

The History of British India

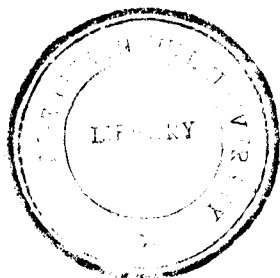
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THE POLITICAL HISTORY OF INDIA *by* John Malcolm
THE HISTORY OF THE MAHRATTAS *by* James Grant Duff

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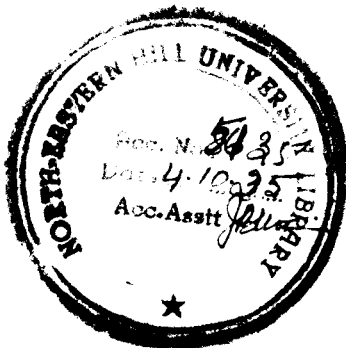
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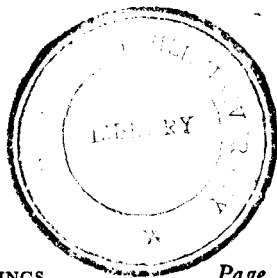


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CHAPTER 1

Warren Hastings

UPON THE departure of Mr. Hastings from Bengal, Mr. Macpherson succeeded, as senior in council, to the power and dignity of Chief Governor of the British establishments in India. Certain peculiarities marked the history of this gentleman in the service of the Company. He sailed to Madras in 1766, purser of an Indian ship; and having obtained the means of an introduction to the Nabob of Arcot, insinuated himself quickly into his inmost confidence. As the Nabob, since the first moment of his deliverance from the terror of the French, had been in a state of perpetual struggle with the servants of the Company for a larger share of power, Mr. Macpherson appears to have flattered him with the hopes of advantage from an application to the British minister; and to have prevailed upon the Nabob to make use of himself as the organ of the attempt. The project was, to persuade the minister, that the Nabob was suffering under a load of oppression by the Company's servants. Mr. Macpherson arrived in England, in execution of this commission, towards the end of the year 1768. Upon his return to Madras he was, during the administration of Governor Dupre, admitted into the civil service of the Company, and employed by that Governor in the most confidential transactions; particularly, in writing his dispatches, to which the superior skill of Mr. Macpherson in the art of composition afforded a recommendation. In the year 1776, Lord Pigot was Governor of Madras. Mr. Macpherson had ascended to the rank of a factor in the Company's service; when a paper, purporting to be a memorial to the Nabob of Arcot, was presented to the Council by their president. It had no signature; but it recapitulated various services, which the writer had rendered to the Nabob in England; and the concurrence of circumstances rendered it but little possible that he should be any other person than Mr. Macpherson. Mr. Macpherson was called before

NOTES AND REFERENCES

- ¹ For these facts, see the *Third Report* of the Select Committee formed in 1781; and Mr. Macpherson's Letter to the Court of Directors, dated Calcutta, 30th of March, 1783, printed by order of the House of Commons, among the papers laid before them in 1787.
- ² Letter to Major Palmer, printed among extracts from papers in No. 2, vol. vii. presented to the House of Commons on the 13th of March, 1786.
- ³ Copy of a letter to the Court of Directors, dated 10th August, 1786, printed by order of the House of Commons.—The Select Committee of the House of Commons in 1810, in their *Third Report*, p. 370, say, "The effects of the war which ended in the year 1783 were particularly prejudicial to the financial system of India. The revenues had been absorbed, the pay and allowances of both the civil and military branches of the service were greatly in arrear; the credit of the Company was extremely depressed: and, added to all, the whole system had fallen into such irregularity and confusion, that the real state of affairs could not be *ascertained* till the conclusion of the year 1785-86". Such is the state, in which India was left, by the administration of Mr. Hastings.
- ⁴ In all £112,950 of which £22,800 was in salary to Major Palmer alone. The expense of the residency, under Mr. Bristow, which Mr. Hastings had represented as frightfully enormous, amounted to £64,202. See *Burke's Charges*, No. 16, sect. 89.
- ⁵ See the letter to Major Palmer, quoted in the preceding page.
- ⁶ Letter from Major Brown to Mr. Hastings, dated at Delhi, 30th December, 1783.
- ⁷ The papers on this subject were refused by ministry, or rather by the House of Commons, under the guidance of the minister. See the Debates in Parliament, under date March 7th and 18th, 1786.

- ⁸ The insinuations of Mr. Burke that the negotiation of the Governor-General with the Moghul covered an insidious design to betray him into the hands of Scindia, receives its greatest confirmation from what Mr. Pitt was brought to say in the House of Commons, on the 18th of March, 1786, in the debate on the production of Delhi papers. "If he were inclined to lay open secrets which the interests of the country required should be concealed, he could easily prove," he said, "that the junction of the Moghul with the Mahratta powers was of the highest advantage to the Company." Two other objects, which were always found an efficient source of terror, as terror is always, in such hands, a most convenient instrument of persuasion, were, on this occasion, brought forward by the minister. These were, Tippu Saib, and the French. These two, he said, were, at that time, plotting against the Company; and Tippu was making efforts, by holding out dazzling projects to the Moghul, to realize the great advantage of the imperial authority and name. "In order to counteract this," said Mr. Pitt, "it became necessary for the servants of the Company to exert themselves to the utmost to ingratiate themselves with the Court of Delhi, and by that means secure to their employers that great body of strength and influence which would naturally result from the countenance of the Shah." *Ibid.* It was "a body of strength and influence" on which Mr. Hastings set a high value, in his instructions for the negotiation with Sindhia!
- ⁹ Extracts from Papers in No. 2, vol. vii, *ut supra*.
- ¹⁰ Mr. Hastings's Answer to the Nineteenth, Eighteenth, and Seventeenth articles of Charge.
- ¹¹ Letter from the agent in Oudh, dated Lucknow, 1st April, 1785; Extracts from Papers *ut supra*.
- ¹² "Made up", means, augmented by the addition of interest due.
- ¹³ Beside the Parliamentary Papers, these documents are found in the Appendix to Burke's Speech on the Nabob of Arcot's Debts.
- ¹⁴ How wretched his foresight, if he really was sincere in this opinion, and how little he was capable of calculating the

effects of his own measures, soon appeared by the event. "The actual loss," says Mr. Hume, "by this proceeding of the Board of Control is not limited to the large sum which has been paid: for the knowledge of the fact, that Mr. Dundas had in that manner admitted, without any kind of inquiry, the whole claims of the consolidated debt of 1777, served as a strong inducement to others, to get from the Nabob obligations or bonds of any description, in hopes that some future good-natured President of the Board of Control would do the same for them. We accordingly find that an enormous debt of near thirty millions sterling was very soon formed after that act of Mr. Dundas, and urgent applications were soon again made to have the claims paid in the same manner." Speech of Joseph Hume, Esq. at a general Court of Proprietors at the East India House, on the 9th of June, 1814, p. 23.

- ¹⁵ Mr. Hume applied to the Directors in 1814, for information relative to the money which had been paid by the Company, under this decision of the Board of Control; also for a copy of the instructions which the Directors proposed to send out to the Presidency for separating the true from the fraudulent debts, and which instructions the Board of Control superseded. In both instances the application was unsuccessful; and Mr. Hume, from the best information he could obtain, places the amount at nearly £5,000,000. "These claims," he says, "for what was called the consolidated debt of 1777, 'of which the Directors had never heard until 1776, and had never been able to obtain any satisfactory information', amounted, with high interest made up to the end of 1784, to the sum of 54,98,500 pagodas, or £2,199,400: And, agreeably to the orders of the Board of Control sent out at that and subsequent periods, the total had been paid in 1804, with nearly twenty years' interest, amounting in the whole to near five millions sterling." *Speech, ut supra*, p. 22.

¹⁶ *Second Report of Select Committee*, 1781.

¹⁷ See *Tenth Report of Commissioners*, the last which has yet come to my hand, p. 469. Mr. Hume says, "The claims which formed the consolidated debt of 1777, amounting to £2,199,400

were considered equally objectionable in 1774 as these new claims in 1806; and if Mr. Dundas had permitted a proper inquiry to be instituted in 1785, as the act of 24 *Geo III*, directed, there is every reason to conclude that a much larger proportion of the old than the new debt would have been rejected. . . . We are fully warranted in drawing the above conclusion, as the Court of Directors, and all the Governors in India, had invariably declared these claims of 1777 to be shameful, and such as *could not bear the light*. And, in 1781, the claimants had so bad an opinion of their right to the whole, that they made a voluntary offer to the government in Bengal to take off *one fourth* from the amount of their claims, and to agree to any kind of settlement, without interest, if the Company would but sanction their title to the remainder. There is also very little doubt, I think, but that the debt of 1767, and also the cavalry debt, if properly examined, would have turned out very objectionable. And it was the duty of Mr. Dundas to have ordered the necessary inquiry into the justice of the whole, agreeably to Mr. Pitt's bill, which made no distinction in the debts of 1767 and 1777." *Speech, ut supra*, pp. 24-5.

¹⁸ Letter from Lord Macartney to the Committee of Secrecy of the Court of Directors, dated Calcutta, 27th July, 1785. How much Lord Macartney and his Council agreed with Mr. Burke, respecting the springs which in all these transactions moved the machinery, still further appears from the following words: "The Amir-ul-Umrah and Mr. Benfield were well known to each other: Mutual esteem did not appear to attract them to each other; but as soon as the objects of their antipathies were the same, they united at once. In this partnership, Mr. Benfield has brought his knowledge of ministers, his interest in parliament, to the former experience of his successful intrigues upon the spot." Copy of Letter from the Government of Fort St. George to that of Bengal, dated 28th May, 1783.

¹⁹ "I considered the assignment as the rock of your strength in the Carnatic, and therefore had guarded it with vigilance against the assaults of the Durbar and the menaces of Bengal. It had contributed largely to your support through

the war, and might have secured the stability of your commerce and dominion on the coast. DIIS ALITER VISUM EST! I had long since expressed my hope of not being made a witness or an accessory to a premature surrender of it; and indeed no man could be less properly qualified on such an occasion than myself, being personally disagreeable to the Durbar, and from my knowledge of their duplicity, disaffection, and politics, totally unqualified for any negotiation that required the slightest degree of confidence to be reposed in them". Letter to the Secret Committee, 27th July, 1785.

²⁰ Letter to the Secret Committee, 27th July, 1785.

²¹ Barrow's *Life of Lord Macartney*, i, p. 282.

²² The conduct of Lord Macartney in this important business is displayed in a series of official documents entitled "Papers relating to the affairs of the Carnatic," vol. ii, printed by order of the House of Commons in 1803.

²³ Letter of Lord Melville, in Barrow's *Macartney*, i, p. 330.

²⁴ "The magnitude of the trial would overwhelm," he said, "the varying multitude of lesser causes, of *meum* and *tuum*, assault and battery, conversion and trover, trespass and burglary", &c.

²⁵ For a profound elucidation of what he calls Investigatorial Procedure, see Mr. Bentham's Treatise, entitled *Scotch Reform*.

²⁶ The following are the words of the eighth of the resolutions, which he moved in 1781, "That too strong a confirmation cannot be given to the sentiments and resolutions of the Court of Directors and the Court of Proprietors, *in condemnation* of the Rohilla war:—That the conduct of the President and Select Committee of Bengal appears, in almost every stage of it, to have been biassed by an *interested* partiality to the Vizir, to transgress their own, as well as the Company's positive and repeated regulations and orders:—That the extermination of the Rohillas was not necessary, for the recovery of forty lacs of rupees:—And that, if it was expedient to make their country a barrier against the Mahrattas, there is reason to believe that this might have been effected, by as easy, and by a less iniquitous, interference of the government of Bengal;

which would, at the same time, have preserved the dominion to the *rightful* owners, and exhibited an attentive example of justice, as well as policy, to all India."

- ²⁷ The cause is variously conjectured; some turn in the cabinet; or in the sentiments of the King, whose zeal for Mr. Hastings was the object of common fame; an increasing dread of unpopularity, from the progress of indignation in the public mind.
- ²⁸ The contemporary historian says, "The conduct of the minister on this occasion drew upon him much indecent calumny from the friends of Mr. Hastings. They did not hesitate to accuse him, out of doors, both publicly and privately, of treachery. They declared, it was in the full confidence of his protection and support, that they had urged on Mr. Burke to bring forward his charges: And, that the gentleman accused had been persuaded to come to their bar, with an hasty and premature defence. And they did not scruple to attribute this conduct in the minister to motives of the basest jealousy." Annual Register for the year 1786, ch. vii.
- ²⁹ *26 Geo. III. c. 16.*
- ³⁰ Cobbett's *Parl. Hist.*, xxx, 1276. In the same speech Mr. Burke said, "What he, from the experience derived from many years' attention, would recommend as a means of recovering India, and reforming all its abuses, was a combination of these three things—a government by law—trial by jury—and publicity in every executive and judicial concern." *Ibid.* Of these three grand instruments of good government, what he meant is not very clear as to any but the last; of which the importance is, undoubtedly, great beyond expression.
- ³¹ *26 Geo. III, c. 25.* ³² *Ibid.*, c. 57.
- ³³ The following is a curious testimony to the importance of the clause which was now repealed. Major Scott, the famous agent of Mr. Hastings, in the debate of the 7th of February, 1788, on the impeachment of Sir E. Impey, counteracting, the panegyrics which had been pronounced on Mr. Francis, said "Before I join in applauding the integrity of the Hon. Gent., I require it to be proved *by the only possible way in which his integrity can possibly be proved.* Let him come fairly, boldly, and honestly forward, as Lord Macartney has done; let

him state that he left England in debt, that he was six years in India, that his expenses at home and abroad were so much and his fortune barely the difference between the amount of his expenses and the amount of his salary. When the Hon. Gent. shall have done this, I will join the committee of impeachment with cheerfulness, in pronouncing Mr. Francis to be one of the honestest men that ever came from Bengal. But until he shall submit to *this only true test* of his integrity, I shall pay no attention to the animated panegyrics of his friends." Cobbett's *Parl. Hist.* xxvi, 1425. I wish I could have availed myself of this testimony, without repeating the surmise of a man who would not have confined himself to surmise against Mr. Francis, had he had any thing stronger to produce.

⁸⁴ 26 *Geo. III*, c. 62.

⁸⁵ There were several pecuniary transactions with individuals, such as a contract for supplying the army with bullocks, a contract for feeding elephants, an agency for the supply of corn, a contract for the Company's opium, which were laid hold of by the accusers of Mr. Hastings, as either not having been performed agreeably to the rules and orders of the service, or in some way implying corruption on the part of the Governor-General, and thence included among the subjects of criminal charge. As the indications of criminality in these transactions appeared to me to fall short of proof; and as they were matters of that degree of detail, to which the limits of history do not allow it to descend, no account of them is included in the narrative of Mr. Hastings's Indian Administration.

⁸⁶ See *Parliamentary Hist. ad dies*.

⁸⁷ Mr. Baring said, that "when the bill of 1784 was in agitation, it had not been intimated to the Directors, that the bill gave any such power to the Commissioners of Control, as was now contended for: If they had so understood it, they would not have given their support to a bill, that tended to annihilate the Company, and deprive them of all their rights and powers." *Parl. Hist.*, xxvii, p. 67.

CHAPTER 2

Warren Hastings (Contd.)

THE TRIAL of Mr. Hastings commenced in Westminster Hall on the 13th day of February, 1788. So great was the interest which this extraordinary event had excited, that persons of the highest elevation crowded to the scene.¹ After two days were spent in the preliminary and accustomed ceremonies, on the 15th Mr. Burke began. His oration was continued on the 16th, 18th and 19th, and lasted four days. It was the object of this address to convey to the members of the court a general idea of the character and circumstances of the people of Hindustan; of their situation under the government of Englishmen; of the miseries which he represented them as enduring through the agency of Mr. Hastings; and of the motives, namely, pecuniary corruption, to which he ascribed the offences with which that Governor was charged. The most remarkable passage in the speech was that which related to the enormities imputed to Devi Singh, a native placed by Mr. Hastings, in a situation of confidence and power. It cannot be omitted; both because the delivery of it is matter of history, whatever may be the proper judgment with respect to the accusations which it brought; and also, because it gave birth to several subsequent proceedings on the trial. This man was admitted; according to the accuser, improperly, and for corrupt ends; to farm the revenues of a large district of country. After a time, complaints arrived at Calcutta, of cruelties which he practised, in extorting money from the people; upon whom, contrary to his instructions, he had raised the rents. Mr. Patterson, one of the gentlemen in the civil service of the Company, was deputed, in the capacity of a Commissioner, to inquire into the foundation of the complaints. It was from his report, that the statements of Mr. Burke, reported in the following words, were derived.

“The poor Ryots, or husbandmen, were treated in a manner that would never gain belief, if it was not attested by the

Appendix

“Report from the Committee of the House of Commons appointed (viz. on the 5th of March, 1794) to inspect the Lords’ Journals in relation to their Proceedings on the Trial of Warren Hastings, Esq. and to report what they find therein to the House; which Committee were the Managers appointed to make good the Articles of Impeachment against the said Warren Hastings, Esq. and who were afterwards (viz. on the 17th of March, 1794) instructed to report the several Matters which have occurred since the Commencement of the said Prosecution, and which have, in their Opinion, contributed to the Duration thereof to the present Time, with their Observations thereupon.”

A SHORT account of the spirit of this document, and of the principal matters which it contains, is of high importance. It is a criticism not only upon this trial, but upon the law; a thing, in this country, of great rarity, from a source of high authority. It would also be a thing of great utility, if it would show the people of the country, what they have been carefully disciplined not to believe, that no greater service can be rendered to the community, than to expose the abuses of the law; without which the hope of its amendment is for ever excluded. The view is incomplete, and but superficial, which Mr. Burke, who was the author of the document, takes, even of that small portion of the mass of abuses, of which he had occasion to complain. He neither stretched his eye to the whole of the subject, nor did he carry its vision to the bottom. He was afraid. He was not a man to explore a new and dangerous path without associates. Edmund Burke lived upon applause—upon the applause of the men who were able to set a fashion; and the applause of such men was not to be hoped for by him who should expose to the foundation the iniquities of the juridical system. In the case of public institutions, Mr. Burke had also worked himself into an artificial admiration of the bare fact of existence; especially ancient existence. Every thing was to be protected; not,

because it was good, but, because it existed. Evil, to render itself an object of reverence in his eye, required only to be realized. Acutely sensible however to the spur of the occasion, he felt the abuses which crossed him in his path. These he has displayed with his usual felicity of language; and these, it is of importance with respect to the imitative herd of mankind to have stamped with the seal of his reprobation.

I. Under the first head of the report, an analysis was given of the duration of the trial, and of the causes to which that duration was owing. At that time the trial had occupied, though six years, only 118 days. Of these it appeared that in speeches, opening, and summing up, the managers consumed nineteen days; that in speeches, opening, and summing up, and his own addresses, the defendant and his counsel had consumed twenty-two days. In documentary and oral evidence fifty-one days were employed by the managers; and twenty-three on the part of the defendant. But, as the managers brought forward the case, they were under the necessity of adducing almost all the documents which bore upon the facts, and to interrogate almost all the witnesses from whom, on either side, any information could be derived. A great part of this evidence the defendant at the time of his defence, had only to apply. Lastly, and chiefly, the greater part of the long and harassing contentions about the admissibility of evidence, took place during the fifty-one days which are set down to the account of the managers, but of which the greater part was consumed on account of the defendant.

“This last cause of the number of sitting-days,” said the report, “your Committee considers as far more important than all the rest.

“The questions upon the admissibility of evidence, the manner in which these questions were stated, and were decided; the modes of proceeding; the great uncertainty of the principle upon which evidence in that court is to be admitted or rejected; all these appear to your Committee materially to affect the constitution of the House of Peers as a court of judicature, as well as its powers, and the purposes it was intended to answer in the state.

“The conservation of all other parts of the law; the whole indeed of the rights and liberties of the subject, ultimately depends

upon the preservation of the law of parliament in its original force and authority

“Your Committee had reason to entertain apprehensions, that certain proceedings in this trial may possibly limit and weaken the means of carrying on any future impeachment of the Commons.”

In the House of Commons, on the 11th of May, 1790, Mr. Burke affirmed, that the Lords sat on the trial in Westminster Hall not more than three hours a day on an average. Suppose in this statement some exaggeration; four hours is doubtless a large allowance. The number of hours, then, consumed in the trial was 472. If the court had acted constantly, and ten hours a day, (a well constituted judicature, during the continuance of a trial, would not account ten hours an excess) the trial of Warren Hastings, which lasted eight years, and occupied 145 days, might with all the technical obstructions have been begun, carried through all its stages, and finished, in little more than sixty days, or about two calendar months. When the defendant, therefore, and his counsel, took advantage of the disgraceful catalogue of years to cast odium upon the managers, they were the cause of injustice. It is worthy at the same time of being observed, that it was the length of the trial, of which he affected so bitterly to complain, and the horrid expense with which law proceedings are in this country attended, which, by converting suspicion, and, in many cases indignation, into pity, rendered the termination of the trial so favourable to Mr. Hastings; and which, if his acquittal, from the lips of his judges, would at any time have been equally sure, rendered, most undoubtedly, his acquittal, at the great tribunal of public opinion, much more complete; and this was the sole cause of the gratuities with which he was afterwards treated.

II. The relation of the ordinary, the law judges, to the court of parliament, the committee remarked upon, as a thing of great importance to fix and to understand. They had found their interference peculiarly hostile to all those ends of justice which the technical rules of procedure are calculated to obstruct. It was, therefore, the committee declared, agreeable to them, to find, upon inquiry, that the judges were nothing but servants; “that they neither had, nor of right ought to have, a deliberative

voice, either actually, or virtually, in the judgments given in the High Court of Parliament;" and that their answers to questions are no further a guide to that court than it pleases to make them.

