

Vol VII

BRITISH POLICY AND ORGANISATION
FOR INDIA

Compiled by
Dharampal

Ashram Pratishtan, Sevagram - 442102
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A. LEGAL AND ADMINISTRATIVE CONCEPTS AND FRAME
1. WARREN HASTINGS ON LAW AND ORDER IN BENGAL : C. 1773
DACOITS, CRIMINAL REGULATIONS ETC.

National Library of Scotland: Minto Papers MS 508: Diary of Warren Hastings (Extracts)

The day before my arrival at Maidapore, I received the following letter from the Council:

"To the Hon'ble Warren Hastings, Esq.
Hon'ble Sir,

The number of Felons, which have undergone their trials, before the several provincial Courts of Phougedarree Adawlut, and who now lye in confinement in the jails of every district, is a subject which calls for our serious consideration.

We are sensible of the attention which has been paid by you in superintending the several of those proceedings by the officers (15) of the Sudder Nizamut Adawlut, but the delay in obtaining the confirmation of the Nazim has hitherto prevented the sentences from being carried into execution. We cannot let slip so favourable an opportunity as your stopping at the city affords us for effecting a final determination on this point of public importance, and we request therefore that you will make application to the Nazim, for him to pass his sentences on the trials which have been laid before him. Such of those as may condemn the criminals to death, we propose should be carried into immediate execution; but as many of them, such as thieves, robbers, and house breakers, known under the general appellation of decoits, will by the letter of the Mahommedan Law, only be punished in a manner, which without answering the end of example, renders them useless to *society* and drives them to the necessity of committing fresh crimes to (16) relieve their exigencies, we request to be favoured with your sentiments as to the nature and degree of the punishments, which ought in such cases to be inflicted that the force of example may operate to deter others from the commission of enormities, which are no less injurious to society and destructive to the peace of the country, than crimes of a more atrocious dye.

We also embrace this opportunity to forward you a letter from the Resident of the Durbar, with the proceedings in two cases of Murder which appear to have been perpetrated with peculiar circumstances of savage cruelty. We request you will submit them to the Nazim for his confirmation of the sentence, which if he passes, the same may be carried into execution without further reference or delay.

We are with esteem, Hon'ble Sir,
Your

29th June 73

(17)

To

The Hon'ble Warren Hastings Esq.
President and Governor, Members of Council
at Fort St. William

Hon'ble Sir and Sirs,

I have herewith the honour to enclose you the surathauls of Culloo, Codabuksh and his accomplices tried at the Phougdaaree Adawlut for murder &c. of Chimroo and eight others tried for and convicted of the same crime, attended with the additional ones of plundering and decoiting.

I also transmit you an English translation of the depositions given in the case of Codabuksh and his accomplices, that even a slight inspection may evince to you the necessity there is for a speedy execution of justice upon an occasion where murder and savage cruelty have continued to aggravate, if possible, the guilt of each.

I am

Hon'ble Sir and Sirs

Your most obedient and
Humble Servant.
S.M.

22 June 73

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(18) I replied as follows:

Gentlemen,

I have had the honour to receive you letter of the 29th ultimo with its enclosures.

I have received a very sensible satisfaction from the testimony which you have been pleased to give to the attention paid by me in superintending the proceedings of the officers of the Sudder Adawlut; I am sorry it has hitherto been attended with so little visible effect. This has been owing to various causes, to the delays unavoidably incident to new Establishments, to the reference which it has been judged necessary to make of the proceedings of the Adawlut to the Nazim for his confirmation, and to the doubts which have arisen concerning some points of the Mahomedan Law applied to the cases of which have occurred in the first proceedings.

It was not without much difficulty and great delay that I could prevail upon the officers of the Nizamut Adawlut to open their (19) new court, into which at their earnest solicitation I went in person to introduce them. I should have been better pleased to have dispensed with this ceremony, from the desire of precluding every appearance of the influence of our Government in the exercise of so sacred a charge.

On the same principle I have also cautiously abstained from every act of authority and that Court, except in requiring them to attend to their functions and in looking over their sentences,

on which though I have ventured to offer them my opinion, and supported it by the strongest arguments which occurred to me; yet I have always left them at full liberty to follow the unbiased dictates of their own judgements; a delicacy which I esteem due to the characters of the persons who preside in that department, and which, the deference too servilely paid to authority in this despotic country renders yet more requisite in the proceedings of a Court of Judicature professedly acting in obedience to the strict (20) letter of the Law.

As the decree of the Sudder Adawlut in its first proceedings were likely to become a precedent for all future cases to which they might be applied; I was at some pains and employed much time in revising them in the presence of the Daroga.

Such of its decrees as appeared to me disproportionate to the offences committed, or liable in their effects to prove hurtful to the peace and good order of society, I ventured to recommend to the Court for their consideration.

The Proceedings were returned to me, some with the former sentences confirmed, others with the different interpretations of the Law annexed to each, and a reference to the Nazim for his final decision upon them.

They were accordingly transmitted to the Nabob, by the Daroga of the Adawlut, and accompanied by a letter from myself, requesting that he would affix his warrant to them without more delay. At the same (21) time I sent Mr. Middleton an abstract of the proceedings with my own opinion and remarks upon each, and desired him to communicate them to the Begum, before the sentences should receive the Nabob's warrant for their execution.

I crave your indulgence in subjoining to this letter, copies of the said Abstract and of the letter which I wrote to Mr. Middleton on the occasion, which will best explain the nature and ground of my objections.

I have been thus particular in the above relation that I may not appear in the eyes of our Hon'ble employers to have been deficient in promoting the due course of justice, if it shall be judged that it hath, in any respect suffered by neglect or unnecessary procrastination. I again repeat that the Establishment is yet but in its infancy, and that with every other innovation it is liable to unavoidable delays (22) until the first difficulties are removed, and a channel opened for a regular and uninterrupted progress.

On my arrival at Moorshedabad, I made immediate enquiry concerning the proceedings which had been transmitted to the Nabob. I learnt that he had not yet affixed his warrant to them, but waited for that purpose till my arrival, chusing not to confirm such of the decrees as I had objected to without consulting with me upon the subject, nor to give any judgement different from them, being advised not to deviate from the law to which the first decrees were conformable. I desired that he would follow the advice which was given him and immediately sign the decrees. He did so and I left them in the hands of Sudder Alley Cawn, the Daroga, who had accompanied me from the city, with strict injunctions to cause them to be carried into immediate execution referring him to Mr. Middleton in case he (23) should stand in need of any aid from his authority.

I have also put into his hands the original proceedings of the Moorshedabad Adawlut, which you were pleased to refer to me with Mr. Middleton's letter upon that subject. I should have complied with your instructions in delivering them to the Nabob for his warrant, but that it is necessary in point of form that they should first receive the Fetwas and decrees of the Sudder Adawlut, before the Nizam can pass sentence upon them.

The nature and degree of the punishments which ought to be inflicted on such convicted offenders as are known under the general appellation of Decoits are worthy of serious consideration. I had already communicated my sentiments by letter in a cursory manner upon this subject to Mr. Aldersey since my departure from Calcutta with a view that it might be brought before the Board; and as you have been pleased to make a reference to me upon it, I shall deliver (24) them more at large.

The term decoit in its common acceptation is too generally applied to robbers of every denomination, but properly belongs only to robbers on the high way, and especially to such as make it their profession, of whom there are many in the woody parts of the district of Dacca, and in the frontiers of the province, a race of outlaws who live from father to son in a state of warfare against society, plundering and burning villages, and murdering the inhabitants. These were intended by the Board in the 25th Article of the Judicial Regulations which declares that all such offenders, shall suffer death, and their families be condemned to perpetual slavery.

Severe and unjust as this ordinance may seem, I am convinced that nothing less than the terror of such punishment will be sufficient to prevail against an evil which has obtained the sanction and force of hereditary practice, (25) under the almost avowed protection both of the Zemindars of the country and the first officers of the Government. Yet if a careful distinction be not made, the Ruar who impelled by strong necessity in a single instance invades the property of his neighbour, will with his family fall a sacrifice to this law, and be blended in one common fate with the professed decoit and the murderer. In the Foujdareey nothing appears but the circumstances of the robbery for which the prisoner is arraigned. That he is a decoit is taken upon presumption, and all the world are his enemies.

The Moulavies in the provincial courts refuse to pass sentence of death on decoits unless the robbery committed by them has been attended with murder. They rest their opinion on the express law of the Coran which is the infallible guide of their decisions. The Court of Nizamut under whose review the trials pass, and whose province it is to prepare the Fetwas (26) for the final sentence and warrant of the Nazeem, being equally bound to follow the Mahommedan Law, confirm the judgement of the provincial Court.

The Mahommedan Law is founded on the most lenient principles, and abhorrence of bloodshed. This often obliges the sovereign to interpose and by his mandate to correct the imperfection of the sentence to prevent the guilty from escaping with impunity, and to strike at the root of such disorders as the law will not reach. It is worthy of remark that the sentences which are recorded in history of strict and exemplary justice in the Princes of that religion, are all of the most sanguinary kind and inflicted without regard to the law and frequently without any regular process or form of trial.

I should be sorry to recommend an example of such rigor for the practice of our Government. I mean only by this short discussion to show that it is equally (27) necessary and conformable to custom for the sovereign power to depart in extraordinary cases from the strict letter of the law and to recommend the same practice in the cases now before us.

I offer it therefore as my opinion that the punishments decreed by this Government against professed and notorious robbers be literally enforced and where they differ from the sentences of the Adawlut, that they be super-added to them by an immediate act of Government. That every convicted Felon and murderer not condemned to death by the sentence of the Adawlut and every criminal who has been already sentenced either to work during life upon the roads, or to suffer perpetual imprisonment be sold for slaves or transported as such to the Company's establishments at Fort Marlbro: and that this regulation be carried into execution by the immediate order of the Board or by an office instituted for that purpose in virtue of a general (28) order or Commission from the Nazim.

By this means, the Government will be released from a heavy expense in erecting prisons, keeping guards in monthly pay and in the maintenance of accumulating crowds of prisoners. The sale of the convicts will raise a considerable fund, if those disorders continue; if not, the effect will be yet more beneficial. The community will suffer no loss by the want of such troublesome members, and the punishment will operate as an example even more forcible and more useful than imprisonment, fines or mutilation, the former to a people addicted to ease and who see in such a condition only an exemption from the necessity of daily labour losses much of its terror. Fines fall with an unequal weight on the wealthy and on the indigent; they are unfelt by the first; they prove equivalent to utter ruin or perpetual imprisonment to the last; and mutilation which is (29) too common a sentence of the Mahommedan Courts, though it may deter others, yet renders the criminal a burthen to the public, and imposes on him the necessity of preserving in the crimes which it was meant to repress.

I beg leave to subjoin the following queries for your determination as they have occurred to me in the proceedings of the Adawlut already referred to. I have annexed my opinion to each.

**Query I:** Whether the Fetwa or Decree of the Nizamut Adawlut after it shall have received the confirmation of the Nazim shall be carried into execution precisely in the terms of his warrant, or whether this Government shall interfere in adding or commuting the punishment in cases wherein it shall appear inadequate to the crime or ineffectual as an example?

**OPINION:** Although we profess to leave the Nazim the final judgement in all criminal cases and the officers of his courts to proceed according to their own laws, forms, and opinions independent of the controul of this Government; yet many cases may happen in which an invariable observance of this rule (30) may prove of dangerous consequence to the power by which the Government of this country, is held, and to the peace and security of the inhabitants wherever such cases happen. The remedy can only be obtained from those in whom the sovereign power exists. It is on this that the inhabitants depend for protection, and for redress of all their grievances, and they have a right to the accomplishment of this expectation, of which no treaties, nor casuistical distinctions can deprive them. If, therefore, the powers of the Nizamut cannot answer this salutary purpose, or by an abuse of them, which is too much (31) to be apprehended and from the present reduced state of the Nazim and the little interest he

has in the general welfare of the country, shall become hurtful to it, I conceive it to be strictly conformable to justice and reason to interpose the authority or influence of the Company who as Dewan have an interest in the welfare of the country, and as the governing power have equally a ripe obligation to maintain it. I am therefore of opinion that whenever it shall be found necessary to supersede the authority of the Nazim to supply the deficiencies and to correct the irregularities of his courts, it is the duty of this Government to apply such means as in their (32) judgement shall best promote the due course and ends of justice; but that this license ought never to be used without an absolute necessity, and after the most solemn deliberation.

In many cases, it may not be difficult to obtain the Nabob's warrant for such deviations from the ordinary practice as may be requisite and it were to be wished that it could be always enforced by his authority, but I see so many ill consequences to which this would be liable both from his assent and from his refusal, that I am rather inclined to propose that every act (33) of this kind be super-added to his sentence by our own Government.

Although this is my opinion upon the question as it respects the rights of justice, and the good of the people, I am sorry to add that every argument of personal consideration strongly opposes it, having but too much reason to apprehend that while the popular current prevails, which overruns every sentiment of candour towards the Company and its Agents, it will be dangerous both to our characters and fortunes to move a step beyond the plain and beaten line, and that, laudable as our intentions were (34) we have already done too much.

My duty compels me to offer the advice which I have given, and to that I postpone every other consideration.

**Query 2:** Whether the distinction which is made by the Mohamedan Law, between murders perpetrated with an instrument formed for shedding blood, and death caused by a deliberate act, but not by the means of an instrument formed for shedding blood shall be admitted, and whether the fine imposed on the latter shall be allowed as.....?

**OPINION:** If the intention of murder be clearly proved no distinction should be made with respect to the weapon by which the crime was perpetrated. The murderer shall suffer death and the fine remitted. I am justified in this opinion by good authorities, even among the Mussulmans, although the practice is against it. I will venture to appeal to the abstract of the proceedings which (35) accompanies this, for a proof of the inequality and injustice of the divisions founded on this strange distinction; besides, the evil tendency which it derives from the little dread which an indigent offender feels of a penalty which he knows can never be literally inflicted upon him, and which I fear is frequently the cause of murder, as it serves to screen the crime of robbery with additional consequences to the criminal. I beg leave to quote an instance in the proceedings above referred to. A man held the head of a child under water till it was (36) suffocated and made off with her clothes and the little ornaments which she wore. It was evident that his object was no more than robbery, and murder the means both of perpetrating and concealing it. There is too much cause also to infer the extraordinary manner in which the murder was executed was suggested by the distinction made by the law in question, by which he was liable to no severer retribution than for the simple robbery whereas he would have been sentenced to suffer death had he killed the deceased with a knife or a



sword, although (37) he might have been impelled to it by sudden passion, and not with a premeditated design. Yet for this horrid and deliberate act he is pronounced guilty of man slaughter only and condemned to pay the price of blood, which seems invariably fixed at the sum of 3333.5.4.

**Query 3:** Whether the punishment decreed by the 35th Article of the Judicial Regulations, formed by the Board, shall be carried into execution without the sentence of the Court of Adawlut, or the warrant of the Nazim, and in what manner?

**OPINION:** Upon this question I have already declared my opinion in the affirmative. I would recommend that every case to which this ordinance may be applied be laid before the Board, and their sanction obtained for its being carried into execution. I submit it to (38) their consideration whether it may not be expedient to appoint some office which shall have it in especial charge to record such extraordinary proceedings, to prepare them for the judgement of the Board and to execute the orders upon them.

**Query 4:** Whether the privileges granted by the Mahommedan law to the sons or nearest of kin to pardon the murderers of their parents or kinsmen shall be allowed to continue in practice, or in what manner the Government shall proceed in such cases of this kind, if it shall be judged expedient to make an example of the criminals in opposition to the letter of the law and the sentences of the Courts of Adawlut?

**OPINION:** This law though enacted by the highest authority which the profession of the Mahommedan faith can acknowledge appears to be of barbarous construction and contrary to first principles of civil society by which State acquires an interest in every member who composes it, and a (39) right in his security. It is a law, which if rigidly observed would put the life of every parent in the hands of his son, and by its effects on weak and timid minds which is the general character of the natives of Bengal, would afford a kind of pre-assurance of impunity in those who were disposed to become obnoxious to it.

If the Nazim cannot be influenced to abolish totally this savage privilege which we know is not unanimously admitted or the courts of justice to disuse it; I am of opinion that this Government should interfere by its own authority to prevent (40) its taking effect, by causing the sentence to be executed without leaving an option in the children or kinsmen to frustrate it by their pardon.

**QUERY 5:** Whether the law which enjoins the children or nearest of kin to the person deceased to execute the sentence passed on the murderers of the parents or kinsmen on account of its tendency to cause such crimes to pass with impunity shall be permitted to continue, or whether it shall not be abolished by a formal act of Government?

**OPINION:** This law though supposed of the same divine original is yet more barbarous than the former and in its consequence more important. It would be difficult to put a case in which the absurdity of it would be more strongly illustrated than in one now before us, of a mother condemned, to perish by the hands of her children for the murder of her husband. Their age is not recorded but by the circumstances (41) which appear in the proceedings, they seem to be very young. They have pardoned the mother. They would have deserved death themselves if

they had been so utterly devoid of every feeling of humanity, as to have been able to administer death to her who gave them life.

I am of opinion that the Courts of Justice should be interdicted from passing so horrid a sentence, by edict of the Nazim, if he will be persuaded to it, by the Government if he refuses.

**Query 6:** Whether fines inflicted for man-slaughter shall be proportioned to the nature of the crime as Mahomedan law seems to intend, or both to the nature and degree of the crimes, and to the substance and means of the criminal?

**OPINION:** Both. If the fine exceeds the means of the criminal, it must deprive the State of his service, and prove a heavier punishment (42) than the law has decreed him.

To  
Samuel Middleton Esq.  
Collector of Rajeshahy,

Sir,

I must beg your leave to trouble you with a list of the trials for capital crimes at Moorshedabad and Kishen Nagar which have been submitted to the view of the officers of the Nizamut Adawlut, and I have subjoined to such sentences the opinion I have formed upon revising the trials. These remarks you will please to recommend to the attention of the Nabob at the same time that you present the enclosed letter from Sadder Ul Huc Cawn, Daroga of the Nizamut which contains the Fetwa, or decree of his court upon them.

The commuting of the punishment of death, which is due to high crimes, for a pecuniary composition appears to me very improper on every account; (43) but it becomes still more so from the indiscriminate manner in which this fine is imposed by the officers of the courts of justice. For instead of adapting the Forfeit to the circumstances of the criminal, by which alone it would be made in any degree proportionate to the offence committed, a precise sum is fixed which is levied upon each without distinction, and thus a fine which an opulent man would not feel becomes a punishment of extreme rigor to a man whose means would never answer it.

