

**SUMMARY OF STATEMENTS AND
ARGUMENTS: SUBMITTED TO THE
RIGHT HONOURABLE THE PRESIDENT
OF THE BOARD OF CONTROL AND
SOME OTHER GENTLEMEN**

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Summary of Statements and Arguments: Submitted to the Right Honourable the President of the Board of Control and Some Other Gentlemen by William Theobald

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WILLIAM THEOBALD

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COMMITTED TO
THE RIGHT HONOURABLE
The President of the Board of Control,
AND SOME OTHER GENTLEMEN.

BY
WILLIAM THEOBALD,
(BARRISTER)
ON DEPUTATION FROM CALCUTTA AND THE LOWER PROVINCES OF BENGAL.

LONDON:
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—
1857.

THIS Pamphlet was designed solely to meet the inquiry which has several times been made to me—"Have you any printed paper?" It is a mere *introduction*, to be followed up by other personal efforts. I have given my address, in the hope that gentlemen who take an interest in our views may avail themselves of it, and place themselves in communication with me.

W. T.

SUMMARY
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STATEMENTS AND ARGUMENTS

SUBMITTED TO

The Right Honourable the President of the Board of Control,

AND SOME OTHER GENTLEMEN.

I. IN November of last year I was deputed by a numerous body of the British and Christian classes of Calcutta and of the Lower Provinces of Bengal to proceed to England for the purposes described in the following summary:—

To secure a Parliamentary opposition to the amalgamation of the Supreme and Sudder Courts in the manner proposed by the Law Commissioners in England;

To preserve with an unimpaired jurisdiction the Supreme Court as a Court of English Law, and with a distinct and separate existence, as it has been for the last eighty years and upwards; which is necessary for the security of the British and Christian inhabitants, and the commerce and various enterprises in which they are concerned.

To preserve trial by jury of Christian inhabitants for the British and Christian inhabitants, and to preserve their exemption from the Criminal jurisdiction of the Mofussil Courts, as at present, in cases involving the graver punishments, until those Courts have qualified judges;

Without prejudice, however, to any plans of reform for bringing the Criminal jurisdiction of the Supreme Court nearer the homes of the Mofussil people;

To promote the establishment of English Law as administered in the Supreme Court as the *lex loci* of India, for all classes of persons and all kinds of interests not governed by a special law, like the Hindu and Mahomedan Law; and

To promote the prayers and declared principles of the petitions sent home from Calcutta during the last and immediately preceding Sessions.

2. In pursuance of my mission, I have obtained interviews with the Right Honourable the President of the Board of Control,* and with other gentlemen in office and out of office, including some members of both Houses of Parliament; and I now proceed to give an abridged and summary statement of the considerations which I have had the honour of urging upon those who have given me an audience. Intending this paper for a more general circulation, however, I have added notes for the use of those whom I have not had the honour of seeing, and who may desire explanations.

3. My constituents are, the merchants,† traders,‡

* I was accredited to the President by the Chairman of a Committee; and it was enjoined upon me first to submit our views to that right honourable gentleman.

† The last quarterly Report of the Committee of the Bengal Chamber of Commerce contains the following allusion to my delegation:—

“In September last your Committee had the pleasure of giving their cordial co-operation to the Indigo Planters’ Association, in furthering the means of deputation Mr. Theobald to England, to oppose the intended amalgamation of the Supreme and Sudder Courts of Law in this country, and to support the prayer of the petition to Parliament connected with that subject, which the Members of this Chamber had recently signed.”

‡ Represented by the “Calcutta Trades’ Association.”

landed proprietors,* and indigo planters† of the British and Christian classes‡ of Calcutta and of the Lower Provinces of Bengal.§ As British subjects, and as

* Land tenures of every variety are now held by British people, both individually and in companies. Their property of this kind is estimated at upwards of four millions sterling. There are several proprietors in Bengal with 10,000 acres (20,000 bigahs) under cultivation. Indigo cultivation is carried on to a considerable extent by what is called *homs* cultivation, or by the planter on his own or hired lands. In that case he hires the labour and furnishes ploughs, &c., like a farmer in England. The other mode of obtaining the plant is by making advances to the ryot, who gives an engagement to cultivate certain agreed lands. The chief source of dispute between indigo planters and ryots is the refusal of the ryot to cultivate according to his agreement. The ryot, however, in refusing, often acts under the instigation of his zemindar, who, by thus bringing the planter into difficulties, succeeds in inducing him to take a lease of a portion of the zemindary lands, for which he gets a high premium.

