

A C C O U N T

OF THE

G A N G E S

AND

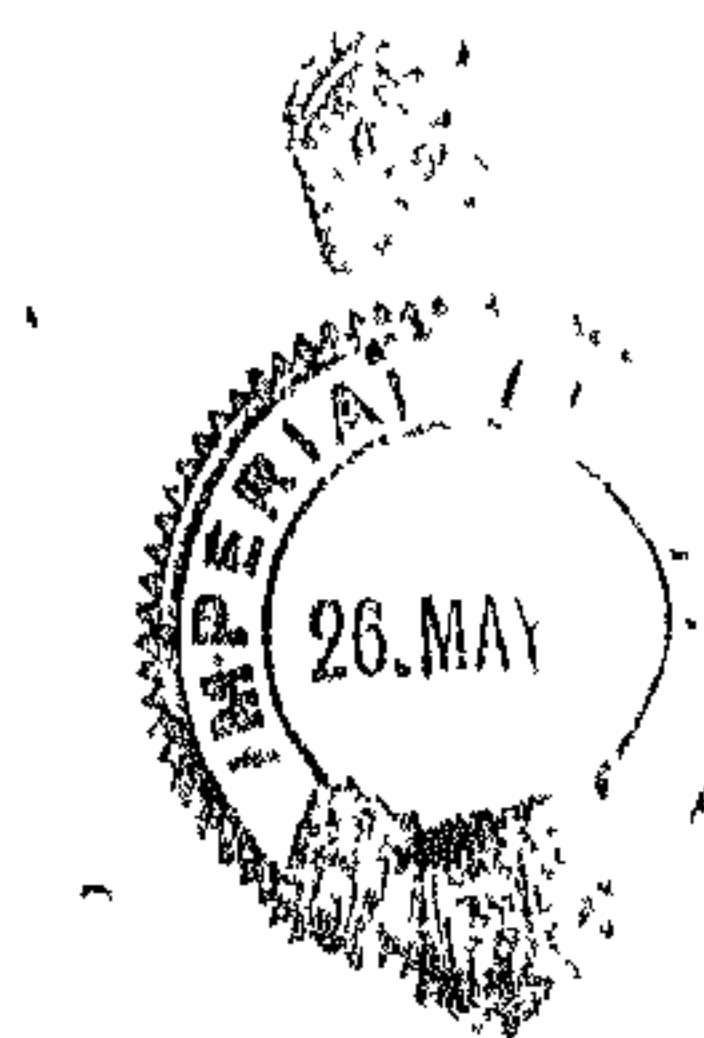
BURRAMPOOTER RIVERS.

By JAMES RENNELL, Esq. F. R. S.

Read at the ROYAL SOCIETY, January 25, 1780.



L O N D O N:
Printed by J. NICHOLS (Successor to Mr. BOWYER).
MDCCLXXII.



A N A C C O U N T, &c.

THE * Ganges and † Burrampooter Rivers, together with their numerous branches and adjuncts, intersect the country of Bengal in such a variety of directions, as to form the most compleat and easy inland navigation that can be conceived. So equally and admirably diffused are those natural canals, over a country that approaches nearly to a perfect plane, that, after excepting the lands contiguous to Burdwan, Birboom, &c. (which altogether do not constitute a sixth part of Bengal) we may fairly pronounce, that every other part of the country has, even in the dry season, some navigable stream within 25 miles at farthest, and more commonly within a third part of that distance.

It is supposed, that this inland navigation gives constant employment to 30,000 boatmen. Nor will it be wondered at, when it is known, that all the salt, and a large proportion of the

* The proper name of this river in the language of Hindoostan (or Indostan) is Pudda or Badda. It is also named Burra-Gonga, or the Great River; and Gonga, the River, by way of eminence; and from this, doubtless, the European names of the river are derived.

† The orthography of this word is given here, is according to the common pronunciation in Bengal; but it is said to be written in the Sanscrit language, Brahma-pootar, which signifies the Son of Brahma.

food

velling*.

* The embarkations made use of vary in bulk from 180 tons down to the size of a wherry. Those from 30 to 50 tons are reckoned the most eligible for transporting merchandize.

tious,

tious, yet gladdened, inhabitant of Hindoostan *. From Hurdwar (or Hurdwar) in latitude 30° , where it gushes through an opening in the mountains, it flows with a smooth navigable stream through delightful plains during the remainder of its course to the sea (which is about 1350 miles) diffusing plenty immediately by means of its living productions; and secondarily by enriching the adjacent lands, and affording an easy means of transport for the productions of its borders. In a military view, it opens a communication between the different posts, and serves in the capacity of a *military way* through the country; renders unnecessary the forming of magazines; and infinitely surpasses the celebrated inland navigation of North America, where the *carrying places* not only obstruct the progress of an army, but enable the adversary to determine his place and mode of attack with certainty.

In its course through the plains, it receives eleven rivers, some of which are equal to the Rhine, and none smaller than the

* The fabulous account of the origin of the Ganges (as communicated by my learned and ingenious friend C. W. BOUGHTON ROBERT, Esq.) is, that it flows out of the foot of Betch'n * (from whence, by the Hindus, it has its name Paddi, that word signifying foot in the Sanscrit language); and that in its course to the plains of Hindoostan it passes through an immense rock shaped like a Cow's head.

The allegory is highly expressive of the veneration which the Hindoos have for the Deity; and no less so of their gratitude to the Author of Nature for bestowing it: for it describes the blessing as flowing purely from his bounty and goodness.

The rock before mentioned has, I believe, never been visited by any European; and is even allowed by most of the natives to bear no resemblance to the object from whence it is denominat^d. However, as the effects of superstitious do often long survive the illusions that gave it birth, the rock or cavern still receives the name of *Gomooty*, or Cow's head.

* Betch'n is the same with Vishnu, the Hindu deity.

Thames, besides as many others of lesser note. It is owing to this vast influx of streams, that the Ganges exceeds the Nile so greatly in point of magnitude, whilst the latter exceeds it in length of course by one-third. Indeed, the Ganges is inferior in this last respect, to many of the northern rivers of Asia; though I am inclined to think that it discharges as much or more water than any of them, because those rivers do not lie within the limits of the periodical rains*.

of the Ganges is, as may be supposed, very unequal width. From its first arrival in the plains at Hurd-

proportional lengths of course of some of the most noted rivers in the world nearly by the following numbers:

European Rivers.

Thames,	"	"	1
Rhine,	"	"	5½
Danube,	"	"	7
Volga,	"	"	9½

Asiatic rivers.

Indus,	"	"	5½
Euphrates,	"	"	8½
Ganges,	"	"	9½
Burampooter,	"	"	9½
Nou Kian, or Ay River,	"	"	9½
Jennisea,	"	"	10
Oby,	"	"	10½
Angdor,	"	"	11
Lena,	"	"	11½
Hoanho (of China),	"	"	13½
Kian Keu (of ditto),	"	"	15½

African river.

Nile,	"	"	12½
-------	---	---	-----

American rivers.

Missipi,	"	"	8
Amazons,	"	"	15½

war,

war, to the conflux of the Jumnah (the first river of note that joins it) its bed is generally from a mile to a mile and a quarter wide; and, compared with the latter part of its course, tolerably straight. From hence, downward, its course becomes more winding, and its bed consequently wider, till, having alternately received the waters of the Gogra, Soanê, and Gunduck, besides many smaller streams, its bed has attained its full width; although, during the remaining 600 miles of its course it receives many other principal streams. Within this space it is, in the narrowest parts of its bed, half a mile wide, and in the widest, three miles; and that, in places where no islands intervene. The stream within this bed is always either increasing or decreasing, according to the season. When at its lowest (which happens in April) the principal channel varies from 400 yards to a mile and a quarter; but is commonly about three quarters of a mile.

The Ganges is fordable in some places above the conflux of the Jumnah, but the navigation is never interrupted. Below that, the channel is of considerable depth, for the additional streams bring a greater accession of depth than width. At 500 miles from the sea, the channel is thirty feet deep when the river is at its lowest; and it continues at least this depth to the sea, where the sudden expansion of the stream deprives it of the force necessary to sweep away the bars of sand and mud thrown across it by the strong southerly winds; so that the principal branch of the Ganges cannot be entered by large vessels.

About 220 miles from the sea (but 300 reckoning the windings of the river) commences the head of the Delta of the Ganges, which is considerably more than twice the area of that of the Nile. The two westernmost branches, named the

* This will be explained when the windings of the river are treated of.

Cossimbuzar and Jellinghy Rivers, unite and form what is afterwards named the Hoogly River, which is the port of Calcutta, and the only branch of the Ganges that is commonly navigated by ships*. The Cossimbuzar River is almost dry from October to May; and the Jellinghy River (although a stream runs in it the whole year) is in some years unnavigable during two or three of the driest months; so that the only subordinate branch of the Ganges, that is at all times navigable, is the Chundnah River, which separates at Moddaspour, and terminates in the Hooringotta.

That part of the Delta bordering on the sea, is composed of a labyrinth of rivers and creeks, all of which are salt, except those that immediately communicate with the principal arm of the Ganges. This tract, known by the name of the Woods, or Sunderbunds, is in extent equal to the principality of Wales; and is so completely enveloped in woods, and infested with Tygers, that if any attempts have ever been made to clear it (as is reported) they have hitherto miscarried. Its numerous canals are so disposed as to form a compleat inland navigation throughout and across the lower part of the Delta, without either the delay of going round the head of it, or the hazard of putting to sea. Here salt, in quantities equal to the whole consumption of Bengal and its dependencies, is made

* The Hoogly River, or westernmost branch of the Ganges, has a much deeper outlet to the sea than the principal branch. Probably this may be owing to its precipitating a less quantity of mud than the other; the quantity of the Ganges water discharged here being less than in the other in the proportion of one to six. From the difficulties that occur in navigating the entrance of the Hoogly River, many are led to suppose, that the channels are shallow. The difficulties, however, arise from bringing up the ships across some of the sand-banks, which project so far into the sea, that the channels between them cannot easily be traced from without.

and transported with equal facility: and here also is found an inexhaustible store of timber for boat-building. The breadth of the lower part of this Delta is upwards of 180 miles; to which, if we add that of the two branches of the river that bound it, we shall have about 200 miles for the distance to which the Ganges expands its branches at its junction with the sea.

It has been observed before, that the course of this river, from Hurdwar to the sea, is through an uniform plain, or, at least, what appears such to the eye: for, the declivity is much too small to be perceptible. A section of the ground, parallel to one of its branches, in length 60 miles, was taken by order of Mr. HASTINGS; and it was found to have about nine inches descent in each mile, reckoning in a straight line, and allowance being made for the curvature of the earth. But the windings of the river were so great, as to reduce the declivity on which the water ran, to less than four inches *per* mile: and by a comparison of the velocity of the stream at the place of experiment with that in other places, I have no reason to suppose, that its general descent exceeds it*.

The medium rate of motion of the Ganges is less than three miles an hour in the dry months. In the wet season, and during the draining off of the waters from the inundated lands, the current runs from five to six miles an hour; but there are instances of its running seven, and even eight miles, in particular situations, and under certain circumstances. I have an



* Mr. JORDAN found the descent of the river Amazons, in a straight course of about 1800 miles, to be about 1020 English feet, or 6½ inches in a mile. If we allow for the windings, it comes out nearly the same as the Ganges (which winds about 1½ mile in three, taking its whole course through the plains), namely, about 4 inches in a mile.

experiment of my own or record, in which my boat was carried 56 miles in eight hours; and that against so strong a wind, that the boat had evidently no progressive motion through the water.