With regard to the deet or price of blood imposed for homicide not accompanied by circumstances which denominate it murder or render it capital, as many such cases will occur, I believe I shall take the opinion of the Board upon this point as the fine will become an article of revenue and may be claimed by the Nabob, which may be attended with bad consequences if allowed, and the Nabob is to be the judge what crimes are to be (44) punished with death, and what redeemed by money.

It seems that by the opinion of Abu Haneefa, one of the great doctors of the Mahommedan Law, killing is not murder unless it is performed by an instrument formed for destruction, such as a sword or knife, but the disciples and many other learned men have adjudged that the intention and not the weapon constitute the crime, in which opinion I agree totally and think Abbu Haneefa an old woman.

However, I have not been able to persuade our judges of the Nizamut to adopt this principle; all I could do, has been to prevail on them to leave the opinion of the punishment to the Nazim, as you will observe, and I hope the Nabob will sentence the murderers to death. I wish you would read (from) the trials and if you agree with me recommend this point to the Begum. I have as much of the milk of human kindness as she can have, though a woman, and (45) follow that natural incentive, as well as the dictates of reason when I rather choose to put a murderer to death than let him live to perpetrate more murders.

In the remarks upon the trials you will observe I have proposed the acquittal of two persons adjudged to pay the price of blood, viz., Cawn Mahommed for striking his slave by which she died, and Yacoob for killing a man whom he found in his apartment at an unreasonable hour and struck, on the immediate alarm which he received from such an appearance on his waking

from sleep. It is some days since I read the proceedings but I recollect that both appeared to be perfectly innocent. I refer you to the proceedings for your judgement on them.

On perusing the trials, I am struck with surprise to observe that almost every male-factor confesses himself guilty of the crime for which he is tried, (47) although he thereby subjects himself to the loss of life. As this is a circumstance so extraordinary in itself, and so very repugnant to the principles of self interest, I cannot help mentioning (it) in hopes of obtaining from you some account of the manner in which this confession is procured, whether it is not made till after conviction, whether extorted or whether won by fair promises of forgiveness.

I am,

24th May 73

Yours etc.

**Extract of a Letter from the Governor and Council at Fort William, &c.**

**Copy of the Fortieth Paragraph of the Letter from the Governor and Council in Bengal, for the Department of the Revenues, to the Court of Directors, dated 3rd November, 1772.**

The more regular Administration of Justice was deliberated on by the Committee of Circuit, and a plan was formed by them, which afterwards met with our Approbation: We cannot give you a better idea of the Grounds on which this was framed, than by referring you to a copy of it, together with a letter from the committee to the Board, on the occasion, both of which make Numbers in this Packet, and we earnestly recommend them to your perusal, requesting to be assisted with such further orders and instructions thereon, as they may require for completing the system, which we have thus endeavoured to establish, on the most equitable, solid and permanent footing. We hope they will be read with that indulgence, which we are humbly of opinion, is due to a work of this kind, undertaken on the plain principles, of experience and common observation, without the advantages which an intimate knowledge of the theory of law might have afforded us; **we have endeavoured to adapt our regulations to the manners and understanding of the people, and exigencies of the country, adhering as closely as we were able to their ancient usages and institutions.** It will be still a work of some months we fear, before they can be thoroughly established throughout the provinces, but we shall think our labours amply recompensed, if they meet with your approbation, and are productive of the good effects we had in view.

**Copy of a letter from the Committee of Circuit, to the Council at Fort William, dated Cossimbuzar, 15th August, 1772.**

In the copy of our proceedings, which accompanied our letter of the 28th ultimo, we intimated our intentions of communicating to you our sentiments in a future address, upon the subject of the Magistracy of the Provinces, which through an appendage if the Nizamut, we considered as not necessarily connected with the propositions which were then recommended to your attention, and of too much importance to be lightly, or only occasionally treated.

We now transmit to you the result of our Deliberations on this subject, in the enclosed papers entitled "A plan for the administration of Justice" and if it meets with your Approbation, we wish to receive your instructions for carrying it into immediate execution.

For the information of our honorable employers, it may be necessary to premise, what you will readily perceive, that in forming the enclosed plan, we have confined ourselves with a scrupulous exactness, to the constitutional terms of Judicature, already established in this Province, which are not only such as we think in themselves best calculated for expediting the Course of Justice, but such as are best adapted to the understanding of the people. Where we shall appear to have deviated in any respect from the known forms, our intention has been to recur to the original principles and to give them that efficacy, of which they were deprived by venal and arbitrary innovations, by partial immunities, granted as a Relief against the general and allowed abuse of authority, or by some radical defect in the constitution of the courts in being, and these changes we have adopted with the less hesitation, as they are all of such a

Nature, as we are morally certain will prove both of general satisfaction and general case to the people.

The general principles of all despotic Governments, that every degree of power shall be simple and undivided, seems necessarily to have introduced itself into the courts of justice; this will appear from a Review of the different officers of justice, instituted in these provinces, which, however unwilling we are to engross your time with such details, we deem necessary on this occasion, in proof of the above assertions, and in justification of the Regulations, which we have recommended.

**First.** The Nazim, as supreme Magistrate, presides personally in the trials of capital offenders, and holds a court every Sunday, called the Roz Adawlut.

**Second.** The Dewan, is the supposed Magistrate for the decision of such causes, as relate to real estates, or property in land, but seldom exercises this authority in person.

**Third.** The Daroga, Adawlut al Aalea, is properly the Deputy of the Nazim, he is the judge of all matters of property, excepting claims of land and inheritance, he also takes the cognizance of quarrels, frays and abusive names.

**Fourth.** The Darogo Adawlut Dewanee, or deputy of the Dewan, is the judge of property in land.

**Fifth.** The Phoujdar is the officer of the police, the Judges of all crimes not capital, the proofs of these last are taken before him, and reported to the Nazim for his judgement and sentence upon them.

**Sixth.** The Cazee is the judge of all claims of inheritance of succession; he also performs the ceremonies of weddings, circumcision, and funerals.

**Seventh.** The Mohtesib has cognizance of drunkenness, and of the Vending of spirituous liquors and intoxicating drugs, and the examination of false weights, ad measures.

**Eighth.** The Mutee is the Expounder of Law. **Memorandum,** the Cazee is assisted by the Muftee and Mohtesib in his court; after hearing the parties and evidences, the Mutee writes the Fetwa, or the Law applicable to the Case in question, and the Cazee pronounces judgement accordingly, If either the Cazee or Mohtesib disapprove of the Fetwa, the cause is referred to the Nazim, who summons the Ijlass, or General Assembly, consisting of the Cazee, Mutee, Mohtesib, the Darogos of the Adawlut, the Moulavies, and all the Learned in the Law, to meet and decide upon it. Their decision is final.

**Ninth.** The Canongos are the registers of the Lands, They have no authority, but causes of land are often referred to them for decision, by the Nazim, or Dewan, or Darogo of the Dewanee.

**Tenth.** The Cootwall is the Peace Officer of the night, dependent on the Phoujdarree.

From this list it will appear, that there are properly three courts for the decision of civil causes (the Canongos being only made arbitrators by reference from the other courts) and one for the police and criminal Matters. The authority of the Mohtesib in the later, being too confined to be considered as an exception; Yet, as all defective institutions soon degenerate, by use, into that form to which they are inclined, by the unequal prevalence of their component parts, so these courts are never known to adhere to their prescribed bounds, but when restrained by the vigilance of a wiser ruler, than commonly falls to the lot of despotic states, at all other times, not only the civil courts encroach on each others authority, but both civil and criminal often take cognizance of the same subjects; or their power gradually becomes weak and obsolete, through their own abuses, and the usurpations of influences. For many years past, the Darogah of the Adawlut al Aalea, and of the Dewannee, have been considered as judges of the same causes, whether of real or personal property; and the parties have made their application as chance, caprice, interest, or the superior weight and authority of either directed their choice. At present, from obvious causes, the Dewannee Adawlut is in effect the only Tribunal; The Adawlut al Aalea, or the Court of the Nazim existing only in name.

It must however be remarked in exception to the above assertions, that the Phoujdaree being a single judicature, and the objects of it clearly defined, it is seldom known, but in times of anarchy, to encroach on the civil power, or lose much of its own authority; this however is much the case at present.

The court in which the Cazeer presides, seems to be formed on wiser maxims, and even on more enlarged ideas of justice, and civil liberty, than are common to the despotic notions of Indian Governments.

They must be unanimous in their judgement, or the case is referred in course to the General Assembly; but the intention of this reference is defeated, by the importance which is given to it, and the insurmountable difficulties attending the use of it, few cases of disputed inheritance will happen, in which the opinions of three independent judges shall be found to concur: There is therefore a necessity, either that one shall over-rule the other two, which destroys the purpose of their appointment, or that daily appeals must be made to the Nazim, and his warrant issued to summon all learned in the law, from their homes, their studies, and necessary occupations, to form a tumultuous assembly to hear and give judgement upon them. The consequence is, that the General Assembly is rarely held, and only on occasions which acquire their importance from that of the parties, rather than from the nicety of the case itself. The Cazeer therefore either advises with his colleagues in his own particular court, and give judgement according to his own opinion, or more frequently decides without their assistance or presence.

Another great and capital defect in these courts is the want of a substitute or subordinate jurisdiction, for the distribution of justice in such parts of the province, as lie out of their reach, which in effect confines their operations to a circle, extending but a very small distance beyond the bounds of the city of Moorshedabad. This indeed is not universally the cause but perhaps it will not be difficult to prove the exceptions to be an accumulation of the grievance, since it is true that the courts of Adawlut are open to the complaints of all men; yet it is only the rich, or the vagabond part of the people who can afford to travel to far for justice; and if the industrious labourer is called from the farthest part of the Provinces to answer their complaints, and wait the tedious process of the courts, to which they are thus made amenable, the consequences in

many cases will be more ruinous and oppressive, than an arbitrary decision could be, if passed against them without any law or process whatever.

This defect is not however left absolutely without a remedy, the zemindars, farmers, Shicdars, and other officers of the Revenue assuming that power, for which no provision is made by the Laws of the Land, but, which in whatever manner it is exercised, is preferable to a total anarchy. It will however be obvious, that the judicial authority lodged in the hands of men, who gain their livelihood by the profits on the collections of the revenue, must unavoidably be converted to sources of private emolument, and in effect the greatest oppressions of the inhabitants owe their origin to this necessary evil. The cazee has also his substitute in the districts, but their legal powers are too limited to be of general use, and the powers which they assume being warranted by no lawful commission, but depending on their own pleasure, or the ability of the people to contest them, is also an oppression.

From this variety of materials we have endeavoured to form the plan of a more complete, but more extensive system of judicature, by constituting two superior courts at the capital, the one composed of the United Magistracy of the Adawlut al Aalea, the Adawlut Dewannee and the Cazee (or Cazee's Office) for the decision of civil causes, the other corresponding to the Phoujdarree, for the trial of criminal cases, To prevent the abuse of the power vested in these courts, and to give authority to their decrees, each instead of a single judge is made to consist of several members, and their enquiries are to be conducted under the inspection and sanction of the Supreme Administration. To render the distribution of justice equal in every part of the province, similar but inferior courts are also proposed for each separate district, and accountable to the superior. The usurped power of the officers of the collections, and of the creditors over the persons of their debtors, is abolished.

The judicial authority, which by the Tenth Regulation is still allowed to the farmers of the Revenue, is a single exception to the General Rule, which we have laid down of confining such powers to the two courts of Adawlut; but as this is restricted to cases of property not exceeding Ten Rupees, and as they have no power of inflicting punishment, or levying fines, we think an ill use is not likely to be made of so inconsiderable a privilege, especially as they themselves are amenable to the courts of justice, which will be always ready to receive complaints against them, and some such means of deciding the trifling disputes of the Ryots upon the spot is absolutely necessary, as they cannot afford, nor ought to be allowed on every mutual disagreement, to travel to the Sudder Cutcherry for Justice.

The detestable and authorised exactions of the Phoujdarree Court, which had its exact imitators in every farmer and Aumil of the Province, under the denomination of Bazee Jumma, have been prohibited, conformably to the wise and humane injunctions of our Honorable masters, who, from the same spirit of equity, have renounced the right hitherto exercised by the Country Government and authorised by the Mahometan Law, to a commission on the amount of all debts, and on the value of all property recovered by the decrees of its courts, a practice repugnant to every principle of justice, as it makes the magistrate a party in the cause on which he decides, and becomes a legal violation of the rights of private property, committed by that power, which should protect and secure it.

It has also been our aim to render the access to justice as easy as possible.



By keeping exact records of all judicial proceedings, it is hoped that these institutions, if they receive the sanction of your approbation, will remain free from the neglects and charges, to which they would be liable from a less frequent inspection.

We have judged it necessary to propose some exceptions to the order of the Honourable Court of Directors, for the total abolition of fines in the court of Phoujdarree. All offences are not punishable by stripes, and to sentence men of a certain rank in life or of a superior cast to such a public disgrace, would exceed the proportion of the offence, and extend the punishment to all the relations and connections of the Delinquent; to suffer him to escape, with total impunity, would be an injustice in the other extreme, in such cases, there is but the middle way, which we can adopt with an equal regard to the spirit of our honourable Master's commands, and the rights of justice, and that is, by levying the fine upon the offender, but converting it to a reparation of the injury.

Our motives for the abolition of the fees of the Cazees and mutees, will best appear in the following extract of a minute of our proceedings at Kishen Nagur, relating to the haldarree, or tax on marriages, which, for the reasons therein assigned, we forbade to be levied any longer, and deducted from the settlement of Nuddea. Convinced of the pernicious effects of so impolitic a tax, we propose to grant the same exemption to the other districts subject to our direction, and submit to your consideration, whether it will not be proper to make it general throughout the province.

The same reasons which have induced us to abolish the Haldarree, operate with equal force against the fees of the Cazees and Mutees, which have always proved a heavy grievance, to the poor, and an impediment to marriage. We have therefore determined on a total abolition of these, and of the other less dues hitherto allowed to these officers; and to put them on the footing of monthly servants with fixed salaries. We were led to this resolution, not only by the speculative advantage which it promised, but by the experience which this country has already had of its effects, from a similar institution of the Nabob Meer Cossim about the beginning of the year 1763, with (as we are assured) was productive of more marriages than had been known to take place for years before; and instances have been even quoted of men of Forty and Fifty years of age, who till then had led a life of celibacy, immediately availed themselves of this exemption to enter[\*] into a State, from which they had been before precluded, solely by the want of means to support the various expenses attending it.

**EXTRACT OF THE PROCEEDINGS OF THE COMMITTEE AT KISHEN NAGUR,  
DATED THE 28TH JUNE, 1772.**

"The collector explains the Haldarree or custom on marriage to be a tax levied by Government, at the variable rate of three rupees, three Rupees eight Annas, and Four Rupees four Annas each. Besides the Haldarree, there are fees paid to the Cazees and Muftees: The former receive from the principal inhabitants two Rupees, from the second class, one Rupee eight Annas; and from the lowest class, One Rupee. The fees of the Muftees are received from the Musicians, and other people who officiate at the festival, so that on the whole, the Fees of marriage may be estimated at six Rupees for each, exclusive of the Dues, or voluntary benefactions of the Gentoos to their Brahmins.'

"The Committee are of opinion, and resolve accordingly, that all the fees and taxes of this Article, which produce a Revenue to Government, be abolished, as tending to discourage population, an object at all times of importance to Government, but more especially at this time, from the great loss of inhabitants, which the country has sustained by the late famine, and the mortality which followed it; They are further of opinion, that the abolishing of the Fees to the Cazees and Mutees, will afford a great relief to the inhabitants, as it will not only absolve them from the Fees themselves, but also from the effects of the oppressive mode, in which these dues are exacted. But on this subject, they judge it will be more proper to come to a general resolution at the city, and therefore postpone the further consideration of it, until their arrival at that place."

We have judged it necessary, to add to the Regulations, with respect to the Courts of Phoujdarree, a proposal for the suppression and extirpation of Dacoits, which will appear to be dictated by a spirit of rigour and violence, very different from the caution and lenity of our other propositions as it (12) in some respect involves the innocent with the guilty. We with a milder expedient could be suggested, but we much fear, that this evil has acquired a great degree of its strength, from the tenderness and moderation, which our Government has exercised towards those Banditti, since it has interfered in the internal protection of the provinces. We confess that the means which we propose, can in no wise be reconcileable to the spirit of our own constitution; but till that of Bengal shall attain the same perfection, no conclusion can be drawn from the English Law, that can be properly applied to the manners or state of this country. The dacoits of Bengal are not like the robbers in England, Individuals driven to such desperate courses by sudden want. They are robbers by profession, and even by birth. They are formed into regular communities, and their families subsist by the spoils which they bring home to them; they are all therefore alike criminal; Wretches who have placed themselves in a state of declared war with Government, and are therefore wholly excluded from every benefit of its laws. We have many instances of their meeting death with the greatest insensibility; it loses therefore its effect as an example, but when executed in all the forms and terrors, of law, in the midst of the neighbours and relations of the criminal, when these are treated as accessories to his guilt, and his family deprived of their liberty, and separated for ever from each other, every passion, which before served as an incentive to guilt, now becomes subservient to the purposes of society, by turning them from a vocation, in which all they hold dear, besides life, becomes forfeited by their conviction; at the same time, their families, instead of being lost to the community, are made useful members of it, by being adopted into those of the more civilized inhabitants. The ideas of slavery, borrowed from our American

colonies, will make every modification of it appear in the eyes of our own countrymen in England a horrible evil. But it is far otherwise in this country; here slaves are treated as the children of the families to which they belong, and often acquire a much happier state by their slavery, than they could have hoped for by the enjoyment of Liberty; so that in effect, the apparent rigour thus exercised on the children of convicted robbers, will be more than a change of condition, by which they will be no sufferers, though it will operate as a warning on others, and is the only means, which we can imagine, capable of dissipating thee desperate and abandoned societies, which subsist on the distress of the general community.

## 2. DACOITS, CRIMINAL REGULATIONS, ETC. :1773

(13)

### **A PLAN, FOR THE ADMINISTRATION OF JUSTICE, EXTRACTED FROM THE PROCEEDINGS OF THE COMMITTEE OF CIRCUIT, 15TH AUGUST, 1772**

#### I

That in each District shall be established two courts of Judicature, one by the name of Mofussul Dewannee Adawlut, or Provincial Court of Dewannee, for the cognizance of civil causes; the other by the name of Phoujdarree Adawlut, or court of Phoujdarree, for the e trial of all crimes and misdemeanoors.

#### II

That for the better ascertaining the jurisdiction of each Court, and the prevent confusion, and a perversion of Justice, the matters cognizable by each respectively are declared to be as follows.