III. The Committee set forward a principle which, in the capacity of managers, they had frequently urged in Westminster Hall; that the Lords were not bound by the Roman law, or that of any of the inferior courts in Westminster Hall; but only by the law of parliament. That they were not bound by the Roman, or English technical law, it might be very wise to maintain. But where was that law of parliament of which the committee spoke? It had no existence, anywhere; it was a mere fiction; spoken of, indeed, but never seen.—This is one of those important facts, its ignorance of which exposed the mind of Mr. Burke to much of the perplexity, confusion, and embarrassment, which it experienced upon this subject; and to much of the weakness and inconsistency, of which the lawyers were disposed to take a prompt and unsparing advantage. It was one of the grand foundations, too, of that imperfection of the House of Lords, as a criminal tribunal, whence those evils resulted, with complaints of which the nation was filled.

IV. The committee were not satisfied with showing, that the formalities in pleading, rigidly demanded in the ordinary courts of law, had been explicitly and solemnly determined to be unnecessary before the Lords; they were bold enough to proceed further in condemnation of the courts below, and to offer reasons for showing that some at least of the formalities of these courts were hostile, not conducive, to substantial justice.

It is necessary, for example, in an indictment, that a certain day be assigned for the commission of the fact. Yet on the trial it is sufficient to prove that it happened on any other day. In this, the committee said, there was "something ensnaring; the defendant having *notice* to answer for only one day, when the prosecutor has his choice of a number of days. They made also the following important remark, that the practice of the ordinary courts of law in England, is distinguished by "extreme rigour and exactness in the *formal* part of the proceeding, and extreme laxity in the *substantial* part:" That is to say, it is a practice well calculated for sacrificing the substance of justice, under the screen of attention to its forms.

But here also Mr. Burke found himself weak; and so did his opponents find him: because he knew not the ground upon which he stood. He was afraid to do more than carp, as detached instances, at one or two formalities, which he had found, in the case before him, might be employed for the obstruction of justice. And the lawyers overwhelmed him with assumptions to which it was the habit of his mind to submit. Had he seen far enough into the subject, to be able to denounce every thing merely technical in judicial procedure, every thing which falls not under the description of a simple and rational instrument of simple and rational inquiry, as a contrivance set up to impede the course of justice, and existing only for pernicious ends; the lawyers would have found that they had nothing beside their common-place fallacies by which they could oppose him.

V. On the question of *publicity*, the managers spoke with the greatest emphasis. They divided the subject into two parts; that relating to the publicity of the judges' opinions; and that relating to publicity in general.

In taking the opinions of the judges in private, and defrauding the parties and the public of the benefit of their reasons, the committee complained, that the House of Lords had violated, at once, the obvious rules of natural justice, and the established law and usage of their own house. To show what was the law and usage of the High Court of Parliament a variety of precedents were adduced.

On the more general part of the question, it was the object of the committee to show, that the publicity of all the proceedings of the judges, and the statement of the reasons upon which all their determinations were founded, were so much the confirmed and undeviating practice in all other English courts of law, that "it seemed to be moulded in the essential frame and constitution of British judicature".

It was also their object to show, that this great principle was indispensably necessary, both for preserving the public liberties of the country, and for securing to the people the benefits of law.

"It was fortunate," they said, "for the constitution of this kingdom, that in the judicial proceedings in the case of ship-money, the judges did not then venture to depart from the

ancient course. They gave, and they argued, their judgment, in open court. Their reasons were publicly given; and the reasons assigned for their judgment took away all its authority."

In regard to the benefits of law, they said; "To give judgment privately, is to put an end to Reports; and to put an end to Reports is to put an end to the law of England". This the committee made out, by showing, that in respect to law the people of England are in a most dreadful situation. For the greater part of that which they ought to possess in the state of precise and accurate law, they have nothing but notes, taken by any body, of what has been done, without any better kind of law, in this, and the other instance, in the several courts. It followed of course, that, if you have no law beside these notes, and yet destroy your notes, you destroy also the law. "Your Committee," said the report, "conceives, that the English jurisprudence has not any other sure foundation: nor consequently the lives and properties of the subject any secure hold; but in the maxims, rules and principles, and juridical traditional line of decisions, contained in the notes taken, and, from time to time, published, called Reports." After the word "published", the report says, "mostly under the sanction of the judges;" an expression that misleads, if it is understood to import any security taken by the judges, that they are correct: or even any knowledge the judges possess of what they are to contain.—Is not this a shocking account of a state of law yet existing in a civilized country? It is here also fit, to insert a protest which was entered in the Journals of the Lords, against the innovation of secret deliberation and despotical mandates—mandates purely despotical, because mere expressions of arbitrary will.

"DISSENTIENT. 1st. Because, by consulting the Judges out of court in the absence of the parties, and with shut doors, we have deviated from the most approved, and almost uninterrupted, practice of above a century and a half, and established a precedent not only destructive of the justice due to the parties at our bar, but materially injurious to the rights of the community at large, who in cases of impeachments are more peculiarly interested that all proceedings of this High Court of Parliament should be open and exposed, like all other courts of justice, to public observation and comment, in order that no covert and private practices should defeat the great ends of public justice.

"2ndly. Because, from private opinions of the Judges, upon private statements, which the parties have neither heard nor seen, grounds of a decision will be obtained, which must inevitably affect the cause at issue at our bar; this mode of proceeding seems to be a violation of the first principle of justice, inasmuch as we thereby force and confine the opinions of the Judges to our private statement; and through the medium of our subsequent decision we transfer the effect of those opinions to the parties, who have been deprived of the right and advantage of being heard, by such private, though unintended, transmutation of the point at issue.

"3rdly. Because the prisoners who may hereafter have the misfortune to stand at our bar will be deprived of that consolation which the Lord High Steward Nottingham conveyed to the prisoner, Lord Cornwallis, viz. 'That the Lords have that tender regard of a prisoner at the bar' that they will not suffer a case to be put in his absence, lest it should prejudice him by being wrong stated.'

"4thly. Because unusual mystery and secrecy in our judicial proceedings must tend either to discredit the acquittal of the prisoner, or render the justice of his condemnation doubtful.

"(Signed)

PORCHESTER,
SUFFOLK AND BERKSHIRE,
LOUGHBOROUGH."

VI. The committee next showed, by irresistible evidence, that the House of Lords, by the questions which they had transferred to the decision of the judges, had subverted the usage of parliament, violated some of the most important of the privileges of the Commons, betrayed and relinquished their own judicial trust, and broken down one of the strongest bulwarks of the constitution.

On all former occasions, the judges were consulted by the Lords, not on the individual circumstances of the individual cause; but on some general question, within which the circumstances of the individual case might fall, and the application of which to those circumstances the Lords reserved to themselves.

"In the present trial", says the report, "the judges appear to your Committee, not to have given their judgment on points

of law, stated as such; but to have, in effect, tried the cause, in the whole course of it, with one instance to the contrary.—The Lords have stated no question of general law; no question on the construction of an act of parliament; no question concerning the practice of the courts below. They put the whole gross case, and matter in question, with all its circumstances, to the judges. They have, *for the first time*, demanded of them what particular person, paper, or document, ought, or ought not, to be produced before them, by the managers for the Commons of Great Britain”.

So much for the innovation: Now for the consequences of it.

“This mode strikes, as we apprehend, at the vital privileges of the House. For, with a single exception, the case being stated, the questions are raised directly, specifically, and by name, on these privileges; that is, What evidence is it competent for the managers of the House of Commons to produce.—We conceive, that it was not proper, nor justified by a single precedent, to refer to the judges of the inferior courts any question, and still less for them to decide in their answer, of what is, or is not competent for the House of Commons, or for any committee acting under their authority, to do, or not to do, in any instance, or respect whatsoever. This new and unheard of course can have no other effect than to subject to the discretion of the judges the law of parliament and the privileges of the House of Commons, and in a great measure the judicial privileges of the Peers themselves: any intermeddling in which, on their part, we conceive to be a dangerous and unwarrantable assumption of power”.

Such were the effects upon the Privileges of the Lords, and the Commons. Let us next observe what they were upon objects of much greater importance.

“The operation of this method is, in substance, not only to make the Judges masters of the whole process and conduct of the trial; but, through that medium, to transfer to them the ultimate judgment on the cause itself and its merits.

“These essential innovations tend, as your Committee conceives, to make an entire alteration in the constitution and in the purposes of the High Court of Parliament, and even to reverse the ancient relations between the Lords and the Judges.

“It tends wholly to take away from the Commons the benefit of making good their case before the proper judges, and submits this high inquest to the inferior courts.

“Your Committee sees no reason why, on the same principles and precedents, the Lords may not terminate their proceedings in this and in all future trials, by sending the whole body of evidence taken before them, in the shape of a special verdict, to the Judges, and may not demand of them whether they ought, on the whole matter, to acquit or condemn the prisoner: Nor can we discover any cause that should hinder them from deciding on the accumulative body of the evidence, as hitherto they have done in its parts, and from dictating the existence or non-existence of a misdemeanor or other crime in the prisoner, as they think fit,—without any more reference to principle or precedent of law, than hitherto they have thought proper to apply in determining on the several parcels of this cause.

“Your Committee apprehends, that very serious inconveniences and mischiefs may hereafter arise from a practice, in the House of Lords, of considering itself as unable to act without the judges of the inferior courts, of implicitly following their dictates, of adhering with a literal precision to the very words of their responses, and putting them to decide on the competence of the managers for the Commons,—the competence of the evidence to be produced,—who are to be permitted to appear,—what questions are to be asked of witnesses, and, indeed, parcel by parcel, of the whole of the gross case before them; as well as to determine upon the order, method, and process of every part of their proceedings. The judges of the inferior courts are by law rendered independent of the Crown. But this, instead of a benefit to the subject, would be a grievance, if no way was left of producing a responsibility. If the Lords cannot, or will not act without the Judges; and if (which God forbid!) the Commons should at any time find it hereafter necessary to impeach them before the Lords; this House would find the Lords disabled in their functions, fearful of giving any judgment on matter of law, or admitting any proof of fact without them; and having once assumed the rule of proceeding and practice below as their rule, they must at every instance

resort, for their means of judging, to the authority of those whom they are appointed to judge.”

On the side of judicature, then, the people were left without a remedy. The Lords, by nullifying themselves, took away every legal check upon the iniquity of judges, because the judges could only be tried before the Lords, and to be tried before the Lords was to be tried by themselves.

For the departure from the ancient practice of framing a general question, within which the particular point in doubt was comprehended, to the new and extraordinary practice of sending the particular point itself to the judges, before whom the cause and its evidence were not brought, two possible causes are assignable. First; Talent, and the exercise of talent, were necessary to the framing of general questions; but talent was possibly scarce, and the labour of thought undoubtedly painful. Secondly; General rules, framed to embrace the particular instances decided as they were by the judges, would, in many cases, not have borne to be expressed; their efficacy, in corrupting the administration of justice, would have been sufficiently visible, to excite the indignation of the world.

They would have been seen to be, what, by the committee, they were declared to be, “of a tendency to shut up for ever all the avenues to justice;” to operate as “a means of concealment;” “to render the process of judicature, not the terror, but the protection, of all the fraud and violence arising from the abuse of power;” and, united with “private, unargued judicial opinions, to introduce, by degrees, the miserable servitude which exists where the law is uncertain or unknown.”

“*A miserable servitude exists wherever the law is uncertain or unknown.*” Such was the opinion, solemnly pronounced, on a very important occasion, by the assemblage of great men by whom this trial of Warren Hastings was conducted. Does any man dispute its truth and importance? After this acknowledgment, did the managers reflect how dreadfully uncertain law must be, in that country where it has nothing for its foundation, but the notes, taken by casual individuals, of the incidents which happen in this and that individual case? Did they reflect, to how dreadful a degree law must be unknown, in that country, in which it is so voluminous and obscure, that the longest life

of the most ingenious lawyer, according to the lawyers themselves, is not sufficient to learn completely even one of its parts. Is it necessary to add, how great a portion of this *miserable servitude* is, therefore, the curse and the disgrace of the country, among the legislators of which these managers themselves were found?

VII. The committee made a dissertation of considerable value upon the rules of evidence, or rather the rules for exclusion of evidence. Even here, however, the author of the report saw his way but obscurely. He perceived distinctly, that every one of the rules of exclusion, which had been brought to bear against himself, was mischievous, and opposed to the course of justice in that particular application of it. But he did not ascend to the principle of exclusion itself; and perceive that generically it was pregnant with nothing but mischief. The mind of Mr. Burke was not a generalizing mind. It rested, upon individual cases; had little native propensity to ascend any higher; and seldom did so, unless when impelled by unusual circumstances.

The committee begin with stating to the House of Commons, and to the world, a most important fact. They had been informed, before the trial began, that use would be made of the rules of evidence to obstruct them. That is to say, the knowledge existed, and was capable of being turned to practical account, that the laws of evidence were useful to protect a criminal; because it was not yet known whether Hastings was criminal or not criminal; but it was perfectly known, it seems, that, in either case, the laws of evidence would be effectual to obstruct his prosecutors. And, happily, the power of obstructing justice, which English law thus puts into the hands of her professors, received a memorable and flagrant illustration, on the trial of Warren Hastings.

The committee first observe, that if the rules for excluding evidence were of advantage in questions which related to men of our own country merely, and to private transactions, they were altogether inapplicable, in questions, which related "to a people separated from Great Britain by a very great part of the globe, separated by manners, by principles of religion, and by inveterate habits as strong as nature itself, still more than by the circumstance of local distance;" and questions which related

to men, "who, in the perpetration and concealment of offences, have had the advantage of all the means and powers given to government for the detection and punishment of guilt, and for the protection of the people."

The author of the report lays down the principle of evidence, with more than his usual comprehensiveness, in the following words: "Your committee conceives, that the trial of a cause is not in the arguments or disputations of the prosecutors and the counsel, but in the *evidence*; and that to *refuse* evidence, is to refuse to hear the cause: Nothing, therefore, but the most clear and weighty reasons ought to preclude its production." Yet, after laying down this important proposition, the author seems to have known little of its value; for he makes hardly any use of it, but goes immediately to challenge his adversary, on the score of precedent and practice; though he had made the committee expressly declare, that where not "founded on the immutable principles of substantial justice, no practice, in any court, high, or low, is proper, or fit to be maintained."

The committee proceeded to lay before the House and the world, the result of a careful research, which they professed to have made into the subject of *legal technicalities*, or "those supposed strict and inflexible rules of proceeding and of evidence, which appeared to them," as they affirmed, "destructive of all the means and ends of justice;" a declaration more firmly grounded than even they were aware; and of which their country has not yet been wise enough to profit.

They gave an account of the doctrine of evidence, as it had been manifested in the proceedings of the high court of parliament, as it existed in the civil or Roman, and as it existed in English law. The inference presented was, that on the trial of Mr. Hastings, the Lords, in the leading-strings of the judges, went beyond the law of parliament, beyond the civil, and beyond even the English law, in their rejections of evidence.

Reflecting upon the history of English law, which for a series of years had been relaxing the ceremonial of barbarous times, and always most rapidly in the hands of its most enlightened professors, the committee presented a most important historical and philosophical fact; That an overlaboured devotion to forms, at the expense of substance, is the bent of a rude age; and of a rude mind, in all ages.

The committee, having produced a number of the most remarkable instances they could find, in which the judges had violated the formalities of law in order to preserve the substance of justice, exhibited the following brilliant eulogium on the courts of law: "It is with great satisfaction your committee has found, that the reproach of *disgraceful subtleties*, of inferior rules of evidence which prevent the discovery of truth, of forms and modes of proceeding which stand in the way of that justice, the forwarding of which is the sole rational object of their invention, cannot fairly be imputed to the common law of England, or to the ordinary practice of the courts below."

This was to draw a general rule from the induction of a small and insufficient number of particulars, agreeably to the mental habit of Edmund Burke. He had exhibited a certain number of instances, in which the formalities of law had been made to yield to the claims of justice. He might have exhibited a much greater number, in which the claims of justice had been made to yield to the formalities of law. Mr. Burke seems to have been perfectly ignorant of a great and pervading principle of English law, which may be called *the principle of duplicity*. On occasions, so numerous as to extend over a great part of the whole field of law, English judges are provided with *two* grounds, on which they may erect their decisions; two *opposite* grounds, by means of which they may, upon the same question, make choice of any one of two opposite decisions which they please; and still be in the right. They may follow the rule of rational justice, and the genuine merits of the case, without regard to the formalities of law: In that instance, they are clothed with the praise of liberality. They may adhere to the formalities, and disregard the substance of the case: In that instance they are decorated with the praise of a zeal for the law, for that steadiness and fixity in the rules of law on which the usefulness of them mainly depends. This power of deciding, either on one side or another, just as they please, is arbitrary power; and, as far as it extends, renders the Judges completely, and uncontrollably, despotic. They may do whatever they please. They may favour justice, if they have an inclination for justice. They may violate justice, if they have any end to serve by the violation. In the one case they are safe, on pretence of justice: in the other they are safe, on pretence of law.

VIII. After some general observations on the nature and importance of circumstantial evidence, the committee stated that the Lords had, on this occasion, pursued a course, not only unsupported by any practice of their predecessors, and in hostility with the practice of the courts below; but a course which appeared to the committee "totally abhorrent from the genius of circumstantial evidence, and mischievously subversive of its use."

"As proof by circumstantial evidence rarely, if ever," says the report, "depends upon one fact only, but is collected from the number and accumulation of circumstances concurrent in one point; we do not find an instance until this trial of Warren Hastings, Esq. (which has produced many novelties) that attempts have been made by any court to call on the prosecutor for an account of the purpose for which he means to produce each particle of this circumstantial evidence, to take up the circumstances one by one, to prejudge the efficacy of each matter separately in proving the point; and thus to break to pieces and garble those facts, upon the multitude of which, their combination, and the relation of all their component parts to each other and to the culprit, the whole force and virtue of this evidence depends. To do any thing which can destroy this collective effect, is to deny circumstantial evidence."

The following was another pertinent remark. "Your committee cannot but express their surprise at the particular period of the present trial when the attempts to which we have alluded first began to be made. We did not find any serious resistance on this head, till we came to make good our charges of secret crimes; crimes of a class and description, in the proof of which all Judges of all countries have found it necessary to relax almost all their rules of competency; such crimes as peculation, pecuniary frauds, extortion, and bribery."

IX. The committee complained that the Lords had made it a ground of exclusion, if a question was put on the cross-examination, not on the examination in chief; or if an article of evidence was tendered on the reply, not in the first stage of the prosecution. They entered into a long argument to show, that this conduct, as it was unfavourable to the discovery of truth, and correct decision; so it was unsupported by any thing in the law or practice of the courts.

X. The committee, last of all, commented upon the defence set up for this rejection of evidence; that it corresponded with the practice of the Judges in trying offences under commissions of oyer and terminer. They made a distinction between common jurymen, bound to give their verdict at one sitting, and the Peers of Parliament, possessing all the time for deliberation which the case might require. They allowed, with flagrant inconsistency, that exclusion might be very wise and good, when it was common jurymen who were to decide upon the case; contended that it was very noxious when the Lords of Parliament were to decide: As if common jurymen were capable of deciding accurately and justly upon the merits of a case, with evidence not complete; the Lords of Parliament were not capable! As if the way to prevent ignorance from deciding wrong was to withhold information! As if a man with imperfect eyes were expected to find his way best in the dark! Assuredly, if an ignorant man is called upon to make a decision, the way to obtain a correct one is not to deprive him of information on the subject, but to give him all the information in your power, and instruct him, as completely as you can, what degree of influence each article of information intrinsically possesses towards proving the matter in dispute.

This unprecedented exposure of abuses in the law, and of the advantage made of those abuses, by the professors of the law, excited the highest indignation among those professors. Lord Thurlow, at the head of them in point of weight, and almost at the head of them also in impetuosity of temper, broke out, on an early occasion, with the flames which were kindled within his breast.

In a debate which took place in the House of Peers, on Thursday, May 22, on the bill for allowing government to take up and confine for a limited time persons suspected of treasonable or seditious practices, Lord Thurlow in his speech mentioned "a pamphlet which his Lordship said was published by one Debrett in Piccadilly, and which had that day been put into his hands, reflecting highly upon the Judges and many Members of

that House: it was disgraceful and indecent; such as he thought never ought to pass *unpunished*. He considered that vilifying and *misrepresenting* the conduct of Judges and Magistrates, entrusted with the administration of justice and the laws of the country, *was a crime* of a very heinous nature, most destructive in its consequences, because it tended to lower them the opinion of those who ought to feel a proper reverence and respect for their high and important stations; and when it was stated to the ignorant and wicked, that their Judges and Magistrates were ignorant and corrupt, it tended to lessen their respect for, and obedience to, the laws of their country, because they were taught to think ill of those who administered them."

We may here observe one of the most remarkable of the expedients of the lawyers. What they have laboured from an early date to create and establish in the minds of their countrymen is—a belief, that it is criminal ever to express blame of them or their system. This endeavour has hardly been less diligent than it has been successful. The belief has grown into one of the most rooted principles in the minds of the more opulent classes of Englishmen. That it is one of the most pernicious prejudices is indisputable. For it is obvious, that it confers upon the lawyers, as far as it goes, a complete and absolute license to make the system of which they are the organs, and upon which all the happiness of society depends, as favourable to their own interests, at the expense of those of the community, as ever they please. It is, therefore, a belief artificially created by the lawyers, for the protection of their own abuses; and will never be allowed to retain a place in the mind of any enlightened and disinterested man. The grand remedy for the *defects* of government is, to let in upon them publicity and censure. The grand remedy for the misconduct of the *members* of government is, to let in upon it publicity and censure. There are no abuses in the exposure of which society is more interested than those of the law. There is no misconduct in the exposure of which it is more interested than that of the lawyers.

The first thing observable in the speech of this great lawyer is the *fiction*, under which he speaks of the report of a committee of the House of Commons. It was a *pamphlet* published by one Debrett. The regulations of parliament required, that notice

should not be taken in one of the Houses, of any thing done in the other. The speech of the great lawyer, then, was a flagrant violation of that rule; for the whole purport of it was to arraign the *matter* of the writing, which was the production of the House of Commons, not the mere act of *publication*, in which alone Debrett was concerned. A rule that can be set aside by a fiction, that is, by a declaration more or less false, adapted to the purpose, is not a rule that is good for much, as it will never be in substance regarded when any one has a motive for breaking it.