When we consider, that the velocity of the stream is three miles in one season, and five or more in the other, on the same descent of four inches *per* mile; and, that the motion of the inundation is only half a mile *per* hour, or a much greater descent; no further proof is required how small the proportion of velocity is, that the descent communicates. It is then, to the impetus originating at the spring head, or at the place where adventitious waters are poured in, and successively com-

to every part of the stream, that we are principally the velocity, which is greater or lesser, according to y of water poured in.

ion, there is found on one side of the river, an almost lar bank, more or less elevated above the stream, o the season, and with deep water near it; and on e side a bank, shelving away so gradually as to occa- v water at some distance from the margin. This is ularly the case in the most winding parts of the use the very operation of winding produces the elving banks *: for the current is always strongest rnal side of the curve formed by the serpentine he river; and its continual action on the banks

is, that the section of a river, that winds through a loose soil, rly to a an obtuse angled-triangle, one of whose sides is exceedingly port oned to the other two . But when a river passes a n se, the section becomes nearly the half of an ellipse divided .

either

either undermines them *, or washes them down. In places where the current is remarkably rapid, or the soil uncommonly loose, such tracts of land are swept away in the course of one season, as would astonish those who have not been eye-witnesses to the magnitude and force of the mighty streams occasioned by the periodical rains of the tropical regions. This necessarily produces a gradual change in the course of the river; what is lost on one side being gained on the other, by the mere operation of the stream: for the fallen pieces of the bank dissolve quickly into muddy sand, which is hurried away by the current along the border of the channel to the point from whence the river turns off to form the next reach, where the stream growing weak, it finds a resting place, and helps to form a shelving bank, which commences at the point, and extends downwards, along the side of the succeeding reach.

To account for the slackness of the current at the point, it is necessary to observe, that the strongest part of it, instead of turning short round the point, preserves for some time the direction given it by the last steep bank, and is accordingly thrown obliquely across the bed of the river to the bay on the opposite side, and pursues its course along it, till the intervention of another point again obliges it to change sides.

In those few parts of the river that are straight, the banks undergo the least alteration †, as the current runs parallel to

* In the city itself some of these banks are more than 30 feet high, and often fall down in pieces of many tons weight, and occasion so sudden and violent an agitation of the water, as sometimes to sink large boats that happen to be near the shore.

† It is more than probable, that the straight parts owe their existence to the tenacity of the soil of which their banks are composed. Whatever the cause may be, the effect very clearly points out such situations as the properest for placing towns &c.

them; but the least inflection of course has the effect of throwing the current against the bank; and if this happens at a part where the soil is composed of loose sand, it produces in time a serpentine winding.

It is evident, that the repeated additions made to the shelving bank before mentioned, become in time an encroachment on the channel of the river; and this is again counter balanced by the depredations made on the opposite steep bank, the fragments of which, either bring about a repetition of the circumstances above recited, or form a bank or shallow in the midst of the channel. Thus a steep and a shelving bank are alternately formed in the crooked parts of the river (the steep one being the *indented* side, and the shelving one the *projecting*); and thus, a continual fluctuation of course is induced in all the winding parts of the river; each meander having a perpetual tendency to deviate more and more from the line of the general course of the river, by eating deeper into the bays, and at the same time adding to the points, till either the opposite bays meet, or the stream breaks through the narrow isthmus, and restores a temporary straightness to the channel.

Several of the windings of the Ganges, and its branches are fast approaching to this state; and in others, it actually exists at present. The experience of these images should operate against attempting canals of any length, in the higher parts of the country, and I much doubt, if any in the lower parts would long continue navigable. During eleven years of my residence in Bengal, the outlet or head of the Jellinghy River was gradually removed three quarters of a mile farther down, and by two surveys of a part of the adjacent bank of the Ganges, taken about the distance of nine years from each other, it appeared that the breadth of an English mile and a half had been taken

taken away. This is, however, the most rapid change that I have noticed; a mile in ten or twelve years being the usual rate of incroachment, in places where the current strikes with the greatest force, namely, where two adjoining reaches approach nearest to a right angle. In such situations it not unfrequently excavates gulfs * of considerable length within the bank. These gulfs are in the direction of the strongest parts of the stream; and are, in fact, the *young shoots* (if I may so express myself) which in time strike out and become branches of the river; for we generally find them at those turnings that have the smallest angles †.

Two causes, widely different from each other, occasion the meandering courses of rivers; the one, the irregularity of the ground through which they run, which obliges them to wander in quest of a declivity; the other, the looseness of the soil, which yields to the friction of the border of the stream. The meanders in the first case, are, of course, as digressive and irregular as the surface they are projected on: but, in the latter, they are so far reducible to rule, that rivers of unequal bulk will, under similar circumstances, take a circuit to wind in, whose extent is in proportion to their respective breadths: for I have observed, that

* The Count de nurion advises the digging of such gulfs in the banks of ordinary rivers, with a view to divert the current, when bridges or other buildings are endangered by it.

† The courses of these branches at the efflux, generally, if not always, become retrograde to the course of the river. For, a sand bank accumulating at the upper point of separation, gives an oblique direction upwards, to the stream, which would otherwise run out at right angles. This sand bank being always on the increase, occasions a corrosion of the opposite bank; and by this means all, or most of the outlets have a progressive motion downwards; as I have before remarked of the Jellinghy River, in the foregoing page.

when a branch of the Ganges is fallen so low as to occupy only a part of its bed, it no longer continues in the line of its old course; but works itself a new channel, which winds from side to side across the former one. I have observed too, that in two streams, of equal size, that which has the slowest current has also the smallest windings: for as these (in the present case) are solely owing to the depredations made on the banks by the force of the current; so the extent of these depredations, or, in other words, the dimensions of the windings, will be determined by the degree of force acting on the banks.

The windings of the Ganges in the plains, are, doubtless, owing to the looseness of the soil: and (I think) the proof of it they are perpetually changing which those, originated by an inequality of surface, can seldom, or never

easily suppose, that if the Ganges was turned into a canal, cut through the ground it now traverses in the winding parts of its course, its straightness would be of duration. Some yielding part of the bank, or that happened to be the most strongly acted on, would first be led or dissolved: thus a bay or cavity would be formed in the bank. This begets an inflection of the current, falling obliquely on the side of the bay, corrodes it continually. When the current has passed the innermost part of the bay, it receives a new direction, and is thrown

It has been remarked, that the courses of rivers become more winding as they approach the sea. This, I believe, will only hold good in such a case as that of their course through a sandy soil. In the Ganges, and other rivers, considerable variations in the bulk of their streams, the best marks of the approach of the sea are, the lowness of the river banks, and the increasing frequency of the shallows in its bed.

obliquely

obliquely towards the opposite side of the canal, depositing in its way the matter excavated from the bay, and which begins to form a shallow or bank contiguous to the border of the canal. Here then is the origin of such windings as owe their existence to the nature of the soil. The bay, so corroded, in time becomes large enough to give a new direction to the body of the canal: and the matter excavated from the bay is so disposed as to assist in throwing the current against the opposite bank, where a process, similar to that I have been describing, will be begun.

The action of the current on the bank will also have the effect of deepening the border of the channel near it; and this again increases the velocity of the current in that part. Thus would the canal gradually take a new form, till it became what the river now is. Even when the windings have lessened the descent one half, we still find the current too powerful for the banks to withstand it.

There are not wanting instances of a total change of course in some of the Bengal rivers*. The Cofa River (equal to the Rhine) once ran by Purneah, and joined the Ganges opposite Rajemal. Its junction is now 45 miles higher up. Gourn, the ancient capital of Bengal, stood on the banks of the Ganges.

Appearances favour very strongly the opinion, that the Ganges had its former bed in the tract now occupied by the lakes and morasses between Nattore and Jassiergunge, striking out of its present course at Baulcah, and passing by Pootyah. With an equal degree of probability (favoured by tradition) we may trace its supposed course by Dacca, to a junction with the Burrampooter or Megna near Fringybazar; where the accumu-

* The Mootjyl lake is one of the windings of a former channel of the Cofsinbuzin River.

lation of two such mighty streams probably scooped out the present amazing bed of the Megna*.

In tracing the sea coast of the Delta, we find no less than eight openings; each of which, without hesitation, one pronounces to have been in its time the principal mouth of the Ganges. Nor is the occasional deviation of the principal branch, probably, the only cause of fluctuation in the dimensions of the Delta. One observes, that the Deltas of capital rivers (the tropical ones particularly) encroach upon the sea. Now, is not this owing to the mud and sand brought down by the rivers, and gradually deposited, from the remotest ages down to the present time? The rivers, we know, are loaded with mud and sand at their entrance into the sea; and we also know, that the sea recovers its transparency at the distance of twenty leagues from the coast; which can only arise from the waters having precipitated their earthy particles within that space. The sand and mud banks at this time, extend twenty miles off some of the islands in the mouths of the Ganges and Burrampooter; and in many places rise within a few feet of the surface. Some future generation will probably see these banks rise above water, and succeeding ones possess and cultivate them! Next to earthquakes, perhaps the floods of the tropical rivers produce the quickest alterations in the face of our globe. Extensive islands are formed in the channel of the Ganges, during a period far short of that of a man's life; so that the whole process lies

* Megna and Burrampooter are names belonging to the same river in different parts of its course. The Megna falls into the Burrampooter; and, though a much smaller river, communicates its name to the other during the rest of its course.

within the compass of his observation *. Some of these islands, four or five miles in extent, are formed at the angular turnings of the river, and were originally large sand banks thrown up round the points (in the manner before described) but afterwards insulated by breaches of the river. Others are formed in the straight parts of the river, and in the middle of the stream; and owe their origin to some obstruction lurking at the bottom. Whether this be the fragments of the river bank; a large tree swept down from it; or a sunken boat; it is sufficient for a foundation: and a heap of sand is quickly collected below it. This accumulates amazingly fast: in the course of a few years it peeps above water, and having now usurped a considerable portion of the channel, the river borrows on each side to supply the deficiency in its bed; and in such parts of the river we always find steep banks on both sides †. Each periodical flood brings an addition of matter to this growing island; increasing it in height as well as extension, until its top is perfectly on a level with the banks that include it; and at that period of its growth it has mould enough on it for the purposes of cultivation, which is owing to the mud left on it when the waters subside, and is indeed a part of the œconomy which nature observes in fertilizing the lands in general.

Whilst the river is forming new islands in one part, it is sweeping away old ones in other parts. In the progress of this destructive operation, we have opportunities of observing, by means of the sections of the falling bank, the regular distri-

* Accordingly, the laws respecting alluvion are ascertained with great precision.

† This evidently points out the means for preventing encroachments on a river bank in the straight parts of its course, viz. to remove the shallows in the middle of its channel.

bution of the several strata of sand and earths, lying above one another in the order in which they decrease in gravity. As they can only owe this disposition to the agency of the stream that deposited them, it would appear, that these substances are suspended at different heights in the stream, according to their respective gravities. We never find a stratum of earth under one of sand; for the muddy particles float nearest the surface *. I have counted seven distinct strata in a section of one of these islands. Indeed, not only the islands, but most of the river wear the same appearance: for as the river is always in its present bed, and verging towards the site of some one now obliterated, this must necessarily be the case. A strong presumptive proof of the wandering of the river from the one side of the Delta to the other, I must observe, is that there is no appearance of *virgin* earth between the hills on the east, and the province of Burdwan on the west, nor on the north till we arrive at Dacca and Bauleah. In the sections of the numerous creeks and rivers in the north, nothing appears but sand and black mould in regular strata till we arrive at the clay that forms the lower part of the hills. There is not any substance so coarse as gravel in the Delta or nearer the sea than 400 miles †, where a point, a part of the base of the neighbouring hills, projects into the river? but out of the vicinity of the great rivers is either red, yellow, or of a deep brown.