All disputes concerning property, whether real or personal; all causes f inheritance, marriage and cast; all claims of debt, disputed accounts, contracts, partnerships, and Demands of Rent, shall be judged by the Dewannee Adawlut.(14) But from this distribution is excepted the Right of succession to zemindarrees and Talucdarrees, which shall be left to the decision of the President and Council.

All trials of murder, robbery and theft, and al other felonies, forgery, perjury, and all sorts of frauds and misdemeanours, assaults, frays, quarrels, adultery, and every other breach of the peace, or violent invasions of property, shall be submitted to the Phoujdarree Adawlut.

#### III

That in the provincial court of Dewanee, the Collector of each district shall preside on the part of the Company, in their quality of King's Dewan, attended by the President and Council, and the other officers of the catcherry; that the Court shall be regularly held on every Monday and Thursday, and oftener if necessity require, and that no causes shall be heard or determined, but in the open court regularly assembled.

#### IV

That in the Phoujdarree Adawlut, the Cazee and Muftee of the district, and two Moulavies shall sit to expound the Law, and determine how far the delinquents shall be guilty of a breach thereof; but that the collector shall also make it his business to attend to the proceedings of this court, so far as to see that all necessary evidences are summoned and examined, that due weight is allowed to their testimony, and that the decision passed is fair and impartial, according to the proofs exhibited in the course of the trial, and that no causes shall be heard or determined, but in the open court regularly assembled.

## V

That in like manner, two superior courts of justice shall be established at the Chief Seat of government, the one under the Denomination of the Dewannee Sudder Adawlut, and the other the Nizamut Sudder Adawlut.

## VI

(15) That the Dewannee Sudder Adawlut shall receive and determine appeals from the Provincial Dewannee Adawlut; that the Presidents with two members of the Council shall reside therein, attended by the Dewan of the Khalsa, the Head Canogos, and other officers of the Cutchery, in cases of the absence of the President, a third member of the Council to sit if they chuse it.

## VII

That a Chief Officer of Justice, appointed on the part of the Nazim, shall preside in the Nizamut Adawlut, by the Title of Darogo Adawlut, assisted by the Chief Cazee, the Chief Muftee, ad three capable Moulavies; that their duty shall be to revise all the proceedings of the Phoujdarree Adawlut, and in capital cases by signifying their approbation or disapprobation thereof, with their reasons at large, the prepare the sentence for the warrant of the Nazim, which shall be returned into the Mofussul, and there carried into execution; that with respect to the proceedings in this court, a similar control shall be lodged in the Chief and Council, as is vested in the Collectors in the district, so that the Company's Administration in character of King's Dewan may be satisfied; that the Decrees of Justice, on which both the welfare and safety of the Country so materially depend, are not injured or perverted, by the effects of partiality or corruption.

## VIII

That in order to preserve the dignity and importance of two superior courts, established at the seat of Government, exactly on the same plan as those of the districts. In that of the Dewanne, a Member of the Council shall preside, and in that of the Phoujdarree, another Member of the Council shall exercise the control, specified in the Fourth Regulation; those duties to be performed by the member s in rotation.

## IX

(16) That as nothing is more conducive to the prosperity of any country, than a free and easy access to Justice and redress; the collectors shall at all times be ready to receive the petitions of the injured, and further to prevent their being debarred this access from Motives of interest, partiality, or resentment in the officers or servants of the cutcherry, that a Box shall be placed at the door of the Cutcherry, in which the complainants may lodge their r petitions at any time or hour they please, that the collector shall himself keep the key of this Box, and each Court Day have such Arzees as he may find in it, read immediately in his presence, by the Arizbeggy of the Cutcherry.

## X

That in summoning from the Farmed Lands persons complained against, or evidences called on by the parties, the Rule laid down in the Ninth Article of the Public Regulations is to be strictly adhere to. The Collector ought further to avoid, as studiously as possibly, summoning any persons from the Mofussul, who are any way connected with the Revenue, during the months of Bhadoom, Assin, Aughun, and Poos, unless in cases which call for immediate enquiry and example.

## XI

That in order to facilitate the course of justice in trivial causes, and relieve the Ryot from the heavy Grievance of travelling to a great distance, to seek for redress, all disputes of property, not exceeding Ten Rupees, shall be decided by the Head Farmer of the Purgunnah, to which the parties belong; an his decree shall be final.

## XII

(17) That the process observed for trying causes, in the Provincial Dewannee Adawlut, shall be as follows - First, to file and read the petition of the complainant. Secondly, to allot a limited time for the defendant to give answer, which when received shall also be filed and read - Thirdly, to hear the parties, *viv a voce*, and if necessary examine evidence; and lastly, to pass Decree. That if in adhering to this orders of process, the defendant shall evade or delay giving answer within the limited time, judgement shall pass against him.

## XIII

That complete records shall be kept in the Mofussul Dewannee Adawlut, in which shall be inserted the petition of the complainant, the answer of the defendant, the subsequent process, and examination of evidence, and finally the decree; that upon decree being passed, both parties shall be furnished with a copy thereof, free of expense, and that such copies shall be authenticated under the Public Seal, and the signing g of the Collector ; That a copy of the records entire shall be also transmitted twice a month, to the Sudder Dewannee Adawlut, through the channel of the President and Council.

## XIV

That each Collector shall also keep an abstract register of his Adawlut, in English, containing the names of the Plaintiff and Defendant, the substance of the suite, the substance of the Decree, the Date of the cause being filled, and the date of the decree being passed, and this abstract also shall be transmitted twice a month, to the Sudder Dewannee Adawlut.

## XV

(18) That as the litigiousness and perseverance of the natives of this country, in their suits and complaints, is often productive not only of inconvenience and vexation to their adversaries,

but also of endless expence and actual oppression, it is to be observed as a standing rule, that complaints of so old a date-years shall not be actionable; And further, should they be found guilty, as s often the case, from the principles above mentioned of flying fro the one court to the other, in order to prevent and protract the course of justice, the party, so transgressing, shall be considered as non-suited, and shall according to his Degree in life, and the notoriety of the offence be liable to fine or punishment.

N.B.: By the Mahometan Law, all clams which have land dormant for twelve years, whether for land or money, are invalid.- This also is the Law of the Hindoos, and the legal practice of he country.

#### XVI

That the custom of levying chour, dussuttra, puchuttra, or any other Fee or commission on the account of money recovered, or Etlak on the decision of causes, as well as all heavy arbitrary fines, absolutely and for ever abolished.

#### XVII

That as however cases may occur, in which it will be highly necessary, for the welfare of the community, to curb and restrain trivial and groundless complaints, and to deter chicans and intrigue, which passions amongst these people often work to the undoing of their neighbours, a discretion shall in such cases be left to the court, either to impose a fine, not exceeding five rupees, or inflict corporal punishment, not exceeding Twenty lashes with a Rattan, according to the degree of the offence, and the person's station in life.

#### XVIII

(19) That in adjusting the claims of old debts, it shall be observed as a Rule, that they bear o further interest after such adjustment, but that the amount shall be payable by kistbundee, according to the circumstances of the party; And as the rates of interest, hitherto authorised by custom, have amounted to the most exorbitant usury, the following rates are now established to be received and paid, as well for past debts, as on future loans of money viz. , On sums not exceeding one hundred Rupees Principal, an interest of Three Rupees Two Annas per cent per mensem, or Half an Anna in the Rupee; On sums above one hundred Rupee s principal, an interest o f two Rupee s per cent per mensem, the Principal and interest to be discharged according to the condition of the Bond; and all compound interest, arising from an intermediate adjustment of accounts, to be deemed unlawful and prohibited. When a debt issued for upon a Bond, which shall be formed to specify a higher interest them the established Rates, the interest shall be wholly forfeited to the Debtor, and the Principal only recoverable, and that all attempts to elude this Law, by deductions from the original loan, under whatever denomination shall be punished, by a forfeiture of one moiety of the amount of the bond to the Government, and the other half to the debtor.

#### XIX

That all bonds shall be executed in the presence of two witnesses.

## XX

That whereas it has been too much the practice in this country, for individuals, to exercise a judicial authority over their debtors, a practice, which is not only in itself unlawful and oppressive, seeing a Man thereby becomes the judge in his own cause, but which is also a direct infringement of the prerogative and powers of the regular Government, that Publications shall therefore be made, forbidding the exercise of all such authority (20) and directing all persons to prefer their suits to be established court of Adawlut, and that the Collector shall particularly attend to this regulation, which it is apprehended, will prove a great means of relief to the helpless Ryot from his merciless creditor, the Money Lender.

## XXI

That in all cases of disputed property, regarding lands, houses, land marks, &c. where a local investigation is required, an Aumin shall be chosen with the mutual consent of the parties, or if they cannot agree in the choice of one person, each shall have the privilege of nominating his own, and the Collector is also to attend, that the Aumins do not accumulate expenses by unnecessary delays, but that their scrutinies and their wages be limited to the time he judges sufficient for performing the service in question. The expence of the Enquiry to be defrayed by the persons who in cast.

## XXII

That in all cases of disputed accounts, partnerships, debts, doubtful or contested bargains, non-performance of contracts, and so forth, it shall be recommended to the parties to submit the decision of their cause to Arbitration, the Award of which shall become a decree of the Dewannee Adawlut; the choice of the arbitrators is to rest with the parties, but they are to decide the cause without fee or reward. The Collector, on the part of Government, is to afford every encouragement in his power to inhabitants of Character and credit, to become arbitrators, but is not to employ any coercive means for that purpose.

## XXIII

That in all suits regarding inheritance, marriage, cast, and other religious usages or institutions, the Laws of the Koran with respect to Mahometans (21) and those of the Shaster with respect to Gentoos, shall be invariably adhered to: on all such occasions, the Moulavies or Brahmins shall respectively attend to expound the Law, and they shall sign the report and assist in passing the Decree.

## XXIV

That the Decree of the Provincial Dewannee Adawlut, on all causes, for sums not exceeding Five Hundred Rupees, shall be final, but that for all above that amount, an Appeal shall lie to the Sudder.



## XXV

That the Court shall have a right of DECREEING to the party, in whose favour judgement is given, any specific sum for costs within the real amount, or in general to decree with costs. The Bill in both cases to be taxed by the court.

## XXVI

That persons found guilty of preferring groundless, litigious or vexatious appeals, shall be punished at the discretion of the Sudder Dewannee Adawlut, by an enhancement of the costs, which shall be given to the respondent, as a compensation for the trouble and expense which he shall have sustained.

## XXVII

That complete Records shall be kept and transmitted from the provincial Phoujdarree Adawlut, to the Nizamut Sudder Adawlut, twice every month, through the Channel of the President ad council. This exclusive of the proceedings in Trials for capital crimes, which are to be transmitted as soon as closed.

## XXVIII

(22) That the Collector shall also keep an abstract register, in English, of the proceedings of this court, in which shall be inserted only the names of the prisoners, the crimes or offences of which they stand charged, and the sentence or acquittal, which shall be transmitted in like manner, twice every month, to the Sudder Adawlut.

## XXIX

That the authority of this court shall extend to corporal punishment, imprisonment, sentencing to the roads and fines, but not to the life of the criminal. In capital cases to opinion of the court, with the evidences and defence of the prisoners, shall be transmitted to the Nizamut Adawlut, and having obtained their confirmation, it shall be ultimately referred to the Nazim for his sentences, which shall be carried into immediate execution, as directed in the seventh Articles.

## XXX

That persons guilty of petty misdemeanors, whose rank, cast or station in life, shall be thought to exempt them from corporal punishment, may be made liable to fines; but should such fines be laid for a larger sum than one hundred Rupees, they are not to be enforced or levied without the confirmation of the Nizamut Adawlut; for which purpose they are to be immediately reported, with a state of the case, and the cause of their being imposed.

XXXI

That as the forfeitures and confiscation of the property and effects of delinquents, sentenced to the loss of life may often occur, it is to be observed that such forfeiture and confiscation is not to depend on the provincial (23) Phoujdarree, but upon the Nizamut Adawlut; It is to be a standing rule therefore, to transmit, with the proceedings of the trial, an account of the property and effects of the delinquent, and wait the orders of the Sudder, whether they are to be surrendered to the Heirs, or confiscated to the State. In the latter case a sale is to be made, and the amount brought to Public Account.

XXXII

That where as the Honourable Company from motives of tenderness and solicitude, for the peace and happiness of the ryots have determined to abolish the Revenue, which has hitherto arisen from the collections of the Phoujdarree Bazee Jumma, the same is accordingly to be made public<sup>1</sup>; the punishment for them than stripes or imprisonment; or damages to the party injured.

XXXIII

That the same motives of regard for the tranquility and happiness of the Ryots, having induced the Government relinquish the revenue arising from the Rassooms, or fees of the Cazee and his inferior officers, of which the inhabitants have long complained as a severe grievance: The Cazee and Muftee are therefore introduced in the list of Adawlut officers at a monthly salary: In this capacity they are to continue to attest all writings, to perform all ceremonies of marriages, births and funerals, and to discharge all their other functions as was customary here to force, and as they are thus to be supported at the expence of Government, they are to exact no fees, dues or taxes whatsoever; any present or gratification made with the entire free will of the party, on the occasion of a marriage or of a funeral, is not prohibited by this Regulation: But if upon complaint it shall appear that force or any other undue influence has been used to extort such gratifications, the Cazee or Muftee so convicted, shall be *ipso facto* dismissed fro his office, with marks of pubic disgrace.

XXXIV

(24) That the Office of Yetasaub having become obsolete is now totally abolished, but that the Cazee and Muftee shall be allowed each two deputies for performing the duties of their office in the Purgunnahs, these to be stationed by the collector at such convenient distances as that the Ryots may not have above one day's journey to perform, for calling in their assistance.

XXXV

That whereas the Peace of this country hath for some years past been greatly disturbed by Bands of Decoits, who not only infest the High Roads, but often plunder whole villages, burning the houses, and murdering the inhabitants; and whereas these abandoned outlaws, have hitherto found means to elude every attempt, which the Vigilance of Government hath

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<sup>1</sup> Court is still to take cognizance of all such offences, but shall inflict no other.

put in force, for detecting and bringing such atrocious criminals to justice, by the Secrecy of their haunts, and the wild state of the districts, which are most subject to their incursions, it becomes the indispensable duty of Government to try the most rigorous means, since experience has proved every lenient and ordinary remedy to be ineffectual; That it be therefore resolved that every such criminal, on conviction, shall be carried to the villages to which he belongs, and be there executed for a terror and example to others; and for the further prevention of such abominable practices, that the village of which he is an inhabitant shall be fined according to the enormity of the crime, and each inhabitant according to his substance, and that the family of the criminal shall become the slaves of the State, and be disposed of for the general benefit and convenience of the people, according to the discretion of the Government.

#### XXXVI

That the Tannadars and Pikes of the Districts shall be punished by dismissal, of fines, if they neglect the duties of their charge, and as an (25) encouragement for them, to exert themselves in the protection of the villages committed to their care, and in detecting, opposing and bringing to justice all decoits and other offenders against the Public peace, pecuniary rewards, grants of lands, or particular privileges and immunities, shall be granted them, proportioned to their deserts; and the services which they shall have rendered the State.

#### XXXVII

That in addition to these general Regulations, the collector shall form such subsidiary ones, for promoting to the due course of justice, and the welfare and prosperity of the Ryots, as the local circumstances of their respective districts shall point out and require, and that they shall report the same to the committee of circuit, in order to their being communicated to the Board, for their final sanction and confirmation.

That they shall in particular, and without delay, regulated and transmit for confirmation, the fees to be received by all peons and pikes, employed in the service of the courts of Adawlut, which can only be done with Accuracy from information on the spot. And that they shall further establish such rules, with penalties annexed, as may serve effectually to eradicate the practice among the officers and servants of the Cutcherry, of exacting and receiving bribes, from the parties who have causes in suit; a practice, not only criminal in the persons who are guilty of it, but which reflects discredit and reproach on the Government under which they serve.

A true Extract  
Alexander Higginson, Secretary.

Revenue Department  
Fort William, 3rd Nov.1772.

### **3. CORNWALLIS - ORGANISATION OF GOVERNMENT DEPARTMENTS 1788**

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IOR:HM 79: pages 411-25. The document is undated and unlisted in the catalogue, but on comparison the extracts reproduced, in "Cornwallis in Bengal" by Aspinall of the Cornwallis Minute of 31.1.1788 seem to belong to this piece.

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#### Minute of Governor General

The Board being now assembled for the purpose for considering the necessary arrangements for conducting several of the branches of the business of this Government, I shall introduce the subject with some observations, for their information, and that of the hon'ble the Court of Directors.

The objects proposed are included in the details contained in the fortieth and forty-first clauses of the Regulating Act of the 24th year of his present Majesty, as tending to complete a general plan of establishments for conducting the business, on permanent and economical principles, and to reduce the expenses of Government wherever it can be done with propriety either by the abolition of useless establishments or by the retrenchment of unreasonable salaries and allowances.

The first establishment formed by the English East India Company in Bengal having been merely commercial they had for a long period no interference in the politics or government of this country; but the system has since under gone a fundamental alteration, and what was originally the sole object of the Company's intercourse with India is now considered as a channel of remittance for the revenues of the state.

To trace the progress of these alterations is unnecessary. It is sufficient for my purposes to remark at present that their influence has extended to the Company and all their servants, that the Company's possessions in India form an extensive empire, the due administration of which requires not only knowledge and abilities in the executive departments of government as well in the supreme authority but a jealous application of those qualities.

To obtain a moderate proficiency in one or more of the languages of this country is perhaps the easiest part of the duty of those to whom the executive management is assigned; but to render their labours of public utility it is necessary that they should not only be acquainted with the general principles of legislation or finance but with the peculiar customs, habits and dispositions of the people, to the government of whom they must be applied. Without this combination of general theory with local practice, errors will be great and improvement rare, and though this knowledge may be presumed to reside more particularly in the supreme power, the materials must be in a great measure supplied by the subordinate officers with whom the execution of the Regulations of Government must ultimately rest and upon which the success of the whole depends.

The labours of individuals who hold responsible offices under the Company in Bengal, where they perform their duty with zeal must be incessant and of great importance. I will instance a collector of the public revenues. His authority extends over a large territory, and combines the three offices of a financier, a judge and of a magistrate for the preservation of the public peace. The simple description of his several functions is sufficient to prove that his whole time must

be constantly employed and it would still be more evident if I were to enter into a description of his particular occupations in each capacity. Some idea might be formed of it by persons in Europe if they were to suppose the same powers with respect to an extensive county in England vested in one man. In such a situation a proper discharge of his daily duties might be deemed sufficiently laborious; but to improve the country a collector must advance still further, and reasoning from experience propose the institution of arrangements for promoting the public good and advantage of the Company; and carry them into practice when approved.