The vindictive Judge here speaks of two things, *vilifying*, and *misrepresenting*. If he meant to say, that the report of the committee of the House of Commons had misrepresented any thing done by the Judges, of either of the two descriptions, concerned in the trial of Mr. Hastings; it is not true. He could not have mentioned a single fact which was not justly stated; nor a single censure, with respect to which, the fact against which it was pointed, and the reasons for which it was applied, were not both of them distinctly assigned. Nothing could be farther from misrepresentation than this.

Further, the offended Judge speaks of *two* things, vilifying, and misrepresenting, as if they were one and the same thing; and thereby creates a deceitful, and mischievous confusion. *Misrepresenting*, which is conveying a false conception of another man, is always bad. It may or it may not imply guilt, according to the state of the mind from which it issued. But all means should be employed both to prevent its existence, and to provide a remedy for its effects. *Vilification* is a very different thing; and is subject to very different laws. Vilification, as distinct from misrepresentation, is the conveying a true character of a bad man. The case is not easy to be conceived, in which that is not good for society. There can be no case, in which to publish the true character of a bad ruler is not good for society. There can be no case, in which to publish the true character of a bad *Judge* is not pre-eminently beneficial to society.

Observe the slight of hand, with which the artificer endeavours to pass his counterfeit coin. *Vilification*, and *misrepresentation*, are both spoken of, as the same thing. Misrepresentation is unquestionably bad; and vilification being shuffled in, under the same cover, is spoken of as bad also. And then comes the doc-

trine, delightful to the lawyer, that to speak with censure of the dignitaries of the law, on any occasion, or in any shape, is the height of criminality; and that "to reflect," as they call it, upon the Judges, that is, to make just remarks upon ill behaviour, "ought never to pass *unpunished*." It is very natural for Judges to preach punishment for all "reflection" upon Judges. But what is the consequence with respect to the unhappy community? To ensure to the Judges a power of gratifying and aggrandizing themselves at their expense: the power, in short, of making and keeping the law, an instrument, to any extent which they please, not of justice, but oppression.

Hear the plea of the lawyer, in behalf of his mischievous claim. To make known, says he, the offences of the great men of the law would "diminish respect for, and obedience to, the laws." That is to say: When laws and the administration of them are made good, they will not be respected: When they are bad, if you only say nothing about their badness, and allow the lawyers to praise the badness as if it were goodness, you will then have perfect respect and obedience. Who but those who have rendered up their understandings to the will of the deceivers, can believe this wretched misrepresentation of the human mind? It requires pains and trouble, cunningly and perseveringly applied, to make people in love with that which hurts them; leave them only to the operation of nature, and that which does them good will of itself engage their affections. If half the pains were taken to make the people see the excellence of good laws, that have been always taken to prevent them from seeing the wickedness of bad laws, an obedience such as the world has never yet beheld, and never can behold, till that righteous course is adopted, would be the consequence, ensured, with the certainty of the laws of nature.³⁹

NOTES AND REFERENCES

¹ Take the following account, from the publication entitled, *Trial of Warren Hastings, Esq. &c. p. 1.*—"Previous to their Lordships' approach to the Hall, about eleven o'clock, her Majesty, with the Princesses Elizabeth, Augusta, and Mary, made their appearance in the Duke of Newcastle's gallery. Her Majesty was dressed in a fawn-coloured satin, her head-dress plain, with a very slender sprinkling of diamonds. The royal box was graced with the Duchess of Gloucester and the young Prince. The ladies were all in morning dresses; a few with feathers and variegated flowers in their head-dress, but nothing so remarkable as to attract public attention.

"Mrs. Fitzherbert was in the royal box.

"The Dukes of Cumberland, Gloucester, and York, and the Prince of Wales, with their trains, followed the Chancellor, and closed the procession.

"Upwards of 200 of the Commons, with the Speaker, were in the gallery.

"The Managers, Charles Fox and all, were in full dress.

"But a very few of the Commons were full dressed—some of them were in boots. Their seats were covered with green cloth—the rest of the building was 'one red.'

"Mr. Hastings stood for some time—On a motion from a Peer, the Chancellor allowed, as a favour, that the prisoner should have a chair—And he sat the whole time—but occasionally, when he spoke to his Counsel.

"His Counsel were Mr. Law, Mr. Plomer, Mr. Dallas.—For the Commons—Dr. Scott and Dr. Lawrence; Messrs. Mansfield, Piggot, Burke, and Douglas.

"A party of horse-guards, under the command of a Field Officer, with a Captain's party from the horse-grenadiers, attended daily during the trial.

"A body of 300 foot-guards also kept the avenues clear, and a considerable number of constables attended for the purpose of taking offenders into custody."

² The words of the quotation are taken from the short account of the speech which is given in the *History of the Trial of Warren Hastings, Esq.*, published by Debrett. The account, though short, is the best which I have been able to procure. The report to which I have had access, in the MS. of the short-hand writer, is exceedingly confused, and indistinct. Upon this passage, the compiler of the *History of the Trial* adds, in a note, "In this part of his speech Mr. Burke's descriptions were more vivid—more harrowing—and more horrific—than human utterance on either fact or fancy, perhaps, ever formed before. The agitation of most people was very apparent—and Mrs. Sheridan was so overpowered that she fainted.

"On the subject of the Ministers of these infernal enormities, he broke out with the finest animation!

"'My Lords,' exclaimed Mr. Burke, 'let me for a moment quit my delegated character, and speak entirely from my personal feelings and conviction. I am known to have had much experience of men and manners—in active life, and amidst occupations the most various! From that experience, I now protest—I *never* knew a man who was *bad*, fit for service that was *good*! There is always some disqualifying ingredient, mixing and spoiling the compound! The man seems *paralytic* on that side! His muscles there have lost their very tone and character!—They cannot move! In short, the accomplishment of any thing good, is a physical impossibility for such a man. There is decrepitude as well as distortion—he **COULD NOT** if he would, is not more certain, than he **WOULD NOT**, if he could!"

"Shocking as are the facts which Mr. Burke related, and which he says he finds recorded in the account taken by Mr. Patterson, who was appointed Commissioner to inquire into the circumstances of this dreadful business, and of a rebellion which took place in consequence, Mr. Burke says, of the above-mentioned cruelties; our readers must see that Mr. Hastings cannot be responsible for them, unless it shall be proved that he was privy to, and countenanced the barbarities."

Short-hand writer's report, MS. in the writer's hands.

- ⁴ MS. *ut supra*.
- ⁵ *Minutes of the Trial of Warren Hastings*, MS. The reader may however consult the printed *History, ut supra*, which differs in nothing material from the original document in my hands.
- ⁶ For a specimen of just ideas on this, and other parts of the subject of evidence, see an unfinished work, entitled, *Rationale of Evidence* by J. Bentham, Esq. For a complete elucidation, the public must wait for that more voluminous production, which he announced as nearly prepared, so long ago as in the first edition of the Letters to Lord Grenville on Scotch Reform.
- ⁷ Minutes of the Evidence taken at the *Trial of Warren Hastings, Esq.* p. 321.
- ⁸ *Minutes of the Trial of Warren Hastings, Esq.* MS. of the short-hand writer.
- ⁹ *Ibid.*, twentieth day.
- ¹⁰ Letter, dated 28th August, 1771; *Minutes, ut supra*, p. 973.
- ¹¹ See a letter, dated 30th September, 1765, from the President Lord Clive and Council, in which her son by the Nabob is treated as a bastard. *Minutes, ut supra*, p. 976.
- ¹² President's Minute in Consultation, 28th July, 1772. *Minutes of Evidence, ut supra*, pp. 973-76.
- ¹³ *Minutes, ut supra*, pp. 978-80.
- ¹⁴ The circumstances respecting the proposal to produce this letter, and the decision upon it, appear more distinctly in the *History of the Trial of Warren Hastings, Esq.*, part ii, p. 57, than in the *Minutes of Evidence*, where there is obscurity, and probably an omission.
- ¹⁵ With respect to Mr. Hastings personally, I am anxious to observe, that this affords a presumption of innocence; at least of the truth of his allegation, that the sum in question, which was given him for entertainment money, as he had never denied it, so he never meant to conceal.
- ¹⁶ The expressions are here taken from the report of the speech, in the *History of the Trial, ut supra*, part ii, p. 64. Mr. Burke, on this occasion, took pointed notice of a circumstance of some importance in the history of the public life of Mr. Hastings. Having warned the Lords of the wide door they laid open for the escape of guilt, by sustaining the disavowals

which the guilty found it convenient to make; "In the case of Mr. Hastings, he said, there appeared to be a system of *disavowals*. The prisoner once appointed an agent, who, in *his* name, made a formal resignation of the Government of Bengal. But the principal afterwards disavowed this act of his agent, and strenuously resisted it, though the ruin of the British empire in the East might have been the consequence of it.

"At another time he delivered at the bar of the House of Commons, (*as his own*) a written defence against the charges then pending against him in that House. But afterwards at their Lordships' bar, he *disavowed* this defence, and produced evidence to prove that it had been drawn up by others, and not by *himself*, and that, therefore, he ought not to be accountable for the contents of it.

"In the case immediately before their Lordships, it had appeared in evidence, that Major Scott was the agent of the prisoner, and that his powers were as unlimited as words could make them, except in one point only. This agent delivered to the Committee of the House of Commons, the papers of which he was then speaking; certainly with some view, and probably to serve his principal, for he delivered them *unasked*. But now he *disavowed* all authority for such delivery."

¹⁷ *History of the Trial, ut supra*, part ii, p. 62.

¹⁸ *Ibid.*, pp. 62-3.

¹⁹ See the *Minutes of Evidence, ut supra*, pp. 953-1101, with the *History of the Trial, ut supra*, part ii.

²⁰ The whole of this scene, as given by the historian of the trial, is curious, and forms an important incident in the *History of Mr. Hastings*.

"Mr. Burke said, that he must submit to their Lordships' decision, but he must say at the same time, that he had heard it with the deepest concern: for if ever there was a case in which the honour, the justice, and the character of a country were concerned, it was in that which related to the horrid cruelties and savage barbarities exercised by Debi Singh, under an authority derived from the British Government, upon the poor forlorn inhabitants of Dinajpur; cruelties and

barbarities so frightfully and transcendently enormous and savage, that the bare mention of them had filled with horror every description of people in the country.

“The impression that even the feeble representation which his slender abilities had been able to produce had made upon the hearts and feelings of all who had heard him, was not to be removed but by the evidence that should prove the whole a fabrication.—The horror which the detail of those cruelties had produced in the minds of all classes of people was indescribable; the most dignified ladies of England had shuddered, and some had fainted at the bare recital; and was no evidence now to be received to prove the existence of those acts of barbarity which had shocked the whole nation?

“Mr. Law said, it was not to be borne, that the Right Hon. Manager should thus proceed to argue in reprobation of their Lordships’ judgments solemnly given.

“Mr. Burke said, nothing could be further from his intention than to reprobate any decision coming from a Court for which he entertained the highest respect. But he was not a little surprised to find, that the learned Counsel should stand forth the champion for their Lordships’ honour;—they were themselves the best guardians of their own honour: and it never could be the intention of the Commons to sully, much less to call in question, the honour of the House of Peers. As their *co-ordinate* estate in the Legislature, the Commons were perhaps not less interested than their Lordships themselves in the preservation of the honour of that noble House; and therefore he never could think of arguing in *reprobation* of any of its decisions.

“But the truth was, that the decision upon which he was then speaking was not upon a question put by the Commons: the Lords had no doubt decided properly; but it was certainly upon their own question, and not upon that of the Commons. If the Commons had been suffered to draw up their question themselves, they would have worded it in a very different manner, and called for the judgment of the House upon a question very differently stated from that on which the decision had just been given.

“It was true that the cruelties charged in the article were

not stated, *eo nomine*, to have been exercised by Debi Singh; but the article charged Mr. Hastings with having established a system which he knew *would* be, and in point of fact *had* actually been, attended with *cruelty* and *oppression*.—The article did not state by whom the acts of cruelty had been committed, but it stated cruelty in general; and of such cruelty, so charged, the managers had a right to give evidence.

“He observed, that their Lordships must perceive a difference in the case thus stated, from that which they had stated themselves, and on which they had decided. He begged, therefore, that they would consider seriously what effect this decision would have upon this part of the article, and upon the general character of the country.

“If they were entirely to shut out all evidence of those acts of cruelty, what would the world say? what would be the opinion of mankind? It would astonish the surrounding nations, that the door should be shut upon the proof of cruelties, the bare recital of which had harrowed up the souls of all who had heard it. The character of the nation would suffer, the honour of their Lordships would be affected, if, when the Commons of England stood ready to prove the existence of barbarities that had disgraced the British name, and called for vengeance on the guilty heads of those who were in any degree instrumental in them, they should be stopped, and told that no evidence could be received in proof of those barbarities. A Noble Lord, deservedly high in the opinion of his Peers, had said, when he heard those savage cruelties detailed, that, compared with the *enormity* of them, all the articles of the impeachment weighed not a feather; that if the detail was founded in truth, no punishment could be too severe for whoever should be found to have had any part in exercising them.

“The same Noble Lord, Mr. Burke observed, had said, that if the Hon. Manager did not make good this most horrid of all charges, he ought to pass for the most daring calumniator. “Upon that issue, said Mr. Burke, I am ready to put my character: suffer me to go into the proofs of those unparalleled barbarities; and if I do not establish them to the full

conviction of this house and of all mankind, if I do not prove their immediate and direct relation to, and connection with the system established by Mr. Hastings, then let me be branded as the boldest calumniator that ever dared to fix upon unspotted innocence the imputation of guilt.

“Earl Stanhope called Mr. Burke to order. His Lordship said, that the *time* of the House must not be wasted in arguments upon questions on which their Lordships had already decided.

“Mr Burke said, that it was his object to save the HONOUR and the CHARACTER of their Lordships, and not their TIME: and it could not have entered his head, that whilst he was pursuing so great an object, he could be supposed to be wasting their TIME, which, though certainly precious, could not weigh a feather against their HONOUR and CHARACTER.

“However, let that be as it might, he had done: he had endeavoured to rescue the character and justice of his country from obloquy; if those who had formerly provoked inquiry, if those who had said that the savage barbarities which he had detailed had no other existence than that which they derived from the malicious fertility of his imagination, if those who had said that he was bound to make good what he had charged, and that he would deserve the most opprobrious names if he did not afford Mr. Hastings opportunity of doing away the impression which every part of the nation had received from the picture of the savage cruelties exercised by Debi Singh; if, he repeated, they now shrunk from the inquiry for which they had before so loudly called, if they now called upon their Lordships to reject, and not listen to the proofs which they before had challenged him to bring, the fault was not with him; he had done his duty to his country, whose honour and justice had been outraged; to the House of Commons, who had sent him to their Lordships’ bar to express their abhorrence of cruelties, and to point the vengeance of the law against those who had been instrumental in practising them; and he had done what he owed to himself, in offering to prove all that he had advanced on the subject, on pain of being branded, if

he should fail in his proofs, as a bold and infamous calumniator.—‘Upon the heads of others, therefore (said he), and not upon those of the Commons of Great Britain, let the charge fall, that the justice of the country was not to have its victim. The Commons have shown their readiness to make good their charges.—But the defendant shrinks from the proof, and insists that your Lordships ought not to receive it.’

“Mr. Law, with unexampled warmth, whether real, or assumed in consequence of instructions in his brief, we cannot pretend to say, replied to Mr. Burke. He said that the Right Hon. Manager felt bold, only because he knew the proof which he wanted to give *could* not be received; that, from the manner in which the charge was worded, their Lordships *could not*, if they *would*, admit them, without violating the clearest rules and principles of law. ‘But (said he) let the Commons put the detail of those shocking cruelties into the shape of a charge which my client can meet, let them present them in that shape at your Lordships’ bar, and then we will be ready to hear every proof that can be adduced. And if, when they have done that, the Gentleman for whom I am now speaking does not falsify every act of cruelty that the Honourable Managers shall attempt to prove upon him, MAY THE HAND OF THIS HOUSE AND THE HAND OF GOD LIGHT UPON HIM!’

“After this ejaculation, delivered in a tone of voice not unlike that of the theatric hero, when he exclaims, ‘Richard is hoarse with calling thee to battle!’—this part of the business-ended.” *History of the Trial of Warren Hastings, Esq.*, part iii, pp. 54-6.

Beside what Mr. Burke had thus declared, Mr. Fox, in the speech in which he summed up the evidence on this article said, “The Counsel for the defendant had, upon this subject invoked the judgment of their Lordships, and the vengeance of Almighty God, not on their own heads, but on the head of their client, if the enormities of Debi Singh, as stated by his Right Hon. Friend, should be proved and brought home to him. He knew not how the defendant might relish his part in this imprecation which the Counsel

had made; but in answer to it, if the time should come when they were fairly permitted to come to the proof of those enormities, he would, in his turn, invoke the most rigorous justice of the Noble Lords, and the full vengeance of Almighty God, not on the head of his Right Hon. Friend, but on his own, if he did not prove these enormities and bring them home to the defendant, in the way which his Right Hon. Friend had charged them upon him; and this he pledged himself to do, under an imprecation on himself, as solemn as the Counsel had invoked on their client". As these passages, and the passages from the introductory speech of Mr. Burke, have been presented to the reader, it is fair that he should also receive what Mr. Hastings said in his defence. "I will not detain your Lordships by adverting, for any length, to the story told by the manager who opened the general charges relative to the horrid cruelties practised on the natives of Dhee Jumla by Debi Singh.—It will be sufficient to say, that the manager never ventured to introduce this story in the form of a charge, though pressed and urged to do so, in the strongest possible terms, both in and out of Parliament.—Mr. Paterson, on whose authority he relied for the truth of his assertions, and with whom, he said, he wished to go down to posterity, has had the generosity to write to my attorney in Calcutta for my information, 'That he felt the sincerest concern to find his reports turned to my disadvantage, as I acted as might be expected from a man of humanity throughout all the transactions in which Debi Singh was concerned.'—Had the cruelties which the manager stated been really inflicted, it was not possible, as he very well knew at the time, to impute them, even by any kind of forced construction, to me.—My Lords, it is a fact that I was the first person to give Mr. Paterson an ill opinion of Debi Singh, whose conduct upon former occasions had left an unfavourable, and perhaps an unjust, impression upon my mind. In employing Devi Singh I certainly yielded up my opinion to Mr. Anderson and Mr. Shore, who had better opportunities of knowing him than I could have. In the course of the inquiry into his conduct he received neither favour nor countenance from me, nor from any Member of

the Board. That inquiry was carried on principally when I was at Lucknow, and was *not* completed during my government, though it was commenced and continued with every possible solemnity, and with the sincerest desire, on my part, and on the part of my colleagues, to do strict and impartial justice. The result I have read in England; and it certainly appears that though the man was not entirely innocent, the extent of his guilt bore no sort of proportion to the magnitude of the charges against him. In particular, it is proved that the most horrible of those *horrible* acts, so artfully detailed, and with such effect, in this place, *never were committed at all*.

“Here I leave the subject, convinced that every one of your Lordships must feel for the unparalleled injustice that was done to me by the introduction and propagation of *that atrocious calumny*.” How far these allegations of a man in his own favour, who would not allow them to be submitted to proof, are entitled to weigh, is the question which remains.

²¹ The words of Mr. Burke, as reported by the historian of the trial, are as follow: “At the revolution, the people had taken no other security for that preservation, and for the pure and impartial administration of justice, than the responsibility of ministers and judges to the High Court of Parliament. An impeachment by the Commons was the mode of bringing them to justice, if the former should attempt any thing against the constitution, or the latter should corruptly lend themselves to measures calculated to set aside the government by law, or should attempt to pollute the source of public justice. “If in the pursuit of such criminals the Commons, who could have nothing in view but substantial justice, were to be stopped at every step by objections drawn from technical rules and forms of pleading, then would the greatest and most dangerous criminals escape the vengeance of offended justice; parliamentary impeachments, which were the principal, if not the only security for the preservation of the constitution, would become nugatory and vain; and the most corrupt ministers might, without check or control, pursue the most anti-constitutional career, unawed by responsibility, or an impeachment from which they could have nothing to fear.” *History, ut supra*, part iii, p. 58.

- ²² On this head of the proceedings, have been followed the printed *Minutes of Evidence*, *ut supra*, pp. 1103-1301, and the *History of the Trial*, *ut supra*, part iii.
- ²³ On this article of charge, see printed *Minutes of Evidence*, *ut supra*, pp. 1303-1458; *History of Trial*, *ut supra*, part iv. pp. 64-80.
- ²⁴ He asserted, "The resources of India cannot, in time of war, meet the expenses of India." He denied that loans could be obtained: "I could not borrow to the utmost extent of my wants, during the late war, and tax posterity to pay the interest of my loans. The resources to be obtained by loans (those excepted for which bills upon the Company were granted,) failed early in my administration, and will fail much earlier in Lord Cornwallis's."
- ²⁵ The Nizam. ²⁶ Mudhoji Bhonsla. ²⁷ Mahadaji Sindhia.
- ²⁸ The Mahrattas. ²⁹ Tipu Sultan.
- ³⁰ See, for this head of the trial, *Minutes of Evidence*, *ut supra*, pp. 1465-1822. *History of the Trial*, part v.
- ³¹ *History of the Trial*, *ut supra*, part vi, p. 42.
- ³² *Minutes*, *ut supra*, pp. 1823-2090; *History of Trial*, *ut supra*, part vi, pp. 38-55.
- ³³ Report of the Committee of the House of Commons (which Committee were the managers) appointed 5th March, 1794, to report on certain matters in the impeachment of Mr. Hastings.
- ³⁴ *Minutes*, *ut supra*, pp. 2090-2323; *History of Trial*, *ut supra*, part vi, pp. 55-78.
- ³⁵ See Appendix (p. 172 of this volume).
- ³⁶ For the evidence, and incidents on the reply, see the printed *Minutes*, *ut supra*, pp. 2479-2854, *History of the Trial*, *ut supra*, part vii.
- ³⁷ In this concluding part of the business of the impeachment, has been followed a volume in quarto entitled "Debates of the House of Lords on the Evidence delivered on the Trial of Warren Hastings, Esquire; Proceedings of the East India Company, in consequence of his Acquittal; and Testimonials of the British and Native Inhabitants of India, relative to his Character and Conduct whilst he was Governor-General of Fort William in Bengal".—This was a volume comp-

iled and distributed under Mr. Hastings's directions, and at his expense, but never published. The contents of it, however, are found almost verbatim in the *History of the Trial*, (part viii) to which reference has been so frequently made.