A glass of water taken out of the Ganges, when at its height, yields about an ounce of mud. No wonder then that the subsiding waters should form a stratum of earth, or that the Delta should encroach upon the

Ondahult,

I come

I come now to the particulars of the annual swelling and overflowing of the Ganges*.

It appears to owe its increase as much to the rain water that falls in the mountains contiguous to its source, and to the sources of the great northern rivers that fall into it, as to that which falls in the plains of Hindoostan; for it rises fifteen feet and a half out of thirty-two (the sum total of its rising) by the latter end of June: and it is well known, that the rainy season does not begin in most of the flat countries till about that time. In the mountains it begins early in † April; and by the latter end of that month, when the rain-water has reached Bengal, the rivers begin to rise, but by very slow degrees; for the increase is only about an inch *per* day for the first fortnight. It then gradually augments to two and three inches before any

* An opinion has long prevailed, that the swelling of the Ganges, previous to the commencement of the rainy season in the flat countries, is in a great measure owing to the melting of the snow in the mountains. I will not go so far as totally to disallow the fact; but can by no means suppose, that the quantity of snow water bears any proportion to the increase of the river.

† The vast collection of vapours, wafted from the sea by the southerly or south-west monsoon, are suddenly stopped by the lofty ridge of mountains that runs from east to west through Thibet. It is obvious, that the accumulation and condensation of these vapours, must first happen in the neighbourhood of the obstacle; and successively in places more remote, as fresh supplies arrive to fill the atmosphere. Hence the priority of commencement of the rainy season in places that lie nearest the mountains.

All the rivers that are situated within the limits of the monsoons, or shifting trade winds, are subject to overflows at annually stated periods, like the Ganges; and these periods return during the season of the southerly wind, that being the only wind which brings vapours from the sea; and thus being periodic, the falls of rain must necessarily be so too.

The northerly wind, which blows only over the land, is dry; for no rain (except casual showers) falls during the continuance of that monsoon.

quantity

quantity of rain falls in the flat countries; and when the rain becomes general, the increase on a medium is five inches *per* day. By the latter end of July all the lower parts of Bengal, contiguous to the Ganges and Burrampooter, are overflowed, and form an inundation of more than a hundred miles in width; nothing appearing but villages and trees, *excepting very rarely the top of an elevated spot (the artificial mound of some deserted village) appearing like an island.

The inundations in Bengal differ from those in Egypt in this particular, that the Nile owes its floods *entirely* to the rain-water that falls in the mountains near its source; but the inundations in Bengal are as much occasioned by the rain that falls there, as by the waters of the Ganges; and as a proof of it, the lands in general are overflowed to a considerable height long before the bed of the river is filled. It must be remarked, that the ground adjacent to the river bank, to the extent of some miles, is considerably higher than the rest of the country*, and serves to separate the waters of the inundation from those of the river until it overflows. This high ground is in some seasons covered a foot or more; but the height of the inundation within, varies, of course, according to the irregularities of the ground, and is in some places twelve feet.

Even when the inundation becomes general, the river still shews itself, as well by the grass and reeds on its banks, as by its rapid and muddy stream; for the water of the inundation acquires a blackish hue, by having been so long stagnant

* This property of the bank is well accounted for by Count Buxton, who imputes it to the precipitation of mud made by the waters of the river, when it overflows. The inundation, says he, purifies itself as it flows over the plain; so that the precipitation must be greatest on the spots nearest to the margin of the river.

amongst

163 A 113

amongst grass and other vegetables: nor does it ever lose this tinge, which is a proof of the predominancy of the rain water over that of the river; as the slow rate of motion of the inundation (which does not exceed half a mile *per* hour) is of the remarkable flatness of the country.

There are particular tracts of land, which, from the nature of their culture, and species of productions, require less moisture than others; and yet, by the lowness of their situation, would remain too long inundated, were they not guarded by dikes or dams, from so copious an inundation as would otherwise happen from the great elevation of the surface of the river above them. These dikes are kept up at an enormous expence; and yet do not always succeed, for want of tenacity in the soil of which they are composed.

During the swollen state of the river, the tide totally loses its effect of counteracting the stream; and in a great measure that of ebbing and flowing, except very near the sea. It is not uncommon for a strong wind, that blows up the river for any continuance, to swell the waters two feet above the ordinary level at that season: and such accidents have occasioned the loss of whole crops of rice*. A very tragical event happened at Luckipour † in 1763, by a strong gale of wind conspiring with a high spring tide, at a season when the periodical flood was within a foot and half of its highest pitch. It is said that the waters rose six feet above the ordinary level. Certain it is, that

* The rice I speak of is of a particular kind; for the growth of its stalk keeps pace with the increase of the flood at ordinary times, but is destroyed by a too sudden rise of the water. The harvest is often reaped in boats. There is also a kind of grass which overtops the flood in the same manner, and at a small distance has the appearance of a field of the rice verdant.

† This place is situated about fifty miles from the sea.

the inhabitants of a considerable district, with their houses and cattle, were totally swept away; and, to aggravate their distresses, it happened in a part of the country which scarce produces a single tree for a drowning man to escape to.

Embarkations of every kind traverse the inundation: those bound upwards, availing themselves of a direct course and still water, at a season when every stream rushes like a torrent. The wind too, which at this season blows regularly from the south-east *, favours their progress; inasmuch, that a voyage, which takes up nine or ten days by the course of the river when confined within its banks, is now effected in six. Husbandry and grazing are both suspended; and the peasant traverses in his boat, those fields which in another season he was wont to plow; happy that the elevated site of the river banks place the herbage they contain, within his reach, otherwise his cattle must perish.

The following is a table of the gradual increase of the Ganges and its branches, according to observations made at Jellinghy and Dacca.

At Jellinghy.			At Dacca.		
		Ft. In.			Ft. In.
In May it rose	-	6 0	2	4	
June	-	9 6	4	6	
July	-	12 6	5	6	
In the first half of August		4 0	1	1 8	
		<hr/> 32 0		<hr/> 14 3	

* Although in the gulf or bay of Bengal the monsoon blows from the S.S.W. and S.W. yet in the eastern and northern parts of Bengal it blows from the S.E. or E.S.E.

These

These observations were made in a season, when the waters rose rather higher than usual; so that we may take 31 feet for the medium of the increase.

The inundation is nearly at a stand for some days preceding the middle of August, when it begins to run off; for although great quantities of rain fall in the flat countries, during August and September, yet, by a partial cessation of the rains in the mountains, there happens a deficiency in the supplies necessary to keep up the inundation*. The quantity of the daily decrease of the river is nearly in the following proportion: during the latter half of August, and all September, from three to four inches; from September to the end of November, it gradually lessens from three inches to an inch and a half; and from November to the latter end of April, it is only half an inch *per* day at a medium. These proportions must be understood to relate to such parts of the river as are removed from the influence of the tides; of which more will be said by and by. The decrease of the inundation does not always keep pace with that of the river, by reason of the height of the banks; but after the beginning of October, when the rain has nearly ceased, the remainder of the inundation goes off quickly by evaporation, leaving the lands highly manured, and in a state fit to receive the seed, after the simple operation of plowing.

There is a circumstance attending the increase of the Ganges, and which, I believe, is little known or attended to; because few people have made experiments on the heights to which the

* I have stated the middle of August for the period when the waters begin to run off; and in general it happens with more regularity than the vicissitudes of the seasons do. But there are exceptions to it; for in the year 1771 the rivers kept up for near a month after the usual time.

periodical flood rises in different places. The circumstance I allude to, is, the difference of the quantity of the increase (as expressed in the foregoing table) in places more or less remote from the sea. It is a fact, confirmed by repeated experiments, that from about the place where the tide commences, to the sea, the height of the periodical increase diminishes gradually, until it totally disappears at the point of confluence. Indeed, this is perfectly conformable to the known laws of fluids: the Ocean preserves the same level at all seasons (under similar circumstances of tide) and necessarily influences the level of all the waters that communicate with it, unless precipitated in the form of a cataract. Could we suppose, for a moment, that the increased column of water, of 31 feet perpendicular, was continued all the way to the sea, by some preternatural agency: whenever that agency was removed, the head of the column would diffuse itself over the Ocean, and the remaining parts would follow, from as far back as the influence of the Ocean extended; forming a slope, whose perpendicular height would be 31 feet. This is the precise state in which we find it. At the point of junction with the sea, the height is the same in both seasons at equal times of the tide. At Luckipour there is a difference of about six feet between the heights in the different seasons; at Dacca, and places adjacent, 14; and near Cussee, 31 feet. Here then is a regular slope; for the distances between the places bear a proportion to the respective heights. This slope must add to the rapidity of the stream; for, supposing the descent to have been originally four inches *per* mile, this will increase it to about five and an half. Cussee is about 240 miles from the sea, by the course of the river; and the surface of the river there, during the dry season, is about 80 feet

feet above the level of the sea at high water^{*}. Thus far does the Ocean manifest its dominion in both seasons: in the one by the ebbing and flowing of its tides; and in the other by depressing the periodical flood, till the surface of it coincides as nearly with its own, as the descent of the channel of the river will admit[†].

Similar circumstances take place in the Jellinghy, Hoogly, and Burrampooter Rivers; and, I suppose, in all others that are subject either to periodical or occasional swellings.

Not only does the flood diminish near the sea, but the river banks diminish in the same proportion; so that in the dry season the height of the periodical flood may be known by that of the bank.

I am aware of an objection that may be made to the above solution; which is, that the lowness of the banks in places near the sea, is the true reason why the floods do not attain so considerable a height, as in places farther removed from it, and where the banks are high; for that the river, wanting a bank to confine it, diffuses itself over the surface of the country. In

* The tides in the River Amazons are perceptible at 600 miles above its mouth; but at an elevation of only 90 feet, according to M. DE CONDAMINE. It remains to be told what the state of the river was at the time of making the experiment; because the land-floods have the effect of shortening the limits of the tide's way.

† The Count DE BUFFON has slightly mentioned this circumstance attending the swelling of rivers; but imputes it to the increased velocity of the current, as the river approaches the sea: which, says he, strikes off the inundation so quick, as to abate its height. Now (with the utmost deference to so great an authority) I could never perceive, that the current, either in the Ganges, or any other river, was stronger near the sea, than at a distance from it. Even if we admit an acceleration of the current during the ebb tide, the flux retards it in so considerable a degree, as at least to counterbalance the effects produced by the temporary increase of velocity.

answer to this, I shall observe, that it is proved by experiment, that at any given time, the quantity of the increase in different places, bears a just proportion to the sum total of the increase in each place respectively: or, in other words, that when the river has risen three feet at Dacca, where the whole rising is about 14 feet; it will have rose upwards of six feet and a half at Cushee, where it rises 31 feet in all.

The quantity of water discharged by the Ganges, in one second of time, during the dry season, is 80,000 cubic feet; but in the place where the experiment was made, the river, when full, has thrice the volume of water in it; and its motion is also accelerated in the proportion of 5 to 3: so that the quantity discharged in a second at that season is 405,000 cubic feet. If we take the medium the whole year through, it will be nearly 180,000 cubic feet in a second.