All that I mean by these observations is to attract the attention of the Court of Directors to the magnitude of their affairs in Bengal, and to evince the necessity of animating the zeal of their servants and encouraging the improvement and exertion of those talents which alone can secure the advantages derived from the possessions of the Company in the East, by a well arranged and well executed system of government.

This object can only be effectually obtained by an uniform distribution of rewards on the one side and of punishments on the other; the first must have the sanction of the Court of Directors the latter must be enforced when necessary by this Government.

There was a period as I am informed when the salaries of the servants of the Company were in general inadequate to provide them with a house for their residence; but they were supposed to have emoluments which compensated for the insufficiency of their allowances. The consequences of this system are now apparent and none can be more dangerous for a state to adopt, for the plain result is that a strict adherence to the principles of honour must end in penury and distress; but there are very few only who will be able to withstand the pressure of exigency and the boundary once past the progress towards immorality will be rapid. The zeal of the honest will be languid, and many after a strict adherence to the obligations of integrity for a time will find an excuse in distress for reconciling themselves to the appropriation of secret and unavowed emoluments by an argument however false in principle, yet too forcible for the feelings to resist, "that no government can mean to exclude the labours of zeal and integrity from a proportionate recompense, and where that it is not openly allowed it is understood to be contrived at."

I am happy to acknowledge, that in this respect the system is greatly changed, and that the rewards of the service are in general liberal. Between expectation and propriety, it is not possible perhaps ever to draw a precise line, but that is a point which Government must as well as they can determine, and it is with a view to enable this Board and the Court of Directors to do it, that these reflections have been introduced.

The first point which occurs to me as a necessary foundation of a new arrangement in those offices to which I mean to draw the attention of the Board is to consider maturely the nature of the offices that may be absolutely necessary for the dispatch of that business and then the establishments requisite for discharging the duties of each office with the salary and allowances which the officers should receive. The following rules are deduced from the proceeding subjects of consideration which I now propose to the Board.

**First** that the offices for conducting the business of this Government be as few as possible, and no more than the public business requires.

**Second** that the establishments of writers and inferior servants in each office be regulated by the business in it.

**Third** that the salary and allowances to every officer of Government be proportioned to the responsibility of the office he holds and the unavoidable expenses of the situation.

**Fourth** that the allowances annexed to the principal and most responsible offices be such as will enable the possessors of them with proper economy to return to Europe with a competency in a moderate period of service.

**Fifth** that the salaries to the inferior officers and servants of Government be equal to their subsistence.

**Sixth** that no Company's servant be allowed to hold an office under two different departments.

**Seventh** that all the principal offices be held by Company's servants.

**Eighth** that it will be declared and understood that no officer of Government is to derive any advantages from his office or situation beyond those authorised and allowed.

**Ninth** that in the application of the preceding principles the strictest economy compatible with them be adopted.

These rules are I presume sufficiently clear and obvious. The following remarks may however perhaps tend to elucidate some of them.

The first principle that every state should wish to adopt is to secure the honesty of its servants. To place people in situations of great temptation and responsibility without allowing them an adequate recompense is a principle of false economy which will ever in the end prove most expensive. If rigorous punishments be ordained as the penalties of every deviation from the strict line of rectitude and the Government should depend upon these alone for enforcing honesty the event will disappoint their expectation. Distress will overcome principle and although no arguments can justify an immoral action, yet reason and humanity will plead in favour of distress and temptation. On the contrary when a fair reward is allowed for labour and honesty, negligence and peculation should be deservedly punished with all the rigor which the law or the rules of the services can inflict.

But we must further consider that the duties of this Government are of a nature which require zeal in the discharge of them in order to promote its interests. A languid performance of public duty according to official rules will prevent for some time the operation of great abuses but it will never advance the interests of a state. These are either progressive, or retrograde, and can rarely be rendered stationary to save them from decline; attempts must be made to improve them.

At the same time it is necessary to reflect that no state can or ought to provide fortunes for all its officers at once. Merit, long services have the first pretensions and the junior servants of the Company ought to wait upon moderate allowances for their turn to receive a proper reward for a faithful and zealous discharge of their respective duties.

But in the meantime their salaries should be such as will enable them with economy to subsist without involving themselves in debts or embarrassments.

These considerations suppose what ought to be adopted as a rule, that the senior servants should in general be preferred to places of the greatest trust and advantage. At the same time the rule cannot be fixed without exception as it could discourage the exertions of extraordinary zeal and abilities in promoting the public interest.

It is far from my intention in any of the rules which I have premised, or in these observations to reflect upon the servants of the Company. Much indiscriminate censure has been thrown upon them, but if instances have been quoted of deviations from rectitude which cannot be defended some might also be adduced of the strictest adherence to honour and honesty where opportunity and distress have provoked temptation. To suppose the existence of secret and unavowed emoluments, and on this supposition to refuse adequate rewards for labour is a principle destructive of morality and ruinous to a state. No such temptations should ever be held out. It is admitted that the servants of the company in general have received liberal educations, and have been instructed in honest principles. With something to maintain them for the present and a competency to look to for the future they will be enabled to resist the force of temptation; but deprive them of that prospect and common experience of every man will suggest the unavoidable result.

It is not without difficulty that these principles can be applied. The necessities of the Company are undoubtedly urgent and I believe it must be admitted on the other hand that economy is not generally practiced as it ought to be amongst their servants. To think of supplying luxury or heedless extravagance could be as useless as improper. But even the junior servants who are employed in the different offices under Government have just claim to allowances that are equal to their reasonable wants.

The Court of Directors have the fullest right to demand the minutest explanation on points of so much consequence to their interests and for their information I shall enter into details which are unnecessary for that of the Board. Many of the expenses in this country upon a comparison with those in Europe will appear enormous, and if the salaries allowed are in the ration to them, they will bear the same construction. Yet this is an evil that no economy can rectify. The rent of houses such as the generality of the company's servants are obliged to occupy is from £ 300 to £800 sterling per anum. Every person in this country known that a house in Calcutta the rent of which is £250 per anum has seldom much convenience either in size or situation, both which circumstances are in this climate essential to health. The expenses of native servants if their wages only be considered are rather more moderate than in Europe, but on the other hand a greater number is required, and cannot be dispensed with. I do not believe it possible for a man who keeps a house on a decent footing, and on the lowest scale of economy, to be at an

expense of less than £ 120 per annum for servants and this sum with all others will unavoidably augment in proportion to his rank.

In Calcutta the expense of living are greater than in other parts of the provinces with an exception of a few stations, and when a man has after many years labour obtained a high rank in the service, he is expected to adopt his stile of living to it.

There is another circumstance which merits explanation. Whoever considers the nature of the offices in India and the regulation with which the duties of them are in general performed must admit that they are labourious. All sedentary employments in every part of the world are prejudicial to health but in India much more so than in Europe. And in estimating the value of labour this reflection deserves attention. To form a just comparison between them, we must not only take into consideration the expenses of living, but the climate also, and whilst it is understood that the servants of the Company are to return to Europe with a competency after a length of service, salaries beyond an immediate subsistence must be allotted to them.

With respect to the rule that no Company's servant shall hold offices under different departments it was my intention at first to have proposed the extension of it to prohibit the same person holding double appointments.

This regulation is certainly just so long as any of the Company's servants are without posts, but I have some doubt whether the application of it would not be attended with inconvenience for as it is impossible to augment the salary of every office of trust to the sum that might be deemed a reasonable reward for peculiar services the deficiency can only be supplied by an accumulation of salary from double posts. This however ought to be cautiously admitted.

The rule which limits the offices to be held by Company's servants is not meant to extend to the subordinate posts of the offices. Yet these as far as possible be filled by Company's servants, I do not however think it possible to make the rule general.

Having thus premised the principles and observations on which the establishments of the Government ought to be regulated, I shall leave to the Board the application of them to those particular establishments which are now to come under their consideration.

As a guide to our deliberations it may be useful to trace the general outlines of the manner in which the public business is at present conducted by the offices which are now to be examined with a view to consider how far they are necessary, whether any of them with propriety be abolished or consolidated into others and if any what improvements can be adopted either on principles of economy, or for the better currency of the business.

By this mode the duties of the several departments will be brought into one connected view, and the utility of the subordinate offices more easily traced, and as far as may be requisite for the elucidation of the points, a summary of the business of the different establishments should be inserted on the proceedings.

A TRUE COPY  
E.Hay, Secretary to the Fort.

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(noted on bottom of end page 425)  
(on page 426) (copy) Minute from the Right Hon'ble the Governor General introductory of the  
arrangements for the Reform (No.563)  
The Letter on the subject to England (dated 9.1.1789)  
and some of the proceedings are in HM 369, pages 423-543 and 1-421

#### 4. SOME DOCUMENTS ON CORNWALLIS CRIMINAL LAW BENGAL CRIMINAL 1787-89

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NOTE: The materials in this section(4.) have not been corrected with the Original.

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##### **Cornwallis to Col Call, President General Court Martial**

Chunar, 31st October, 1787

Sir,

On pursuing the proceedings of the General Court Martial, of which you were president, upon the trial of Leonard Channing I found to my great astonishment an opinion given by the judge advocate general, that if the prisoner, was drunk, his intoxication should be considered as a alleviation of his crime.

As the judge advocate general has admitted that this opinion, in this instance, is contrary to that of all lawyers who have ever existed, it is unnecessary for me to explain how completely the adoption of this principle would destroy all civil society in the world. Bus as this doctrine does not appear to have been contravened by the court, I can not help entertaining more apprehensions lest it may have had an influence upon them, and that they might have conceived as military judges; they could assume a greater latitude and think more philosophically, than all lawyers and divines (according to the judge advocate general) have hitherto done.

I must therefore desire that you will state in the strongest manner to the members, that such an idea would not only annihilate all military discipline, but it would put it in the power of any mutinous ruffian, who either was drunk, or had the out to pretend to be so, to take away their lived, and these of their brother officers, without any risk of atoning for the offence, by the forfeiture of his own.

I am Sir,  
Your most obedient and most humble servant  
(signed) Cornwallis

Colonel Call

**Lt Col Tho Cell to Earl Cornwallis**

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PRO 30/11/20 and 21 folio 60 and 26 respectively in the Public Record Office, London.

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To  
The High Hon'ble Charles, Earl Cornwallis, K.G.  
Governor General and Commander in Chief

My Lord

I was honoured with your lordship's commands, dated Chunar October 31, 1787 and in consequence I requested Col Pearse to issue an order to reassemble the members of the General Court Martial who sat on the trail of Leonard Channing.

We met this morning when I laid before them your lordship's sentiments on the judge advocate general's opinion delivered to the court at the close of Channing's trial. I have the pleasure to assure your lordship that previous to our meeting I was convinced that not a single member of the court was in the smallest degree influenced by the doctrine held forth by the judge advocate general when they passed their sentence and they now authorise me to assure your lordship they were not.

I beg leave to enclose for your lordship's perusal my address to the members by which your lordship will see our motives for adjudging so moderate a punishment to the prisoner. I have the honour to subscribe myself

your lordship's very  
respectful and obedient  
humble servant.  
The call (Lt Col)

Fort William 12 Nov 1787

(opinion of court follows on folio 28-9)

**Collector, Chittagong to Earl Cornwallis**

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PRO 30/11/26 folio 103-4, Public Record Office, London.

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Chittagong, 16th Sept. 1788

To  
The Right Hon'ble Earl Cornwallis  
Governor General of Fort William &c &c

My Lord

Were I not fully convinced that the rectitude of your mind will put a liberal construction on this address, I should not take the liberty of presenting it to your lordship.

Having now been upwards of 20 years in the country, during which time famine at three different periods has brought on distress and death of many thousands, the cause of which being generally attributed to long continued drought, or long continued rain, which without doubt does sometime occur. But long experience has taught me that famine in Bengal greatly originates from another cause viz the long and expensive war in which Mr.Hastings was engaged forced Government to strain every nerve to increase the revenue and in the year 1780 an increase in this province of three annas on each rupee revenue was imposed and has I believe ever since been levied. To this suffer me to add the tyrannical custom of the East still prevailing among the natives, the superior continuing to oppress his inferior to such an enormous degree, that the real cultivator of the land is often forced to fly from his home to seek refuge in some other situation. From this undoubted cause large tracts of land lies waste and uncultivated. And I am humbly of opinion that in proportion to the degree of oppression, may be traced one great cause of famine, distress and death to so great a number of the inhabitants of this country.

I trust to your lordship's candour, and to the purity of my intentions that it may not be deemed presumption in me to add, should your lordship in your Government deem it eligible and expedient to make a new and more permanent settlement (than from year to year) of the landed revenue, whether it might not tend greatly to prevent future misery and famine in this country which with due respect, I humbly submit to your lordship's consideration and beg leave to subscribe myself,

My Lord, your very faithful  
and most humble servant

B. Cunningham

## **Death by Poisoning in Contai 1789**

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IOR:P/51/36(15.5.1789) Pages 13-27: above extracts from pages 14 and 26-7.

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### **H.M.W. Hewett, Magistrate of Contai to Remembrances of Criminal Court, Fort William : 26.1.1789**

Humanity requires that I should point out to you, with a request, that you will notice it to the Right Hon'ble the Governor General, the sentence of 39 stripes of a corah passed on Bydaachee (the sister of Govind Misser) a girl of not more than 14 years of age, as she appears to have fallen, it is to be hoped in designedly, into the schemes of the other two prisoners, Nultee and Bonnee Misser. It is scarcely as age, would be so entirely depraved, as knowingly to engage in a plot of murder, which brought her brother to the grave, as he was in fact the only protection she had to look up to in life.

#### Nawab's Order

Bonnee Misser to be punished with 39 stripes with the Korah; Bydaachee, and, Nultee to receive 39 stripes with the Korah each, and to be imprisoned.

#### Board's opinion

The Board are of opinion that Bonnee Misser, Nultee and Bydachee, stand fully convicted, having contrived the death of Govind Misser.

#### Government Resolution

Agreed therefore that the sentence of punishment passed on them by the criminal court, be carried into execution, and that the Naib Nazim be further requested to give the necessary order for their being detained in prison for life.

Agreed also that the Magistrate be directed to apprehend Ramdoss Byragee, who appears to have furnished Bonnee with the poison for the purpose of taking away the life of Govind Misser, as stated on the deposition of the said Bonee Misser, and to deliver him over to the Daregah of the criminal court to take his trial.

## **Punishment for Forgery 1789**

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IOR:P/51/36 (15.5.1789) pages 35-58; above extract pages 37-9; In all 29 persons sentenced; Government Resolution page 58.

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### **From resident of Benares to Governor General : 28.4.1789**

... From the enclosed opinions of the Adawlut of Ghazeepeer, and Benares, on the punishment suitable to such offences, your Lordship will perceive that the Mahommedian law, is exceedingly mild, with regard to the penalties attached to acts of this nature, which in our country, incur even the highest; all therefore, which I thought myself justifiable in doing was, to condemn those found guilty, to a confinement not exceeding four months, to any, and shorter to several, besides which I have ordered the lands of one, or two held under forged deeds, and which had been procured with a view to strengthen the holders claim, to the same to be resumed, and I have directed one man (Ameer Ali) to be detained in confinement, till he produces the forged Firmann, which he acknowledges to have procured, from the Cauzyship of one of the Pergunnahs, all which will be seen by the enclosed list, and abstract of the names of the parties; the charges against them, and the sentences passed.

But with regard to Dunnoo Laul, from the sentiment so generally entertained in this country, of the very slight degree of guilt, incurred by Forgery and the letter of the laws founded thereon, combined with my belief of the person in being a little wild, or disordered in his imagination; I really feel a degree of hesitation in allotting a fit punishment for him; and, referring therefore to the enclosed opinion, thereon delivered by the Magistrate at Ghazeepeer (which as far as regards the facts asserted in it, of the prisoner's species of folly and present total helplessness, I can fully corroborate) I beg to be favoured with Government's instructions on that head, as to how far the opinion of that Magistrate, in regard to Dunnoo's punishment, and future provisions, including that for his family, is to be confined to; meanwhile Dunnoo will remain in jail on the usual allowance.

28.4.1789

Jenathan Duncan

## **Punishment for Forgery 1789**

IOR:P/51/36 (15.5.1789) Pages 53-8.

### **Questions to the Adawlut of Benares (by Resident Buncan with Answers)**

*Question 1* : What punishment is due, to that person, who from motives of gain, prepares and delivers to others, false sunnuds, and other vouchers for free lands, offices & c as from Government, and confesses his having done so?

*Answer* : Such a person is subject to Tazeer, and Tazeer is of various kinds. The Tazeer of the noble of nobles, that is the learned, and the descendants of Mahommed, is only giving them notice that they have committed such an improper act; and the Tazeer of the Achrafer noble, that is of the class of the Omras, and the inhabitants of villages, is notice, and bringing them by force to the Causy's door; the Tazeer of the middling class of the people, that is shop and market people, is bringing them by force to the Cauzy's door, and confinement; and the Tazeer of the low class of people is (including all the above specified articles) beating or stripes, so as that such beating, do not extend to 40 stripes, and the fixing of the extent of the Tazeer for each person, depends on the discretion of the Hakim.

*Question 2* - What is the punishment for those persons who procured the said forged deeds, in their favour, and who confess the same?

*Answer* - When any such person confesses, he admits, his having committed a breach of the law, and Tazeer is also to be inflicted upon that person, according to the law. The different kinds of Tazeers are mentioned in the first question.

### **Extract from the opinion of the Judge of Ghazeepoor in respect of the sentence to be passed on Dunnoo Laul, found guilty of repeated forgery.**

What I and the officers of the Adawlut of Ghazeepoor, after enquiry, think ought to be done to Dunnoo Laul, and the other imposters is as follows:

As I am informed by the Mussulman books of law, and the Hindu Shaster and the histories of former kings, that there is no fixed punishment for crimes of deception; but that it rests entirely with the Magistrate for the time being, therefore I shall write what I advise, and think proper to be done. The execution of it rests with the Resident. It is proved beyond doubt, that Dunnoo Laul has forged sunnuds, perwannahs, and bonds. The forged papers have been seen by the officers of the adawlut, and these who caused them to be forged have confessed their crime, and produced the papers, therefore they ought to be punished, and what the people of the adawlut think, they ought to suffer, is, that those who are of rank of a sacred character, and who from want of reflection committed the crime, their punishment should consist only in being brought as far as the adawlut, from the shame of which it is probable, that neither they, nor their children will ever be guilty of like practices; and those of middling rank, who though they should promise not to do the like again, I know are not to be effected by shame, and therefore till be they reprehended, and have their cars pinched, it is very likely, that they may return to the old practices; and of those implicated in this cause, who are of the lowest rank,

who would not mind having their cars pinched, or being reprehend, it will be necessary to confirm them for sometime, till they thoroughly repent, and others are deterred by their example from doing the like.