³⁸ *Debates of the House of Lords, &c. ut supra*, pp. 331-495.

³⁹ What Mr Burke said upon the subject of this attack deserves attention; though his strictures fall greatly short of the mark, because his mind was deluded by the fallacy—of respect for bad Judges, and bad laws. On the day after the speech of Lord Thurlow was delivered in the House of Lords, he thus addressed the House of Commons:

“The licence of the present times makes it very difficult to talk upon certain subjects in which Parliamentary Order is involved. It is difficult to speak of them with regularity, or to be silent with dignity or wisdom. All our proceedings have been constantly published, according to the discretion and ability of individuals, with impunity, almost ever since I came into Parliament. By prescription people had obtained something like a right to this abuse. I do not justify it. The abuse is now grown so inveterate, that to punish it without a previous notice would have an appearance of hardship, if not injustice. These publications are frequently erroneous as well as irregular, but not always so: what they give as Reports and Resolutions of this House, have sometimes been fairly given.

“It has not been uncommon to attack the proceedings of the House itself, under colour of attacking these irregular publications; and the House, notwithstanding this colourable plea, has, in some instances, proceeded to punish the persons who have thus insulted it. When a complaint is made of a piratical edition of a work, the author admits that it is his work that is thus piratically published; and whoever attacks the work itself in these unauthorised publications, does not attack it less than if he had attacked it in an edition authorised by the writer.

“I understand, that in a place which I greatly respect, and by a person for whom I have likewise great respect, a pamphlet published by a Mr. Debrett has been very heavily censured. That pamphlet, I hear (for I have not read it)

purports to be a Report made by one of your committees to this House. It has been censured (as I am told) by the person and in the place I have mentioned, in very harsh and very unqualified terms. It has been said, and so far very truly, that at all times, and particularly at this time, it is necessary for the preservation of order and the execution of the law, that the characters and reputation of the Judges of the Courts in Westminster Hall should be kept in the highest degree of respect and reverence; and that in this pamphlet, described by the name of a Libel, the characters and conduct of those Judges upon a late occasion had been aspersed, as arising from ignorance or corruption.

“I think it impossible, combining all the circumstances, not to suppose that this Speech does reflect upon a Report which, by an order of the committee on which I served, I had the honour of presenting to this House. For any thing improper in that Report I am responsible, as well as the other members of the committee, to this House, and to this House only. The matters contained in it, and the observations upon them, are submitted to the wisdom of the House, that it may act upon both in the time and manner that to your judgment may seem most expedient, or that you may not act upon them at all, if you should think it most useful to the public good. Your committee has obeyed your orders; it has done its duty in making that Report. I am of opinion with the eminent person by whom that Report is censured, that it is necessary, at this time very particularly, to preserve the authority of the Judges. This, however, *does not depend upon us, but upon themselves*. It is necessary to preserve the dignity and respect of all the constitutional authorities. This, too, depends upon ourselves. It is necessary to preserve the respect due to the House of Lords: it is full as necessary to preserve the respect due to the House of Commons: upon which (whatever may be thought of us by some persons) *the weight and force of all other authorities within this kingdom essentially depend*. If the power of the House of Commons is degraded or enervated, no other can stand. We must be true to ourselves; we ought to animadvert upon any of our members who abuse the trust we place in them: we must support

those who, without regard to consequences, perform their duty.

“For your committee of managers, and for myself, I must say, that the Report was deliberately made, and does not, as I conceive, contain any very material error, or any undue or indecent reflection upon any person. It does not accuse the Judges of ignorance or corruption. Whatever it says, it does not say calumniously. This kind of language belongs to persons whose eloquence entitles them to a free use of epithets. The report states, that the Judges had given their opinions *secretly*, contrary to the almost uninterrupted tenor of Parliamentary usage on such occasions. It states that the opinions were given, not upon the *Law*, but upon the *Case*. It states, that the mode of giving the opinions were *unprecedented, and contrary to the privileges of the House of Commons*. It states, that the committee did not know *upon what rules and principles the Judges had decided upon those cases*, as they neither heard them, nor are they entered upon the Journals. It is very true, that we were and are extremely dissatisfied with those opinions, and the consequent determinations of the Lords; and we do not think such a mode of proceeding at all justified by the most numerous and the best precedents. None of these sentiments are the committee, as I conceive (and I full as little as any of them) disposed to retract or to soften in the smallest degree.

“The Report speaks for itself. *Whenever an occasion shall be regularly given to maintain everything of substance in that Paper, I shall be ready to meet the proudest name for ability, learning, or rank, that this kingdom contains, upon that subject*. Do I say this from any confidence in myself? Far from it! It is from my confidence in our cause, and in the ability, the learning, and the constitutional principles, which this House contains within itself, and which I hope, it will ever contain; and in the assistance which it will not fail to afford to those who, with good intention, do their best to maintain the essential Privileges of the House, the ancient Law of Parliament, and the public Justice of the Kingdom.” *History of Trial*, part vii, pp. 117-18.

No reply or observation was made on the subject by any other member.

CHAPTER 3

Tipu Sultan

LORD CORNWALLIS took in his hand the reins of the Indian government in the month of September, 1786; and was guided by a pretty extensive code of instructions, carried out from the joint manufacture of the Board of Control and the Court of Directors.

Of the two grand divisions into which the measures of this Governor-General are distinguished; those which regarded the interior management of the empire, and those which regarded its external relations; the one constitutes a subject distinct from the other; and we shall consult utility, by reserving the attempts which he made to improve the state of the government, till after the narrative is presented of the transactions which took place between him and the neighbouring powers.

The state of the connection with the Nabob of Oudh was the object which first solicited the attention of Lord Cornwallis. The preceding Governor-General and Council had pledged themselves to Mr. Hastings for the support of that arrangement which was one of the last measures of his administration. But no sooner had Lord Cornwallis arrived in India, than the Nabob proposed to come even in person to Calcutta, and pressed in the most earnest manner for leave to send Hyder Beg Khan his minister. The object was, to represent as insupportable the weight of the burthen which was still imposed upon his country: and to entreat that the temporary brigade, now called the Fatehgarh brigade, should, agreeably to the contract which Mr. Hastings had formed, but which had never been observed, now be withdrawn.

To Lord Cornwallis, it appeared, however, by no means safe, to entrust the defence of the Nabob's dominions to the stipulated amount of the Company's troops, a single brigade at Kanpur. In the minute which he recorded upon this occasion, he represented the discipline of the Nabob's own troops as too

NOTES AND REFERENCES

- ¹ See Papers relating to the East Indies, printed by order of the House of Commons in 1806, No. 2. pp. 1-14.
- ² Copy of a letter from Earl Cornwallis to Sir Archibald Campbell, dated Calcutta, 30th of May, 1788. Ordered to be printed 1792. Wilks's *Historical Sketches*, ii, pp. 535-59, iii, p.36.
- ³ "As his Highness's political situation with the Mahrattas has long approached almost to a state of dependance upon the Poona government, we could make no alteration in the terms of our agreement with the Nizam, without its being construed by the Peshwa's ministers as an attempt to detach him from them." Lett. Cornwallis to Secret Committee, 1st of November, 1789. We are informed by Col. Wilks, that at the same time with this embassy to the English government, the Nizam sent one Tipu, to propose an alliance offensive and defensive; whether to supersede the agreement with the English, or as a further security, does not appear. Tipu proposed the adjunct of a matrimonial connexion between the families; but this, not suiting the family pride of the Nizam, broke off the negotiation. *Historical Sketches*, iii, pp. 26, 36.
- ⁴ The Governor-General imputets bad faith to those who inserted them, as well as the clause relating to the grant of the Carnatic Balahgaut and the consequent peshcush: "The sixth and twelfth articles are couched in terms which do not manifest a very sincere intention in the framers of the treaty to perform them" Minute of Governor-General, 10th of July, 1789.
- ⁵ Letter, Cornwallis to the Nizam, 7th of July, 1789.
- ⁶ Sir John says further, "that such ideas were entertained by Tipu, from the moment he heard of the conclusion of this engagement, there cannot be a doubt. It would indeed appear by a letter from the resident at Poona, that the minister of that Court considered this engagement as one of an offensive nature, against Tipu Sultan." *Sketch ut supra*, p. 68.
- ⁷ Malcolm's Sketch, *ut supra*, pp. 66-69. See the papers rela-

- tive to this treaty, laid before parliament, in 1792. To the same purpose, another enlightened Indian Soldier: "It is highly instructive to observe a statesman, justly extolled for moderate and specific dispositions, thus indirectly violating a law, enacted for the enforcement of these virtues, by entering into a very intelligible offensive alliance." Wilks's *Historical Sketches*, iii, p. 38.
- ⁸ Written Ayacottah, by Col. Wilks.
 - ⁹ Letter, Governor-General to the Secret Committee, 1st November, 1789.
 - ¹⁰ Dispatch to Mr. Malet, 28th February, 1790.
 - ¹¹ See the dispatch to the Resident at Poona, dated the 22nd of March.
 - ¹² On the point of investment the Governor-General afterwards retracted his censure, as it was explained, that nothing more had been done than what was necessary to fulfil the contract with the Philippine Company.
 - ¹³ In his letter of the 16th of November.
 - ¹⁴ Letter dated 8th of March, 1790.
 - ¹⁵ Letter to Gen. Medows, Governor in Council, dated 17th March, 1790. The papers laid before Parliament, relative to the commencement of this war, have furnished the materials of the preceding narrative.
 - ¹⁶ Colonel Wilks says, "In plain fact he was unprepared for war." And yet the Colonel supposes, that "he had calculated on possessing every part of Travancore in December, 1789, when the option would have been in his hands of a sudden invasion of the southern provinces at once from Travancore, Dindigul, and Caroor; and of being ready, by the time an English army could be assembled, to commence the war with the Caveri at his northern frontier towards Coromandel." *Historical Sketches*, iii, p. 65.
 - ¹⁷ For the facts of this campaign, Col. Wilks is undoubted authority; but for opinions, his partialities deserve to be watched.
 - ¹⁸ See a volume of papers, on this subject, ordered by the House of Commons to be printed on the 16th of March, 1792.
 - ¹⁹ See a volume of papers, *ut supra*, pp. 17, 19 and 50.

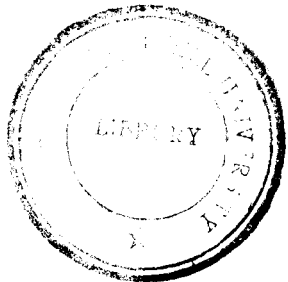
- ²⁰ See a volume of papers, *ut supra*, p. 24.
- ²¹ Letter to Governor-General, 1st May, and 7th June, 1790. See a volume of papers, *ut supra*, pp. 91, 102.
- ²² Letter from the Presidency of Madras to the Governor-General in Council, dated 7th June, 1790. *Ibid.*, p. 103.
- ²³ Letter from the Governor-General in Council, to the Governor in Council of Fort St. George, *Ibid.*, p. 114.
- ²⁴ "For the real and substantial good of his subjects make a voluntary surrender" of his sovereignty! The Governor-General and his Council could not be simple enough to expect it. Where would he have found a prince, in much more civilized countries, capable of that sacrifice?—"We trust that before long his Highness will be fully sensible of the interested and criminal motives of his advisers." What prince is without such interested and criminal advisers? And what can be expected from the advisers of any prince—advisers, who as long as they have the wielding of his power, how destructive soever to the community, gain, by its magnitude; would lose by its diminution?—"While his people will be treated with justice and humanity, a liberal fund will be secured for his own family and dignity." If every prince, upon the securing of a liberal fund for his family and dignity, would consent to lose all that portion of his power which obstructs the exercise of humanity and justice to his people, what a different world should we speedily behold! That the doctrine, however, of Lord Cornwallis, so earnestly preached to this Indian prince, and recommended to his acceptance by more effectual means, when preaching would not suffice, was a doctrine which ought to be recommended to princes, few will dispute. But history provides the means for a just judgment upon Muhammad Ali, and his advisers; who certainly deserve no *peculiar* measure of disapprobation for preferring the existence to the annihilation of his power, notwithstanding the claims of humanity and justice, which I fully admit, with respect to his people.
- ²⁵ Letter, *ut supra*, *Ibid.*, p. 117.
- ²⁶ *English virtue*—his Lordship is not restrained by the common cry, that an Englishman should never speak of *English virtue* except with praise, from pointing out where English

want of virtue has been productive of undesirable effects. "I am sensible," says he, "that many individuals, conceiving that they are actuated by the best of motives, will differ with me in the sentiments which I have taken the liberty to offer upon this subject, and I cannot be confident that they will meet with a favourable reception from the nation at large.—The Nabob's age, his long connexion with us, his rights to the possession of the country; and exaggerated accounts of his former services, may furnish topics for popular declamation, and may possibly engage the nation, upon mistaken ideas of humanity, to support a system of cruelty and oppression. But whilst I feel conscious that I am endeavouring to promote the happiness of mankind, and the good of my country, I shall give very little weight to such considerations: And should conceive, that I had not performed the duty of the high and responsible office in which you did me the honour to place me, if I did not declare—That the present mixed government cannot prosper; even in the best hands in which your part of it can be placed: And that, unless some such plan, as that which I have proposed, should be adopted, the inhabitants of the Carnatic must continue to be wretched; the Nabob must remain an indigent bankrupt; and his country an useless and expensive burden to the Company and to the nation." *Ibid.*, p. 58.

²⁷ Letter from Lord Cornwallis to the Court of Directors, dated 10th August, 1790. *Ibid.*, pp. 57-8. ²⁸ *Ibid.*, p. 55.

²⁹ See the vol. of papers on the subject, ordered to be printed by the House of Commons, on the 2nd of April, 1792, p. 5.

³⁰ Court's Political Letter to Fort St. George, dated 6th May, 1791. ³¹ *Ibid.*



CHAPTER 4

Tipu Sultan (Contd.)

WHEN THE breach with Tipu first appeared inevitable, the Governor-General formed the design of proceeding to the coast, and of taking upon himself the conduct of the war. He resigned that intention, upon learning that General Medows was appointed Governor of Fort St. George. But he resumed it, when the success of the first campaign fell short of his hopes; and on the 17th of November, wrote to the Court of Directors, that, notwithstanding the good conduct, both of the General and of the troops, yet, by the irruption of Tipu into Coimbatore, by the loss of stores and magazines, and by the check given to Colonel Floyd, enough had been effected to impress unfavourably the country powers, and create a danger lest the Mahrattas and the Nizam should incline to a separate peace: That his purpose, therefore, was, to place himself at the head of the army, not with the overweening conceit that he would act more skillfully than General Medows, but from the supposition, that, holding the higher situation in the government, he could act with the greater weight, and at any rate convince the native powers, by his appearance in the field, of the serious determination with which the East India Company had engaged in the war.

Between the route to the centre of Tipu's dominions, by one of the southern passes, and that by the line of Vellore, Amboor, and Bangalore, lay a choice of difficulties; that, by the southern passes, presenting a line of operation, from Madras, the grand source of supply, both very long, and owing to the weakness of several of the posts very difficult to defend; and that, in the direction of Vellore, affording little in the way of supply for the wants of the army, and demanding the preliminary operation of the siege of Bangalore, one of the strongest places in Mysore, distant ninety miles from Amboor, the nearest depot of the besieging army. The issue of the preceding campaign contributed probably to determine Lord Cornwallis in the choice of the latter.

NOTES AND REFERENCES

- ¹ "The casualties of the English on this day," (says Colonel Wilks, iii, p. 125) "amounted to 131, but no loss made so deep an impression as that of Lieutenant-Colonel Moorehouse" (he commanded the artillery) "who was killed at the gate. He had risen from the ranks. But nature herself had made him a gentleman. Uneducated, he had made himself a man of science. A career of uninterrupted distinction had commanded general respect; and his amiable character universal attachment. The regret of his General, and the respect of his government, were testified by a monument erected at the public expense in the church at Madras." This is a generous tribute to singular worth; and deserves remembrance on account of both parties.
- ² Moore's *Narrative of the Operations of Captain Little's Detachment*, pp. 30, 32.
- ³ This is the statement of Major Dirom, who was Deputy Adjutant-General of his Majesty's forces in India, and with the army at the time. Lieutenant Moore thinks that the army of the Bhow is thus considerably under-rated.
- ⁴ Papers (No. 4) ordered by the House of Commons to be printed, 16th February, 1792.
- ⁵ The passion with which soldiers are turned from peace is a phenomenon awfully interesting. The arrival of these presents indicated a good understanding; which, if it existed, might be supposed to exist, on grounds deemed more favourable to the nation than war. "It will be difficult," says Colonel Wilks, "for the reader to conceive the intense delight with which on the ensuing morning the whole army beheld the loads of fruit untouched, and the camel unaccepted, returning to Seringapatam." The fact is, that the English in India, at that time, had been worked up into a mixture of fury and rage against Tipu, more resembling the passion of savages against their enemy, in fact more resembling his passion towards them, than the feelings with which a civilized nation regards the worst of its foes.

- ⁶ The words of Major Dirom.
- ⁷ On this occasion, as well as on that of the overture on the 27th of May, Major Dirom is careful to mention the joy which pervaded the army when the overture was rejected.—It is another, among the many proofs, of a most remarkable fact, that whole masses of men are capable of desiring the death of thousands of their fellow creatures, at once, simply for their own profit. Had the negotiation proceeded and been productive of peace, it might have been supposed, by an army which had confidence in Lord Cornwallis, that the peace, which he deliberately approved, was better for their country than war. *Better for their country*—Yes. But not better for them, because it precluded the acquisition of plunder, promotion, and glory.
- ⁸ When the hour was approaching, some person said, in the hearing of the troops, that a mine was reported to be near the breach. General Medows, anticipating the effect upon their minds, cried aloud, “If there be a mine, it is a mine of gold.”
- ⁹ Colonel Wilks accuses the Mahrattas, rather than the Nizam, of causing delay. “The demonstrations of Tipu Sultan,” he says, “to the northward had induced his Lordship to request, that Purseram Bhow should advance simultaneously on the direct road from Sera, as well to prevent a detachment to Goorumconda, which actually occurred, as to form a column on his right to unite at the proper time with General Abercromby: but the general purposes of the war were of secondary consideration in all the movements of this chief: he had a political illness which produced an embarrassing correspondence, and it was the necessity of delay arising from this circumstance which induced Lord Cornwallis to occupy the time intended for advance in the siege of Savendurg, which he had determined to leave in his rear from the great improbability of being able to reduce it; and thus in the actual result the delay was useful.” *Historical Sketches*, iii, p. 212.
- ¹⁰ It had also been found an improvement of the greatest importance, to harness the bullocks to the heavy guns four abreast, instead of two; carrying back the chain by which

they drew, to the axle of the gun instead of that of the limber. In the first campaign, a few eighteen pounders created the greatest difficulty and delay. At this time, the battering train moved with a facility not much less than that of the rest of the army.

- 11 The Commander-in-Chief paid a heart-felt compliment to the spirit and fidelity of General Medows. When the enemy began to attack him, "If General Medows," said he, "be above ground, this will bring him." The harmony of these leaders is one of the finest features of the campaign: the zeal with which Medows strove to perform the duties of the second, after being deprived of the honours of the first command; and the pleasure which Cornwallis displayed in proclaiming the merit of General Medows, and the importance of the services which he received from him.
- 12 By an ambiguity of the orders, says Col. Wilks. iii, p. 220.
- 13 The story is told somewhat differently by Colonel Wilks and by Major Dirom. Major Dirom says, that the interference of Hyder, between the brothers, being admitted, he destroyed the family of the elder brother, carried that of the younger to Seringapatam, and took possession of the country. In the year 1785, the son of that brother made his escape. He had been a prisoner in Seringapatam from his infancy. It was part of the policy or piety of Tipu, to make converts to his religion; and that by force as well as persuasion. The occasion was not omitted in the case of the young Raja. He was subjected to the painful rite of the Mussulman religion, and enrolled among the *Chelas*, or corps of slaves; of whom, though strictly guarded, he had the nominal command of a battalion, at the time of his escape.
- 14 The words of the article were, "One half of the dominions of which Tipu Sultan was possessed before the war, to be ceded to the allies, from the countries adjacent, according to their situation."
- 15 When Tipu sent out the vakils with the documents finally prepared, he charged them with a remonstrance on the subject of the outrage which had been committed, by Purseram Bhow; and with a request that he might be recalled, with his 20,000 horse, across the river, and made to

answer for his conduct; or, "which would be a still greater favour," added the Sultan, "that Lord Cornwallis would be pleased to permit me to go out and chastise him myself." When the eldest of the Princes delivered the treaty, we are told, that a manly acquiescence appeared in the manner of performing the delivery to Lord Cornwallis; that an air of compulsion and dislike was observed to accompany the ceremony when repeated towards the vakils of the allies; and that some expressions, not distinctly heard, which the boy took for words of disrespect or dissatisfaction, falling from one of the vakils, he asked "at what he muttered;" adding, "You may well be silent; your masters have reason to be pleased." Dirom's *Narrative*, p. 246.

- ¹⁶ For the history of this war, the principal materials, as yet accessible, are the papers laid before parliament; the official statements in the Gazette; Dirom's *Narrative*, which, besides a very minute account of the last campaign, contains a retrospect of the previous operations of the war; Mackenzie's *Sketch of the War with Tipu Sultan*; the instructive volumes of Wilks; Moore's *Narrative of the Operations of Captain Little's Detachment*; and the contemporary historians. Particular references for notorious facts were deemed unnecessary, and would have been troublesome by their number. Of the view of Indian politics which was taken in England at the time of the conclusion of the treaty of Cornwallis, an instructive judgment may be drawn from the following passage in the *Annual Register* (1792, chapter x, last paragraph). "The advantages which have accrued to the Company from this treaty, amply appear to counter balance the enormous expense of the war. By the acquisitions in the neighbourhood of the Carnatic, and the consequent possession of the several passes from Mysore, a considerable augmentation of revenue, and a greater protection from hostile incursions, have been obtained in a very important quarter; whilst on the Malabar coast, where we owned but little before, a portion of rich territory has been allotted to us, which, exclusive of its own commercial consequence, by being attached to the Presidency of Bombay, will at once tend to increase the security of that Presidency, and enhance its value. The wise moderation of

these counsels, which directed only a partial division of the conquered countries, cannot be too much praised. For had not a sufficient extent of territory been left to Tipu Sultan, to make him respectable, and still in some degree formidable to his neighbours, the balance of power in India might have been again materially affected, the future adjustment of which would have led to new wars. The treaty was a return, as far as circumstances would admit, to our old and true policy."