THE Burrampooter, which has its source from the opposite side of the same mountains that give rise to the Ganges, it takes its course eastward (or directly opposite to that of the Ganges) through the country of Thibet, where it is named Sanpoo or Zanciu, which bears the same interpretation as the Gonga of Hindoostan: namely, the River. The course of it through Thibet, as given by Father DU HALDE, and formed into a map by Mr. D'ANVILLE, though sufficiently exact for the purposes of general geography, is not particular enough to ascertain the precise length of its course. After winding with a rapid current through Thibet, it washes the border of the territory of Lassa (in which is the residence of the grand Lama) and then deviating from an east to a south-east course, it approaches within 220 miles of Yunan, the westernmost province of

of China. Here it appears, as if undetermined whether to attempt a passage to the sea by the Gulf of Siam, or by that of Bengal; but seemingly determining on the latter, it turns suddenly to the west through Assam, and enters Bengal on the north-east. I have not been able to learn the exact place where it changes its name; but as the people of Assam call it Burrampoot, it would appear, that it takes this name on its entering Assam. After its entry into Bengal, it makes a circuit round the western point of the Garrow Mountains; and then, altering its course to south, it meets the Ganges about 40 miles from the sea.

Father DU HALDE expresses his doubts concerning the course that the Sanpoo takes after leaving Thibet, and only supposes generally that it falls into the gulf of Bengal. M. D'ANVILLE, his geographer, with great reason supposed the Sanpoo and Ava River to be the same: and in this he was justified by the information which his materials afforded him: for the Burrampooter was represented to him, as one of the inferior streams that contributed its waters to the Ganges, and not as its equal or superior; and this was sufficient to direct his researches, after the mouth of the Sanpoo River, to some other quarter. The Ava River, as well from its bulk, as the bent of its course for some hundred miles above its mouth, appeared to him to be a continuation of the river in question: and it was accordingly described as such in his maps, the authority of which was justly esteemed as decisive; and, till the year 1765, the Burrampooter, as a capital river, was unknown in Europe.

On tracing this river in 1765, I was no less surprized, at finding it rather larger than the Ganges, than at its course previous to its entering Bengal. This I found to be from the east; although all the former accounts represented it as from the north:

north: and this unexpected discovery soon led to enquiries, which furnished me with an account of its general course to within 100 miles of the place where DU HALDE left the Sanpoo. I could no longer doubt, that the Burampooter and Sanpoo were one and the same river: and to this was added the positive assurances of the Affamers, “That *their* river came “from the north-west, through the Bootan mountains.” And to place it beyond a doubt, that the Sanpoo River is not the same with the river of Ava, but that this last is the great Nou Kian of Yunan; I have in my possession a manuscript draught of the Ava River, to within 150 miles of the place where DU HALDE leaves the Nou Kian, in its course towards Ava; together with very authentic information that this river (named Irabattey by the people of Ava) is navigable from the city of Ava into the province of Yunan in China*.

The Burampooter, during a course of 400 miles through Bengal, bears so intimate a resemblance to the Ganges, except in one particular, that one description may serve for both. The exception I mean is, that, during the last 60 miles before its junction with the Ganges, it forms a stream which is regularly from four to five miles wide, and but for its freshness might pass for an arm of the sea.* Common description fails in an attempt to convey an adequate idea of the grandeur of this magnificent object; for,

—— Scarce the muse
Dares stretch her wing o'er this enormous mass
Of rushing water; to whose dread expanse,
Continuous depth, and wond'rous length of course,

* The courses of the Burampooter and Ganges, as well as that of the Ava River from Yunan to the sea, will shortly be described in a large facet map of Hindoostan.

Our

Our floods are rills —————

Thus pouring on, it proudly seeks the deep,
 Whose vanquish'd tide, recoiling from the shock,
 Yields to this liquid weight —————

THOMSON'S Seasons.

I have already endeavoured to account for the singular breadth of the Megna, by supposing that the Ganges once joined it where the Iffamutty now does; and that their joint waters scooped out its present bed. The present junction of these two mighty rivers below Luckipour, produces a body of running fresh water, hardly to be equalled in the old hemisphere, and, perhaps, not exceeded in the new. It now forms a gulf interspersed with islands, some of which rival, in size and fertility, our Isle of Wight. The water at ordinary times is hardly brackish at the extremities of these islands; and, in the rainy season, the sea (or at least the surface of it) is perfectly fresh to the distance of many leagues out.

The *Bore* (which is known to be a sudden and abrupt influx of the tide into a river or narrow strait) prevails in the principal branches of the Ganges, and in the Megna; but the Hoogly River, and the passages between the islands and sands situated in the gulf, formed by the confluence of the Ganges and Megna, are more subject to it than the other rivers. This may be owing partly to their having greater embouchures in proportion to their channels, than the others have, by which means a larger proportion of tide is forced through a passage comparatively smaller; and partly, to there being no capital openings near them, to draw off any considerable portion of the accumulating tide. In the Hoogly or Calcutta River, the *Bore* commences at Hoogly Point (the place where the river first contracts itself)

o *Mr. RENNELL's Account of, &c.*

nd is perceptible above Hoogly Town; and so quick is its motion, that it hardly employs four hours in travelling from one to the other, although the distance is near 70 miles. At Calcutta, it sometimes occasions an instantaneous rise of five feet: and both here, and in every other part of its track, the boats, on its approach, immediately quit the shore, and make for safety to the middle of the river.

In the channels, between the islands in the mouth of the Megna, &c. the height of the *Bore* is said to exceed twelve feet; and is so terrific in its appearance, and dangerous in its consequences, that no boat will venture to pass at spring tide. After the tide is fairly past the islands, no vestige of a *Bore* is seen, which may be owing to the great width of the Megna, in comparison with the passages between the islands; but the effects of it are visible enough by the sudden rising of the tides.

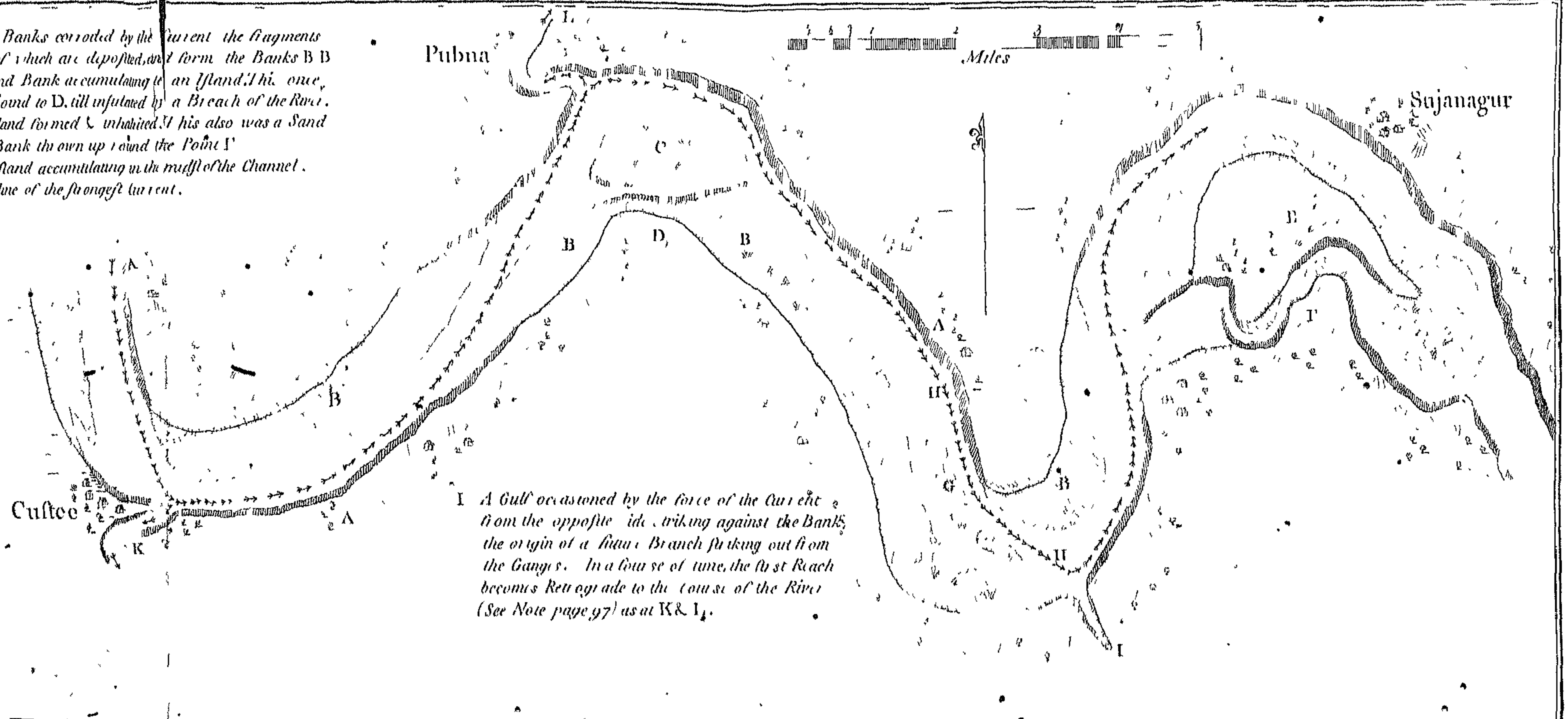


PLAN of part of the Course of the GANGES, to explain the nature of the steep and shelving Banks, &c.

Philos. Trans. Vol. LXXI. 1771

- A.A. Steep Banks corroded by the Current the fragments of which are deposited, and form the Banks B B
- C. A Sand Bank accumulating to an Island. This once joined to D. till insulated by a Breach of the River.
- E. An Island formed & inhabited. This also was a Sand Bank thrown up round the Point F
- G. An Island accumulating in the midst of the Channel.
- H. The line of the strongest current.

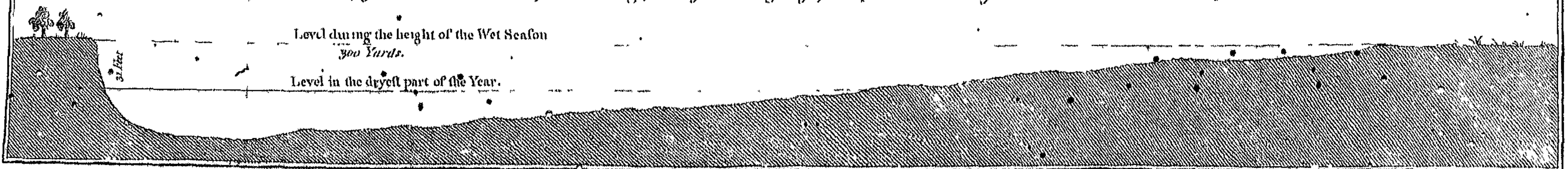
Miles



I. A Gulf occasioned by the force of the Current from the opposite side striking against the Banks, the origin of a future Branch striking out from the Ganges. In a course of time, the first Reach becomes Retrograde to the course of the River (See Note page 97) as at K & L.

SECTION of a Branch of the GANGES, as a further explanation of the steep and shelving Banks.

A.B. This is exactly similar to the Section of the winding parts of the Ganges itself, except in the arch of width.





A
L E T T E R
TO THE HONOURABLE
The Directors of the East-India Company,

FROM
ANDREW STUART, Esq.

[March, 1781.]

than may be necessary to connect together what has passed on that subject, and to place before you, in one view, the object of my former, and of my present, application.

For that purpose, I beg leave shortly to remind you, that in my former Letter, I took occasion to suggest two different methods of redress; to the one or the other of which, General Stuart and his friends were of opinion he was at that time entitled.

The first was, a trial by a Court-Martial on the spot where the transactions happened.—The second was, that you, Gentlemen, should enter into the examination of his case, and decide upon it yourselves, from the ample materials then in your possession, without the intervention of any other Court.