And as to Dunnoo Laul, who is the source of all these rogueries, he would be worthy of the severest kind of Tazeed, that is to lose his hand or fingers; but in consideration of his advanced age, and of the species of this crime, according to the present mode in this country; and as he is needy and has a family of six daughters unmarried, and one little boy, and his lord mother living, and a sister unmarried who have no support, but from his hands, and having no other art than that of writing, and composition; the members of the adawlut after having well weighed the subject think, that Dunnoo Laul ought to remain some years in prison, since as he is a kind of fool, and madman, his promises, and repentance cannot be relied on, where it is probable, that if he were to be released he might be led again by others to commit the same crime; therefore he should be confined till his son arrive at years of discretion, or till one of his daughters be married, and that such person be responsible, and provide for the family, and enter into security in the adawlut for the action of the said person. But till that time, according to the custom of the adawlut, he should have something settled on his family from the Company's treasury, not less than 4 annas daily, from the expenses of the jail of Ghazeepoor, to the end, that his family may not dies, who have not committed any crime, and that all lands, villages or money, that has been procured by these forged sunnuds, should after enquiries be resumed, and that the rights of sundry poor people who have been deprived thereof, through the forged sunnuds, in question, may on proof be restored to the same.

**RESOLUTION OF GOVERNOR GENERAL IN COUNCIL : 15.5.1789**

Agreed that the Resident at Benares be directed to sentence Dunnoo Laul to perpetual imprisonment, making him the usual allowance, and that the setting the sum of 4 annas per day upon his family, as proposed by the judge of Ghazeepoor be left to the discretion of Mr.Duncan. Agreed also that the sentences passed by the Resident on the accomplices of Dunnoo Laul be confirmed and that he be desired to state, whether it would not be advisable to oblige them to refund the amount of whatever pecuniary benefits they may have derived in virtue of their forged deed.



## **A Case of Koorh at Benares in 1789**

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IOR:/P/51/49 (dated 21.10.1789) pages 732-838. Also P/51/53 pages 614-23, Res:642. Above extracts pages 739, 746-7, 747-8, 750, 788.

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### **Statement by brother**

(On 18.6.1789) .. I arrived near the aforesaid garden when the day was clearly set in. Who do I see but Beechuk, my brother, his mother, and three other women of our family, who were sitting on the ground near the garden. I cried out from afar "I am at liberty and coming to you. Do not touch the life of any of the women." When we meet I heard of the house being plundered and the women dishonoured, which did not happen in my presence. It made me angry. I told my brother that we were not fit to live. My mother who was near sixty years of age was then ready to offer up her life and said, that when she was dead she would not suffer Gowree and Poorunder to live after this. I and my brother carried our mother to the Nalla at the village of Kutha. My brother struck here one stroke on the neck with his scimitar, and her head was at once separated. We killed our mother in vengeance (against) Gowree Chowry Poorunder, and Ram Pershad, Zemindar of Kutha.

### **Statement by Wife**

...Afterwards we all went to the Nallah in the village of Kutha where my husband's mother cried out to the men of it, who were hard by, restore me what has been plundered or I will kill myself. No one attended to her. My husband killed his mother by the stroke of a scimitar, which severed her head from her body. When she was going to be slain she raised her voice, and said she would blast Gowree Choudhari and Poorunder. My husband slew his mother in vengeance to them.

...On the before mentioned date Baboo Roop Sing sent Girdhari Laul his Naib, and Ram Nawaz Kanoongoo to enquire into the above stated particulars. They arrived at the said village and attempted by caresses, and smooth speeches to prevail on the man, who slew his mother to permit her funeral rites to be performed. He said "as the Brahmine in their religion awaken their dead, so will I. The corpse shall be buried in the earth, and I will cause it rise again by the sound of a drum." The corpse is preserved in a garden situated to the southward of the village and Bichack, his brother, and the other people of the village stand guard over it. Wherefore Girdhari Laul, and Ram Nawaz Kanoongoo had taken down and did bring the above representation.

### **Statement of Beechuck**

...Gowree Brahmin although the Aumil, had given them a Parikh Khutty and Pottah, had in this manner without rhyme or reason oppressed them.

...revenue according to the proportion of the full natural produce (kham or kutchra) instead of by the mode of **Surbusta**, or so much in the gross, as I had before been used to pay.

**PARDONING OF MURDER BY NEXT OF KIN**

Magistrates Reply to Query by Government on its Rights

Resident at Benares to Barl Cornwallis: 18.12.1789

My Lord

I have new the honour to submit the enclosed translations of the answers to the query proposed by Government, to the criminal courts within the Zemindary of Benares, relative to the discretion left to the Ruling Power in cases of murder, where the next of kin pardens the murderer.

The two persons Bhakry and Khush Hall, on whose cases this question was put, remain in custody till your Lordship's commands be received regarding them.

I remain with respect &c

Benares at Ashruff Ghur  
the 18th December, 1789.

Jonathan Duncan

**Translation of a Letter from the Nabob All Ibrahim Khan Magistrate of Benares, to the  
Resident of that place**

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IOR:P/51/53 (14-30.12.1789) pages 540-600

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Your letter of the 14th of September arrived; you have mentioned that on consideration of the trials of Khush Hall, and Bakhri, one of whom killed his wife; and the other his noice by the sword; the orders of the Right Hon'ble the Governor General in Council have been issued, that a requisition be made to the criminal courts within the districts of Benares, to know whether in the cases of the legal claimants on the part of the murdered women having forgiven, and spared the lives of the murderers, kessas, or capital punishment may, or may not take place, and be inflicted on them in the view of preventing the frequency or recurrence of murder, consistently with the practice of the emperors of the race of Timoor?

My kind Sir, I have in pursuance of your writing, inspected several historical books, to enable me to write a clear and satisfactory answer, but up to the 21st of September 1789 I have not been able to trace, that of the emperors of the Timoorian race have ordered capital punishment to be inflicted, on the culprit; yet I am still in search, and whenever I shall find, such a thing in the Books, I shall advise you. In the book called Hudeekutul Sufa, which is a book of credit, and records the acts of Timoorian princes &c down to the time of these now in paradise, the emperors Allumgeer, and Behadur Shah, there are two instances of judicial orders passed by two kings, who reigned in Delhi before Timoor, or Tamerlane: of which I have extracted the terms, as related in the said book, and send the same enclosed. But these judicial orders, are not conformable to the question proposed by the Governor General. If I can find an answer applicable to the question I shall represent it.

**Translation of the Enclosure** (with letter of Benares Magistrate)

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IOR:/P/51/53 Pages 540-600

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A certain person represented privately to Sultan Mahmood, that the king's nephew came every night to his house, and putting him out of it, spent the whole night with his wife, in pleasure, and revelry, whilst no one had the courage to set forth the circumstance. The Sultan commanded him to keep this secret veiled, and that when the young man should again enter his (the representant's) house he should advise his majesty thereof, and that if the porters refused him admittance, he should proceed to such a place, and there gently complain, which should bring the king to him. In this way, when one night, the king's nephew had accordingly to his wonted custom, gone into that man's house, and was immersed in delight, the complainant taking the king only along with him, showed the state of the case; upon which the king seeing both parties asleep together, did, lest a compassionate regard to, or view of his nephew, might impede or bar the Kissas, or capital punishment, first extinguished the lights at their bed-head, and then separated the prince's head from his body, and as the Sultan had in his own mind made a fixed determination not to taste of water till he had killed the said prince, and that from the day of such resolve, till the date of the execution several days had elapsed; the Sultan was so urged by thirst, that he first allayed it by water from a Fakeer's house immediately after killing his nephew and then departed.

**Secondly**

One of the confidential slaves of the Sultan Ghyassuddin, named Hybut Khan having when intoxicated killed a Fraush, (a servant of that denomination); the Fraush's wife complained, whereby upon Hybut Khan having received 500 stripes was committed to the complainant; the Sultan saying, he was hitherto my slave, now he is thine, and thou mayest either put him to death, or spare him as thou shalt wished.

**Translation of the Reply of Fakhruddin Mahommed Khan, Judge of the Moolky  
Fouzedarry Adawlut**

On the 14th of September 1789, a precept was issued to the officers of the provincial courts of criminal justice established in each of the four divisions of Benares, purporting, that the Governor General in Council, on consideration of the cases of Khush Hall and Bakhree who had slain, the former his wife, and the latter his niece upon the plea of incontinence had commanded, that a question should be put to the courts of criminal justice in the seminary of Benares, whether the law of retaliation could be enforced agreeably to the practice, that has prevailed in the reigns of the emperors of the Timurian Dynasty in Hindustan with a view to repress, and prevent the commission of murders; notwithstanding, that the next heir of the deceased had, remitted, and pardoned, the offence of the murders.

On the 5th of October following an order was also issued to me desiring, that I would transmit an answer to the question aforesaid.

Hon'ble Sir, to the best of my knowledge, and that of the sages of the criminal court, none of the emperors of the Timurian Dynasty, has ever caused the law of retaliation to operate, where the next heirs have pardoned the offender, nor have I met with any instance of the kind in the different historical records, or annals to which I have had access.

I have thus represented whatever was within my knowledge.

**Translation of the answer from Lalla Dukshy Sing, Magistrate of Mirzapoor, 6.10.1789**

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IOR/P/51/53

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I have been honoured by the receipt of your two orders of the 14th of September and 5th of October 1789 as received on the 19th of September and 6th of October.

You have been pleased to mention that in respect to the causes of Khushall, and Bakhry, one of whom killed his wife, and the other his niece by the sword on suspicion of incontinence the Right Hon'ble the Governor General in Council order has been issued to this effect, that information be requested from the criminal courts within the districts of Benares, whether notwithstanding the heirs of the deceased have spared the lives, and forgiven the blood or murder of the murderers kessas, or retaliation may not be inflicted according to the practice of the kings of the race of Timoor on the latter, in the view to prevent the frequency of murder?

My honoured Sir, the legal Petwas, which according to the books Sherah Vokaya, and Hedaya have been caused to be written by the Molavy Abdussibhan are sent enclosed and the particulars will thence become known to you. In a case of this kind where the heirs of the murdered shall have spared the lives, and forgiven the blood of the deceased, kessas, or retaliation is not proper, according to law; and the administration, or manner of the Dynasty of Timoor were not contrary to the Shera, or Law. In time to come the ruler of the country is, in the way or for the sake of punishment, or discipline authorised, or has a discretional authority.

**Enclosure being the Law opinion on the Question  
(with letter of Mirzapoor Magistrate)**

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IOR:P/51/53 Pages 596-600.

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Kessas is barred by the death of the Katal, or slayer, or by the relations of the deceased pardoning the murder, or by their compromising for a greater, or less property. If a man pardons another for a crime, as for instance for striking off the others hand, and the possible consequences thereof such as death; should that other person die by the less of his hand, the pardon is to extend to the said effects.

Again, a man having smote off another's hand, who pardons that act, and thereafter dies thereof, the person who struck off the hand, is pay Decit according to the opinion of Huneefa, but Yusif, and Mohummud, have said, that he who struck the hand off, is not justly liable for anything because the pardon of the first act involves, or comprehends the consequences being simply a cutting off, if further bad consequences, such as mortification do not ensue; and slaying if/further/such fatal consequences do ensue. Abu Huneefa grounds his opinion upon this, that he whose hand was smote off pardoned only that much and that by the ensuing bad consequences which ended in death, it appeared, that this cutting off of the hand, was in reality killing, and not simply amputation; yet that kessas, or capital retaliation does not ensue, because of the doubt in respect to the pardon, for cutting off the hand for Hudood, and kessas are barred by reason of doubts about the pardon.

Again a person struck off another's hand, which the latter pardoned and thereafter died. In which case Doeit is to be exacted from the property, but if the pardon was general, that is, from cutting off the hand and its consequences, then Doeit doth not ensue.

Again when one of the heirs pardons a murder, or compromises for a valuable consideration, then the rights of the other heirs become barred as to the exaction of kessas, but they are entitled to their share of the Doeit.

**Translation of the Reply of Kermullah, Mufty Magistrate of Janupoor : 15.10.1789**

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IOR/P/51/53

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I have been honoured by the receipt of your commands, under date the 14th of September, 1789, purporting that the Governor General in Council on consideration of the cases of Khushhall and Bahrree who has slain, the former his wife, and the latter his niece upon the plea of incontinence, had demanded, whether the law of retaliation could be enforced agreeably to the practice of the emperors of the Timurian Dynasty, with a view to prevent the commission of murders, notwithstanding that the next heirs had remitted, and pardoned the offence of the murders.

Honoured Sir I have examined the annals of the Timurian Dynasty, which are received as authentic in this country such as the Timurnamah, and Acbernamah; but have not met with any instance of an emperor of the Timurian race, having enforced the law of retaliation with a view to the preventives of crimes, whom the heirs of the deceased had remitted, and pardoned the offence of the murders. The emperors of the Timurian Dynasty were professors of the holy faith and the apostolic law; and they regulated their practice thereby, for no instance appears in the books, in which their actions are fully detailed of their having ever acted in contravention of the holy law.

**An Earlier Decision on Khushhall** (pages 230-45 of P/52/6?)

(proceedings in case) .... your wife is dead, and this is the English Government. Khushhall will be put to death. "Why do you occasion his death? Do you give a Razynama". Nihal answered by saying "I will bring oudan Patik, of the village of Nisahpoor, and get the said Patik to become surety for the prisoner on his being released." ..... " They did not desire kissas for the death of Sakronia but only that Khushhall, the murderer be banished from the four sircars of Benares." ..... " I desire nothing from Khushhall in exchange for the murder of Sokronea; but this much I do desire that Khushhall the murderer of Sokronea aforesaid may be expelled from the four sircars of Benares."

**Order** : Resident at Benares be directed to sentence Khushhall to perpetual imprisonment and hard labour.



### **Translation of the Reply of (Omer) Amaullah, Magistrate of Ghazeepeer.**

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IOR:P/51/53 (30.12.1789) pages 540-600. The above extract is from pages 549-51 and 587-94.

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On the 6th of October I received the honour of your command bearing date of the 5th of the same month, and requiring me to transmit my answer, without delay to the precept which had been previously directed to me in the case of Khushhall and Bakhree.

Honoured Sir, I certain had received the former order purporting, that in consequence of the murder committed by Khushhall, and Bakhree on the wife, and niece respectively the Governor General in Council had commanded, that a question should be put to the courts of criminal justice in the seminary of Benares, whether the law of retaliation could be enforced, agreeably to the practice of the emperors of the Timurian Dynasty in Hindustan with a view to prevent the commission of murders, notwithstanding that the heirs of the deceased had remitted and pardoned the offence of the murders.

Honoured Sir, the solution of this question is not to be found in the law books, but in histories, such as the Tmurnamsh, Shajjehannamah, Aalangeernamah &c. As I have not thought it proper to submit any reply to the above question without previous enquiry, and examination some delay has unavoidably happened.

.... The emperor Jellaluddin Acber has in the regulations which he sent to the magistrates of his dominions, in India, set forth, that the administration of justice, and of the duties of government, depended on watchfulness, since in like manner, by the want of vigilance in the shepherd the flock, and herd strayed and separated no did the negligence of the Magistrate occasion the heaviest injuries to the subjects. Wherefore it was the duty of the Magistrate to weigh and appreciate, the state of men, and things, and to look on all with an eye of benignity, and to punish, or chastise all classes of men according to situations, since to look coldly on a man of merit, was to such a person equal to death, whilst to those of inferior or low qualities even blows, and drubbing and stipes were ineffectual. That some were to be put to death for one crime, which others for sundry offences were only to be beaten and chastised by way of discipline. The offences of others again, were in a thousand instances, to be overlooked. That in short the duty of administering justice, and the trust of inflicting punishment were the most arduous of all duties, which could only be duly effected by the aid, and grace of the almighty, and that more especially in what regards the putting to death and shedding the blood of mankind, who are the work of the hand of God, the greatest and most mature consideration was necessary, since to restore life is not in our power.

I come now to the ultimate purpose of this address, which is to submit my own imperfect opinion on the cases which form the subject of reference.

It appears to me necessary for a just judge to ascertain from the neighbours and from their relations who may be most depended on, (as in every class some much are to be found) the circumstances and situation of the parties in these causes, that is, of the murders, and the murdered. Let the state of circumstances be then weighed in the scales of capacity. If the murderer be considered in a respectable worthy point of you, and as a man of prudence and discretion by his relations, and these of the tribe, and that heretofore he shall never have been

guilty of any fray, contention or unjust homicide or deceitful practice, and that before this murder, the men never had no ground of discussion, or ill-will towards the murdered, and that no interested or other personal view, shall appear to have influenced him, or if the murdered person be defamed, and spoken of disrespectfully by the vicinity, and her relations for her indecent and loose life, and fornication, in such case according to the legal institutes, as well as to common sense, the slayer has nothing against him for having put to death such person even although her death, since it may be that the murderer or slayer having in his sound judgement be a spectator of the parties, in their act of criminal intercourse, was unable, from the excess of his regard, to bear such a sight, and was therefore excited to kill both parties, but may have been prevented from laying his hand on the fornicator, and have been able to effect his purpose on the woman only. Such a slayer shall not be questioned for such slaying; as is contained in the Fetava Serajjeea. If on the contrary that murderer or slayer be an evil-door, who has often committed such evil deeds, and acts of perfidy, and deceit and of blood shedding, and promotion of quarrels, or that he had before any strife or contention with her, and the same be known to their connections, or if that murdered woman was known to be pure, innocent, and of good fame among her neighbours; under these circumstances it is the duty of a just judge to put to death such an evil murderer; notwithstanding that the heirs shall from worldly consideration have pardoned, and forgave the kessas, the spared the life of the murderer; and the extirpation, and rooting up of a weed of such infamous growth, is to be viewed as an act of incumbent duty, in like manner as is written in the Futeva Taleo. That the imam Abul Cola, being questioned about the punishment of evil deers, who are proved and addicted to evil deeds, and who diffuse among mankind strife and enmity, and make reports thereon to His Majesty; the said Imaum answered, that the putting to death of such a person was among the duties that are incumbent, for the purpose of removing the evil of appeasing strife and promoting the general welfare. The Imaum Shiya of Bulkh said, that in the case of an evil deer who prided himself, on unjust homicide, and bent his whole views to schemes of overthrowing others, and in contention; and raised strife among those who were attached to each other by bonds of amity and who threw suspicion and distrust on the people of God, reported his own invention to the ruling powers, and followed evil machinations to the general disquiet, and disturbance, the killing of such a one, was allowable and he might be put to death wherever met; and the act would be meritorious at the last day.

The above is what appears to me, Molavy Omerulla, on the question propounded relative to the two murderers, one of whom has killed his wife, and the other his niece. The order now rests with you.