¹⁷ Rennell's *Memoir*, Introduction, p. cxxxix.

¹⁸ Moore's *Narrative of the Operations of Captain Little's Detachment*, p. 197. That officer, having a mind above the ordinary standard, thus describes the defamatory *mania* of his countrymen. "Of late years, our language has been ransacked for terms, in which well-disposed persons were desirous to express their detestation of his name and character; vocabularies of vile epithets have been exhausted; and doubtless many have lamented that the English language is not copious enough to furnish terms of obloquy sufficiently expressive of the ignominy where with they in justice deem his memory deserves to be branded." *Ibid.*, p. 193.

¹⁹ The following passages from the two intelligent officers to whom we are chiefly indebted for our knowledge of this war, are so honourable to the writers, and instructive to their countrymen, that the insertion of them cannot be declined. "When a person," says Lieutenant Moore, "travelling through a strange country, finds it well cultivated, populous with industrious inhabitants, cities newly founded, commerce extending, towns increasing, and every thing flourishing, so as to indicate happiness, he will naturally conclude it to be under a form of government congenial to the minds of the people. This is a picture of Tipu's country; and this is our conclusion respecting its government. It has fallen to our lot to tarry some time in Tipu's dominions, and to travel through them as much if not more than any other officer in the field during the war; and we have reason to suppose his subjects to be as happy as those of any other sovereign: For we do not recollect to have heard any complaints or murmurings among them; although, had causes existed, no

time would have been more favourable for their utterance, because the enemies of Tipu were in power, and would have been gratified by any aspersion of his character. The inhabitants of the conquered countries submitted with apparent resignation to the direction of their conquerors, but by no means as if relieved from an oppressive yoke in their former government; on the contrary, no sooner did an opportunity offer, than they scouted their new masters, and gladly returned to their loyalty again." Moore's *Narrative*, p. 201. "Whether from the operation of the system established by Hyder, from the principles which Tipu has adopted for his own conduct, or from his dominions having suffered little by invasion for many years, or from the effect of these several causes united, his country was found everywhere full of inhabitants, and apparently cultivated to the utmost extent of which the soil was capable: while the discipline and fidelity of his troops in the field, until their last overthrow, were testimonies equally strong, of the excellent regulations which existed in his army. His government, though strict and arbitrary, was the despotism of a politic and able sovereign, who nourishes, not oppresses, the subjects who are to be the means of his future aggrandisement: And his cruelties were, in general, inflicted only on those whom he considered as his enemies." Dirom's *Narrative*, p. 249.

- ³⁰ Sir John Malcolm, whose loyalty offends not commonly on the score of weakness, seems to regard it as one of the principal advantages of the war, that it displayed Lord Cornwallis's contempt for the act of parliament. "The policy" (says that writer, *Sketch of the Political History of India*, p. 94) "of Lord Cornwallis was neither directed to obtain a delay of hostilities, nor limited to the object of repelling the immediate danger, with which the state over whose counsels he presided, was threatening." That is to say, it was not confined to the express object to which he was limited by act of parliament. "When fully satisfied of the designs of Tipu, he hastened to attack him; he saw the great advantages which were likely to result from early offensive operations; and the moment he resolved on war, he contemplated (as appears from the whole tenour of his correspondence previous to the

commencement of hostilities) the increase of the Company's territories in the quarters of the Carnatic and Malabar, as a desirable object of policy." The grand object indeed of Sir John's intelligent work, is to point out the impolicy of the restricting act of parliament; to demonstrate that the most eminent of the Indian governors, Mr. Hastings, Lord Cornwallis, and Lord Wellesely, have treated it with uninterrupted contempt; and received applause for every successful violation of it.

²¹ Sir John Malcolm, *ut supra*, p. 114.

CHAPTER 5

Lord Cornwallis's Financial and Judicial Reforms

THE MEASURES taken during the administration of this Viceroy, for altering the internal government of the British dominions in India, are not less memorable than his transactions with foreign states.

In the eye of the new government of India, consisting more ostensibly of the Directors, more really of the King's ministers, revenue naturally constituted the first object. In the code of instructions, with which, upon his departure for his government, Lord Cornwallis was provided, occasion was taken to censure the financial administration of his predecessors, and to prescribe a new arrangement. The frequent changes, the substitution of farmers and temporary agents for the permanent Zamindars, the failure of all attempts to enhance the revenue, and the exclusion of the collectors from a share in forming the assessments of their respective districts, were mentioned with disapprobation. Complaint was made of the heavy arrears outstanding on the settlement of the last four years; and the country was represented as exhausted and impoverished. Such is the opinion which it was, by the King's ministers and the Court of Directors, held fit to express, of the merits of the British government, in India, at the date of this document, in April, 1786. For the purpose of improvement, they directed, that the settlement should be made with the Zamindars. Knowledge sufficient for an equitable assessment, they presumed was already acquired. They prescribed the period of ten years, as the limit to which the settlement should be confined, in the first instance. But they declared their intention to render it permanent, provided, on experience, it should merit their approbation. They further commanded, that the collectors of the revenue should be vested with the powers of judicature and police; by having conveyed

NOTES AND REFERENCES

- ¹ *Fifth Report, ut supra*, p. 56.
- ² Vide sum total, *supra*, p. 417.
- ³ Answer to Interrogatories, paragraph 7, in the *Fifth Report, ut supra*, p. 537.
- ⁴ Letter from the Collector of Burdwan to the Board of Revenue, dated 9th January, 1794; *Fifth Report, ut supra*, p. 59, and Appendix No. 8.
- ⁵ *Fifth Report*, p. 60.
- ⁶ Answer to Interrogatories, 30th January, 1802, *Ibid.*, p. 536.
- ⁷ Mr. Thackeray's *Memoir*, April, 1806, *Fifth Report*, p. 914.
- ⁸ *Ibid.*, p. 917.
- ⁹ Answer of Mr. Thompson, Judge and Magistrate of Burdwan, *Fifth Report*, p. 544.
- ¹⁰ Report by Sir Henry Strachey, in 1802, *Fifth Report*, p. 564.
- ¹¹ Sir Henry Strachey's Answer to Interrogatories, *Fifth Report, ut supra*, p. 528.
- ¹² *Fifth Report, ut supra*, p. 55
- ¹³ *Ibid.*, p. 57.
- ¹⁴ *Ibid.*, p. 57.
- ¹⁵ *Ibid.*, p. 61.
- ¹⁶ See, below, under the head of justice, pp. 360-61.
- ¹⁷ Nothing is more remarkable than the propensity of all sorts of persons connected with the Indian government, to infer from any thing, or every thing, "the flourishing state of the country." Here is one instance of the curious premises from which the inference is apt to be drawn. The man who explores, with any degree of attention, the documents of Indian history, will be at no loss for others. Another is adduced by Sir Henry Strachey, on the same occasion, and its insufficiency pointed out. "To those who are tolerably well acquainted with the internal state of the country, it is known," says he, "that the population, unless checked by some great calamity, constantly increases very fast. Increasing cultivation necessarily follows population. The want of courts of justice, of a regular system of police, prevents not the prosperity of the provinces subject to the Mahrattas. Where no battles are

fought, where the ryots remain unmolested by military exactions, where the Zamindar or his agent are seldom changed, the lands of the Mahrattas, in the neighbourhood of this district (Midnapore,) are in a high state of cultivation, and the population is equal, frequently superior to ours. From the circumstance of increasing population alone, we cannot, as many pretend, draw an inference of very high prosperity and good government." In fact, where marriage at the earliest marriageable age is a religious duty of the strongest obligation, and to die without having a son, the greatest of misfortunes, nothing but extreme misery can prevent the rapid increase of population; and when a vast quantity of good land still remains to be cultivated, nothing can be the cause of such misery, but bad government. "To imagine," continues the same enlightened observer, "that the population has increased, solely in consequence of our system of internal administration, appears to me most erroneous. Under the native government, the population had reached its utmost height, or very near it. Thirty years ago, nearly half the people were swept away, by the greatest famine recorded in history. Ever since that period, except in 1790, when a partial famine happened, the numbers have been gradually increasing. I do not know that the increase has been more rapid, during the last ten years than during the twenty preceding; although most of the abuses of the native governments, and many new abuses of our government, prevailed throughout the greater part of the last-mentioned period. Supposing the country to enjoy peace, I cannot easily conceive internal mismanagement so excessive, as to stop the increase of population." See for these, and the quotations in the text, Answer to Interrogatories in 1802, *Fifth Report, ut supra*, pp. 530-32.

¹⁸ The Committee complain that they still remain in the dark respecting this important article of knowledge; and that the estimates formed by the best informed of the Company's servants, betrayed by their discrepancy ignorance so profound of the field of inquiry. The first estimate, upon the acquisition of the Diwani, made the population of the three provinces, Bengal, Bihar, and Orissa, 10,000,000. By Sir William Jones it was computed to be 24,000,000. Mr. Colebrooke made it

30,000,000. The Committee take the medium between the conjectures of Jones and Colebrooke, and call it 27,000,000.

Report, ut supra, p. 62.

¹⁹ *Fifth Report*, p. 63.

²⁰ In India the actual state of the facts is asserted, upon the experience of Sir Henry Strachey, one of the most respectable of the Indian judges, and an honour to the judicial character, to be this; That "out of 100 suits, perhaps in five at the utmost," the plaint of the prosecutor is unfounded. In ninety-five then, out of every 100 cases, the plaintiff has a right to a decision. In all that vast proportion of cases, with the small exception of those in which the point of justice may be doubtful, the defendant is an injurer; and every thing which has a tendency to prevent the law-suit, has a tendency to defraud the innocent, reward the guilty. Answer to Interrogatories, *Fifth Report, ut supra*, p. 526.

²¹ "The expense and delay," says Sir Henry Strachey, "to which ryots are subject in prosecuting their suits are, to my knowledge, excessive. For the truth of this, I would refer to the records of any Register in Bengal. The duty of deciding revenue causes, for a small amount, under the operation of the present regulations, has fallen chiefly on the Registers. The rights of the inferior ryots are seldom discussed in the superior courts. The welfare of those from whom all revenue, and even subsistence, must be derived—who are the poorest, the weakest, and most numerous—is a matter of importance; and not unworthy of the notice of government. I have therefore thought it my duty to dwell on this subject with some minuteness.—It must, I am sure, constantly happen, that a ryot gives up his prosecution in despair, on finding his power of continuing it beyond his power to sustain! Exaction of revenue is peculiarly difficult of proof. Either no engagements exist, and no accounts can be found; or they are extremely defective and perplexing. It is not the original fee, on the institution of the suit; but the subsequent charges, on exhibits, and on witnesses, that appear to me intolerable. I have often seen a suitor, when stripped of his last rupee, and called upon for the fee on a document, produce in court a silver ring or other trinket, and beg that it might

be received as a pledge; and after all, perhaps, he was cast for want of money to bring proof." On the subject of delay, this Judge observes; "The cultivators are unable to support themselves at the Suder, during a procedure of two or three months. They cannot return to their houses without submitting to their oppressor. They must have speedy justice, or none."

The pretended relief afforded by the power of suing in *forma pauperis*, he shows, is more burthensome than paying the fees. The number too of the persons who sue in this form suggests important reflections. "Half the complainants, in the Diwani Adalat of this Zila, appear as paupers, although these find much difficulty in complying with the regulation intended for the relief of paupers. No man can be admitted to prosecute as a pauper, till he brings two witnesses to attest his poverty, and two securities for his personal appearance; and no one can well do this without, at least, maintaining himself and them, during their absence from home. But the expense of such maintenance must exceed that of the fees and stamp paper."

On the pretext of checking litigiousness by expense; he asserts, that there are *no litigious plaintiffs*, or at most very few, and that law-suits are almost always produced by the dishonesty of the defendant. Checking litigiousness, then, by expense, is merely fining a plaintiff for seeking justice; compelling the honest man to remain a prey to the cheat. In some few prosecutions, the dishonest intention is on the side of the plaintiff, when false demands are supported by false evidence. But he asserts, that the proportion of false and frivolous demands, both taken together, amount not to five in a hundred of those which are just and substantial. Contrary to the usual prejudice, he affirms, "The complaints of these people are seldom or never litigious, brought forward merely from the quarrelsome disposition of the prosecutor."

If suits, he said, were prevented, by increasing the expense, all that could be inferred was, that few could afford to pay: "but a man is disabled from sustaining expense, in proportion as he is poor, and not in proportion as he is litigious."

The notions of this Indian Judge, on the subject of judicature, were very different from those of the governing men

in India and in England. "It is my opinion," said he, "that the nearer we approach to the rule of granting to all speedy justice, without any expense whatever, the nearer we shall, in our judicial system, approach perfection. It will not, I imagine, be denied, that it is desirable, the least tedious, and least expensive mode of obtaining redress, should be open, where an injury has really been suffered. When a poor man has been oppressed, he should be freed from trouble and expense, and assisted and encouraged, as far as possible, in prosecuting his complaint. He is not, in such a situation, a fair object for taxation. It does not become the ruling power to add to his misfortune by levying impositions upon him. It is clear that a ryot, from whom undue rent has been exacted, must feel the charge of stamp and fees to be a severe aggravation of his distress." What is the consequence? That which must of necessity follow—that which might be expected to call forth all the attention of Englishmen—but which to this late period appears to have called forth none: "That the ryots, though now more independent (not from oppression) are much worse protected from distress than heretofore." For these quotations, from Sir Henry Strachey, see the *Fifth Report, ut supra*, pp. 525-32.

Sir Henry Strachey is not the only one of the Judges in India from whom a British parliament and British rulers, both in London and Calcutta, might receive important lessons. The report from the Judges of the Court of Circuit and Appeal at Murshidabad, consisting of Mr. Colebrooke, Mr. Pattle, and Mr. Rocke, in 1802, says, "The increased expense of law-suits has never been found to check litigiousness. On the contrary, it has been generally observed, that litigiousness is encouraged thereby in the hope that the certainty of the expense, added to the uncertainty of the result, might deter parties from defending even just rights. On comparing the half yearly reports of the several adalats in this division, it does not appear that the number of suits, filed since the establishment of the fees and stamp duties, differs much from the number filed, in a similar period, previous thereto." *Fifth Report*, p. 519.

²² See for the above quotations, the *Fifth Report, ut supra*,

- p. 63-4. ²³ *Ibid.*, p. 65. ²⁴ *Fifth Report*, p. 65.
- ²⁵ *Ibid.*, p. 559. ²⁶ *Ibid.*, 586. ²⁷ *Ibid.*, p. 603.
- ²⁸ *Ibid.*, p. 606. ²⁹ *Ibid.*, p. 66.
- ³⁰ Answer to Interrogatories, *Fifth Report*, p. 533.
- ³¹ *Fifth Report*, pp. 565-66. ³² *Ibid.*, p. 540.
- ³³ *Ibid.*, p. 68. ³⁴ *Ibid.*, p. 527. ³⁵ *Ibid.*, p. 546.
- ³⁶ *Ibid.*, p. 551. ³⁷ *Ibid.*, p. 524. ³⁸ *Ibid.*, p. 534.
- ³⁹ *Ibid.*, pp. 552-54.
- ⁴⁰ *Fifth Report*, p. 561. Sir Henry continues, "A robber even in Bengal is, I presume, a man of courage and enterprise; who, though he roughly estimates the risk he is to run by continuing his depredations on the public, is rather apt to under-rate that risk—small as in reality it is."
- ⁴¹ *Ibid.*, pp. 565-67. ⁴² *Ibid.*, p. 71. ⁴³ *Ibid.*, p. 538.
- ⁴⁴ Mr. Dowdeswell's Report on the Police of Bengal, in 1819, *Ibid.*, pp. 611-12. ⁴⁵ *Fifth Report*, pp. 595-96.
- ⁴⁶ Report on the Police of Bengal, *Fifth Report*, pp. 611-12.
- ⁴⁷ *Fifth Report*, p. 73. This expression, if authority can give it force, deserves peculiar attention. It was first employed by Mr. Lumsden, a member of the Supreme Government, recorded on the 13th of June, 1808; it was quoted, as authority, confirming the declaration of his own opinion, by Mr. Secretary Dowdeswell, in his Report in 1809, on the Police of Bengal; and lastly it is quoted, as expressing the result of their own inquiries, by the Committee of the House of Commons.
- ⁴⁸ *Fifth Report*, p. 586. ⁴⁹ *Ibid.*, pp. 577-78.
- ⁵⁰ *Ibid.*, p. 73. ⁵¹ *Ibid.*, p. 607. ⁵² *Ibid.*, p. 73.
- ⁵³ *Ibid.*, pp. 73-4. ⁵⁴ *Ibid.*, p. 589. ⁵⁵ *Ibid.*, p. 561.
- ⁵⁶ *Ibid.*, p. 534.
- ⁵⁷ *Ibid.*, p. 587. "On my way through the northern parts of this Zila," he continues, "I had some conversation with a Zamindar, and a police darogah, who have distinguished themselves by their exertions to apprehend dacoits; they told me that it was impossible to get any information about the great dacoits; that the houses of all the principal inhabitants were open to them: yet that nobody dared mention their names for fear of being murdered." *Ibid.*
- ⁵⁸ *Ibid.*, p. 591. ⁵⁹ *Ibid.*, pp. 534, 554, 661.

- ⁶⁰ *Fifth Report*, p. 74. ⁶¹ *Ibid.*, p. 72. ⁶² *Ibid.*, p. 561.
⁶³ *Ibid.*, p. 75. ⁶⁴ *Ibid.*, p. 597. ⁶⁵ *Ibid.*, p. 549.
⁶⁶ *Ibid.*, p. 555. ⁶⁷ *Ibid.*, p. 554. ⁶⁸ *Ibid.*, p. 587.
⁶⁹ *Ibid.*, p. 537. ⁷⁰ *Ibid.*, p. 561.

⁷¹ It is wonderful to see how the English government, every now and then, voluntarily places itself in the station of a government existing in opposition to the people; a government which hates, because it dreads the people, and is hated by them in its turn. Its deportment with regard to the residence of Englishmen in India speaks these unfavourable sentiments with a force with language could not easily possess.

⁷² Mr. Shore's Minute, *Fifth Report*, p. 169.

⁷³ Answer to Interrogatories, *Fifth Report*, p. 534.

⁷⁴ *Ibid.*, p. 562.

⁷⁵ As an additional proof, if any additional proof were wanting, of the benefit which might be derived from the multiplication of English settlers; it may be mentioned, as a matter of present experience, that the Englishmen, the most thoroughly conversant with the language and manners of the people, are generally those who have been tolerated, as private adventurers, in some line of industry in the country. A conspicuous example lately appeared. A gentleman, of the name of Blacquiere, not in the service of the Company, but who had lived in India in the pursuit of private objects, was found so much better qualified than any of the servants of the Company, by his knowledge of the language and manners of the country, and had actually rendered so much service as a magistrate of Calcutta, that he was vested with extensive powers over several districts. After the private traders in India, the officers of the sepoys, from their intercourse with their men, are the best acquainted with the natives; and would very often form the best judges and magistrates. Lord Cornwallis, not finding a man among the civil servants of the Company at Madras, tolerably acquainted with the language and manners of the country, appointed sepoy officers to be collectors and managers in the newly acquired districts; and the great success of the experiment proved the wisdom of the choice. The services which were rendered by

such officers as Read and Munro, in establishing order in extensive countries, show to what practical excellence the government of India might be carried, if Englishmen, incorporated with the natives as landlords and manufacturers, were entrusted with the powers of police.

⁷⁶ *Fifth Report*, p. 617.

⁷⁷ *Ibid.*, p. 524.

⁷⁸ *Ibid.*, p. 520. See to the same purpose the answer of the Judge and Magistrates of Burdwan, p. 550.

⁷⁹ *Ibid.*, p. 539.

⁸⁰ What is here observed on the properties desirable in a judicial establishment, are only such general deductions from the science of legislation, as can find a proper place in a critical history. The analysis of the whole subject is seen in great perfection, in a work entitled, *Draught of a New Plan for the Organization of the Judicial Establishment in France*, by Jeremy Bentham, Esq.

¹ *Vide supra*, p. 435.

⁸² The following is a case so analogous as to afford some instruction. "He that goes into the Highlands with a mind naturally acquiescent, and a credulity eager for wonders, may come back with an opinion very different from mine; for the inhabitants, knowing the ignorance of all strangers in their language and antiquities, perhaps are not very scrupulous adherents to truth; yet, I do not say that they deliberately speak studied falsehood, or have a settled purpose to deceive. They have inquired and considered little, and do not always feel their own ignorance. They are not much accustomed to be interrogated by others; and seem never to have thought upon interrogating themselves: so that if they do not know what they tell to be true, they likewise do not distinctly perceive it to be false.—Mr. Boswell was very diligent in his inquiries; and the result of his investigations was, that the answer to the second question was commonly such as nullified the answer to the first." Johnson's *Journey to the Hebrides*.

⁸³ *Fifth Report*, pp. 588-89, where we find the following excellent remarks, addressed, by Earl Strachey, Esq. one of the Murshidabad Judges, to the Court of Nizamut Adalat, under date 19th August, 1808.

"I must again entreat the attention of the Court to some suggestions with respect to the police, and to the operation of the more immediate causes of dacoity; and to a consideration of the reasons, why the sanction of the criminal law is become inefficient in the way of example, and can no longer deter from the commission of crimes, or affect any criminals, except those who, in justice, are not deserving of severe punishment.