Of these two methods of redress, General Stuart himself strongly and uniformly preferred the trial by a Court-Martial, as a Judicature, the best calculated to decide upon every military offence, and to clear up the conduct of a military man.

The second was the mode which I pressed the most, for reasons explained at large in my Letter of 1778, and because I foresaw, from the nature of the objections which had been made by the Governor and Council at Madras, to granting the trial in March 1778, that those objections would most probably be again insisted upon; and that the only consequences of a new order for a trial, would be a new refusal on the part of your Servants at Madras, and a new disappointment to General Stuart.

It was your pleasure, not to comply with my request, of taking upon yourselves the examination of his case, but you preferred a renewal of the orders for a trial at Madras; and those orders were made peremptory and absolute. Your General Letter in December 1778, contained positive orders to the Governor and Council at Madras, *forthwith* to make the necessary *requisition* to the Com-
mander

mander in Chief of the King's troops there, for assembling a Court-Martial on General Stuart's case.

But the same Letter contained also a paragraph, directing the *stoppage of his Pay*; to which I beg leave to call your particular attention, as that circumstance will appear in the sequel to have increased all the former difficulties on the subject of the proposed trial.

The paragraph relating to the stoppage of his Pay is in these words:

“ As we must now take for granted, that a Court-Martial will be
 “ assembled, without delay, to try Brigadier General Stuart, and that he
 “ will be legally acquitted or condemned by the most proper tribunal,
 “ we shall only add by this opportunity, that whatever may be the
 “ sentence of the Court-Martial to be held on Brigadier General Stuart,
 “ or on any other military officer, in consequence of the late troubles,
 “ you are to observe, that the *pay and emoluments* of every such
 “ officer ceased immediately on his suspension from the service; and
 “ that, even if sentence of acquittal shall be passed by the Court-Martial,
 “ no suspended officer shall receive any allowance on the Company's
 “ account, for any part of the time which he has remained, or shall
 “ remain, under suspension, except by the express orders of the Court
 “ of Directors, to be first signified to you for that purpose.”

The paragraph containing these directions about the stoppage of Pay was strongly objected to by me, from the moment I received intimation of it, because it seemed to be formed upon an unusual and unjustifiable plan of severity. The complaints I made on this subject to the Chairman of the East India Company at that time, received for answer, that this was a mere temporary inconvenience, that the circumstances of the case required it; but that it would be remedied at a future period, and with a retrospect.

I should certainly have objected to that measure much more strongly, if I had foreseen, what I confess I did not foresee, the additional reason or pretence, which it was likely to afford to the Governor

and Council of Madras, for refusing to General Stuart the wished-for trial by a Court-Martial.

I shall now bring under your view, as concisely as possible, what passed at Madras in consequence of these renewed orders for the trial, accompanied with the directions for the stoppage of pay.

General Stuart, as soon as he received notice of the arrival of these orders at Madras, prepared immediately for his defence, and used every effort to forward your intentions respecting the trial you had ordered, and which he so ardently wished for.

January 13,
1780.

With a view of expediting the matter, he signed and delivered to the Governor and Council, on the 13th of January 1780, a paper, containing a state of facts admitted by him, in order that these admitted facts might assist the Governor and Council in forming the Charges against him, and afford a ground for his being brought to a Court-Martial.

February 8.

During a considerable time he flattered himself, that the Court-Martial would be granted, and that nothing could possibly prevent its taking place. But on the 8th of February 1780, he received a letter, signed by the Governor *Sir Thomas Rumbold*, the Commander in Chief *Sir Hector Munro*, and by *Mr. Whitbill* and *Mr. Smith*, Members of the Select Committee, acquainting him, “ That they
“ had met several days on the subject of the Company’s orders
“ of the 22d of December, 1778, relative to his trial by a Court-
“ Martial, and had taken up the whole matter with the view of
“ executing these orders to the utmost of their abilities; but that
“ they were sorry to say, that such difficulties had occurred to them
“ as appeared insurmountable,” &c.

They then proceed to state these difficulties.—In the first place, they mention the imperfections, which, as they conceived, still existed in the Company’s general instructions for a trial; and then they take

notice

notice more particularly of two additional difficulties, arising from the predicament in which he then stood in consequence of the Company's orders. These were his *suspension* from the service, and the *stoppage of his pay*; upon which subject there is the following paragraph in their Letter to General Stuart:

“ Being under *suspension* from the service by the express authority
 “ of the Company, and your *Pay* and *Allowances* having been likewise
 “ stopped by the same authority, we do not conceive you to be, in
 “ any respect, within the cognizance of martial law.”

Upon the 9th of February, General Stuart wrote a full answer to the letter he had thus received the preceding evening, and in that answer expressed his astonishment and mortification on perceiving their intention of refusing the Court-Martial which he had so long and so earnestly solicited.——He maintained, “ That it was contrary
 “ to military practice, and military justice, and to the general principles
 “ of equity, to delay, or in effect to deny him, a fair hearing and
 “ trial before a Court-Martial.” He then applied himself particularly to answer the difficulties that had been supposed to exist from the circumstances of his *suspension*, and of the *stoppage of his pay*.——In short, after particularly combating every objection, he concludes with these words:——“ I desire and insist on my trial taking place, as an act of
 “ justice, which the Court of Directors have expressly ordered to
 “ take place. The materials for the charge are in your possession, and
 “ on record; or they may be taken from the paper inclosed in my
 “ Letter, dated the 13th of January last.”

On the 11th of February General Stuart received a second Letter from the Governor and Council in these words:

“ SIR,

“ We have received your letter of the 9th instant, and have taken
 “ the same into our serious consideration.——We are of opinion, that
 “ the reasoning contained in that Letter has not removed the dif-
 “ ficulties

February 9
1780.

February 11
1780.

“ difficulties we stated in ours of the 8th instant ; and as these and other
 “ embarrassments arising from the nature of the Company’s orders, and
 “ from the opinions given by the Counsel in England upon the questions
 “ stated to them, have absolutely determined us to refer the matter back
 “ again to the Court of Directors ;—we shall write to them on the
 “ subject by the vessel now going to Suez, which will be dispatched
 “ to-morrow evening at farthest,” &c.

Upon the 12th of February, he addressed another Letter to the Governor and Council, wherein he complains severely of “ the very
 “ great injury done him by their refusing to carry the orders of the
 “ Directors concerning his trial into immediate execution.”

Upon the same date, the Governor and Council, at least that part of the Council which forms the Select Committee at Madras, wrote a very long Letter to the Court of Directors, stating their reasons for the refusal of the Court-Martial, and justifying their conduct in that respect.

From that Letter, and from the whole of the proceedings, it appears, that their refusal, in the year 1780, of the Court-Martial, was founded on the same reasons which had induced them to refuse it in the year 1778; with this difference only, that they availed themselves of an additional reason or pretence, from the circumstance of the Directors of the East India Company not having taken off General Stuart’s *suspension* before they required his trial, and from the further circumstance of their orders for his trial having been accompanied with an order for the *stoppage of his Pay*.

I have thus related, as briefly as possible, my solicitations to the East India Company, the orders which they sent to Madras, and the proceedings there in consequence of those orders ; you will now, therefore, permit me, Gentlemen, to make a few short reflections
 on

on the means by which General Stuart has thus been brought into a very singular and mortifying situation.

Having exerted every nerve to obtain a trial by a Court-Martial, and having sustained much prejudice from the refusal of it; it must be allowed that he has reason to complain of one of these two things, either of the nature of the orders sent to India, or of the disobedience of those orders on the part of the Company's Servants.

If your orders respecting his trial were either in themselves imperfect, as your Servants assert, or were accompanied with such directions concerning his *suspension*, and the *stoppage of his Pay*, as justified them in thinking that the trial by a Court-Martial was rendered impracticable; in such a case, General Stuart has certainly the strongest reason to complain, that, by the insufficiency of the orders, or by the addition of directions which defeated the expressed intentions of those orders, he has been engaged in fruitless contests, and suffered further delays.

If, on the other hand, there was not any thing either in the orders themselves, or in the directions which accompanied them, that ought to have prevented the Governor and Council at Madras from promoting the trial; in that case, General Stuart has the strongest ground of complaint against those who have disobeyed your positive orders respecting the trial by a Court-Martial.

His friends, therefore, apprehend, that the East India Company are, in justice, called upon to redress, in such manner as they are able, the injuries which they have been the occasion of, either immediately, and in the first instance, from the imperfection of their orders; or remotely, by the error and disobedience of their Servants: for, in either case, it cannot be pretended, that a particle of blame can be imputed to General Stuart; and yet he is, in every respect, the real sufferer.

The consequences of these errors, either of the Directors of the East India Company, or their Servants, have been of essential prejudice to

him, because otherwise he must, long before this time, have either obtained his *acquittal*, and all the benefits annexed to it; or must have received such a determination upon his case, as would have enabled him to take a decided part as to his remaining in India, or returning to Great Britain; and whether it was eligible for him to continue any longer in the service of the East India Company.

But while there was a disposition on your part to give the orders for the trial at Madras, and while there was a declaration also on the part of your Servants there, that they were willing to promote that trial, General Stuart could not abandon his station in India, without laying himself open to many suspicions; and particularly to the disgraceful suspicion of meaning to evade the proper trial by a Court-Martial upon the spot where the transactions had happened.

In these sentiments he was the more confirmed, from the terms of your letter of the 14th of April 1779, to the Governor and Council of Madras; for, in that letter, you were pleased to express the most honourable approbation of his conduct upon various important occasions; and upon the supposition of his being tried and acquitted, you gave, for the first time, positive orders that he should be Second in Command during the continuance of General Munro (who had given notice of his intentions of speedily returning to England); and that upon his leaving the Settlement, General Stuart should be restored to the Command in Chief of the army, in case he had before that time obtained his sentence of acquittal from the Court-Martial.

But your Letter went further:—It clearly indicated a wish, that he should remain in India in *expectation of these events*. This appears particularly from that part of it where you were pleased to express yourselves in the following terms: “Confirmed, as we are, “in our opinion of his (General Stuart’s) great experience, and “of his ability to render the most important services to the Company in “the present conjuncture of public affairs, we think proper to acquaint
 7 “you,”

“ you,” &c.—Independent of all other motives, this change of conduct on your part, and these declarations so flattering to General Stuart, were strong ties upon any officer of just and honourable principles, not to leave India, while there was any prospect of his rendering to the Company those important services, which your Letter distinctly marked out, were, in the present conjuncture of public affairs, expected from him.

Without pretending to unfold the motives, or to ascertain the causes, which have produced the refusal of a trial, and a long series of misfortunes, to General Stuart, I must be allowed to observe in general, that this method of proceeding, by keeping every thing *in suspense*, is the most cruel, and, if it had been designed, would be the most ungenerous, and at the same time the best calculated to asperse, and bring into disrepute, the characters of men who are perfectly innocent, or even highly meritorious.

When imputations of any sort are brought to distinct points, and reduced to a precise charge, the evidence and arguments offered in their support may, by stronger evidence and better arguments, be refuted, and the innocence of the party accused be clearly vindicated and established.

But while no measure is adopted, that, from the nature of it, must be *final*; while no *trial* is held, because by that means there can be no *acquittal*, every thing is necessarily left open to mistake and to misrepresentation; and permit me, Gentlemen, to observe, that the extraordinary conduct, and the very unusual proceedings, by which General Stuart has been made to suffer the consequences of crimes without the guilt of them, and without the possibility of proving his innocence, cannot but be felt both by himself, and by those who interest themselves in his prosperity, as a very high aggravation of his misfortunes, as

giving a keener edge to every injury, and embittering it by a severity which is scarce supportable.