† This class includes many proprietors; but, besides these, there is a numerous body of managers and assistants. To the latter, who are all resident in the country, the continued protection of the Supreme Court, and the reform of the East India Company's Courts, are objects of the first importance.

‡ By the term British, I refer to Europeans; but the term "Christian" includes also the mixed class sometimes called "half-castes," more properly "East Indians." In policy the British and Christian people ought, I venture to think, to be regarded as one, and the same laws ought to be applied to them. By the double impolicy of separating these classes, and under-estimating the numbers and importance of the Europeans, the residents of pure British blood have been stated in an official return at 300 persons. They must greatly exceed that number in Lower Bengal.

§ These provinces are geographically as large as France; they contain a population estimated at 35,000,000, and are under a separate government. India comprises three other distinct governments—namely, of the north-west provinces of Bengal, Bombay, and Madras. The Punjab and Pegu have also separate governments; but the subordina-

Christians, my constituents hope to meet with a liberal consideration, and as capitalists and agents of capitalists, engaged in every variety of enterprise suitable to the country, they only ask for a just estimate of their importance. On that point we have high testimony. Amongst the earliest witnesses may be mentioned one of the best Governors-General of India, Lord William Bentinck, and, amongst the most recent, Mr. Welby Jackson,* an

tion in which they are placed to the government of India is different. It has been urged against me, that I am come only on behalf of Lower Bengal. I reply, the commissioners have themselves proposed their scheme separately for Lower Bengal. It is true they propose similar measures for the rest of India, but I cannot see how that affects the discussion. If discussion or opposition from Lower Bengal, or Upper Bengal, or Bombay, &c., is to be precluded on such a ground, then, by legislating *uno actu* for the whole of India at once, the government may preclude all discussion.

* In 1853 Mr. Welby Jackson, at that time a Judge of the Sudder Court, made an official tour of inspection in Lower Bengal. In his official report, after describing the zemindars as having "lost all motive to exertion as well as inclination," he asks, "How, then, has the cultivation been improved and extended?"—"It has been improved and extended," he says, "by the undertenants, the putneedars, farmers, who, mostly with borrowed capital, have carried the cultivation of indigo, silk, sugar, and other saleable productions to an extent which they never reached at any anterior period: the example has been set, and the way opened, by the indigo planters, mostly Englishmen, who by their energy and assiduity, by forcing their way through difficulties and opposition, have formed themselves into a class of great wealth and influence. Necessarily coming into direct collision with the comparatively inert zemindars, and in many instances ousting and supplanting them in their zemindarees—and even where this has not taken place, rendering themselves formidable rivals—it is singular enough that men without capital, strangers, aliens both in race and habits, should thus have been able by their indomitable energy and perseverance to compete successfully with a wealthy class of men created and established by the

eminent civilian, now retired. In our disparagement it has been urged that our numbers are small. We are, it is said, only three hundred persons. Whatever the present number may be, it was certainly smaller under Lord William Bentinck's administration; but, in the smallness of the number, that great statesman saw a reason only for giving better protection to the class; and a moment's reflection will show that this numerical standard is fallacious. Three

state itself, and firmly rooted in the country, with all the support that wealth, influence, and the favour of their own countrymen and of the state could give them; the example of the planters has been followed by the more enterprising among the natives; and it is to these men of enterprise, who have commenced, and will continue, the move forwards, that the country is indebted for improvement; and it is to them, the men of enterprise and action, that the state must look for further progress in the same direction." Mr. Welby Jackson also recognises the political value of this class. "It appears to me," he says, "that the efficiency of the police might be greatly increased, if the energy and shrewdness of the European planters resident in many districts were called into play to support it; . . . these men had a greater interest in the welfare and general tranquillity of the country than any other class. . . . It is true they are sometimes rather difficult to rule and manage: this is usually the case with men of energy and determination; but those very qualities are what we require in the police; in fact they are indispensable. I know that in Zillahs, where the magistrate has the tact and good sense to manage such men, they have even now rendered good service to the police; I think the police authority might with very great advantage be vested in some of the planters. I am far from saying they are all fitted. . . . This could not be said of any class of men; certainly not of the Civil Service. . . . But by a careful selection of men, not only able but willing to give assistance, I believe that our police would be greatly strengthened. I would not confer judicial powers on them . . . but with the police powers of a Deputy Magistrate they would be able to act with great force towards putting down dacoity." . . . (*Tour of Inspection*, p. 37.)