For the rest, to make a just judgement, and to hit upon what is truly most right, proper, and fittest, which are points concealed behind the veil of obscurity; is not likely, or easy to be in any case attained, whether by the most learned and enlightened Doctors, who are the pillars of religious of the Prophet, or by the followers, or adherents of the successors of the Prophet who have laboured for a length of years to ascertain the truth, and to walk in the paths of righteousness. The above being written in a few moments, and hastily, in the beginning of the month of Moheram at Heram, and the commencement of the Hegery year 1204, it is possible that I may hereafter meet with some law book in which clear example, or cases may be found exclusive of what hath been here committed to writing and from which I myself may profit, and is that event I shall report the same.

**Note by Resident on Opinion of Gmerullah**

On perusal of the original of the above, a letter was by the Resident written to the author, Molavy Omer Ullah, judge and magistrate of Ghaseepoor expressing his thanks to the said Molavy for the pains he has taken, in reporting to above information, in reply to the question transmitted to him, and mentioning his (the Resident's) belief, that the perusal would even prove satisfactory to the Right Hon'ble the Governor General in Council; at the same time requesting, that the Molavy would mention to the Resident, the book, or authority (as he has not quoted it) from which he relates the case of the son-in-law of Sultan Ahmed of Guzerat (as being a case in some respects greatly in point to the causes under consideration) specifying also the date when Shah Ahmed reigned and his family or dynasty.

**Read the answer as received to the above question.**

On the 18th of December promising shortly to collect and transmit all the particulars about Sultan Ahmed Guzerati, as far as the same can be traced from books of history.

**Resolution of Government : 30.12.1789**

Ordered that Bhakry and Khushhall be mentioned to perpetual imprisonment and bard labour. That should any objection occur to keeping them to hard labour, the Resident be directed to report the same to the Governor General in Council for his further orders.

## VERDICT IN CASE OF ATTEMPTED POISONING 1789

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IOR:P/51/36 (29.5.1789) pages 611-44, above extract pages 614-5 and 644 (?)

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### **Benares Resident to Governor General : 8.5.1789**

... Although in the lenity in the law, be in matters of a criminal nature, preferable to rigor; yet as it seems to me doubtful, whether the punishment awarded in this instance (in conformity no doubt to the Mahommedan law) for an acknowledged attempt to poison, may not be considered, as following short of what is required by the fundamental principles of justice; I am therefore desirous of obtaining your Lordship's approval, before I sanction the present sentence; and I wish also to bring under the cognizance of Government, that usage of the Mahommedan law courts, which (as appears from the trial) admits of men, (standing, for instance, in such situation as Salyar Khan) to purge themselves, by swearing to their own innocence.

### **Decision of Benares Court (enclosed with above)**

... Salyar, who has however, been acquitted by the court, on his making oath to his innocence; and as to Azeez Ulla, and Laul Mahomed, they are in the opinion of the court, liable only to Tazeer, or chastisement, not affecting life or limb, although there seems no doubt but they meant to out short the life of Zeman Khan.

### **Resolution of Governor General in Council : 29.5.1789**

Azeez Ulla and Laul Mahomed, who have admitted the guilt, and design to poison Zeman Khan at the instigation of Sialar Khan, be kept in confinement for two years, at which time they may be released and permitted to remain in the district of Benares, upon condition, that proper security has been previously given for their good behaviour, otherwise they are at the end of their confinement to be banished from the district of Benares and the Company's other territories.

With respect to Talyar Khan his guilt is so evident to the Governor General in Council, that he must be banished forthwith, .... under a warning, that if he should ever be found afterwards in either, he will subject himself to perpetual imprisonment.

## **BENARES RESIDENT URGES MODIFICATIONS IN MAHOMMEDAN LAW**

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IOR:P/51/36 (15.5 to 15.6.1789) pages 948-58. Extracts pages 950 and 957-8. Resident also states that he has made arrangements for the public execution of those sentenced to death (?).

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### **Resident, Benares to Governor General**

... It cannot perhaps be too often repeated or seriously considered, that the Mahommedan criminal law is in many respects very ill adapted to this country, and state of society; and that some of its institutes, lead evidently to the encouragement of crimes; and more especially of the greatest of all, viz; murder; but the facility with which the heirs of the deceased are in general induced to pardon the criminal.

I flatter myself that your Lordship's administration will be distinguished, by a reform in this, as well as in the other departments of government; an abrogation of this single law, by which the pardon of murder is left to the option of the nearest of kin, would I am persuaded alone save many lives.

### **Resolution of Government : 10.06.1789**

Ordered that the Resident at Benares be directed to cause the sentence of death passed on Ramzanny to be carried into execution, and that he be acquainted the Governor General in Council does not require him to transmit capital sentences to him previous to their being carried into execution. That should any cases of a capital nature occur upon which he may be desirous of receiving the orders of the Board, he is at liberty to refer the sentence to them, and suspend the execution of it till such time as he shall receive their sanction for that purpose.

That he be further informed that the Board are fully convinced of the end tendency of that part of the Mussulman law by which the pardon of murder is left to the option of the next of kin, and that they will hereafter taken into consideration the propriety and expediency of abrogating it.

## 5. INSTRUCTIONS ISSUED TO THE COLLECTORS UNDER THE GOVERNMENT OF FORT ST.GEORGE, JUNE 1791

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Extract : FORT ST. GEORGE Revenue Consultations, the 24th June 1791 PP(HC) 1812 VIIp.709-73.

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READ the following letter from the Board of Revenue, with Draft of Regulations for the different Collectors.

To the Hon. Major Gen. Meadows, Governor in Council,

Hon. Sir,

Under date the 10th February last, we had the honor to submit for your approbation, a code of regulations for the conduct of the board of revenue, and which you were pleased to sanction with your concurrence.

We have since drafted another set of regulations, for the guidance of the several collectors employed under this board, having selected such part of them as appeared to us applicable to circumstances on this coast, and modified, and introduced others, so as to form a system, which properly supported, will be adequate, we hope, to the purposes of benefit to the revenue as well as justice and security to the inhabitants. Copy of these Regulations are now submitted for your approval and confirmation.

We have the honour, &c.

(signed) Jn'Hudleston, T.Oakes, Geo.Moubyra

Fort St.George, 21st June 1791.

### REGULATIONS FOR THE COLLECTORS.

para.1. That all proceedings or orders held or issued by the collector in the revenue department, shall be duly recorded at the time, and a diary of them to be transmitted monthly.

2. That all acts and proceedings of the collector must be done and held publicly.

3. That the collector shall not refer any complaints preferred by ryots against a renter, or other person employed under him, to such renter, or person complained against, for redress; but shall hear, examine, and decide them himself, and if well founded, shall compel the party committing the injury, to afford redress; and if the complaint should be proved to be litigious and ill-founded, he should punish such complainant according to his or her sex, rank and circumstances, and to the degree of the injury to the party complained against, by compelling the complainant to make suitable reparation to the latter, or by confinement of his person.

4. That the collector be nevertheless authorised to refer trifling complaints between ryots, or of ryots against inferior officers in the collections, to the renter, or head officer stationed on part of the renter in the district; but that he observe it as an invariable rule, to require and exact from the person to whom such reference is made, a regular return to the reference under his

signature, and that of one or more of the principal officers of the cutcherry of that pergunnah. The return to become a record on his proceedings.

5. That all summons requiring the appearance of any persons, in matters relating to the revenues, be in writings, under the signature of the collector, or of this revenues, be in writings, under the signature of the collector, and official seal. This rule is not meant to extent to the calling of persons on the spot, in the course of daily or official attendance.

6. That in no instance, the number of peons serving the summons, shall exceed two.

7. That in case of neglect, or refusal to obey the summons, the persons guilty of such neglect or refusal shall be required to answer for their conduct, and suffer a punishment according (p.170) to the degree of the offence, either by fine, not exceeding in any instance the sum of fifty star pagodas; or by imprisonment, not to extend beyond the terms of one month.

8. That a time be limited or the serving and return of the sommons, and to be endorsed upon it.

9. That the fees of the peons shall in no instance exceed one fanam a day for each man, which is to be in full of every allowance whatever to him, and the collector to punish immediately, in exemplary manner, every act of extortion in the peons employed.

10. That the collectors be in every case, strictly prohibited from making use of the agency of their private servants, whether dubashes, mutseddies, and others, in the discharge of any part of their public duty; it being expected and required, that in all cases they shall themselves stand forth, and act as the only empowered agents of Government in their several stations.

11. That the appointment and dismissal of the inferior public servants, be vested in the collectors respectively, with this proviso, that they transmit regular lists of the names of those they shall so prefer, to the board of revenue, and give notice of all subsequent dismissions and appointments, and employ none but such public and registered officers, in any respect in their official capacity, nor on any plea or pretext confer on any such public officer or servant, any private or personal trust, in regard to their personal concerns, or *vice versa*.

12. That the personal attendance of any zemindar or renter, or other person entrusted with the collections, be not insisted upon, whether the attendance of a vakeel on their part, may be sufficient for the business required; every vakeel attending the collector's cutcherry is previously to deliver a written authority properly authenticated.

13. That every demand for rent, according to the kistbundy, be made in writing, under the signature of the collector and his official seal. The amount demanded to be specified.

14. That every collector be required to give monthly receipts for all payments of revenue into his treasury, specifying the dates on which the money was received, if at different periods, and the species there of; and that he keep a register of such receipts, regularly numbered in his records under his signature, to be transmitted monthly to the board of revenue; and that he require of all zemindars, farmers and renters, to give receipts to their under renters, for the sums received by them.

15. That for the purpose of enforcing the payment of the collection, mahsouly peons shall be employed as little as possible; but when indispensably necessary, that no greater number of peons than two be placed over any renter.

16. That the collector, in case of the neglect of any renter in making good his kists, be authorized put him into confinement, and in case a sum equal to one-third of the kist, be not discharged within fifteen days, to keep him in of confinement until the whole is discharged, and to take his farm from him. With regard to zemindars who are in arrear of their kists, the collector is authorized to take such steps as many have been in use hither to, to oblige them to make good their payments, but not to sequester their zemindarries, until leave is previously obtained for the purpose, from the board of revenue. That in the former case with regard to renters, the collectors do take precautions to prevent any inconvenience or loss of revenue by the confinement of such renter, by investing the peschar or principal servant of such renter, with the temporary management of the collections, or by the appointment of an aumeen for this purpose; and in that case, whoever is entrusted with this temporary management, is to collect the settlement made by the renter from the persons under engagement to him; and this is not to make any alteration in the detail of the management, until the renter be absolutely dismissed from his farm.

17. That as cases may, however, occur, in which the payment of the revenue may be protracted or delayed, from accidental case of necessity, without any fault or neglect of the renter, the collector in such instances be authorised to suspend the rigorous execution of the injections in the conclusion of the 10th article, reporting the cases to the board of revenue, with the reasons which have induced him to suspend the measure.

18. During the absence of the collector from his station, the senior assistant on the spot, is to have charge of the business.

19. That monthly receipts for the allowances paid by the collector agreeable to the fixed establishment, be taken by him and deposited with the public records of his collectorship, and a register kept there of; and that such receipts be annually, or on his relinquishing his office, transmitted to the presidency, at his option with regard to the time, unless the board of revenue should require the transmission of them, sooner.

20. That no collector, or assistant under him, or any native in the employ of any collector or assistant, shall hold, directly or indirectly, any farm, or be concerned in the revenues of any place under his jurisdiction, either as renter, security or otherwise.

21. That no collector or his assistant, or any native in the employ of any collector or assistant, shall be allowed, either directly or indirectly to lend money to any renters, or persons responsible for the revenues within the bounds of such collector's jurisdiction.

22. That no collector, or his assistant, shall be allowed to exercise of carry on any trade or commerce, in the districts placed under his authority.



23. That whenever any aumeens are appointed by the collector, the charge there of shall be defrayed by the person or parties on whose account they are sent; or it to superintend or collect the revenues, at the expense of the renters. That where aumeens are deputed (p.711) for any local investigation, or other purpose admitting a limitation for the execution there of, a time be limited them, for the performance of the business of their appointment, and that they be not allowed to receive their salary, for any time beyond the limited period.
24. The collector is invariably to report to the board of revenue all such appointments, as soon as made, and the purpose of them.
25. That together with the sunnud or appointment of the aumeen, a statement of such establishment, fixing the expense, be previously settled, and delivered to the aumeen.
26. The collector to ascertain the rate of interest paid by the ryots on sums borrowed, and where excessive, to cause a due limitation thereof, reporting the same.
27. That the collector do give the most unremitting attention to ascertain the rules and rates of assessments on the ryots under his jurisdiction, and endeavour to fix upon some mode by which they may be regulated, on general, fair, and ascertained principles.
28. That he take care to collect all the records and accounts of his collectorship, and preserve them, as complete as possible.
29. That no collector publish any proclamation or order which may in any shape affect our intercourse with foreign nations or the general constitution of this government, without an express order from the Governor in Council.
30. That in all answers to letters from the board of revenue, the collectors do recapitulate the substance of such letters to which they reply; and when they have occasion to make any remarks or allusions to other papers sent enclosed in the letter, they briefly state such parts of them, as those remarks appertain to.
31. The letters accompanying monthly or annual accounts, to contain nothing more than a recital of those accounts;-- all explanations of such accounts, to be inserted at the foot of each account respectively.
32. That no collector shall authorize or suffer any tax or imposition on the renters, or owners of horses, or stop horses from passing, on any pretence whatever, or shall suffer others under his authority, to do either; and shall compel any person under him offending against this rule, to refund the amount to the exaction so taken, and be made answerable for whatever loss the merchant or proprietor of the horse shall have sustained by such detention.
33. That no collector or assistant shall be authorized to possess or occupy ground, or erect any building, without previous application to, and the sanction of, the board of revenue.
34. That the board of revenue shall be authorized, the first instance, to hear and receive appeals in matters of revenue from the decisions of the collectors, and to confirm or rescind the decision,

subject however to the revision and ultimate decision of the Governor in Council, in case either party shall think fit to make a further appeal, provided that such ultimate appeal be prepared within one month from the passing of the decision by the board of revenue.

35. That in case of appeal, the decision of the collector shall remain in force, until approved or disapproved by the board of revenue; and in like manner, the decision of the board of revenue until confirmed or rescinded by the superior board, the collector and board of revenue to have a discretion of suspending the decision, on security given to abide the event of the suit.

36. That the collector do make it an invariable rule to accompany all papers in the country languages with translations there of.

37. That to provide against the loss of rents and confusion of accounts, from any collector being permitted to resign, it be and it is hereby made a standing rule of the service, that no collector shall be permitted to depart from his station, till either he shall have delivered over complete charge of his trust to his successor, or to his assistant, and until due notification there of shall have been made to the board of revenue, and their sanction obtained for his departure; and this regulation shall on no account be dispensed with, unless by express permission of the board of revenue, to be separately granted for any particular cases that may require it.

38. That all application from the collectors for temporary leave of absence from their station, shall be made to the board of revenue.

39. That no collector upon any account exceed the fixed or established charges; and that he insert no charge in his treasury account, but such as may be conformable to the fixed establishment, or sanctioned by a special order of the board of revenue, which is in that case to be quoted, with the date of its being issued.

40. That no collector shall be authorized to depute his assistant upon any service for longer period than ten days, without the express permission of the board of revenue, nor to pay the allowances of any deputation, without obtained their previous sanction.

41. The collector is strictly enjoined to make no assessment whatever, under the name of nuzzer, saderward, or gram khurtch, but what are already established and considered as articles of revenue. Neither is he to impose, on any account whatever, any new articles of taxation upon the ryots; and if here after any irregular assessments, under the names of nuzzer, saderward, or gram khurtch, batta, &c. or any new taxes whatever, should be imposed by any renter, the collector, on proof of such extortion, is to decree double the amount thereof to the party injured.

42. That no collector shall be authorised to confer grants of lands, or authorize any alienations, sale, mortgage, or other transfer of landed property, without the express sanction of the board of revenue; and that he prevent all alienations, or grants of lands, by zemindars or others under his authority.

43. That no collector be authorized to give any land in farm to any European, directly or indirectly, or accept the security of any European, for any renter.

44. That each collector report to the board of revenue all such unauthorized alienation (p.712) as may come to his knowledge; and if from the date fixed for the operation of these orders, any other should be made, he do immediately resume them, and keep them for the use of government, reporting such acts of resumption to the board of revenue.

45. That every collector shall attend to the instructions given him by the account to the board of revenue, respecting the nature of the accounts required from him.

46. That no collector do give credit in his treasury account for the amount of any bill or tope, or for any sums but such as have been actually received and that he shall be held responsible for all sums inserted, as received in his public accounts.

47. That the collector do insert in his treasury account, the amount of all fees, fines, and forfeitures levied by him, agreeable to a specific list there of, which is to accompany his treasury account; and that he send a monthly register of any deposits he may occasionally receive.

48. That the treasury accounts be invariably accompanied with a register of the monthly vouchers.

49. As the zemindars have at times been suspected of conniving at robberies and murder, or of being parties concerned in such enormities, contrary to their duty, which enjoins them to preserve the peace of the country within the limits of their respective jurisdiction, any zemindars, against whom shall in future be proved his having abetted, practised, or connived at such atrocious offences, will be considered as having forfeited all claim to his zemindary, and be proceeded against accordingly, as government may direct; and all persons who may be found in arms against the company's government, shall be apprehended and sent to the presidency, from thence to be transported for life beyond sea. This resolution is to be notified by every collector, by public proclamation, throughout the district under his charge, and to be communicated by letter to each zemindar under his authority, requiring that the same be published to their dependents of every description, in order that no person may plead ignorance of the punishment denounced against such as are found guilty of the crimes above mentioned.

50. Whenever there shall be any of the honourable company's troops at a revenue station, the commanding officer shall on no account, of his own authority, detach and Sepoys, either singly or in parties, beyond their quarters, upon any service whatever, except at the requisition in writing of the collector of the station at which he is fixed. This order is not to be understood to impede the performance of any customary regimental services or duties.

51. The commanding officer shall not be permitted to punish or confine any person, not appertaining to his command; or any officer, commissioned or non-commissioned, or any private under his command, be permitted to lend or borrow money, nor to take any concern in any farm or securityship, or to sell or to contract to sell any article whatever, either in the district in which he resides, or in any other, or to have any dealings of any kind whatever, with any dewan, Zemindar, farmer, ryot, dependent, or officer, of the revenue; those orders shall be

equally binding upon native officers, and on all the Sepoys and followers of the corps; and the collector is to report any deviation from this regulation that may come to his knowledge.