"I consider it as out of the question, to improve the moral and religious principle of the people, by direct positive institutions. We are too ignorant of the natives to attempt any thing so artificial without imminent risk. We do not understand the operation of such institutions on their minds, or their tendency, with respect to the frame of the society. As for the criminal law, I believe the impolicy and inefficacy, even the mischief of very severe punishments, is generally acknowledged, as well as the injustice of inflicting punishment, where other remedies might have been used with equal effect. With respect to increasing the severity of the criminal laws we have before our eyes an admirable example. In 1803, and again in 1805, this principle was expected to prove a remedy for dacoity. It has been tried, and it has utterly failed. As it is impossible to conceive a case more directly in point, or more full, simple, convincing proof of the insufficiency of the means to the end; I trust no increase in the severity of the criminal law will ever be again resorted to.

"As punishments are more severe, stricter proof of the crime is required; and consequently a proportionally greater number of criminals escape conviction. Besides the terror of the severe punishment makes the criminal more careful to guard against being taken; and as it has no tendency to increase the activity of the police, but the contrary, the number of offenders apprehended will, of course, be less than before. The dacoits now guard against the danger of apprehension and conviction, by corruption and terror. They would give more bribes, and commit more murders, if they thought more precaution necessary; and the consequence would be, that the difficulties of apprehending and convicting dacoits would increase, and people who had been robbed and tortur-

ed would still be compelled to perjure themselves that they might not be murdered.

“And with respect to the administration of the laws, are not the judges now entrusted with as much power as is proper? And if the law was made more severe, would it not be necessary to extend their power still further! And are we all fit persons to be entrusted with discretionary power to inflict punishments which are by many considered to be worse than death?

“Persons who are entrusted with such powers ought to be appointed from no other consideration whatever, but that of the fitness of the man for the place. But I would ask, whether all our appointments have ever been so filled? And whether it is probable, from the nature of our service, that they ever will be? We may all be judges, learned and unlearned.”

⁸⁴ The want of this important instrument of judicature is felt, though not distinctly understood, by some of the Company's judges. The answer to the interrogatories, in 1802, from the magistrates of the 24-Parganas, says; “A number of the convicts at this station are employed in repairing some of the public roads in the vicinity of Calcutta, &c. The number of guards requisite to superintend and watch the convicts, thus employed, prevents our keeping so many of them to work, as we could wish, and as the preservation of their health seems to require. The construction of a house of correction, in the vicinity of the jail, where all the convicts who are capable of work might be kept to constant labour, would remedy the evil, and appears to us to be a preferable mode.” *Fifth Report, ut supra*, p. 553.

⁸⁵ *Ibid.*, pp. 521, 524. ⁸⁶ *Ibid.*, p. 558. ⁸⁷ *Ibid.*, pp. 339-40.

⁸⁸ *Ibid.*, p. 559. In another place he says, “Great population, and poverty, produce misery and crimes; particularly in a country where there is no public; and consequently, no certain and regular provision for the poor: Where there are, I may almost say, more poor than in any country: And where the *ability*, and disposition, of private individuals to support them, are continually diminishing.” *Ibid.*, p. 533.

⁸⁹ *Fifth Report*, p. 539.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

⁹² *Fifth Report*, p. 527.

⁹³ See Malcolm's *History of Persia*, and Elphinstone's *Kabul*.

⁹⁴ *Fifth Report*, p. 71.

⁹⁵ Beside the official documents, which I have quoted as I went on, there is information of infinite importance, on the state of delinquency in India, on its causes, and on its remedies, in the work of a young Indian judge, lost to the world too soon, the work formerly quoted, on the *Political State of India*, by Alexander F. Tytler, Esq.

⁹⁶ See the accounts of the East India Company for 1793, presented to parliament in 1794. See also the *Third* and *Fourth Reports* of the Select Committee on India affairs, in 1810, with the accounts in the Appendixes.

⁹⁷ *Vide supra*, ii, p. 675.

CHAPTER 7

The Nizam and the Mahrattas

IN 1793, the termination of the period assigned to the exclusive privileges of the Company so nearly approached, that the question of renewing the charter, and of confirming or changing the present system of government, could no longer be deferred. People had now so generally acquired the habit of lifting their eyes to the management of national affairs; and equal treatment to all so forcibly recommended itself as the best rule of government, that the commercial and manufacturing population were impelled to make an effort, more than usually strong, for the freedom of the Eastern trade. The principal places of manufacture and commerce, in the kingdom; Liverpool, Glasgow, Paisley, Manchester, Norwich, Exeter; exhibited combinations of the merchants and manufacturers, who passed the strongest resolutions; importuned the ministers; petitioned the legislature; and desired to have an opportunity of proving how much the real policy of commerce was violated, and the wealth of the country kept down, by the monopoly of so large a field of trade as that unhappily consigned to the East India Company.

The Indian government was so organized, as now very well to answer ministerial purposes; it was therefore the study of ministers to preserve things as they were. The Board of Control and the Court of Directors cast, with some skill, the parts which they had respectively to perform. A committee of Directors was appointed, whose business it was to draw up reports upon the subject of the Eastern trade, and to answer the arguments of those by whom the freedom of that trade was advocated or claimed. Three such reports were exhibited. They were in the first instance referred to the Committee of the Privy Council relating to trade and plantations; and in the proper stage of the business were submitted to the House of Commons.

On the 25th of February, Mr. Dundas, in the House of Commons, made a display of the pecuniary state of the Company.

NOTES AND REFERENCES

- ¹ Report on the Negotiation between the Honourable East India Company and the Public, respecting the Renewal of the Company's exclusive Privilege of Trade, for Twenty Years from March 1794. By John Bruce, Esq. M.P., F.R.S. Historiographer to the Honourable East India Company, p. 13.
- ² Parliamentary Debates, 24th May, 1793.
- ³ Letter from the Governor-General to the Resident at Poona, dated 7th August, 1792. Colonel Wilks says, on this occasion, "The policy of his Mahratta allies was in direct and systematic opposition to every thing explicit and definite in its connexion with other powers." In this way, it might be supposed, that this was a clause exactly to suit them.
- ⁴ Sir John Malcolm thinks this good reasoning, p. 142.
- ⁵ See his dispatch to the Governor-General, dated Hyderabad, 1st January, 1794. The words of Sir John Malcolm, reporting, and applauding this advice, are worthy of insertion. "In this (the dispatch in question) the resident states his conviction, that the circumstances in which the court of Hyderabad was then placed, and the character of those by whom it was ruled, were such, as gave us an opportunity, which it was wise and politic to use, to establish an influence and power in its councils, which would enable us to command its future exertions, and benefit from its resources under any events that could occur." *Sketch &c.*, p. 144. The opinion of two such distinguished functionaries of the Company, so thoroughly conversant in the politics of India, respecting the real import of those engagements, by which the native Princes accepted the Company's troops as the instrument of their defence, is more instructive as throwing light upon the hypocrisy of preceding, than the plain dealing of subsequent times.
- ⁶ This opinion is given with confidence by Sir John Malcolm.
- ⁷ *Sketch &c.*, p. 167. ⁸ 1s 3d.

- ⁹ In his Minute, 15th June, 1795.
- ¹⁰ 29th March, 1794.
- ¹¹ Letter from Lord Cornwallis, dated, "On the Ganges, 16th November, 1787;" Papers relating to India, printed by the House of Commons in 1806, No. 2, p. 4. In the same letter his Lordship says, the Nabob, "urged, as apologies—that whilst he was not certain of the extent of our demands upon him, he had no real interest in being economical in his expenses; and that while we interfered in the internal management of his affairs, his own authority, and that of his ministers, were despised by his own subjects."
- ¹² Political Letter to Governor-General, 8th April, 1789; *Printed Papers, ut supra*, p. 5.
- ¹³ The mystery is explained in a subsequent page.
- ¹⁴ Letter from Lord Cornwallis to the Vizir, dated 29th January, 1793; *Printed Papers, ut supra*, pp. 11-3.
- ¹⁵ *Printed Papers, ut supra*, pp. 16-7, 19.
- ¹⁶ *Ibid.*, p. 14.
- ¹⁷ Sir John Malcolm, *Sketch of the Political History of India*, p. 195.
- ¹⁸ *Collection of Treaties and Engagements, with the Native Princes and States of Asia, &c.*, printed for the East India Company in 1812, p. 150-61.
- ¹⁹ *Printed Papers, ut supra*, p. 28.
- ²⁰ *Ibid.*
- ²¹ Minute of Sir John Shore, detailing the measures which led to the deposition of Vizir Ali, &c. *Printed Papers, ut supra*, No. 1, p. 1.
- ²² The tale of Tehzeen, said the Governor-General, concurred with public opinion. But what knew the Governor-General about the public opinion of Oudh, except what he was told? And what was he told except by a few individuals who surrounded him; and who concurred, for their own purposes, in wishing Vizir Ali to be deposed? The utmost that can be said for the tale of Tehzeen is, that it is not in itself incredible, or, perhaps improbable. But that was not the question. The only question was, whether there was or was not evidence to establish the allegations. Undoubtedly his private conversation with the Governor-General, aided by what a few individuals *told* the Governor-General about public opinion—was not evidence sufficient to vest allegations with the character of facts.

- ²³ *Printed Papers, ut supra*, pp. 19-22.—Collection of Treaties, *ut supra*, p. 177. ²⁴ *Printed Papers, ut supra*, p. 31.
- ²⁵ Papers relating to the Affairs of the Carnatic, No. 2; printed by order of the House of Commons, in 1803.
- ²⁶ "I should hesitate," he says, "to advance, if I was not supported by the authority of public record, that during a late scarcity of grain in the southern provinces, the *Manager* had the hardiness to write a public complaint, to the Company's collector, against the Poligars, for selling grain to the inhabitants.—Nor was the evil removed, without the interposition of this government, who, by sending vessels loaded with grain, induced the monopolizers, from regard to their own interests, to restore their usual supplies to the market." He adds; "As the means of cultivation decrease, the price of grain is enhanced;—and it is a notorious, but inhuman maxim of eastern finances, (*Query, how much it differs from the principle of an English corn law*)—that a time of scarcity is more productive to the Sirkar than a time of plenty, owing to the price at which the diminished quantity is sold." *Ibid.*
- ²⁷ See the Minute of Lord Hobart, *Printed Papers, ut supra*, pp. 99-104.
- ²⁸ President's Minute in Council, 24th November, 1795; *Printed Papers, ut supra*, p. 104. Lord Hobart felt what reformers are sure to experience, wherever the interests opposed to reform continue to exist; "I am aware," said he, "of the numerous enemies who will start up against me, for the part I have taken. But I have a shield in the consciousness of an honest execution of my duty, which blunts their arrows, and which will ultimately render all their efforts impotent and unavailable.—I have forborne to bring forward the names of individuals, not because I am not able to do so, but because the subject is above personal considerations.—Let those who have amassed wealth, by such means, enjoy it as well as they can. Let it be my pride to have paid this tribute to suffering humanity, by deterring others from the commission of similar enormities." *Ibid.* The enemies of reform in India, and the enemies of reform in England, are of one and the same *caste*.
- ²⁹ Letter from Lord Hobart to the Court of Directors; *Printed Papers, ut supra*, pp. 87-93.

CHAPTER 8

The Siege of Seringapatam

WHEN THE play of private interest is not instructive, either by the inferences which may be drawn from it, or by the consequences to which it leads, it escapes the curiosity of the historian, whose views are directed by utility alone. Whatever share ministerial intrigues may have had, in the fluctuations of counsel, which attended the choice of a new Governor-General, it is sufficient for us to relate, that after Lord Hobart was appointed, on the 23rd of October, 1793, to be Governor at Madras, he was nominated, on the 24th of December, in the same year, to succeed the Marquis Cornwallis, as Governor-General of India. That, enjoying honourable and affluent prospects at home, and at that time filling an office of high dignity and trust, Lord Hobart would not have left his country for less than the assurance of the highest place in India, was well understood. Ministerial volition, of course, was the origin of both the one appointment and the other. The administration, however, of Sir John Shore, who succeeded to the place of Governor-General, as senior member of the council, immediately upon the resignation of Lord Cornwallis, was not interrupted till the month of March, in the year 1797; when Lord Cornwallis was nominated a second time to fill the offices of Governor-General and Commander-in-Chief. The appointment was announced to the different Presidencies in India; and a measure, so extraordinary, seemed to declare that there was something extraordinary in the cause of it. Extraordinary as it was, it remained without effect. In the month of October, of the same year, it was notified to the different Presidencies, that the Earl of Mornington was appointed to be Governor-General, in lieu of Marquis Cornwallis. He was appointed, it was said, "under circumstances, and for reasons, of a peculiar nature." The Directors added, that "various circumstances had induced the Marquis to resign his appointments."¹ Such were the mysterious terms to which the actors thought fit to confine themselves.

NOTES AND REFERENCES

- ¹ Public Letter to Fort St. George, 18th October, 1797. Papers relating to the affairs of the Carnatic, ordered by the House of Commons to be printed 10th August, 1803, i, p. 244.
- ² Speech of the Chairman in the General Court, 6th February, 1798. See the Report of the Debate, in the *Asiatic Annual Register*, vol. i.
- ³ This is the account which is given in the Governor-General's Letter to the Court of Directors, dated 20th March, 1799. In his minute, in the secret department, 12th of August, 1798, the following is the account. "The ambassadors aided and assisted in the levy of 150 officers and privates, for the service of Tipu, under the terms, and for the purposes, stated in the proclamation. Few of the officers are of any experience, and the privates are the refuse of the democratic rabble of the island. Some of them are volunteers; others were taken from the prisons, and compelled to embark. Several of them are Caffrees, and people of half cast. With such of these troops as were volunteers, the ambassadors entered into several stipulations and engagements, in the name of Tipu." In Tipu's own letter to the French Directory, under date the 30th of August, 1798, he says he received only sixty soldiers.
- ⁴ Letter from Lord Mornington to the Court of Directors, dated 20th March, 1799. Papers presented to the House of Commons relating to the War in the East Indies with Tipu Sultan; ordered to be printed 26th September, 1799. "The necessarily dispersed state of the troops," (says Col. Beatson, *View of the Origin and Conduct of the War with Tipu Sultan*, i, p. 15,) "would have been of less importance but for those radical defects, which have in a certain degree at all times existed. These proceed from a system of economy, which precludes the expense of establishing depots of grain in different parts of our possessions, and of maintaining a fixed establishment of draught and carriage cattle; without which no portion of

the Madras army, however amply it might have been supplied with every other requisite for field operations, was in a condition to act with promptitude and effect."

- ⁵ See a Report of the business of this meeting: *Asiatic Annual Register*, vol. i, *Chronicle*, p. 31.
- ⁶ A Review of the late War in Mysore, in a Letter from an officer in India. Published by Marquis Wood, Esq. M.P. Colonel, and late Chief Engineer, Bengal, p. 10. The Governor-General's Letter, *ut supra*, paragraph 38.
- ⁷ *Ibid.* Colonel Beatson says, *View of the Origin and Conduct of the War with Tipu Sultan*, i, p. 4), "The apprehensions entertained from the designs of Tipu Sultan were certainly, at that period, considerably increased by the bold and decided measures of preparation and defence, which the Marquis Wellesley judged proper to adopt, a very few weeks after he had taken charge of the supreme government of India."
- ⁸ Letter of the Governor-General to the Court of Directors, dated 21st November, 1798. Printed papers, *ut supra*, p. 6. Malcolm's *Sketch*, pp. 236-44. Beatson tells us (i, p. 50) that the secret was well kept; that the cause of sending the detachment from Guntoor to Hyderabad was not made known to the government of Madras; and that the intelligence of the annihilation of the French corps came by surprise upon the English of Calcutta and Madras. He tells us also, that their minds were in such a state, as to regard the transaction as a perfect master-piece of policy.
- ⁹ Letter, *ut supra*, paragraph 24. ¹⁰ Malcolm's *Sketch*, p. 244
- ¹¹ *Historical Sketches*, iii, pp. 361-66.
- ¹² Printed papers, *ut supra*, No. 1.
- ¹³ "It was supposed" (says Colonel Beatson, p. 57) "that Tipu Sultan's army had suffered essentially, both in numbers and discipline, since the last war: his finances were in disorder: his councils were perplexed by discordant opinions; and his spirits dejected and broken by the disappointment of his hopes of French assistance; by the retreat of Zaman Shah; by the failure of his intrigues at the courts of Poona and Hyderabad; and by the unexampled vigour, alacrity, and extent of our military preparations. "Tipu Sultan's field army" (he says, p. 204) "was estimated at 47,470 fighting men."
- ¹⁴ Printed papers, *ut supra*, No. 8.

- ¹⁵ Malcolm's *Sketch*, p. 254.
- ¹⁶ Letter from Lord Mornington to Tipu Sultan, printed papers, *ut supra*, p. 24.
- ¹⁷ See the papers relating to East India Affairs, printed by order of the House of Commons in the year 1800.
- ¹⁸ Printed papers, *ut supra*, No. 8, inclosure, No. 4.
- ¹⁹ *Ibid.*, No. 5.
- ²⁰ Letter from the Governor-General to the Court of Directors, dated 3rd August, 1799, *ut supra*.
- ²¹ Letter, 20th March, 1799, *ut supra*.
- ²² Inclosures A. and B. of the Governor-General's Letter to the Commander-in-Chief, dated 22nd January, 1799.
- ²³ "The victories of the Marquis Cornwallis (says Col. Beatson, i, p. 47) had greatly facilitated any future plan of operation against the power of Tipu Sultan. By diminishing *his* resources, and increasing *our own*, they had produced a twofold effect. And the extension of our frontier, by the extension of the Baramahal and Salem districts, and a thorough knowledge of the defences of Seringapatam, and of the routes leading to that city, were considered at that moment as inestimable advantages."
- ²⁴ The Raja accompanied General Stuart, and was present with him in the battle; which he described with vast admiration, in a letter to the Governor-General, quoted by Col. Wilks.
- ²⁵ These are the words of two distinguished officers of the same army; Beatson, p. 65, and Wilks, iii, p. 407.
- ²⁶ Wilks, iii, p. 414.
- ²⁷ Letter to Directors, 3rd August, 1799, *ut supra*.
- ²⁸ *Historical Sketches*, iii, pp. 436-37. For the interior history of the Mysoreans, at this time, Colonel Wilks, who afterwards governed the country, enjoyed singular advantages; and we may confide in his discrimination of the sources and qualities of his information.
- ²⁹ See Major Allan's own account of the scenes at the palace, and the gateway; annexed (Appendix 42) to Beatson's *View of the War with Tipu Sultan*.
- ³⁰ After the capture of Seringapatam, some native spies, employed by the English, asserted that the Sultan had ordered the death of thirteen English prisoners, taken during the

siege: and a scrap of paper was found, said to be in his handwriting, which bore the character of an order for the death of 100 Coorg prisoners.—All the evidence which accompanies these allegations would not be worthy of regard, but that the moral and intellectual state of the age and country of Tipu renders such an act by no means improbable, under strong temptation, by any prince of the East. This, however, does not conclude Tipu to be worse; it only supposes him not to be better than his neighbours.

- ³¹ See the letter from Tipu Sultan to Marquis Du Buc, dated Seringapatam, 2nd January, 1799; papers printed by order of the House of Commons, in 1800.
- ³² See the papers relating to the war with Tipu, printed by order of the House of Commons, in 1800. In the report which the vakils, upon their return made to the Sultan of their proceedings, they expressly state, that the Governor of the Isle of France waited upon them, and said, "that Ripaud had made an erroneous representation to your Highness, which occasioned us to be deputed." And before their departure, they were informed by the Governor, that he would send with them a gentleman, (one of those by whom they were actually accompanied) "who should reside at the presence in quality of wakil, that the other Frenchmen might not, by telling falsities, like Ripaud, deceive your Highness."
- ³³ Beatson, i, p. 139.
- ³⁴ Col. Beatson says, (p. 254) that in 1788 he "ascertained the position and nature of not less than sixty passes through the mountains, several of which are practicable for armies, and two thirds, at least, of that number sufficiently open to the incursions of cavalry."
- ³⁵ The Governor-General expressly declares, that beside the jealousy of the Mahrattas, the partition of Mysore between the English and the Nizam would have raised the power of that Prince to a dangerous height: and would have given him many strong fortresses which could not have been placed in his hands without imminent danger to the British frontier.
- ³⁶ See the papers relating to the war with Tipu, printed by order of the House of Commons in 1800. See also the Treaty with the Nizam, and that with the Raja of Mysore. For the

whole of the concluding struggle with Tipu, we have very complete information, not only in the official papers, which have been pretty fully given in print, but in the valuable works, so frequently quoted, of Beatson and Wilks. For the character of Tipu, and some parts of his politics, hints are afforded by the volume of his letters, for which we are indebted to Col. Kirkpatrick.

- ⁸⁷ *A Sketch of the Political History of India*, from the Introduction of Mr. Pitt's Bill, A.D. 1784, to the present Date, by Sir John Malcolm, pp. 282-87. Collection of Treaties.

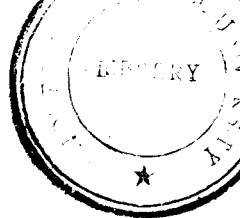
CHAPTER 9

Situation of Oudh

THE ARRANGEMENTS formed by the late Governor-General, Sir John Shore, with respect to the kingdom of Oudh, satisfied the capacious desires of the London authorities. Under date the 15th of May, 1799, a despatch, intended to convey their sentiments to the instruments of government in India, has the following passages:

“By the definitive treaty concluded at Lucknow, the Company’s influence over the Vizir’s country appears to be sufficiently preserved; without the insertion of any article, which, in its operation, might lead to an interference in the collections, on the part of the Company, that might be deemed offensive. And we have the further satisfaction to find, that, (exclusive of the immediate payment of twelve lacs of rupees by the Nabob Vizir),—his annual subsidy is increased upwards of twenty lacs of rupees; besides the acquisition of a fortress in the Oudh dominions, of the greatest consequence in the scale of general defence: with other stipulations, which have a tendency to remedy former defects in our political connexion with that country, and to give the Company such an ascendancy as cannot fail to be productive of material benefit to both parties: and which, we trust, will lead to the establishment of a good system of government in Oudh, which hitherto all our endeavours, for a series of years, have been unable to accomplish.