It is not from a disposition to arraign the conduct of individuals, or any description of men, that I have endeavoured to excite your attention to the hardships sustained by General Stuart, from the cruel and unexampled state of suspense in which he has been held for many years.—Complaints of what is past, and cannot be recalled, would be useless and invidious, unless they had in view the regulation of some *future proceedings*.—It is for that purpose only, that I have solicited your attention to the consequences of your former orders; and my object in mentioning what he has already suffered, is merely that you may be induced, upon just grounds, to put a period to those sufferings, by taking upon yourselves the examination of his case, and by granting such redress as shall appear to you the most suitable for him, and at the same time the best calculated for the interests of the East India Company.

The objects of your deliberation are reduced, at present, within much narrower limits than they were in December 1778; there is now no *option* left, and you must take upon yourselves the decision of this matter: for all hopes of a trial upon this case, by a Court-Martial in India, are now at an end.

The proofs which I shall beg leave to submit to your consideration, in support of this assertion, take their rise partly from the nature of the objections which have been already made by your Servants in India, and partly from some additional and very strong objections, which, if the matter was to be again sent to India, would infallibly be made in bar of any military trial in this case, on account of the *distance of time* since the date of the supposed offence.

When

When your Servants at Madras refused the Court of Inquiry, and the Court-Martial, in the year 1778, it was not a hasty decision, which further reflection might probably over-rule, but the result of frequent meetings, and of much deliberation on the subject; and the principal reasons given by the Governor and Council, for that refusal, were founded on a positive opinion, that General Stuart had not been guilty of any *military offence*, or of any *transgression against the Articles of War*.

In proof of this, you will permit me to appeal to the opinion given upon that occasion by the Commander in Chief, General Munro, who, on account of his knowledge in military matters, had been requested, by the Members of the Council, to take into his consideration the Company's orders respecting General Stuart. In consequence of this request, he first delivered in to the Board his opinion in writing, in relation to the nature of *Courts of Inquiry*; and afterwards he gave in an additional paper, containing his answers to the questions which had been put to him by the President, Mr. Rumbold.

1778.
Feb. 23d.

Feb. 24th

These questions and answers were as follows:.

Query 1st. “ Whether or no such an *Inquiry*, as directed by
“ the Company, can, from the nature and tendency of
“ a *Court of Inquiry*, be ordered upon Brigadier General
“ Stuart ?”

Answer. “ It is my opinion, that *no such Inquiry*, as directed
“ by the Company, can be ordered upon Brigadier General
“ Stuart, as will more fully appear from the opinion I have
“ already given relative to the intention of ordering *Courts*
“ *of Inquiry.*”

2dly. “ Whether or no a charge against a military officer
“ must not be grounded on the infringement of military
“ law ?”

Answer. “ It is my opinion, that any charge against a military
 “ officer, must be grounded upon the infringement, or sup-
 “ posed infringement, of some article of war, if to be tried
 “ by military law. ’

3dly. “ Whether or no Brigadier General Stuart, arresting the
 “ person of George Lord Pigot, then President and Go-
 “ vernor of Fort St. George, by a special licence from
 “ *George Stratton, Esq, Sir Robert Fletcher, Henry Brooke,*
 “ *Charles Floyer, Archdale Palmer, Francis Jourdain, and*
 “ *George Mackie, Esqrs;* then part of the Council of Fort
 “ St. George, is an offence that comes under any one of the
 “ articles in the Articles of War, intitled, “ Rules and Articles
 “ for the better Government of the Officers and Soldiers in
 “ the Service of the United Company of Merchants of
 “ England trading to the East Indies ?”

Answer. “ It is my opinion, that Brigadier General Stuart having
 “ arrested the person of George Lord Pigot, out of the gar-
 “ rison of Fort St. George, is *not an offence that comes under*
 “ *any one article in the Articles of War,* intitled, “ Rules
 “ and Articles for the better Government,” &c. as above.

(Signed) HECTOR MUNRO.

In this opinion delivered by General Munro all the Members of the Board concurred, and the matter was referred back to the Court of Directors in March 1778.

When the renewed orders, for the trial, were under consideration at Madras in the year 1780, General Munro and the other Members of the Council continued in the sentiments they had formerly declared; and they were furnished with an additional reason for not promoting the trial, from the circumstance of General Stuart's *suspension* being *continued*, and of his *pay being stopt*.

If

If the matter were to be sent back to Madras a third time, what possible reason can there be to expect a change of sentiments amongst your Servants there? and particularly, what reason can there be to suppose that General Munro, who is a Member of the Council, would not continue of the same opinion with that which he had formerly declared? for I have no doubt that it was his *real opinion*; neither have I any occasion, in order to maintain what I contend for, to contravert the facts or the principles on which that *opinion* was founded.

I must now beg leave to direct your attention to an *additional objection*, to which I have already alluded, and which, if the case were to be sent again to India for trial, would infallibly occur to your servants there as a bar to any military trial; and the objection is this:—That the *period* within which military men are liable to be tried by military law, is actually *expired*.

In the *Mutiny Act* passed annually in England for regulating the army, and which is declared to extend to all officers and soldiers in his Majesty's service, within Great Britain, or *in any of his Majesty's dominions beyond the seas*, the limitation of the time for trying military offences is expressed in the 76th clause in these words:

“ Provided always, That no person shall be liable to be tried and
 “ punished for any offence against any of the said Acts, which shall
 “ appear to have been committed more than *three years before the*
 “ *issuing the commission or warrant for such trial*, except only for the
 “ offence of desertion.”

From the above clause it is perfectly clear, that no officer in *his Majesty's service*, either in Great Britain, *in India*, or in the most distant parts of his Majesty's dominions, can be tried by a Court-Martial for any offence committed *three years before the date of the warrant* for such trial.

In

In the year 1754, an Act passed in the British Parliament, for the punishing mutiny and desertion *in the service of the East India Company*.—The clauses of that Mutiny Act are in general formed precisely upon the plan of the clauses in the British Mutiny Law; but the British Mutiny Act, which consists of eighty-three different clauses, specifies a much greater variety of cases than the Mutiny Law respecting the East India Company's forces, which consists only of thirteen clauses.

When, therefore, any military offences are committed in India, which have not been particularly specified and provided for by their military law, but which are specified and provided for in the British Mutiny Law; in such cases, Courts-Martial in India have thought themselves bound by, and have adopted the directions and provisos of the British Mutiny Law, so as to make the condition of an officer and a soldier in India as similar as possible to the condition of officers and soldiers in Great Britain, or in other parts of the British dominions.

The Members upon a Court-Martial in India, hold themselves the more bound to observe this rule, on account of the terms of the oath taken by them upon the trial; in which oath, after mentioning the Articles of War and the Mutiny Law, relating to the troops of the East India Company, there is this clause: “And if any doubt shall arise
“ which is not explained by the said Articles, or Act of Parlia-
“ ment [I will duly administer justice] *according to my conscience, the*
“ *best of my understanding, and the custom of war in the like cases.*”

One of the articles, not specially provided for in the short Mutiny Law for the East India Company's troops, is that which relates to the *limitation of time*, after which officers and soldiers are not liable to be tried for military offences; but according to the best information that I have been able to collect on this subject, it has been understood in India, that in a case of this nature, it was the duty of the Members of a Court-Martial to observe the same rule that is laid down by the 76th clause above recited of the
British

British Mutiny Act, which declared that no officer or soldier is liable to be tried and punished for offences committed more than *three years* before the issuing the *commission* or *warrant* for such trial, except only for the offence of desertion.

The application of this to General Stuart's case is obvious.—There has never to this moment been any *commission* or *warrant* issued for his trial by a Court-Martial; for the Governor and Council at Madras, who in the year 1778 had the power of issuing that warrant, refused it; and, in the year 1780, they refused to make the *requisition* to the officer who at that time had the power of granting the *warrant* for the Court-Martial.—More than four years are already elapsed since the date of the offence imputed to General Stuart; consequently, if any application were now to be made in India for a Court-Martial on his case, this circumstance of the *distance of time*, since the date of the supposed offence, would of itself prevent the trial.

Even if there were doubts both as to the point of law, and as to the practice in India in such cases, there can be no doubt, after what has happened, that this obvious objection to granting a trial would be laid hold of in India; and it would be founded on much better grounds than most of the reasons which have hitherto been given for that refusal.

It is a difficulty which would most probably obstruct this business in all the various stages of it, even supposing that your orders for holding a Court-Martial were renewed (though I may be permitted to doubt, whether you yourselves, Gentlemen, would think it advisable to renew such orders, under the weight of this objection); for, in the first place, it is most probable that the Select Committee of the Council at Madras would again refuse to make the *requisition* to the Commander of the King's troops for *issuing the warrant*.

2dly, Supposing them to make that requisition, it is most probable that the Commander of the king's troops would refuse such *warrant*,
because

because he would at first sight perceive that the offence imputed to General Stuart had happened more than *three years before the date of the warrant*; in the present case, five years at least would be elapsed before the date of any warrant that could now be issued for assembling a Court-Martial.

And lastly, Supposing the requisition made, and complied with, there is the greatest reason to be persuaded that the whole, or the major part, of the Members on that Court-Martial would refuse to try the case, because, from the express terms of the British Mutiny Law, and from the practice in India, the time limited for the trial of military offences had expired.

In every military service some period ought to be limited, after which an officer shall be no longer subject to a trial by any other laws, than the *general laws of his country*. It may be necessary for the sake of discipline, that every officer and soldier should sacrifice for a *time*, and in *some respects*, his rights as a Citizen, and subject himself to Military Law. But it is not necessary that this time should be of long duration. On the contrary, the public interest seems strongly to require that it should be as short as possible; that the officer or soldier may be speedily punished, if he merits punishment, or the Public receive the benefit of his services, if he deserves to be employed.

Upon that principle, the Legislature in this country has limited to *three years*, the period within which an officer or a soldier may be tried for the offences created, and according to the modes prescribed, by *military law*.

The practice of observing in India the same rule which is observed in Great Britain, without any positive clause in the East India Mutiny Law for that purpose, has, undoubtedly, been founded upon the reason of the thing, upon principles of justice, and a conviction of its utility. If the limitation of the British Mutiny Act was not observed in India, the consequences must be, that there would be no limitation at all; and

and an officer liable to be tried by military law *after 3 years*, would be equally exposed to that trial after 20, or after 40 years;—the injustice and absurdity of which, are too evident to require the aid of further argument on this point.

The result of all that has been said on this subject of the *limitation of time* (an objection perfectly new, which has never been touched upon in either of my former letters, and the importance of which has led me into more detail than I could have wished), is, that when this objection is added to all the other objections, which seem to have been studiously laid hold of by your Servants in India, for the purpose of refusing a Court-Martial, there cannot possibly remain a doubt in any man's mind, that there is not so much as a chance of General Stuart's hereafter obtaining a trial by a Court-Martial, or by a Court of Enquiry in India;—unless it can be supposed, that the objections of your Servants will diminish, as the reason for them increases; and that they will grant, under more and greater difficulties, the very thing they have repeatedly refused, under fewer and less.

I cannot therefore allow myself to suppose, that, when these things are duly weighed, it is possible that the most distant idea of sending this matter a third time back to India, should be seriously entertained in any quarter; especially when it is remembered, that in consequence of the two former references to that distant part of the world, about four years of General Stuart's life have been already consumed. The life of any man (and more particularly the most valuable period of the life of a military man) is much too short for the repetition of such cruel experiments.