52. Whenever the collector shall find it necessary to detach any Sepoys for escorts of treasure, or other public duties, he shall make a requisition in writing to the commanding officer, specifying the nature of the service; and the officer shall determine the strength of the detachment, and give his separate orders to the officer commanding such detachment, for the performance of any service in such case as may require it, and no detachment shall be made without a requisition in writing from the collector.

53. That no collector shall be authorized to employ regular troops in the collection of the revenue. Such particular cases as may require the assistance of regulars, must be immediately reported to government.

54. All requisitions and instructions relative to military service, shall be entered by the collector in a separate book to be kept for that purpose, of which he shall transmit a copy monthly to the board of revenue.

55. That whenever a requisition for Sepoys shall be made by a collector, he shall within twenty-four hours after such requisition has been made transmit advice thereof to the board of revenue, assigning the reasons which induced him to make it, that the board may, if the reasons shall not appear to them sufficient, give orders for recalling the detachment, or limit the duration of it.

56. That no *batta* be ever levied or taken by Sepoys employed on revenue business.

57. That the collectors do pay attention to all references of complaints, and to all applications or requisitions made by the president of the board of revenue, the acting president, or the accountant, for papers or accounts.

58. That no collector shall be authorized to make any advance on account of *tuccavy*, without the express sanction of the board of revenue.

59. The collectors are positively enjoined to collect the *cowle aumulmana* fees with the three first *kists* of the year, and to remit the amount thereof by bills to the secretary of the board of revenue.

60. That the collector make it an invariable rule to report the death or apparent approaching dissolution of any *zemindar*, as also the death of any pensioner, or officer paid by him and that the pay of any deceased pensioner be not continued to his family, without the express sanction of the board of revenue.

61. That when the property of land is disputed between persons under the authority of different collectors, the land shall remain in the possession of the person holding it, until a regular decision upon the case shall pass.

(p.713)

62. That when persons under the authority of any collectors shall take refuge within lands under another jurisdiction, they shall, upon application from the person from whose authority they have fled, to the collector of the district where they have fled, be delivered up.

63. That no application shall be made by any collector for persons flying from his authority to that of another, excepting for officers of government, or upon specific complaints preferred against the parties flying, for balances due on accounts unadjusted; and previous to such an application, the collector shall endeavour to satisfy himself as far as possible, that the complaints are well founded, and that the persons complained against, have not been forced into elopement by severities or extortions. On their return, the collector himself is required to enquire into and decide the complaints preferred to him, on which his application is grounded; it being understood, that no collector shall compel any ryot or other persons, not his public servants, to reside within the bounds of his collectorship, but shall permit them to settle where they please.

64. That the present Regulations, except the 19th, 28th, 29th, 30th, 31st, 32nd, 37th, 38th, 39th, 40th, 45th, 46th, 48th, 50th, 51st, 52d, 53rd, 54th, 55th, the latter part of the 64th, the 69th, and 70th be translated into the country languages, and published for information of the persons under the authority of the collectors; being all orders, injunctive or prohibitive, contained in these Regulations, to which their observance is required; and that copies of them be constantly kept in the public cutcherry of each collectorship, and be there open to the access of all persons desirous of consulting them.

65. That the collectors be directed to cause the deeds of settlement to be executed by the zemindars and renters in their presence at all times, where there is no good reason for the zemindar not appearing in person.

66. That every petition or application relating to any matter of revenue, either verbal or written, shall be received, heard, and recorded by the collector, whether dismissed or not; and the dismissal, with the reasons assigned for it, be recorded, leaving it to the party to seek further redress at the presidency, if he thinks fit.

67. Numerous petitions being daily presented to the board from different quarters, which tend to embarrass and impede business of greater importance, as without having sufficient means of decision before them, they are under the necessity of making constant references; to remove this inconvenience, all petitions, being regularly signed and dated, shall be first presented to the collector in whose district the subject of complaint or representation may occur; who shall either afford redress or satisfaction to the parties aggrieved; or on the other hand, if the claim or fact is deemed inadmissible, the collector shall subscribe or affix to the petitions, the cause of dismissal, and return it to the petitioner (reserving an authenticated copy for record) who, if he should think proper, may afterwards lay it before the board of revenue, who will then be enabled, from the consideration of both sides of the question, to decide there on, and either finally reject the prayer of the petition, or confirm such part as they may judge admissible.

68. And further, if any petitioner shall complain to the board of the collector having refused, or unnecessarily delayed to give ground, such collector will incur their severe displeasure, however trifling the cause; and if on the contrary it shall appear that the complainant has been

guilty of misrepresentation, and that his petition had not been previously presented to the collector, he will either receive an adequate punishment for such an offence from the board, or be returned to the collector for that purpose, to be made an example of, on the spot, as circumstances may determine.

69. That on the resignation of a collector, he shall deliver over to his successor every public account and document, with all original letters received, and copies of letters sent, relative to his charge; two lists of such accounts, letters, &c. are to be signed by the collector on making over his employ, one, to be delivered to his successors, the other, to be transmitted to the board of revenue.

70. The collectors are required to address the board of revenue, if they have reason to apprehend any particular inconveniency likely to arise from a literal adherence to any of the above Regulations, and they are to state the grounds of such apprehension to the board of revenue, who are to submit the same, with their opinion, to the decision of the Governor in Council. The above present general Regulations are to be held in force from the 1st of August 1791; and the collectors are to consider them, as standing rules of conduct; and particular orders or instructions they may have received that are not revoked or superseded by the above rules, are also to be in force and observed accordingly. The Governor in council require the strictest attention on the part of the collectors of the revenue to all and each of the preceding Regulations. And the Board of Revenue are hereby strictly enjoined minutely to attend to their execution, and to report every instance in which their observance shall be neglected, or in any manner omitted.

A true Copy.

(signed) Wm. HARRINGTON,  
Secretary.

The Board entirely approve of the Regulations selected from those established in Bengal, and modified according to the circumstances of the several collectors employed under this presidency.

## B. ORGANISATION OF BRITISH INDIAN ARMY AND THE PLUNDER ALLOWED TO IT

### 6. MEMO ON ARMY by Fredrick, C-in-C: 17.5.1824

British Museum: Add MS 38365: Ff 32-49: extract

#### **Name on Army by Fredrick, Commander in Chief; 17.5.1824**

(ff 37v) The accession of territory in the East Indies, has been very considerable during the war; In the year 1792, when our possessions were comparatively circumscribed in that country, the King's troops (ff 38r) amounted to 11,000 men, exclusive of the East India Company's European force. Since that period, nine out of twelve battalions of the latter have been discontinued.

It was the concurrent opinion of Mr. Dundas and Lord Cornwallis, that the king's troops in India should be always kept up at the war establishment; and this necessity has not only its origin in the policy of preserving a control over the extent of active force, composing the Company's army, but also in the impossibility of reinforcing the army from this country, with a promptitude equal to the emergency, this country, with a promptitude equal to the emergency, which may arise in a sudden rupture with the native powers.

(ff 38 v) It must also be borne in mind, that a treaty of peace will probably return the settlements captured by us during the war from the different powers in Europe; and this will serve as an encouragement to active jealousy felt by the native princes of our dominion. It is therefore the more essential to guard against such intrigue by the provisions of an adequate force upon the spot; and all circumstances considered it will not be too much to estimate 5,000 cavalry and 20,000 infantry, as essential for the security of the continent of India.

The island of Ceylon (ff 39r) will require a garrison of 5,000 men to protect the extent of boundary between our possessions and the Canadian country; of this number at least 2,000 will be colonial troops paid by the island; the great extent of frontier which it is necessary to guard in ceylon, and the many detachments consequently required for that duty, call for the necessity of maintaining a certain establishment of colonial troops, which are equal to duties that would be totally destructive to Europeans. If the support of the existing *four* regiments is too expensive (ff 39v) an establishment for the colony to bear it is suggested that two corps should be kept up only, as at the last peace.

The Mauritius will require a garrison of 3,000 men.

The Cape of Good Hope will require 3,000 infantry, and, on account of its extended interior, a regiment of cavalry will be essentially necessary for the security of the settlement.

From this statement it appears that the following is the distribution of force required for the defence of the Empire viz. (ff 40 r)

|                                                                         |                |
|-------------------------------------------------------------------------|----------------|
| Great Britain and the Islands                                           | 25,000         |
| Ireland                                                                 | 30,000         |
| Reliefs                                                                 | 5,000          |
| Gibraltar                                                               | 5,000          |
| Malta                                                                   | 55,000         |
| West Indian Islands                                                     | 16,500         |
| North America                                                           | 8,000          |
| East Indies                                                             | 25,000         |
| Ceylon @ (besides colonial troops to be paid from the colonial revenue) | 3,000          |
| Cape of Good Hope                                                       | 4,000          |
| The Mauritius                                                           | 3,000          |
| Coast of Africa                                                         | 800            |
|                                                                         | <b>130,300</b> |

Having thus stated in gross numbers, the force which upon a general view of the subject, appears to be required for the safety of the whole empire during a peace, the second point of consideration arises to the most effective organisation of the whole into corps at the least possible expence to the publick.

(ff 44 v) The utility of the black corps in the West Indies, is sufficiently manifest to render it unnecessary to say much in support of the expediency of maintaining them upon a peace establishment. It is therefore proposed, that the existing 8 regiments shall be (ff 45r) retained at the establishment of 10 companies of 80 rank and file each.

The Royal York Rangers, West India Rangers and African corps, are allotted to the reception of Deserters, and others, who commute the punishment to which they are adjudged in this country for service abroad for life; The establishments of these corps have by no means been sufficient to receive the number of deserters who are to be disposed of during a war; and their maintenance in time of peace will not be more than sufficient for the purpose to which they are intended. It is (ff 45v) therefore proposed, that they shall be kept up at the usual establishment of 800 each; the 4th and last raised corps of this description, the York Chasseurs, it is proposed to reduce, turning the men over to the others.

(ff 47 r ) (details of total cavalry:)

**Total** R & F: 18,880   Horses: 16,700   Number of  
Dismounted men: 2,180  
of which in  
**INDIA** @ R & F: 5,000   Horses: 5,000

The 20,000 infantry proposed for India will be paid by the East India Company leaving 89,305 R&F to be maintained upon the establishment.



**The 5,000 cavalry proposed for India will be paid by the East India Company leaving only 13,880 R &F and 11,700 horses to be maintained upon the establishment.**

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British Museum: Add Ms. 38365: Memo on Army by Frederick, commander in chief dated 17.5.1814: ff 32-49/ ff 50 - 1 is of 'consideration' on memo. Suggests the number to be reduced to 115,000 from 130,300 proposed in memo.

The suggested redactions are 5,000 in Great Britain; 1,000 each in Gibraltar, Malta and Mauritius; 6,500 in West Indies and 1,000 in Ceylon.

Add Ms 38366: ff 153-61 is of second memo on army by F dated 18.2.1816. It also proposes an additional 2,000 'on relief' for the 20,000 in the East Indies.

Add Ms 38366: ff 225-32 is a memo on "Reorganisation" of staff at Commissariat.

Add Ms; 38368: ff 25-32 has another memo from F dated 28.8.1818 on army. India is not discussed in it. It is followed by further discussion on ff 33-9 (29.8.1818) and ff 40-3 (29.8.1818).

Add Ms 38368: ff 306-11 has fair draft of cabinet minute on princess of Wales dated 26.7.1819. Ff 299-305 seems to be another copy of same while ff 312-18 is of another version.

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## 7. INDIAN ARMY

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EXTRACT from a LETTER FROM General Sir. C.J. Napier to the Duke of Wellington, dated Simla, 15 June 1850.

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13. I MUST now come to the Bengal Native Army, which is said to have much fallen off from what it was in former days. Of this I am not a judge; but I must say that it is a very noble army, and with very few defects. The greatest, as far as I am capable of judging, is a deficiency of discipline among the European officers, especially those of the higher ranks. I will give your Grace an instance.

14. The important order issued by the Governor-general and the Commander-in-Chief to prepare the Sepoys for a reduction in their pay, I ordered to be read and explained with care to every regiment, with the exception of three or four commanders of regiments; none obeyed the order; some gave it to pay-sergeants to read, and others altogether neglected to do so, such is the slackness of discipline among officers of high rank, and on an occasion of such vast importance. This want of discipline arises from more than one cause: a little sharpness with officers who disobey orders will soon correct much of this; but much of it originates in the great demand made upon the troops for civil duties, which so breaks up whole regiments, that their commanding officers lose that zeal for the service which they ought to feel, and so do the younger officers. The demand also made for guards is immense. These guards are sent too far off to be relieved, and mount for weeks, and more frequently for months; of course every man not on sentry goes to bed. I will not lengthen this letter by entering more into such details, but enclose as a sample, a report made to me a short time ago by Major Rowland Hill.

15. His corps has lately been made over for civil duties, and each, in its turn, of these regiments, so employed, and so ruined, in executing duties for doing which I have every reason to believe that there are from 300,000 to 400,000 "Chuprassee Burkindauses" paid by Government. However, whatever the exact number may be, it is enormous, and under proper arrangement more than sufficient to execute all the civil duties which are thrown upon and injure the troops both in health and discipline. I cannot believe that the discipline of the Bengal army will be restored till it is relieved from civil duties, and those duties performed by police battalions, as was intended by Lord Ellenborough.

16. The next evil which I see in the Native army is, that so many of the senior officers of regiments are placed on the staff or in civil situations, and very old worn-out officers command regiments; these carry on their duties with the adjutant and some favoured native officer. Not above one or two captains are with the regiment, and the subalterns being all young, form a society among themselves, and neglect the native officers altogether. Nothing is therefore known as to what is passing in a native regiment. It is difficult to apply a remedy to this evil, but I think it can be done.

17. With regard to drill, it is very far from good among the major of native regiments. This is the fault of the officers who command division and brigades. I am doing all in my power to correct this evil, and I have been well aided by many of those commanders.

18. The last and most important thing which I reckon injurious to the Indian army is the immense influence given to "caste"; instead of being discouraged, it has been encouraged in the Bengal army. In the Bombay army it is discouraged, and that army is in better order than the Bengal army. In this latter the Bramins have been leaders in every mutiny. In the last mutiny about pay, and which, I may say, was general through the Bengal army, though it appeared in six regiments only, all appeared to be governed by the Bramins; and seeing the great danger which existed then, with permission of the Governor-general I disbanded the 66th Native Infantry. I seized the opportunity which accident produced, and transferred a regiment of Goorkas into the vacancy; had I not done this, it would have been vain to disband the 66th Regiment, for plenty more were prepared to revolt had I not shown them that other troops were ready to take their places. The mutineers had said openly, "Wait till we all act together." others had said, "How can they replace us?" I was a crisis of great peril, and I thought a strong measure alone could meet it; I therefore showed the Sepoys that we could "replace them," and that if they all "acted together" I had the force to coerce them, for they dread the Goorkas. Lord Dalhousie said, that I ought to have consulted the Supreme Council at Calcutta before I introduced the Goorkas. My Lord Duke, when 40,000 men were in a state of smouldering mutiny, and many in open mutiny, and 60,000 armed Sikh soldiers ready to rise, how could I lose five weeks to consult the Supreme Council at Calcutta? And what advice could these gentlemen have give to me in a moment of so much danger? In all I did to quell that mutiny, I had no choice but to act on the spur of the moment according to the best of my judgment. I believe that the sudden and (by all) unexpected appearance of the Goorkas at the fortress of Govindghur put an end to the danger; but for that step, some 12 or 20 regiments would have piled arms and demanded their discharge. Had this happened, bloodshed must have ensued. I was successful - the army is now quiet - and a good spirit reigns in it. But as at any time there may be some change made in the pay or allowances, I cannot say that such may not reproduce disturbance.

19. The greatest deficiency in the Company's army, and it daily becomes more important, is the want of a sufficient number of engineer and artillery officers. I is notorious, and must soon be remedied.

## 8. ARMY – PLUNDER

### 8.1 DISTRIBUTION OF PLUNDER 1799 - Arthur Lord Wellesley

The government go further than merely to reimburse to the officers and soldierly, the value of their effects which may have been lost, in the field, or on a voyage, by capture by the enemy, or by the misfortune of shipwreck; they also award them, in the same manner as the navy, the property of all captures made by their services during the course of the war.

The division of booty is regulated for all ranks of the British army with no less particularity than it was for the Roman military. There is visible, in both, the same care to bestow almost everything upon the patricians or leaders, and almost nothing upon the plebeian soldiery. This will appear in the modern instance, by the scale of partition prescribed by the official regulations.

|                    | Shares. |                        | Shares. |
|--------------------|---------|------------------------|---------|
| Field Marshal      | 2,000   | Captain                | 50      |
| General commanding | 1,200   | Lieutenant             | 20      |
| Lieutenant-general | 800     | Quarter-master}        | 12      |
| Major-general      | 450     | of Dragoons}           |         |
| Brigadier-general  | 300     | Non-commissioned staff | 8       |
| Colonel            | 150     | Sergeant               | 5       |
| Lieutenant-colonel | 100     | Corporal               | 1.5     |
| Major              | 80      | Private                | 1       |

Staff-officers are assimilated in their number of shares to corresponding substantive ranks.

## 8.2 OFFICIAL PLAN OF DISTRIBUTION OF PLUNDER IN MYSORE 1799

Arthur Wellesley: Supplementry Despatches (India 1797-1805); May 1799, Pp 222-223

To Major. General Lloyd, President of the Prize- Committee.

Sir,

Seringapatam, 23rd May 1799

I have the honour to submit to you and the Committee for the adjustment of all matters relating to prize-money a claim Which, I conceive, I have to share with the Major-General, and the grounds upon<sup>2</sup> which that claim is founded.

