal, had just returned from an excursion to the works on the Dacca railway. During his journey, which was entirely unexpected, up the river Jumoonah, numerous crowds of ryots appeared at various places, whose whole prayer was that they should not cultivate indigo. On his return, two days afterwards, from Serajgunge by the rivers Koomar and Kalligunga, which run south of the Ganges, both banks of the river for a whole day’s voyage (70 or 80 miles) were lined by thousands of people, the men running by the steamer, the women sitting by the water’s edge, the inhabitants of each village taking up the running in succession, and crying to him for justice, but all respectful and orderly. “ The organization and capacity,” said the Lieutenant-Governor, “ for combined and simultaneous
 “ action in the cause, which this remarkable demon-
 “ stration over so large an extent of country proved,
 “ are subjects worthy of much consideration.”

“From that day,” wrote Lord Canning, “I felt
 “that a shot fired in anger or fear by one foolish
 “planter might put every factory in Lower Bengal
 “in flames.”

In the spring of 1861, the report of the commission came under the consideration of the authorities at home, and the question before them was simply this:—Were criminal proceedings for breach of contract necessary? Sir Charles Wood ~~and~~ his Council, after a careful review of the report, were of opinion that breaches of contract ought not to entail criminal proceedings; that the relation between planters and ryots should be held to be dependent on mutual good will, —on the interest of both being fairly considered,—on proper caution being exercised in making contracts, and on integrity and forbearance. The necessity for their relations with the ryots being regulated by such considerations would not be realized by the planters, relying, as they did, on Government assistance, and the strong arm of the law being exercised in their favour against the ryot, “who,” Lord Canning thought, “had been left too long in ignorance
 “of the protection which he might claim against the
 “proceedings of any planter who had bound him by
 “unreal obligations, and who had enforced them by
 “illegal means;” and the decision arrived at was ably expressed in a despatch to the Governor-General, on the 18th of April, 1861, in which, when reviewing a Bill transmitted to the Home Government, the object of which was “to provide for the punishment of
 “breaches of contract, for the cultivation, production,

“ gathering, provisions, manufacture, carriage, and
 “ delivery of agricultural produce,” Sir Charles Wood
 said :—

“ The question of making breaches of contract for
 “ the cultivation and delivery of agricultural produce
 “ punishable by criminal proceeding, is not one which
 “ now for the first time presents itself for considera-
 “ tion. It has been maturely considered, and the
 “ deliberate judgment of the Indian Law Commis-
 “ sioners, of the Legislative Council, of the Secretary of
 “ State in Council, of the majority of the Indigo Com-
 “ missioners, of the Lieutenant-Governor of Bengal,
 “ and even, as it appears to me, of your own Govern-
 “ ment, has been recorded against any such measure.
 “ I am not prepared to give my sanction to the
 “ law which you propose, and to subject to criminal
 “ proceedings matters which have hitherto been held
 “ as coming exclusively under the jurisdiction of the
 “ civil tribunal ; and I request that the Bill for the
 “ punishment of Breaches of Contract recently intro-
 “ duced by you into the Legislative Council may be
 “ withdrawn.”

Thus has the wish strongly urged upon the Govern-
 ment of India by the planters, that there should be
 criminal punishment inflicted upon the ryots for breach
 of contracts, been refused and systematically discoun-
 tenanced at home. The law as it existed was entirely
 in harmony with the view of the Indian Law Com-
 mission, under the presidency of the late Lord
 Macaulay, who agreed “ with the great body of
 “ jurists in thinking that in general a mere breach of

“ contract ought not to be an offence, but only to be
 “ the subject of a civil action ; ” an opinion which,
 after being repeatedly affirmed by the ablest lawyers
 during twenty years, had been embodied in the Code
 of Law enacted only the year before this outcry for its
 alteration arose. Sir Charles Wood, concurring, as he
 did, with these views, refused to sanction an alteration
 of the law, and no consideration of popularity or
 advantage in this country, or among the planters at
 Calcutta, could induce him to swerve from “ the great
 “ principle enunciated in his despatch,” which requires
 that contracts between individuals shall be left in India,
 as in all other civilized countries, exclusively to the
 ordinary civil jurisdiction and process, and that “ the
 “ law of India therefore shall not deviate from or
 “ violate the enlightened principles of the law of
 “ England ; ” and he can appeal with confidence “ to
 “ the gratitude of the ryots who have been freed from
 “ the effects of a project of law opposed to the prin-
 “ ciples of civilized jurisprudence, exceptional in its
 “ aim and character, and calculated to prove an
 “ efficacious engine of injustice, hardship, and oppres-
 “ sion.”

Sir Charles Wood's desire that the Bill proposed
 should be withdrawn, gave rise to many complaints
 of his over-riding the Government of India ; but this
 surely was a more courteous act, and less embarrass-
 ing to that Government, than if he had permitted the
 Bill to pass, and then refused his sanction to its enact-
 ment. Had he declined in this instance to avail him-
 self of the controlling power vested in the Secretary

of State, and allowed the Government of India to sacrifice the interests of the people to the unreasonable demands of a small interested class, he would have abdicated the real vital function of the Home Government.

Were nothing added to the foregoing remarks, it might be supposed that the law was not strong enough to give proper support to the planter when in the right. A glance at the provision of Act VIII. of 1859, and at the enactments of the penal code for the punishment of fraudulent breaches of contract and other offences committed with a view to defraud or defeat the claims of individuals, will show this not to be the case. The pressure, therefore, brought to bear upon the Government of India for special legislation has the less excuse, and the justification of the course of action adopted by Sir Charles Wood appears conclusive.

The refusal to sanction a penal contract law did not, however, definitively set at rest the indigo question. The planters knew that the ryot, more alive than formerly to the rights of his position, would not sow indigo to his own loss. The special legislation they had cried out for with so much persistency was denied to them ; they feared, after the terrible exposures of the Indigo Commission, to resort to the oppression and the wrong of former times ; but they were not prepared to yield without another struggle the profits hitherto reaped from the indigo crops.

Abandoning all attempts to obtain a special law for the enforcement of their contracts, they doubled

the price to be paid for indigo, but, availing themselves of their position as lessees or owners of the land, they informed the ryots who occupied farms under them, that those who declined to sow indigo as heretofore would have their rents raised.

The questions involved in this "rent" dispute were, in what cases and to what extent had the zemindars of 1793, in whose place the planters now stood, the power to raise the rents of the occupying ryots.

It must be remembered that the position of the ryots in Bengal is a very peculiar one ; that they have from time immemorial had some right in the soil or in its produce is universally admitted ; that there exist ryots with rights of occupancy at fixed rents, and ryots with right of occupancy at rents which might be enhanced according to the rates of rent prevalent, as well as ryots who are merely tenants at will, is an undisputed fact ; but the questions arising out of these rights are matters of controversy among the greatest authorities both in India and in this country.

At the time of the settlement of 1793, power had been reserved by the Government to interfere, when they deemed it necessary, for the protection of the ryot ; and regulations had been at different times passed for this purpose, which were subsequently amended and embodied in the Act usually quoted as Act X. of 1859. The ryots whose rents had been fixed at the time of Lord Cornwallis's settlement, of course continued to pay the rent so fixed ; and by Act X. of 1859 it was provided that twenty years'