“The late Governor-General had given us reason to expect, that, for the first year, or perhaps longer, after Saadat Ali’s accession, his revenues would probably fall considerably short of their estimated amount; and that he would find considerable difficulty in fulfilling his pecuniary engagements with the Company :—and very satisfactorily assigned the ground of that opinion. We are, therefore, not surprised to find by the last accounts, that an arrear had accumulated in the payment of the Company’s tribute, to the amount of upwards of eighteen



NOTES AND REFERENCES

- ¹ Papers printed by order of the House of Commons in 1806, i, p. 30.
- ² *Papers, ut supra*, v, p. 3. ³ *Ibid.*, iii, pp. 2-3.
- ⁴ Minute of the Governor-General, 4th of July 1797. See also Malcolm's *Sketch*, p. 210.
- ⁵ *Papers, ut supra*, ii, p. 36. ⁶ *Ibid.*, pp. 36-7.
- ⁷ *Ibid.*, ii, p. 37. ⁸ *Ibid.*, p. 38.
- ⁹ Malcolm's *Sketch*, p. 317.
- ¹⁰ See Collection of Treaties, &c., between the East India Company and the Asiatic Powers; also the Appendix to Malcolm's *Sketch*.
- ¹¹ Malcolm's *Sketch*, p. 318.
- ¹² *Papers, ut supra*, pp. 22-3.
- ¹³ *Ibid.*, iii, p. 146. ¹⁴ *Ibid.*, i, p. 3.
- ¹⁵ See the Letter, with that to Sir A. Clarke, *Ibid.*, iii, pp. 4-6.
- ¹⁶ Letter to the Governor-General, dated 7th September, 1799; *Papers, ut supra*, p. 10.
- ¹⁷ *Papers, ut supra*, p. 14. ¹⁸ *Ibid.*, pp. 15-6.
- ¹⁹ *Ibid.*, pp. 16-7. ²⁰ *Ibid.*, pp. 24-5. ²¹ *Ibid.*, p. 25.
- ²² *Ibid.*, pp. 27-31. ²³ *Ibid.*, pp. 31-2. ²⁴ *Ibid.*, pp. 40-8.
- ²⁵ *Ibid.*, p. 53. ²⁶ *Ibid.*, p. 62. ²⁷ *Ibid.*, p. 67.
- ²⁸ *Ibid.*, v, p. 4.
- ²⁹ Vide *supra*, p. 140, (viz. the case of Mysore.)
- ³⁰ Dated the 31st of August, 1800; *Papers, ut supra*, v, p. 10.
- ³¹ *Papers, ut supra*, iii, p. 73. ³² *Ibid.*, pp. 77-8.
- ³³ *Ibid.*, pp. 87-8. ³⁴ *Ibid.*, p. 89. ³⁵ *Ibid.*, pp. 89-90.
- ³⁶ *Ibid.*, pp. 91-2. ³⁷ *Ibid.*, pp. 96-101.
- ³⁸ *Ibid.*, pp. 110-40, containing the correspondence on the disbanding of the troops.
- ³⁹ *Ibid.*, p. 141. ⁴⁰ *Ibid.*, pp. 145-48. ⁴¹ *Ibid.*, pp. 148-51.
- ⁴² *Ibid.*, pp. 161-208. ⁴³ *Ibid.*, pp. 163-64.
- ⁴⁴ *Ibid.*, pp. 185-92. ⁴⁵ *Ibid.*, pp. 198. ⁴⁶ *Ibid.*, p. 213.
- ⁴⁷ Contrast the language, in the last quoted sentence, with the following passage of an address delivered to the Vizir in

the name of the Governor-General, by his brother Henry Wellesley, in September, 1801; where, after a description of the undisciplined and mutinous condition of the troops of the Vizir, and his own declared opinion of them, these, says the address, "were the primary causes which moved the Governor-General to consider the means of applying an effectual reform to the military establishment of Oudh. The plan of this reform originated, not in the voluntary suggestion of his Lordship's mind, but in the alarming state of your Excellency's dominions and power, and in your own express desire." *Papers, ut supra*, iv, p. 7.

⁴⁸ *Papers, ut supra*, iv, p. 231. ⁴⁹ *Ibid.*, pp. 1-15.

⁵⁰ *Ibid.*, p. 17. ⁵¹ *Ibid.*, pp. 21-3. ⁵² *Ibid.*, p. 39.

⁵³ *Ibid.*, pp. 29, 35. ⁵⁴ *Ibid.*, p. 27. ⁵⁵ *Ibid.*, v, pp. 14-5.

⁵⁶ This sentiment is expressed by Mr. Henry Wellesley, in his account of the progress of the negotiation; letter to the Governor-General, dated 7th January, 1802; *Ibid.*, iv, p. 35. It is several times expressed by Colonel Scott, especially in his conversations with the Vizir, during the course of the negotiation; *Ibid.*, iii, *passim*.

⁵⁷ *Ibid.*, v, pp. 11-7. ⁵⁸ *Ibid.*, pp. 20-5. ⁵⁹ *Ibid.*, pp. 25-6.

⁶⁰ See the Minutes of Evidence on the Oudh Charge, pp. 32, 35, 49, 53, 74.

⁶¹ See Chapter vi. *passim*.

⁶² *Papers, ut supra*, v, pp. 25-6. ⁶³ *Ibid.*, p. 26

⁶⁴ It may be useful to some persons to see, what real good sense, without the aid of systematic inquiry, has taught on this subject in a remarkable age and country. . . . Demosth. contra Leptinem: *Reiske*, i, p. 485. The circumstances here pointed out, on the authority of Solon, are, first, clearness, simplicity, and certainty in the laws; so great, that any private man may be as well acquainted with them, as little liable to sustain any evil by his ignorance of them, as the man who makes them the study of his life: Secondly, that the most effectual means should be taken to make every man fully acquainted with the laws, by exposing them, in terms, to public view, even before enactment, and making them be read by the public reader, in the congregations or assemblies. . . . *Arist. Rhetor*, lib, i, cap. 1. The proposition here is, That

a system of law, to be good, must define every thing, susceptible of definition, within the field of law; and leave as little as possible to the judges. Three reasons are annexed: First, that it is easier to find one or two men, provided with the wisdom, necessary for the making of laws, than to find a multitude: Secondly, that legislation may be performed cautiously and deliberately; judication must be performed upon the spur of the occasion, and expeditiously, which takes from the judges the power of tracing accurately the limits of utility and justice: Thirdly, the decision of the legislator, and that is the most important consideration of all, is not about *particulars*, and cases present to the senses; but about *genera*, and cases yet to come; whereas, the decision of the judge is about particulars, and things present to the senses; things to which his passions are apt to be linked, and by which his interests are apt to be affected; in such a manner, that his discernment of right and wrong is obscured, by the intervention of what is agreeable or painful to himself.

⁶⁵ Vide *Supra*.

⁶⁶ Instructions, under the signature of the Secretary of Government; sent to Mr. Wellesley and Colonel Scott, at Lucknow, under date, Monghyr, 21st September, 1801. *Papers, ut supra*, iv, pp. 18-9.

⁶⁷ See the Letter in which he announced the ratification of the treaty, dated, on the Ganges, 14th of November, 1801, *Papers, ut supra*, v, p. 15.

⁶⁸ *Ibid.*, ii, pp. 42-44.

⁶⁹ *Ibid.*, xii, p. 9. See also the article of charge against Marquis Wellesley, relating to Farrukhabad. For the statistics of Farrukhabad, see Rennel, and Hamilton's East India Gazetteer.

⁷⁰ *Papers, ut supra*, xii, pp. 9-28. ⁷¹ *Ibid.*, i, p. 36.

⁷² *Ibid.*, pp. 34-42.

⁷³ *Ibid.*, p. 64.

⁷⁴ *Ibid.*, Supplement, No. 2, to vol. iii.

⁷⁵ *Ibid.*, i, p. 58.

⁷⁶ *Ibid.*, p. 46. "The satisfaction," says the judicial letter from Bengal, in the department of ceded provinces, dated on the same 20th of October, "generally manifested by all descriptions of persons in the ceded provinces, at the transfer of

these provinces to the authority of the British government, and the uninterrupted success which attended the measures adopted under the sanction of the Governor-General in Council, by the late Lieutenant-Governor, and the Board of Commissioners, for the complete establishment of the authority of the British government in these provinces, appeared to his Excellency in Council, to leave no room to doubt of the expediency of immediately introducing into the ceded provinces the system of internal government established in Bengal. It is with the highest degree of satisfaction, his Excellency in Council is enabled to add; that the tranquillity which has in general prevailed throughout the country, and the submission and obedience, manifested by all classes of people to the authority of the laws, afford abundant proof, both of the beneficial operation of the new form of government, and of the expediency of its introduction." Supplement, *ut supra*, p. 301.

⁷⁷ *Minutes of Evidence*, pp. 54-9.

⁷⁸ *Papers, ut supra*, Supplement, No. 2, to vol. iii.

⁷⁹ *Minutes of Evidence*, p. 55. "From the general spirit of revolt which the Zamindars of this country exhibited, on the small check which our troops received at Shikohabad, &c." says a letter of Captain M. White, commanding at Etawah, dated 12th September, 1803, *Papers, ut supra*, Supplement, No. 2, to vol. iii.

⁸⁰ *Ibid*

CHAPTER 10

Surat, Tanjore and Arcot

THE CITY of Surat, situated in the province of Gujarat, on the south side of the river Tapti, was by far the greatest place of maritime commerce in India, when the Europeans first discovered the passage by the Cape of Good Hope. Communicating easily with some of the richest provinces of the Moghul empire, it was conveniently situated not only for the traffic of the western coast of India, but, what was at that time of much greater importance, the trade of the Persian and Arabian gulfs. As it was the port from which a passage was most conveniently taken to the tomb of the prophet, it acquired a peculiar sacredness in the eyes of Mussalmans, and was spoken of under the denomination of one of the gates of Mecca. It acquired great magnitude, as well as celebrity; for, even after it has confessedly declined, it was estimated in 1796 at 8,00,000 inhabitants; and though it is probable that this amount exceeds the reality, Surat may at this time be regarded as the largest city in India. When the votaries of the ancient religion of Persia, of which the Zend, and its commentary the Pazend, are the inspired and sacred books, were driven from Persia, and the tolerating policy of Akbar drew a portion of them to India; Surat, as the most celebrated landing-place from Persia, became the principal place of their abode; and there, about 14,000 of their descendants still preserve their manners, and adhere to their worship.

The present fort or castle of Surat, was erected about the year 1543, when Sultan Mohammed Shah was King of Gujarat. As this kingdom soon after yielded to the Moghul arms, Surat became subject to the government of Delhi. It fell in with the Moghul policy, to separate the administration of the city, from the government of the castle. The Governor of the castle, and its garrison, were maintained by lands or jagir, and tunkas or assignments on the revenue. The Governor of the town received the customs, or taxes on exports and imports; the taxes called

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- ¹ See a folio volume of 535 pages, of papers relating to this transaction solely, printed by order of the House of Commons, dated 14th July, 1806, and furnished with a copious table of contents, by which every paper, to which the text bears reference, will be easily found. ² Vide, *supra*, p. 62.
- ³ Papers relating to the affairs of the Carnatic, ordered by the House of Commons to be printed, in August, 1803, i, p. 243.
- ⁴ *Papers, ut supra*, p. 204. ⁵ *Ibid.*, pp. 213-16.
- ⁶ *Ibid.*, p. 216. ⁷ *Ibid.*, p. 214. ⁸ *Ibid.*, p. 216.
- ⁹ *Ibid.*, p. 217.
- ¹⁰ See certain documents in the *Second Report* of the Select Committee, 1810, pp. 234-42. ¹¹ *Papers, ut supra*, p. 2.
- ¹² *Ibid.*, p. 3. ¹³ *Ibid.*, p. 4. ¹⁴ *Ibid.*, p. 14.
- ¹⁵ *Ibid.*, p. 47 ¹⁶ *Ibid.*, p. 36.
- ¹⁷ *Ibid.*, p. 39. The papers from Seringapatam, and the examination of the witnesses, are in a collection of House of Commons "Papers concerning the late Nabob of the Carnatic, ordered to be printed 21st and 23rd of June, 1802;" the rest of the documents are in the volume of papers quoted immediately above.
- ¹⁸ For the above extracts, see *Papers*, vol. i, *ut supra*, pp. 42-7.
- ¹⁹ Such are the words of the Governor of Fort St. George, in a letter to Lord Wellesley, 7th of July, 1801; *Papers, ut supra*, p. 65.
- ²⁰ The report from which the above particulars and quotations are taken, is in the volume of papers (pp. 8-25), ordered by the House of Commons to be printed, 21st and 23rd of June, 1801. ²¹ See the Treaty, and *Papers, ut supra*, i, p. 74.
- ²² Letter from the Secret Committee of the Court of Directors, dated 29th of September, 1802, to the Governor in Council of Fort St. George; *Ibid.*, i, p. 153. ²³ Vide *supra*.
- ²⁴ *Papers, ut supra*, ordered to be printed 21st and 23rd of June, 1802. ²⁵ *Ibid.*, i, pp. 95-6, 145-46.
- ²⁶ *Papers*, ordered to be printed in 1806, No. 25, p. 192.

CHAPTER 11

Negotiations with the Peshwa

THE RELATIONS, which the British government endeavoured to establish with the Princes of India, were different in different circumstances. They with whom their connection was the most intimate, the Nabob of Carnatic, the Raja of Tanjore, the Nabob of Oudh, formed one class. Another was formed by those who stood in the circumstances of the Nizam, of the Peshwa, and other Mahratta powers.

From the Princes of the first class, it had lately been the object of the British government to take away not only the military, but likewise the civil power, in the countries to which their titles respectively extended; and, leaving them the name of sovereign, to make them simply pensioners of state. With the rest, this object had been completely attained: With the Nabob of Oudh, it was found expedient to make something of a compromise. A sort of delegated administration, which, however, he bound himself to carry on according to the pleasure of the delegator, was left to him in civil affairs, in a portion, not much more than a third, of his former dominions.

To this point the pretensions of the British government had advanced by degrees. At first they were neither very high, nor very definite. The English, for their own security, found it necessary to aid the Princes in defending themselves; and the Princes agreed to re-imburse the English for the expenses which they incurred.

The powers of government, that is, in India, the powers of the sovereign, may be looked upon as divided (in India they are very conspicuously divided) into two portions; the one, the military power; the other, the civil power; the one consisting in authority over the military force; the other in the administration of what is called the civil or non-military affairs of the state, the collection of the revenue, judicature, and police.

The English arrived at the first remarkable stage, when they made the Princes, with whom they were most nearly connected,

NOTES AND REFERENCES

- ¹ Governor-General's *Narrative* of the late Transactions in the Mahratta empire: East India Papers, Mahratta War, 1803, ordered to be printed 5th and 22nd of June, 1804, p. 304.
- ² *Ibid.*
- ³ Governor-General's instructions to the resident at Poona, dated 23rd of June, 1802, transmitted in Letter from the Governor-General to the Secret Committee, dated 24th of December, 1802, and received the 9th of May, 1803. *Ibid.*, p. 34.
- ⁴ *Ibid.*
- ⁵ *Ibid.*
- ⁶ *Letters, ut supra*, p. 34.
- ⁷ *Ibid.*
- ⁸ *Ibid.*, p. 34.
- ⁹ *Ibid.*, p. 34.
- ¹⁰ *Ibid.*, p. 35.
- ¹¹ *Ibid.*
- ¹² *Ibid.*, p. 35.
- ¹³ *Ibid.*
- ¹⁴ *Ibid.*
- ¹⁵ *Ibid.*, p. 37.
- ¹⁶ Governor-General's *Narrative*, *Ibid.*, p. 305.
- ¹⁷ For these particulars, of the dispute between Sindhia and Holkar, see the same volume of *Parliamentary Papers*, pp. 1, 5, 258.
- ¹⁸ *Ibid.*, pp. 7-9.
- ¹⁹ On this subject he further says, in the same dispatch: "It must likewise be considered; that, however much it may be the interest of the Peshwa to engage in the defensive alliance, with a view to the restoration of the due exercise of his authority, as head of the Mahratta empire; yet that Sindhia is by no means in a similar predicament. On the contrary, as the Maharaja (Sindhia), by the real superiority of his power, is now enabled to intimidate Baji Rao into concessions suitable to his purposes, he is apparently urged, by principles of self-interest, not only to decline becoming a party himself in the treaty, but moreover to exert his utmost influence, in order to prevent the Peshwa from entering into engagements, which, if carried to the extent originally proposed, would completely render him alike independent of Sindhia, and of every other chieftain of the Mahratta state."
- ²⁰ See the Dispatch of Colonel Collins, dated Ougein, 8th of March, 1802, *Ibid.*, pp. 13-5.

- ³⁰ *Papers, ut supra*, pp. 64, 67.
- ³¹ *Ibid.*, pp. 64-5. ³² *Ibid.*, p. 67. ³³ *Ibid.*, p. 33.
- ³⁴ *Ibid.*, p. 76. ³⁵ *Ibid.*, p. 68. ³⁶ *Ibid.*
- ³⁷ *Ibid.*, p. 78. ³⁸ *Ibid.*, p. 33. ³⁹ *Ibid.*, p. 69.
- ⁴⁰ *Ibid.*, pp. 82-3, 414-15. ⁴¹ *Ibid.*, pp. 86-7.
- ⁴² For the dispatch from which these quotations and facts are extracted, *Ibid.*, pp. 85-91.
- ⁴³ *Ibid.*, pp. 98-9.
- ⁴⁴ Governor-General's *Narrative* of the late Transactions in the Mahratta empire. *Ibid.*, p. 309.
- ⁴⁵ *Ibid.*, p. 307. ⁴⁶ *Ibid.*, pp. 307-11.
- ⁴⁷ Vide *supra*, p. 340. ⁴⁸ *Narrative, ut supra*, pp. 317-18.
- ⁴⁹ *Ibid.*, p. 334.
- ⁵⁰ Colonel Collin's dispatch, dated, 29th May, 1803. *Ibid.*, p. 153.
- ⁵¹ Dispatch, *ut supra, Ibid.*, pp. 153-54.
- ⁵² Letter from Governor-General to home authorities, dated 1st August, 1803. *Ibid.*, p. 148.
- ⁵³ *Narrative, ut supra, Ibid.*, pp. 325-26.
- ⁵⁴ *Ibid.*, pp. 149, 162. ⁵⁵ *Ibid.*, pp. 133-36.
- ⁵⁶ *Ibid.*, pp. 166, 323. ⁵⁷ *Ibid.*, p. 324.
- ⁵⁸ *Ibid.*, pp. 327-31; Notes relative to the late Transactions in the Mahratta empire, *Ibid.*, pp. 226-30; Letter from Governor-General in Council to the home authorities, dated 25th of September, 1803, *Ibid.*, pp. 170-76.
- ⁵⁹ In his *Narrative, ut supra*, p. 331; Notes, *ut supra*, p. 230; Dispatch of the 25th of September, 1803, *ut supra*, p. 176.
- ⁶⁰ In transcribing these words I have left out three expressions, two of vague reprobation which the Governor-General bestows upon the actions of Sindhia, and one of applause which he bestows upon his own, because they have only a tendency to substitute the opinion of the Governor-General upon these points; to the opinion which the pure facts may suggest; and I have so altered another of the expressions as to render it grammatical.
- ⁶¹ See Governor-General's Letter, *ut supra*, pp. 179-80; *Narrative, ut supra*, pp. 331-32.
- ⁶² The following are some of the Governor-General's expressions: "If the negotiation shall prove successful, there is

reason to expect that it will promote the complete accomplishment of the general system of defensive alliance, by inducing the other Mahratta powers to concur in the proposed arrangement—with a view to avoid the dependant and subordinate condition to which they must be reduced by their exclusion from an alliance, of which the operation, with respect to them, must be, to control all ambitious views and aggressive designs on their part, without affording to those powers the benefit of the general guarantee.”

(*Narrative, ut supra*, p. 10.)—“The same conveyance will furnish you with a detail of the negotiations, conducted by the resident at Poona, under my authority, with the view to the accomplishment of the important object of comprehending the Mahratta states in the general system of defensive alliance with the Honourable Company and its allies, on the basis of the treaty concluded with his Highness the Nizam in the month of October, 1800.” (*Ibid.*, p. 29.)—

“The intimate connexion with the Peshwa, on principles calculated to secure to him the constant protection of the British arms, could not be formed, without, at the same time, establishing our ascendancy in the Mahratta empire.”

(*Ibid.*, p. 34.)—In the next page (35) he calls it “that degree of control and ascendancy, which it must be our interest to establish in the Mahratta state, and which it is his object to avoid.”—“The Peshwa is aware, that the permanent establishment of a British force in the neighbourhood of Poona would, immediately, place him, in some degree, in a state of dependance upon the British power.” (*Ibid.*)

⁶³ Governor-General’s *Narrative, ut supra, Ibid.*, p. 319: Also the Governor-General’s instructions to the resident with Daulat Rao Sindhia, *Ibid.*, p. 129.

⁶⁴ For this specimen, see Governor-General’s *Narrative, Ibid.*, p. 318: See, too, p. 312. Also his instructions to the resident, *ut supra*, p. 129; and the dispatch 25th September, 1803, commencing *Ibid.*, p. 169.

⁶⁵ Governor-General’s *Narrative, Ibid.*, p. 312.

⁶⁶ *Ibid.* ⁶⁷ *Ibid.*, p. 303.

⁶⁸ *Ibid.*, p. 313.

⁶⁹ Instructions to Colonel Collins. *Ibid.*, p. 8. See, too, his

instructions to the resident at Poona, 22nd November, 1802, where he describes it as a plan "to combine the principal powers of Hindustan in a general system of defensive alliance and guarantee." *Ibid.*, p. 65. See also Governor-General's *Narrative*, *Ibid.*, p. 307.

⁷⁰ Col. Collin's Dispatch. *Ibid.*, pp. 17-8.

⁷¹ The Governor-General himself was of this opinion, when he first sent Colonel Collins to the camp of Sindhia, with an expectation that he would not only dismiss the French officers, but accept the English subsidiary force; that is, give up his military power entirely to the English.