In the preceding part of this letter, and still more particularly in the letter which I had the honour lately to address to Lord Amherst, it has been shewn, that your Servants in India have, from the beginning, been of opinion, that General Stuart had not been guilty of any offence that subjected him to be tried by martial law; and I have

now shewn, that even if he had been guilty of any military offence, the time within which a Court-Martial could with justice, or would in fact, take cognizance of that offence, has been long *elapsed*.

If you are satisfied, that *either* of these propositions is well-founded, I must presume, that you will proceed immediately to the examination of General Stuart's case.

Upon this supposition, you will be pleased to permit me to make a few short observations respecting the very peculiar situation in which he now applies to you for redress.

When rumours have been circulated, or suspicions entertained, to the prejudice of an officer, on account of some part of his conduct which subjects him to be tried by military law; and when that trial has either been refused, or the time within which it ought to be granted, has, without any fault on his part, *elapsed*; the necessary and legal consequence is, that the officer so situated, must be considered, as if he had never been accused of any military offence; or as if he had been tried, and legally acquitted.

The justice on which this is founded, and the practice which is conformable to it, are so obvious, that they require no illustration;—if it were otherwise, what must be the condition of an officer?—It would be in the power of any man, by exciting rumours and suspicions to his prejudice, to blast his reputation, stop his preferment, and destroy his future prospects in his profession. While under all these oppressive circumstances, he would neither be able to prevent, nor remedy, the injuries he suffered.

This may be the case of every officer in your Service; unless the provision of the English Mutiny Bill, *respecting the limitation of time*, with the consequences attending it, is carried into practice in India.

If General Stuart had, in the King's Service, committed all, and much greater offences than have been imputed to him; and if he had taken no one step to promote, nor even shewn any disposition to obtain a military trial, the mere circumstance, of *no warrant* for a Court-Martial having been issued within the space of *three years*,
would,

and of itself be decisive. He would be considered as if he had never been accused ; or as if he had been tried, and legally acquitted ; and an end would of course be put to his *suspension*, and to every other temporary hardship that had been inflicted upon him.

What hesitation therefore can be made, and upon what reason can such hesitation be founded, to prevent the same rule, under circumstances precisely similar, from taking place, with regard to General Stuart in your Service ?

If then you are satisfied, in your own minds, of the impracticability of now obtaining, or even of the strong impropriety of again attempting any Military Trial in India, it necessarily follows, that General Stuart should no longer be kept in suspense ; especially when there are such clear and unequivocal proofs (a circumstance on which I think myself well intitled to lay great stress), that he has uniformly made every possible effort to obtain a regular trial by a Court-Martial, which has been as constantly withheld from him.

But there is likewise an additional, and a very weighty reason, why no further delay can be necessary before you decide on General Stuart's case, which is this, That a court of very high authority in this country has lately decided upon, and made known, the nature, magnitude, and consequences of the offence which has been imputed to him.

In a prosecution carried on by his Majesty's Attorney General, by the orders of the House of Commons, against Mr. Stratton and others, the whole of the transactions at Madras in the year 1776, and especially what related to the seizure and confinement of Lord Pigot, underwent a strict and solemn scrutiny.

I shall avoid entering into the particulars, either of the trial or the judgment, any further, than may be necessary to explain how strongly both the one and the other apply to the case of General Stuart, and shew the reasonableness of what I now solicit.

In that prosecution, the charge brought against the defendants consisted of the following particulars, and is in these words : " That unlawfully,

“ and seditiously, they formed themselves into a Council, and did confer
 “ the command of the army upon *James Stuart*; and did order him to
 “ put the fort and garrison under the command of them the defendants:
 “ —and if any resistance should be made to their orders, to *secure the*
 “ *person of Lord Pigot*; and that *they afterwards did actually arrest and*
 “ *imprison Lord Pigot, and with a military force continued him so impri-*
 “ *soned for the space of nine months*;—and during that time, unlawfully
 “ assumed to themselves the government of the army, and fort and
 “ garrison of Fort St. George, with its dependencies.”

The persons accused acknowledged the assumption of the government, and the issuing the orders in consequence of which Lord Pigot was seized and confined; but maintained that they had acted upon the necessity of the case, and upon motives of public utility; and in proof of that they asserted, that in fact, the peace and safety of the settlement had been preserved by what they had done.

The Judges of the King's Bench, after weighing the whole of the evidence for and against the persons accused, pronounced an unanimous judgment, by which the total extent of the punishment inflicted, was a fine of *one thousand pounds*, to be paid by each of the defendants; and the reasons on which that judgment was founded, were precisely specified in the opinion delivered by the court.

From that opinion, and from the smallness of the fine, when compared either with the magnitude of the offences charged, or with the situation and circumstances of the persons accused, it is perfectly evident, that the Judges were satisfied the defendants had not acted from criminal motives or intentions: it appeared to the court, that the measures taken by the defendants had been first produced by several arbitrary and illegal acts on the part of Lord Pigot, which were considered as a subverting of the constitution. These, and various other circumstances in mitigation of the offences charged, reduced the total extent of the punishment to a small fine. The sentence of the court may therefore be considered as something between a *condemnation* and an *acquittal*; it was a *condemnation* so far as it tended

to



to shew that the acts of the Majority of Council were not *warrantable by law*, but it was an *acquittal* of every criminal motive or intention; to which however, the court, by the fine imposed, thought it proper to affix such a mark as might denote that their conduct had not been *strictly legal*.

The total extent of the offence imputed to General Stuart is, that he *obeyed the orders* which the Majority of the Council had issued to him, for putting the fort and garrison of Fort St. George under their command, and for securing the person of Lord Pigot. This obedience to their orders is the very essence of General Stuart's crime, and the source of his misfortunes.

But these acts of *arresting and imprisoning* Lord Pigot, and the *taking possession of the fort and garrison*, were, in the late prosecution, expressly charged upon the Members of the Majority of Council, as acts done by them. The very object of their trial was to ascertain the punishment due to these offences, and likewise to the further offence of having unlawfully *assumed the government*.—Thus not only the identical offence imputed to General Stuart, but more than that offence, has already been the *subject of a regular trial*, has been judged of and decided upon; and it is upon those offences, with all the circumstances of *aggravation* or *alleviation* attending them, that the judgment, which ascertains the extent of the fine or punishment, has been already pronounced.

But if General Stuart had been a defendant in that prosecution (which he might have been, as the charge against him was of a *civil* rather than a *military* nature), there could not have been the smallest hesitation in deciding, that his offence was very *inferior*, in point of magnitude, to that of the Members of the Majority of Council, who had *issued* those orders, and at the same time had *assumed the government*.

In another respect, his situation was very different from theirs, for his *Superior Officer*, the *Commander in Chief*, was one of the Members of the Majority, who signed and issued the *orders* to him, the second in command, requiring his obedience.

Besides these particulars, which materially discriminated General Stuart's case, I must beg leave to request your attention to some further essential circumstances.

When .

From considerations of this nature, it would have been the duty of General Stuart, or at least it would have been meritorious in him, to have rejected the *cautious plan of inactivity*, even if he had foreseen, at that time, the decision of the King's Bench respecting the *legal government of Madras*.

There are occasions, when it becomes the duty of a good citizen, to run the risk of future objections to the *legality* of his conduct, for the sake of averting some imminent hazard to the community; and the most unfaithful servants to the Public, are those who, upon hazardous and critical emergencies, regulate their actions merely by the consideration of what is safest and best for themselves.

It is impossible for any man to assert, with any degree of probability, that the peace of the settlement could have been equally preserved without General Stuart's interfering in the manner he did: but it is beyond the reach of dispute, or of cavil, that *no greater or more complete degree of peace and security* could have been obtained, than that which attended the part taken by him at that difficult crisis; when a *dissolution of legal government*, and a *commencement of anarchy*, had already taken place.

These things were accomplished by one to whom no option was left, but a choice of *difficulties*; and whatever doubts may be entertained as to his having judged well for his own interests, it seems to admit of little doubt, that he judged and acted well for the interest of the East India Company.

The plain and obvious inference, therefore, which I draw from the circumstances in which he was placed, from his conduct in that situation, and from the consequences of it, is this :

That if General Stuart had been prosecuted in the Court of King's Bench (which I now most sincerely lament he was not), as his offence, if he was guilty of any, was less than that of the Majority of the Council, his punishment must have been less likewise, even though the Court had not taken into consideration the many circumstances of *justification*,
or

or at least of *alleviation*, which are peculiar to his case, and which undoubtedly would have had the greatest weight.

Having now laid before you all that General Stuart could *possibly* have suffered if he had been tried, let me request you would compare the utmost extent of that punishment with what he has *actually* suffered from not having been included in the *civil trial*, and from having been repeatedly, and for years, denied the *military one*.

Review, Gentlemen, the situation in which the consequences of your orders have so long placed him; consider his suspension, the stoppage of his pay, his supercession, and by a younger officer, and all the mortifying circumstances which have unavoidably followed that supercession.

A complete reparation for all he has suffered, must, I fear, be laid aside as impracticable; permit me, however, to suggest such method of redress as the circumstances of his case seem to admit and require; and which, I flatter myself, you will think it both reasonable for him to expect, and, in the present situation of your affairs in India, for the real interest of the Company to grant.

The measure which I beg leave to propose, is this,—*That General Stuart's suspension should be taken off, and that, on a vacancy in the Command in Chief, he should be restored to it, in the same manner, and under the same circumstances, that it was formerly held by him, or that it has been since held by Sir Hector Munro.*

As General Stuart entered into your service upon an express agreement, that he should succeed to the command on the death, resignation, or removal of Sir Robert Fletcher; and as he had actually succeeded to that command, strict justice might possibly require, that when you are satisfied as to his innocence, or convinced that he has suffered beyond the magnitude of his supposed offence, he should be *directly* restored to the situation from which he had been displaced.

But as I am thoroughly satisfied that such a measure, though just, with regard to my Brother, would be highly injurious to General Munro, I have not the smallest hesitation to declare, That while General Munro, with your approbation, chooses to retain the situation of Commander in Chief, there shall never be any request or application from me, that has even a tendency to interfere with his wishes in that respect.

My request is merely, that your orders for General Stuart's restoration should take place on Sir Hector Munro's leaving the settlement; and that the suspension, which was originally inflicted for the space of six months only (though, by the effect of accidents rather than from any direct intention on your part, it has had a much longer duration), should be immediately removed.

By this arrangement, attention will be paid both to the interests of General Munro and of General Stuart; and, I believe I may be permitted to add, to those likewise of the East India Company. For by these means they may be assured of the services of two officers, both of whom are qualified, by their rank and experience, for rendering essential services to the Company in the higher situations of command. And it is well known to you, Gentlemen, that it has long been the opinion of those best acquainted with your affairs; and particularly, that it was the opinion of Lord Clive, one of the greatest authorities on a subject of this nature, that in that part of the world, where the continuance of life and of health is much more precarious than in European climates, you ought never to be unprovided with a succession of officers in the higher ranks of the military profession; who, by adding local knowledge to other abilities, might be qualified for command on great emergencies; without which, all your other efforts must, probably, be ineffectual.

Upon due consideration of the request now made, I flatter myself you will find that it aims at nothing either immoderate or unreasonable,

If any solid objection had occurred to me, I should have thought it my duty to avoid troubling you upon any proposition not qualified to stand the test of your most mature deliberations.

But unable to discover any that are just and well-founded, I have next endeavoured to find out, whether some objections, carrying with them at least a plausible appearance, might not be started against what I have proposed.

Under this description, something like the following only have occurred.

That after all the clamour raised about the disturbances at Madras, and about the part taken in them by General Stuart, the replacing him in his former situation until he had obtained a sentence of acquittal from a Court-Martial, or some other regular tribunal, would, in effect, be absolving him without any punishment, or chance of punishment.