### Scale of 6th Prize-Money for the Capture of Seringapatam, 4th, May, 1799.

26th July, 1799

| <b>Bank of individuals.</b>                                                                                         | <b>Number of Shares to each</b> | <b>Amount each. (Star Pagoda)</b> |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------------------------|
| Naigues, Sepoys, Prumpeters, Black Doctors, Pioncers, Gun Lascars, and authorized Puckalies                         | Two-thirds of one Share.        | 12                                |
| Havildars, and Second Tindals of Gum Lascars                                                                        | 1                               | 18                                |
| Jemidars, Standard Bearers, and Find Timndals of Gun                                                                | 2                               | 36                                |
| Lascurs Subidars and Synangs of Gum Lascars                                                                         | 6                               | 108                               |
| Peans                                                                                                               | 1                               | 18                                |
| Serjeant Majors, Sub-Conductors, Sub - Assistant Sur geons, and Park Serjeants                                      | 3                               | 54                                |
| Serjeants                                                                                                           | 2                               | 36                                |
| Warrant Officers, comprehending Quartermaster of Dragoons, Conductors of Stores, and Provost Marshaj                | 15                              | 279                               |
| Subalterns, comprehending Lieutenan's Cornets Lieu tenants, Fireworkers, Ensigns. Assistant surgeons                | 60                              | 1,080                             |
| Adjustants, and Quartermasters with Commissions only as such Captains, Surgeons, Brigade Majors, Aides-de-Camp, and | 120                             | 2,160                             |

<sup>2</sup> The treasure and jewels captured were valued at 1,143,2164. sterling. The distribution of the prize-money was thus officially stated- Ed.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |       |        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|--------|
| Chaplains and Paymasters of parts of the Army<br>Majors, Deputy Adjutants-General, Deputy Quarter-master<br>Generals, Judge Advocate-General, Principal<br>of the Army, Head surgeon of the Army, Principal<br>Agent of Cavalry Supplies, deputy Commissary General of<br>Ordnance, Paymaster and Commissary to the Bombay Army,<br>Superintending Field Surgeon<br>the Bombay Army, Superintendent of Supplies -<br>Captain Malcolm commanding the Nizam's contingent<br>Lieutenant - Colonels, Adjutant-General, and Quarter | 240   | 4,320  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 360   | 6,480  |
| Master-General of the Bombay Army                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 600   | 10,800 |
| Colonels                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 600   | 10,800 |
| General Officers on the Staff .. One-third                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 1,500 | 27,000 |
| Major-General Floyd, second in command of the Army<br>more than and commanding the Cavalry the above                                                                                                                                                                                                                                                                                                                                                                                                                           |       | 36,000 |
| The Commander-in-Chief one-eighth (1-8th) of the work                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |       | 2,000  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |       |        |

(Signed) Jonn FLOYD, Major-General,  
President committee of prize.

(Signed) W. MONTEATH, Sentry.

(Copy) JAMES DONALD, Late Captain and Paymaster

94th N. B. Reg. Foot, and paymaster of the above corps at Seringapatam in 1700

**8.3 CORRESPONDENCE on the subject of PRIZE PROPERTY captured by the ARMIES of the CROWN or of the late EAST INDIA COMPANY in Warfare against the Rebels and Mutineers, during the Years 1857, 1858, and 1859 ; &c.**

**DELHI PRIZE**

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MILITARY DESPATCH to Court of Directors (No. 310), 10 December 1857.

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Honourable Sirs,  
(MARGIN NOTE: Delhi Prize)

WE have the honour herewith to transmit, for the information of your Honourable Court , copies of the papers as per margin, and of the General order issued by us regarding the booty captured by the British troops from the mutineers and other persons in rebellion against the Government.

Your Honourable Court will observe, that in consideration of the strong claims of the field force before Delhi, and in recognition of their services, we have granted to them a donation of six months' batta; a measure which we trust will meet with the approval of your Honourable Court.

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GENERAL ORDER by the Governor General of India in Council (No. 1499),  
27 November 1857.

IT being understood that prize agents have been appointed at Delhi for the collection of booty captured by the British troops from the mutineers and other persons in rebellion against the Government, it is hereby notified, for the information and guidance of all parties concerned, that a clear distinction exists, in cases of recapture, between property of the State originally captured by an enemy in time of war, and similar property seized by rebels or mutineers during an insurrection.

In the former case, the property recaptured is in general properly treated as property of the hostile State, and becomes subject to the laws of prize.

But in an insurrection, such as the present one, the troops of the State whose property has been pillaged by its own subjects, or by foreigners aiding such subjects in their treason, when they retake such property from the plunderers merely retake it on behalf of the Government, and acquire no legal right of prize or of property, although they have strong claims on the liberality of the Government.

These principles apply also to the property of private individuals plundered by the insurgents, and retaken by the troops of the State. Such private property can in no case be deemed lawful prize, when clearly identified and claimed by the original owner.

In accordance with these principles, the Right honourable the Governor General in Council is pleased to direct that officers in command of bodies of troops employed in quelling the present insurrection, shall appoint committees of officers for the purpose of taking an account of all treasure and other public property, cattle, munitions of war, stores, &c. recaptured from the insurgents and mutineers, in order to the delivery of the property so recovered into the nearest treasury, or into the custody of the proper civil or military officers; and that copies of such accounts shall be transmitted to the Secretary in the Military Department, for the information of Government.

(4)

(MARGIN NOTE: Delhi Prize)

Separate accounts will also be taken by the committees of all private property captured or recaptured; and copies of these accounts will be transmitted to the Military Department, with statements of claims, if any, made by the owners.

In all cases of clear identification of property, restitution may be made to the owners on the spot, provided that in the case of natives they shall prove, to the satisfaction of the committee, that they have not been guilty of any offence for which their property would be liable to forfeiture, and have, to the best of their ability, rendered active assistance to the British Government; and when claims are not clearly established, or the property belongs to any person deceased, the orders of Government are to be awaited before delivery.

The claims of the troops composing the field force by which Delhi has been nobly wrested from the hands of the mutineers and rebels, and by whose gallantry signal punishment has been inflicted on the insurgents there, are fully appreciated by the Governor General in Council; and in recognition of their services, his Lordship in Council is pleased to grant a donation of six months' batta, to be forthwith distributed to all the troops engaged in the operations against Delhi.

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(No. 1428)

#### MINUTE OF COUNCIL

Military Department, 27 November 1857.

READ again Government General Order, No, 1383, of the 5th November 1857, publishing a Despatch from Major General Wilson, in continuation of that published on the 8th October, completing the narrative of the capture of Delhi, and noticing the part taken in the contest by the following neighbouring native chiefs and their troops, viz:

The Maharajah of Puttiala.  
The Rajah of Meend.  
Jan Fishar Khawand Sirdar Meer Khan Sahib.  
The Maharajah Runbeer Sing, ruler of Cashmere.



Read Government General Order, No. 1499, of the 22d November 1857, declaring that public and private property taken by the troops from insurgents cannot be claimed as prize, and directing their restoration, when such can be clearly identified and claimed on behalf of the State or of original owners, and in recognition of the service of the troops, granting a donation of six months' batta to all the troops engaged in the operations against Delhi.

Ordered, with reference to the foregoing, that the Foreign Department be requested to adopt the necessary measures for the distribution to the troops of the Jummoo Contingent, and the troops of other native chieftains which co-operated with ours, of such amount in money as will be an equivalent to the donation batta authorised for the native troops of the Company's service.

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(No. 4795.)

OFFICE MEMORANDUM.

(Urgent)

Fort William, Foreign Department  
30 November 1857.

THE undersigned has the honour to request that the Secretary to Government in the Military Department will be good enough to send him a copy of the letter written to the general officer commanding at Delhi on the subject of prize property, for the purpose of being forwarded to the Chief Commissioner in the Punjab, by order of the Governor General in Council.

(signed) G.F. Edmonstone,  
Secretary to the Government of India.

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(10)

(MARGIN NOTE: Delhi Prize)

...whom they are fighting will be driven headlong out of their stronghold, or be exterminated; but to enable them to do this he warns the troops of the absolute necessity of their keeping together, and not straggling from their columns.

Major General Wilson need hardly remind the troops of the cruel murders committed on their officers and comrades, as well as their wives and children, to move them in the deadly struggle. No quarter should be given to any of the mutineers; at the same time, for the sake of humanity, and the honour of the country they belong to, he calls upon them to spare all women and children that may come in their way.

It is so imperative, not only for their own safety, but also for the success of the assault, that men should not straggle from their columns, that the Major General feels it his duty to direct all Commanding Officers to impress this most seriously on their men, and he is confident that after this warning the men's own good sense and discipline will induce them to obey their officers,

and keep steady to their duty. It is to be explained to every regiment that indiscriminate plundering will not be allowed; that prize agents have been appointed, by whom all captured property will be collected and sold, to be divided, according to the rules and regulations on this head, fairly among all engaged; and that any man found guilty of having concealed captured property will be made to restore it and forfeit all claim to share in the general prize; he will also be subject to be made over to the Provost Marshal, to be summarily dealt with.

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MILITARY LETTER from the Court of Directors to the Government of India, No. 84, dated 31 March 1858.

1. WE have taken into our consideration the communications made in your military letters, dated on the 10th December 1857 and 3d January 1858, relating to the property captured at Delhi, and announcing the grant to the troops composing the field force employed against that city of a donation of six months' batta, in recognition of their services.
2. We most cordially unite with you in expressing the highest appreciation of the claims of the troops comprising the field force, by which, as observed by you, "Delhi has been nobly wrested from the hands of the mutineers and rebels, and by whose gallantry signal punishment has been inflicted on the insurgents there." The grant of six months' batta to all the troops engaged in the operations against that city, as a donation in recognition of their services, has our approval.
3. We concur in the views announced in your General Order of the 27th November 1857, on the question of claim on the part of the troops to have granted to them as prize the property belonging to State and that belonging to private individuals recovered from the mutineers. We also fully approve of your recommendation, that property taken by the troops, which is neither claimed on behalf of the State, nor claimed and identified by individuals who may establish their loyalty, should be considered to be prize. We shall, accordingly, as soon as we are informed by you of the necessary particulars, make application to the Crown in the usual form, praying a royal grant of the same as prize.
4. We are further of opinion that the troops are entitled to a special grant on account of the value of the stores and other property recovered by them on behalf of the State, and on behalf of private individuals who may establish their loyalty and identify their property; and we have now to announce to you that we have resolved to grant to the troops, on this account, an additional donation of six months' full batta.
5. We trust that no time will be lost in sending us full particulars of the captures, which we now propose to recognise as booty of war.
6. The whole of the Despatches and Orders relating to these important operations have been published in the London Gazette.

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(18) (MARGIN NOTE: Delhi Prize)

...with your concurrence, and that of all present. This boon was not to apply to Mussulmans.

5. The total amount so assessed does not amount to above 4,20,000 rupees, of which a little over three lacs have as yet been received.

6. The accounts when made up will be duly forwarded by the prize agents to the committee appointed by you for the investigation of claims, &c.

I have, &c.

(signed) E. Campbell, Captain 60th Rifles,  
Prize Agent.

Palace, Delhi, 21 January 1858.

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EXTRACT Military Letter from the Secretary of State in Council to the Government of India (No.247), dated 28 July 1859.

Para. 1. You are aware, from the correspondence which has taken place on previous occasions, that application cannot be made to the Lords Commissioners of the Treasury for Her Majesty's authority for the distribution of prize money until information of the amount realized and deposited in the public treasuries can be given. I am in receipt of several communications from your Government on the subject of prize money, but, owing to the absence of the required information, I am unable at present to take any steps for facilitating the grant.

(MARGIN NOTE: Despatch from the Court of Directors, Dated 31 March, No.84.)

2. In the General Order issued by you on 24th November 1857, committees of officers were ordered to be appointed for the purpose of taking an account of all the treasure and other public property captured at Delhi. It was observed, with reference to this order, that property taken by the troops which is neither claimed nor identified by individuals who may establish their loyalty, should be treated as prize, and that, as soon as information was given of the necessary particulars, application would be made to the Crown, praying a Royal grant of the same as prize. It was further stated, " we trust that no time will be lost in sending us full particulars of the captures, which we now propose to recognize as booty of war."

\* \* \* \* \*

7. I am unable to take any steps towards ascertaining the pleasure of Her Majesty with regard to the disposal of the booty captured on these several occasions, until I am furnished with a complete statement of the value of the property taken at Delhi, \*\*\* and \*\*\* on receipt of

this information, I will at once make application to the Lords of the Treasury for Her Majesty's sanction and directions for the distribution of the booty captured at these places, and on the other occasions referred to. I therefore beg that the requisite information may be furnished to me with as little delay as possible.

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EXTRACT Military Letter from India (No. 89), dated 17 June 1859.

1. WE have the honour to transmit, for your Lordship's information, the accompanying approximate statement of the Delhi prize fund.

**No. 607.- Military Department.**

From  
The Secretary to Government of India  
to Major Sir.E.F.Campbell, Bart., dated 13 June 1859.

Sir,

I AM directed to request that you will at your earliest convenience state, for the information of Government , fully and exactly what it is that is delaying the completion of the papers relating to the Delhi prize.

I have, & c.

(signed)  
R.J.H.BIRCH, Major General.  
Secretary to the Government of India.

Council Chamber, Fort William,  
13 June 1859.

**9. LETTER from the COURT OF DIRECTORS of the EAST INDIA COMPANY to the GOVERNOR-GENERAL OF INDIA in COUNCIL, dated November 25, 1857, 235 and 236, Military.**

No.1

The COURT OF DIRECTORS of the EAST INDIA COMPANY to the GOVERNOR-GENERAL OF INDIA in COUNCIL.

November 25, 1857. (No. 235. Military)

1. WE trust that when success, by the blessing of Divine Providence, shall have attended your efforts to put down the mutiny of the native army of your Presidency, and to re-establish the authority of the Government in the disturbed districts, you will be enabled to take advantage of the services of select officers of ability and experience, to assist you, by investigation and by practical counsel founded thereon, in forming wise conclusions on the most important subject which must soon press for decision, namely, the proper organization of our army in India.

2. To this end we authorize you to appoint, as soon as circumstances will permit, a Commission, composed of military officers of the armies of the three Presidencies (with whom should be associated officers of the Queen's army who have had experience of Indian service), on whose knowledge, experience, and judgement you can rely; together with one or more civil servants, whom you may consider to be specially qualified for such a duty by their knowledge of the native character and general administrative experience.

3. In framing instructions for the guidance of this Commission, we are desirous that the following heads of inquiry should be specified, in addition to any others which you may consider to deserve their attention:-

1st. Should corps be raised each in a prescribed district, and be recruited there, and there only?

2nd. Should corps be composed of troops or companies, each of which shall consist of separate tribes or castes; or should the tribes or castes be mixed up together in the whole regiment?

3rd. Should a company or companies of Europeans form a component part of a native regiment?

4th. What alterations should be made in your recruiting Regulations relating to tribes and castes, with a view to determine the future composition of the native army?

5th. Will it be expedient to enlist natives, of other tropical countries, equally qualified for service in India, with the natives of the country; and if so, should they be formed in separate regiments, or in companies, or otherwise?

6th. Whether, in Native Infantry regiments, the discontinuance of the grades of native commissioned officers, and the substitution of an European serjeant and corporal to each company, is advisable; and if so, whether, in lieu of the prospect of distinction and emolument arising out of these grades, it would be advisable to establish graduated scales of good-service pay and retiring pensions, claimable after specified periods of service.

7th. Whether the system of promotion generally, by seniority to the grades of native commissioned officers (if these are retained), should not be altered and assimilated to the systems in force at Madras and Bombay.

8th. If separate corps are to be maintained for military and police purposes, what will be that best organization for each branch respectively?

9th. Have the powers of commanding officers of native corps, and the powers of officers in charge of companies, been diminished? What consequences have been the result? Is it desirable that those powers should be increased, or what other measures should be adopted for the improvement of discipline?

10th. Should cadets be trained and drilled in European regiments before they are (p.2) posted to native regiments; or what would be the best mode of drilling and training cadets before they are posted to native regiments?

11th. Should the special rules regulating punishment in the native army be retained, or should they be assimilated to the rules which obtain in the British army, or ought there to be any, and what, changes in those rules, or in the system of punishment?

12th. How can the demands for European officers for staff and detached employments be best provided for, without injuring the efficiency of regiments?

4. It is to be understood that the inquiries to be made by the Commission, and the opinions to be offered by them, are to have reference to the several branches of the native army - Infantry, regular and irregular; Cavalry, regular and irregular; Artillery, and Sappers and Miners; and with respect of the Artillery, and Sappers and Miners, whether they should be composed, as heretofore, of Europeans and natives, or be entirely European.

5. To aid your Government in forming an opinion as to the proportion which the European should bear to the native portion of the army in India generally, and at each Presidency separately, we would recommend that your Government should call upon the Commission to give their opinions on this very important question; and we can entertain no doubt that the enlarged knowledge and experience of the members of the Commission will enable them to furnish you with valuable information on this head.

6. Having obtained opinions on all these heads of inquiry, and on such other heads as you may deem to be essential to the thorough development of the important questions at issue, you will refer the views of the Commission for the consideration of the Commander-in-Chief, and will then furnish us with the results of your careful deliberation upon the whole of the

measures which should, in your judgement, be taken for the organization and maintenance, in the utmost practicable state of efficiency, of whatever military force you may think it desirable to form.

7. The Commission itself may be instructed to make to the Governor-General in Council any suggestions or recommendations which occur to them, although not on matters comprised in the specified heads of inquiry.

We are, &c.  
R.D.MANGLES.  
F.CURRIE.  
&c. &c.



**No. 2**

The Court of Directors of the East India Company to the  
Governor-General of India in Council.

November 25, 1857. (No.236. Military.)

1. ALTHOUGH we are well aware that, from the period when the mutiny of the Bengal army assumed a formidable aspect, your time must necessarily have been too much engrossed by the pressing exigencies of the public service during each passing day, and in to past events, we have no doubt that you have not omitted to take advantage of all the means and opportunities at your command for the important purpose of investigating the causes of the extraordinary disaffection in the ranks of that army, which has, unhappily, given rise to so much bloodshed and misery.

2. In this persuasion, and as a review of the voluminous records containing the details of the events which have occurred since the first display of disaffection at Barrackpore, has entirely failed to satisfy our minds in regard to the immediate causes of the mutiny, we desire that you will lose no time in reporting to us your opinions of the subject, embracing the following heads, together with any others which you may deem it necessary to add, in order to the full elucidation of the subject:-

1st. The state of feeling of the sepoy towards the Government for some time preceding the outbreak.

2nd. Any causes which of last years may be thought likely to have affected their loyalty and devotion of the service.

3rd. Whether their loyalty had been affected by the instigations of emissaries of Foreign Powers, or Native States, or by any general measures of our Administration affecting themselves or any other classes of our subjects.

4th. Whether the proposed use of the new cartridges was to any, and what, extent the cause of the outbreak.

5th. Whether the objects which the mutineers are supposed to have had in view (p.3) were directed to the subversion of the British power in India, or to the attainment of pecuniary or other advantages.

6th. Whether the progress of the mutiny can be traced to general combination or concert, or was the result of separate impulses at the several stations of regiments; and, if the former, how the combination was carried on without any knowledge or suspicion of it on the part of the regimental officers.

3. If, however, you should not feel yourselves to be in possession of information sufficient to form a well-grounded opinion upon the causes and objects of the mutiny, we authorise you to appoint a special Mixed Commission for a preliminary investigation into the same, to be

composed of officers selected from all branches of the services of India, in whose personal experience and soundness of judgment you have entire confidence. In that case you will lose no time in reporting to us your sentiments upon the conclusions arrived at by the Commission.

We are, &c.  
R.D. MANGLES.  
F.CURRIE.  
&c. &c.