⁷² See Papers of Instructions. *Ibid.*, p. 156, &c.

⁷³ Papers on the Mahratta War, *ut supra*, p. 68.

⁷⁴ Governor-General's Letter to Sindhia, *Ibid.*, p. 134, also p. 129.

⁷⁵ When the Governor-General, it may be further observed, tells Sindhia, that he had not the means of defending himself against the miserable power of Holkar, (*Ibid.*, pp. 131, 133), he surely made very small account of Perron and his battalions. It has been given, in parliament, as the opinion of two men, not apt to agree on disputable ground, of both Hastings and Francis, the European officers, and disciplined battalions, were to the native princes, especially the Mahrattas, a source of weakness, not of strength; who, though formidable by their irregular warfare, could not be so in a pitched battle. See Report of the debate, on the state of affairs in India, 5th of April, 1805. It was affirmed on that occasion by Mr. Francis, that after the minutest investigation, he found there were not more than twelve French officers in the whole Mahratta service. And it is worthy of remark that no specific statement of the number, nothing but large general expressions, is given by the Indian government. Francis, moreover affirms, that of the force under the command of Perron, the greater part were ordinary Mahratta troops; but a small portion officered by Europeans, or disciplined in the European manner.

Battles of Delhi, Laswaree and Assye

FOR THE war, as soon as it should begin, the Governor-General had prepared a most extensive scheme of operations. To General Lake, the Commander-in-Chief, at that time present with the army on the upper frontiers, instructions had been sent on the 28th of June; pointing out, not only the necessity of placing the army under his command, with the utmost expedition, in a state of preparation for the field, but also, though briefly, and in the form of notes, the objects to the attainment of which the operations of that army would immediately be directed. On the consequent exertions of the Commander-in-Chief, to make ready for action, the Governor-General bestows unqualified praise. "By the indefatigable activity," says he, "zeal, ability, and energy of General Lake (whose personal exertions have surpassed all former example, and have been the main source of the success of the war in that quarter) the army of Bengal, on the north-west frontier of Oudh, was placed, towards the close of the month of July, in a state of preparation and equipment favourable to the immediate attack of M. Perron's force, as soon as authentic advices should be received of the commencement of hostilities in the Deccan."¹

In this part of the extensive field, which the plan of the Governor-General embraced, he gave notice of two military, and two political, objects. The first of the military objects was to conquer the whole of that portion of Sindhia's dominions which lay between the Ganges and the Jumna; destroying completely the French force by which that district was protected; extending the Company's frontier to the Jumna; and including the cities of Delhi and Agra, with a chain of posts, sufficient for protecting the navigation of the river, on the right bank of the Jumna. The second of the military objects was of

NOTES AND REFERENCES

- ¹ *Papers, ut supra*, pp. 154, 234.
- ² Governor-General's Letter to the Commander-in-Chief, dated 27th of July, 1803. *Ibid.*, p. 156.
- ³ Vide Governor-General's Notes relative to the late transactions in the Mahratta empire. *Ibid.*, p. 235. It is instructive to observe the prevalence of exaggeration: Col. Collins in his letter from Sindhia's camp, dated 7th of April, 1802, says; "Since my arrival at this court, I have obtained more accurate information of the state of the regular infantry in the service of Daulat Rao Sindhia than I heretofore possessed. I believe your Lordship may rely on the correctness of the following statement. General Perron commands four brigades of native infantry, each consisting of ten battalions of sepoys. The complement of a battalion is 716 firelocks, and every corps is commanded by two or three European officers." *Ibid.*, p. 17. By this statement, Perron's infantry amounted to 28,640, more than one half beyond the estimate of the Governor-General, which yet we may suppose beyond the mark.
- ⁴ This sketch of the history, both of Deboigne and Perron, for which I have been obliged to trust to sources a little uncertain, is given, as exhibiting, which is enough for the present purpose, an idea, correct as to the class of men to which they belonged, rather than, in every minute particular, as to the individuals who are named.
- ⁵ This account, which savours of exaggeration, is derived from an English gentleman, who served at the same time with Deboigne as an officer in Sindhia's army. See *Asiatic Annual Register for 1805*, Characters, p. 22.
- ⁶ These particulars, collected by the well-informed editor of the earliest volumes of the *Asiatic Annual Register* (see vol. iii, Characters, p. 39), are confirmed by common history in all the leading and material points.
- ⁷ See letters from an officer in Perron's army, *Asiatic Annual Register*, vol. i., Chron. p. 50.

⁸ See Rennel, *Ibid.*, 1804, Miscel. Tracts, p. 77: Hamilton's *East India Gazetteer*. The policy of letting him take possession of this country, is thus represented by Lord Wellesley: "The territories of Sindhia between the Jumna and the Ganges interrupt the line of our defence in that quarter; and some of his principal posts are introduced into the centre of our dominions; while the possession of Agra, Delhi, and of the western and southern banks of the Jumna, enables him to command nearly the whole line of the western frontier. In the event of any considerable accession to Sindhia's power, or in the event of his forming any connexion with France, or with any enemy to the British interests—the actual position of his territories and forces in Hindustan would furnish great advantages to him, in any attack upon the Company's dominions." Governor-General's Instructions to the Commander-in-Chief, dated 27th July, 1803, *Ibid.*, p. 156. As the Governor-General was making out a case, allowance is to be made for exaggeration.

⁹ Of this, as of other parts of the Mahratta history, in which the English were not immediately concerned, when our knowledge is sufficiently certain in all the points of any material importance; we must, for the minute particulars, be satisfied to know that they cannot be very remote from the truth.—The remaining history of Ghulam Khadur is short. He took refuge in Agra, which Sindhia besieged.—Seeing resistance hopeless, he took advantage of a dark night, stuffed his saddle with the jewels which he had plundered from the family of the Emperor, and with a few followers took his flight towards Persia. On the second night, having fallen from his horse, he gave time to his pursuers to come up, and make him prisoner. Sindhia, after exposing him, for some time, first in irons, next in a cage, ordered him to be deprived of his ears, nose, hands, feet and eyes; in which deplorable condition he was left to expire.—The party who pursued him was commanded by a Frenchman of the name of Lostoneaux. It was under him that Perron is said to have been first admitted into the service of Sindhia, when he served as a quarter-master-serjeant. Lostoneaux is said to have got possession of the saddle, which Ghulam Khadur

is supposed to have stuffed with diamonds. This at least is known, that he soon after contrived to slip away, and returned to Europe. His corps breaking up after his desertion, Perron was in danger of losing employment, till Sindhia's General gave him a battalion of his own. *Asiatic Annual Register for 1804*, Chron., p. 63.—Also for 1801, Characters, p. 39.

- ¹⁰ The English officer from whose letters, in *Ibid.*, vol. i. Chron., p. 50, we have the account of the surrender of Delhi to Perron's battalions, says, "The General, from that amiable humanity, which is a noble trait in his character, endeavoured to avoid recourse to hostile measures, in regard to the old king, the numerous princes, and princesses, who are detained in the fort: and even when the siege was laid, it was with full permission of the king, and every measure adopted to obviate any possible injury to the old monarch and the royal family. Though the troops in the fort, amounting to 600, were debarred from all exterior supplies of provisions, yet General Perron ordered that the royal persons should be amply supplied, and their provisions pass unmolested." The author of a very intelligent letter (dated Oudh, November, 1799, on the military state of the north-west part of the Company's frontier; published in the *Ibid.*, Miscel. Tracts, p. 77) says, "General Perron, a French officer of great experience and consummate abilities, both as a statesman and soldier, represents Daulat Rao Sindhia in Hindustan; and is invested with the most full and absolute authority over every department of the government, civil and military.—This power he exercises with great moderation, at the same time with a degree of judgment and energy, that evince very superior talents."
- ¹¹ Papers relative to the Mahratta War in 1803, *ut supra*, p. 17.
- ¹² Letter to Governor-General, dated, Camp near Ujjain, 18th April, 1802. *Ibid.*, p. 18. Compare the statement of 1,35,00,000 in the Governor-General's notes. *Ibid.*, p. 222.
- ¹³ *Ibid.*, p. 24.
- ¹⁴ Letter to Governor-General, dated, Camp near Ujjain, 18th April, 1802. *Ibid.*, p. 18. Compare the statement of 1,35,00,000 in the Governor-General's notes. *Ibid.*, p. 159.

- ¹⁵ Letter, *ut supra*, *Ibid.*, p. 161.
- ¹⁶ *Ibid.*, pp. 267-68.
- ¹⁷ See the Governor-General's Notes, *Ibid.*, p. 247—and the Dispatch of the Commander, p. 268.
- ¹⁸ Letter from Governor-General in Council, 25th September, 1803, *Ibid.*, p. 187.
- ¹⁹ Governor-General's Notes, *Ibid.*, p. 248.
- ²⁰ Letter from Governor-General in Council, to the Secret Committee, 12th of April, 1804; Papers relating to the King or Moghul at Delhi, ordered to be printed 12th of March, 1805. See also the Message of the King, *Ibid.*, p. 9, which, so far from expressing great *anxiety of wish*, exhibits much distrust of the English, complaining of their late conduct, and declaring an apprehension, "lest when they gain possession of the country they may prove forgetful of him."
- ²¹ Papers relating to the Mahratta War, *ut supra*, p. 249.
- ²² Papers, *ut supra*, p. 234.
- ²³ They probably said something not less extravagant, when he passed into the hands of Sindhia.
- ²⁴ How often, in looking narrowly into the conduct of public affairs, has the friend of humanity occasion to lament the low state in which *political morality* remains! its deplorable state compared even with private morality! How many men would disdain the practice of hypocrisy in private, who, in public life, regard it, even in its grossest shape, as far from importing the same baseness of mind! Notes, *ut supra*, p. 249.
- ²⁵ *Ibid.*, p. 203. ²⁶ *Ibid.*, p. 251.
- ²⁷ *Ibid.*, pp. 251-54, 288. ²⁸ *Ibid.*, pp. 239, 266.
- ²⁹ *Ibid.*, pp. 239 &c. and p. 280.
- ³⁰ General Wellesley's Dispatch, papers relating to East India affairs, (printed June, 1806,) No. 25, p. 82.
- ³¹ Letter of Governor-General in Council to the Secret Committee, dated 28th December, 1803, *Ibid.*, p. 297; also Calcutta Gazettes, *Ibid.*, pp. 290-95.
- ³² Letter, *ut supra*, *Ibid.*, pp. 200, 535.
- ³³ *Ibid.*, pp. 243-45. ³⁴ *Ibid.*, p. 243.
- ³⁵ Memorandum transmitted by General Wellesley to the Governor-General of the conferences between him and the Ambassador of the Raja of Berar. Papers relating to East

India affairs (printed by order of the House of Commons, June 1806), No. 25, p. 124.

- ³⁶ Memorandum, *ut supra*; Letter of General Wellesley to the Governor-General; and copy of the treaty, *Ibid.*, pp. 122-32.
- ³⁷ Notes relative to the peace, *Ibid.*, p. 183.
- ³⁸ Instructions of Governor-General, paragraph 62, *Ibid.*, p. 121.
- ³⁹ Notes relative to the peace with the confederate Mahratta chieftains. *Ibid.*, p. 143.
- ⁴⁰ Memorandum of the conferences between Major-General the Hon. Arthur Wellesley, and the Ambassadors of Daulat Rao Sindhia; Letter from General Wellesley to Governor-General; Treaty of peace with Sindhia; and treaties with the Rajas of Bharatpur, &c. *Ibid.*, pp. 132-64; and the Governor-General's "Notes relative to the peace concluded between the British government and the confederate Mahratta chieftains, and to the various questions arising out of the terms of the pacification." *Ibid.*, pp. 177-99.
- ⁴¹ Treaty of alliance and mutual defence, *Ibid.*, p. 164.
- ⁴² Subsidiary it could not well be, when he paid no subsidy.
- ⁴³ *Papers, ut supra*, pp. 197-98.
- ⁴⁴ Contrast with it the opinions of his successor. Vide *infra*.
- ⁴⁵ *Papers, ut supra*, p. 198.
- ⁴⁶ The Governor-General, indeed, takes it as one of his benefits, that the native states would be restrained from war among themselves. But he does not inform us to whom the benefit would accrue. If the English were secure from aggression, the wars of the native princes were of no importance to them. If humanity is pretended, and the deliverance of the people from the horrors of war, it is to be replied, with dreadful certainty, that under the atrocities of a native government, supported by British power, the horrors of peace were no improvement upon the horrors of war. The sufferings of the people under the Nabobs of Carnatic and Oudh were described by the English government itself, perhaps with some exaggeration, as unmatched in any portion of India.

CHAPTER 13

Holkar and Sindhia

WHEN THE ENGLISH were freed from the burthen and the dangers of the war with Sindhia and the Raja of Berar, they began to think of placing a curb on the power of Jaswant Rao Holkar. Though Holkar had engaged, and upon very advantageous terms, to join with the other chieftains, he had abstained from co-operation in the war against the English; and though he had committed some ravages on a part of the Nizam's territory, toward the beginning of the war; the Governor-General had not held it expedient to treat this offence as a reason for hostilities: Holkar, on the other hand, had been uniformly assured that the English were desirous of preserving with him the relations of peace.

In the month of December, 1803, Holkar, having marched towards the territory of the Raja of Junagarh, took up a position which threatened the security of this ally of the British state. At the same time, he addressed letters to the British Commander-in-Chief, containing assurances of his disposition to cultivate the friendship of the British government. But a letter of his to the Raja of Macherry, suggesting to him inducements to withdraw from the British alliance, was communicated by that Raja to the Commander-in-Chief; further correspondence of a hostile nature was discovered; and intelligence was received of his having murdered three British subjects in his service, on a false charge that one of them had corresponded with the Commander-in-Chief. It appeared imprudent to remove the army of the Commander-in-Chief from the field, till security was obtained against the projects of Holkar.

The determination which hitherto had guided the conduct of the Governor-General, that he would abstain from the dispute in the Holkar family respecting the successor of Tukoji, still operated in his mind. And he authorized the Commander-in-Chief to conclude an arrangement with Jaswant Rao, engaging,

NOTES AND REFERENCES

- ¹ Letter from the Governor-General in Council to the Secret Committee, dated 15th June, 1804. *Papers, ut supra*, printed in 1806, No. 23, p. 263; *Notes, ut supra*, No. 25, p. 205.
- ² Letter from Major Malcolm; *Papers, ut supra*, No. 23, p. 298; Governor-General's Dispatch, *Ibid.*, p. 270.
- ³ Governor-General's Letter, No. 23, *ut supra*, p. 271; *Notes*, No. 25, *ut supra*, p. 208.
- ⁴ *Ibid.*, No. 23, p. 264.
- ⁵ Letters, *ut supra, Ibid.*, pp. 303-04.
- ⁶ The documents relative to the correspondence and negotiations with Holkar, previous to the commencement of hostilities, were printed by an order of the House of Commons, under date, 11th of February, 1805.
- ⁷ See the Dispatch of the Governor-General, *ut supra*, in *Papers*, No. 23; and *Notes, ut supra*, No. 25.
- ⁸ Calcutta Gazettes, *Papers, ut supra*, No. 25, p. 229.
- ⁹ Dispatches from the Commander-in-Chief, and General Monson; *Papers, ut supra*, No. 25, p. 233.
- ¹⁰ *Printed papers, ut supra*, No. 25, pp. 222-39.
- ¹¹ *Ibid.*, p. 240. ¹² *Ibid.*, pp. 233, 243-48.
- ¹³ *Ibid.*, No. 23, p. 149.
- ¹⁴ *Ibid.*, No. 25, p. 209. ¹⁵ *Ibid.*, pp. 250-51, 266-67.
- ¹⁶ *Ibid.*, pp. 224, 252-73; also General Lake's Letter to the Governor-General, dated Mathura, 1st July, 1805, *Papers, ut supra*, No. 15, p. 35.
- ¹⁷ Letter from the Governor-General to the Commander-in-Chief. *Papers*, No. 15, *ut supra*, p. 23. Compare the sentiments here expressed, with those employed against the Nabobs of Arcot: Vide *supra*, p. 538.
- ¹⁸ *Papers, ut supra*, No. 15, pp. 7-37.
- ¹⁹ No. 15, *ut supra*, pp. 37-8. No. 25, *ut supra*, pp. 272-85.
- ²⁰ No. 15, *ut supra*, pp. 40-5, 53.
- ²¹ *Printed papers, ut supra*, No. 23; Extract of a Letter from the Governor-General, 7th June, 1805, relative to Gwalior and

- Gohad, with enclosures, pp. 167-203; and copy of a Letter from ditto, 31st May, with enclosures, pp. 5-148.
- ²² Compare with these grounds of action, those laid down by Mr. Hastings, in regard to the Ruhelas.
- ²³ Dispatch of the Governor-General, dated 30th July, 1805, with its enclosures, No. 23, *ut supra*, pp. 227-48.
- ²⁴ No. 23, *ut supra*, p. 253.
- ²⁵ Copies of all letters from the late Marquis Cornwallis, &c. ordered by the House of Commons to be printed, 19th February, 1808, pp. 3, 4 and 6. For the reduction of the irregular troops by Lord Wellesley, see the letter of the Commander-in-Chief, No. 23, *ut supra*, p. 243.
- ²⁶ *Papers*, *ut supra*, ordered to be printed 19th of February, 1808, pp. 5-13.
- ²⁷ *Papers*, (1806) *ut supra*, No. 11, pp. 6-12.
- ²⁸ *Ibid.*, pp. 5-13; No. 17, and No. 25, pp. 3-4.
- ²⁹ Malcolm's *Sketch*, p. 413.
- ³⁰ Letter of Sir George Barlow, dated on the river near Chunar, 20th October, 1805; *Papers*, *ut supra*, No. 18, pp. 5-7.
- ³¹ *Papers*, *ut supra*, No. 11, p. 15; and No. 25, pp. 19-20.
- ³² Collection of Treaties in India (published 1812), pp. 290-97. Malcolm's *Sketch*, pp. 406-36. On the negotiation of the new treaties with Sindhia and Holkar, and on the discussions relative to the dissolution of the alliance with the minor states, the official documents, which have yet been printed, furnish scanty information. The supply afforded by Sir John Malcolm is peculiarly authentic, as he was the negotiator and agent, through whom almost every thing was transacted.
- ³³ The following is a table of the particulars:

	<i>Revenues</i>	<i>Charges</i>	<i>Net Revenue</i>	
	£	£	£	
1793-94	8,276,770	6,066,924	2,209,846	
1797-98	8,059,880	7,411,401	648,479	
1805-06	15,403,409	15,561,328	157,919 (<i>net charge</i>)	
	<i>Supplies to Out Settlements</i>	<i>Interest on Debts</i>	<i>Surplus Revenue</i>	<i>Surplus Charge</i>
	£	£	£	£
1793-94	40,822	526,205	1,642,819	—
1797-98	163,299	603,926		118,746
1805-06	250,599	1,860,090		2,268,608

- ³⁴ £2,992,440 being deducted, viz., the East India Annuities transferred to the Bank. *Fourth Report*, 1810, p. 450.
- ³⁵ See the *Third Report* of the Committee, 1810, p. 368, and Appendix, No. 2.
- ³⁶ The difference between this and the debt for that year, as stated in the accounts, arises from the sum of £2,992,440. East India Annuities, transferred to the Bank, excluded by the Committee from the Company's accounts.
- ³⁷ Goods and Stores in India in 1810, bought in England, not included in the account
- | | |
|-------------------------------------|-------------|
| of assets | £ 2,249,060 |
| Balance in favour of the Company at | |
| China in 1810 | 1,306,606 |
| Ditto at St. Helena | 147,628 |
| Ditto Prince of Wales Island | 215,786 |
| Ditto Cape of Good Hope | 14,085 |
| | £ 3,933,165 |

³⁸ For the above statements, see *Third Report*, *ut supra*, p. 368; *Fourth Report*, *ut supra*, p. 450.

³⁹ See the *Second* and *Fourth Reports* of the Committee of 1810.

⁴⁰ *Ibid.*, p. 451. ⁴¹ *Ibid.*, p. 462. Appendix No. 51.

⁴² *Third Report*, *ut supra*, p. 373.

⁴³ The passage in the exposition itself, p. 7, requires to be seen. "The Company have long been in the habit of paying in England political charges strictly appertaining to the territory. For these charges the Company never have credit in the Indian accounts. The large supplies of stores, and part even of the goods, sent out annually by the Company to India, are intended for political purposes, and the whole amount of them should be brought in India to the credit of the Home concern from the time they are shipped; but the practice has been to credit the Company for them only as they were taken out from the Indian warehouses for use, and no losses of such articles in the way outwards, or in India, have ever been brought to the credit of London at all. Moreover, it is evident from what has been already stated in this exposition, that the supplies of goods and bullion from England have at times at least exceeded the returns in

the same period. The only way therefore to come to an accurate conclusion, is to state all that England has received from India and China; and sent to or paid for India and China in any given period, and thence to strike the balance. Such a statement is exhibited in the accompanying *paper*, No. 5, which begins with the year 1797-98, and ends with the year 1806-07. On the one side this statement shows all that has been sent to India and China in goods, stores, and bullion, and all that has been paid for bills drawn from thence or for political charges attaching to the Indian territory; and on the other side, the statement shows all that has been sent from India and China in goods and bills, and all payments received here from government, or payments made in India for commercial charges, and also for any loss that has occurred in English exports sold there. India and China are not debited for goods lost in the way thither, and they are credited for goods sent thence which have been captured or lost on the passage home. After all these allowances and adjustments, which, according to the best knowledge of the Court, comprehend every thing the account ought to contain, the balance is in favour of England, or of the Company at home, £5,691,689. If it be asked from what funds at home the Company have been able to bring India so largely indebted? the answer is obvious; from the increase of their capital stock and bonded debt, and from the considerable temporary credits they always have for investments outward. From this account it is clear, that of the sum of 19 millions of debt contracted in India since the year 1798-99 down to the year 1807-08, England, or the Company in its commercial capacity, is justly chargeable with no part, and that, on the contrary, India has in that period become largely indebted to England.”

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