The best answer on the part of General Stuart, to this objection, is in the recital of his sufferings, and in the review of his conduct. The first shews that he has, in fact, been *punished*; and the second, that he has solicited repeatedly for a trial, and by that means repeatedly called aloud for punishment, if he deserved it.

It has been his peculiar misfortune, that his hardships have preceded his trial, or any legal proofs being established against him. But it would be a still greater misfortune, if, because he has constantly been refused *a legal trial*, he should be charged with not having been *legally acquitted*.—But this reasoning, absurd as it may seem, has given occasion to people to say, that General Stuart has no right to complain, because his conduct has undergone no *legal censure*, and that he has himself undergone no *punishment*. He has not been *punished*, it is said—he has only been *suspended*.—It is not denied, however, that this *suspension* has affected, first, his situation in the East India Company's Service; and next, his rank in the King's Service; and that both those suspensions might be fixed upon

him and perpetuated, a third suspension has taken place,—*The suspension of his trial.*

Is it possible, Gentlemen, for any man to believe that those hardships which, if inflicted upon General Stuart under the word *punishment*, would have been intolerable, imposed under the word *suspension*, are in the slightest degree mitigated, or less grievous; and that a change of the expression can in any manner alter the nature of the thing?

By assigning his not having been *tried*, as a reason for his not being *redressed*; the denial of justice, and the refusal to hear, are circumstances not only in themselves injurious, but are made use of likewise as the foundation and the defence of further injustice; and the refusal to replace him, because he has not obtained a *sentence of acquittal*, must lead to the perpetuating his misfortunes; for it has been already shewn that, from the *lapse of time*, as well, as from other considerations, it is now become impossible for him ever to expect a Court-Martial.

But although all hopes of obtaining that particular species of trial are at an end, he still is liable to be tried, and is ready, at any time, to answer to the laws of his country in the ordinary course of justice, for any offence that can be alleged against him. And indeed the opinion and judgment of a court of high authority in this country has, in effect, and by necessary inference in the manner already explained, been obtained upon the nature, extent, and consequences of any offence that could be imputed to General Stuart for his obedience to the Orders of the Majority of Council.

These considerations are, I apprehend, of themselves sufficient to afford a complete and satisfactory answer to the supposed objections above mentioned, in case such objections should, in any quarter, happen to be made, and be thought deserving of attention.

I cannot, however, help being apprehensive that I have been led, from anxiety for a Brother, to give you some unnecessary trouble

in stating and refuting objections which are merely possible; for, upon reflection, it seems to me, that no one well informed on the subject, can entertain a serious wish to oppose a measure which comes so strongly recommended by considerations of propriety, justice, and even of humanity.

General Stuart had attained a very high situation,—He was Commander in Chief of a great army belonging to the East India Company in the Carnatic.—How highly he had improved the discipline, and increased the strength of that army, has been universally acknowledged. His efforts contributed greatly to make that army equal to the accomplishment of the most important enterprises:—But, unfortunately, almost at the very moment of their execution, the orders from the India-house first suspended him from the service; and afterwards removed him from the command.

In the course of a few months the hostilities with France commenced: The moment he heard of those hostilities, forgetting, or acting as if he had forgot, the indignities under which he was suffering, he made an offer of his services;—and though, but a few months before, he had been at the head of that army, he waved every pretension to rank, and desired to be placed in any situation where there might be any prospect of his being useful.—But even this zealous and humble offer was rejected; his suspension being thought a bar to the acceptance of his services.

Thus, your orders for his *supercession* deprived him of the highest military situation; and the order for his *suspension* prevented his being useful in the very lowest.

Reduced from being Commander in Chief, to a mere private individual, he has remained for years in this useless degraded situation; urging incessantly, by his friends at home, and personally himself in India, requesting and demanding a trial; not with the usual apprehensions of a person to be tried, but with all the zeal and eagerness of a vindictive prosecutor.

The

The being removed from the command of a great army, at any period, you must be sensible, is a loss, very affecting to a military man; but when, in addition to the loss itself, the particular time of that removal is considered, no one, I am persuaded, can be so completely indifferent to the misfortunes of others, as to imagine, that the redress proposed, exceeds, or is in any degree equal to, the extent of General Stuart's sufferings, losses, and disappointments, when the nature of them is fully considered.

He was obliged to surrender the command of the army into other hands, at a time when that surrender was immediately followed by all the honours, distinctions, and rewards, which so properly attended the successful event of the siege of *Pondicherry*.——That they were merited by the officer, who, acting in General Stuart's place, has enjoyed them, is not by me, or in any quarter disputed; but it cannot be deemed, nor, I believe, would General Munro himself consider it, as any detraction from his merit, to suppose, that the same enterprise, with the same army, would equally have succeeded under the command of General Stuart, who has had the advantage of much experience, and whose military merits have been undisputed, even by his enemies.

The hardships of an officer are not to be measured merely by the length of time he has been suspended from the service (though even in that view, General Stuart's sufferings have been very considerable), but by circumstances which are far more affecting,—by the means of signalizing himself, which have been lost, by the openings for activity, and distinguished opportunities of service, which seldom offer, and scarce ever return.

When the whole of this matter is thoroughly known, and considered, will it be *seriously* pretended by any one, that General Stuart has undergone no severities, and suffered no *punishment*?—Or can it be supposed, by those who consider what constitutes the pride and happiness of an officer, that the immaterial fine imposed by a Court of Law upon the persons *tried* and *principally accused*, bears

any sort of proportion to what General Stuart, *untried*, has been obliged to suffer for his *inferior* supposed offence?

In addition to the title which he has to redress on account of his sufferings, he flatters himself that he has a still further claim, Gentlemen, to your favour and protection, as guardians of the interests of your constituents, on the grounds of his *acknowledged merits*.

That attention should be paid, and ample justice done, to officers who have distinguished themselves by beneficial exertions in your service, will be at all times essential to the honour and interest of the India Company.—But it is particularly so at this time, when the increasing number of our enemies will call for every exertion in India, where both local and military knowledge are absolutely necessary, and where those who stand distinguished by a union of these qualities will principally be looked up to, as the most capable of performing any *future services*.

To the credit of the East India Company, instances never have been wanting in which they have acted towards meritorious officers upon these wise and honourable principles; and it has been remarked, with pleasure, that, upon these principles, your conduct has, in a conspicuous manner, been regulated in the recent instance of the favour shewn to that deserving officer *Major Horne*.

The same unfortunate dissensions at *Madras*, which had occasioned your displeasure to *General Stuart*, had also subjected to the same misfortune *Major Horne*, *Captain Edington*, and *Captain Lyfaught*. Your orders directed that those three officers, as well as *General Stuart*, should be tried by a Court-Martial, on account of the share they severally had in the seizure or confinement of Lord Pigot.

No Court-Martial was held on those Gentlemen, in consequence either of your first orders in 1777, or of your renewed orders in 1778. The difficulties which had occurred to the Governor and Council against granting

granting a Court-Martial on General Stuart, prevented also the trial of those other officers. In this situation, they sustained several temporary hardships, accompanied with evident marks of your displeasure.

When the news reached Madras in Summer 1778, of the commencement of hostilities with *France*, and the siege of *Pondicherry* was resolved upon, *Major Horne* made an offer of his services, and that offer *was accepted*. He commanded the artillery; and from his experience, zeal, and abilities, contributed greatly to the success of that enterprise. Particular commendations of his services were sent home; and the immediate consequence was, that, in 1779, you sent out instructions to Madras, that *Major Horne* should be restored to the command of *Tanjore*, which command he had attained subsequent to the disturbances at Madras, but from which he had been displaced in consequence of your orders for his trial. The instructions sent out in 1779, for his restoration to that command, were, however, qualified with this condition, “in case he had been tried and acquitted by a Court-Martial.”

As *Major Horne* could obtain no trial, and of course no acquittal, that condition which made a trial necessary, would of itself have been sufficient to defeat all your favourable intentions, had he remained in India; but he had sailed for England before your orders reached Madras.

His case came under the consideration of the Court of Directors within these few months, and at that time it was known that there had been a second refusal at Madras of the military trial to General Stuart. The Court, therefore, judged it proper, on every account, to take upon themselves the decision of *Major Horne's* case. Upon the examination of it, they have not only abstained from any *censure upon his conduct* in the Madras disturbances, but they were so fully satisfied of his *military merits*, and of material services he had rendered, and might probably hereafter render, to the Company, that on the 2d of January last, they expressly *rescinded* their former orders
for

for Major Horne's *trial by a Court-Martial*; and on the 3d of January, it was further resolved by the Court of Directors, that *Major Horne* should return to Madras with the rank of *Colonel of Infantry*, next above Colonel Lang, which gives him an advance of four steps, and has the effect of placing him next in command to General Stuart upon the Madras establishment.

Both the attention paid to this deserving officer, and the mode of doing it, give to all the arguments I have employed in behalf of General Stuart, much additional force.

What you have so recently done in Major Horne's case, affords more than a precedent, and goes far beyond the very moderate request I have made in favour of General Stuart.

In what I have taken the liberty to propose for my Brother, I have not requested that he should receive any new or additional mark of your favour, in compensation of his sufferings; nor have I aimed at his being *immediately* restored even to the same situation he formerly held; I have only proposed, that his restoration should take place eventually, and upon the first vacancy.

When the reasonableness of this proposition is compared with, and found to fall so far short of, what you yourselves have done in the case of Major Horne, it is hardly possible to imagine that the compliance with the request I have made can suffer a moment's hesitation.

Your orders for the military trials of *General Stuart*, *Major Horne*, *Captain Edington*, and *Captain Lyfaught*, originated from the same cause—the share they had in the seizure or confinement of Lord Pigot;—but none of these officers having been able to obtain a trial by a Court-Martial, it has been dispensed with, and the order for it rescinded, in the case of Major Horne, and will, from the reason of the thing, be dispensed with in the case of the other officers. Major Horne, Captain Edington, and Captain Lyfaught have been employed in your service since the time that your orders for their trials arrived in India; and the advantage of their having been employed, appears from the services they have performed

in their several military situations; for, singular as it is, it so happens, that your displeasure, in consequence of the unfortunate disturbances at Madras, fell upon *four officers*, who were distinguished for their zeal and their abilities in the Company's military service.

But though the orders which you sent to India for a military trial extended equally to them all, yet the refusal of that trial has been productive of greater misfortunes to General Stuart, than to those other officers to whom the orders for a trial related.

In the *first place*, General Stuart, alone, has suffered from the temporary *stoppage of the pay*; for that part of your directions, though expressed in general terms, has, in its application, been confined to his case in particular.

Secondly, The services of the other three officers, while under orders for trial, were accepted of, but his were rejected.

Thirdly, As General Stuart was at the head of the army, and, if he had not been superseded, would have commanded in chief at the siege of *Pondicherry*; a complete reparation of his injuries becomes almost impracticable. In ordinary cases, where the displeasure at an officer has ceased, the reparation is generally made by reinstating him directly in the situation from which he had been displaced, and sometimes by a further promotion. But the supercession of General Stuart, by an officer sent from England on purpose, has so increased the difficulties of doing complete justice, that I have found it reasonable, though severe upon him, to wave any pretensions to his being restored to his former situation, until the officer, by whom he was superseded, chooses to quit the command.

My argument is not, that those officers who were ordered to be tried in the same manner as General Stuart, have suffered *too little*.—What I know of their characters, and of their having acted from a sense of what they considered to be their duty, makes it impossible for me to entertain any such idea; but the argument suggested by the facts I have mentioned is, that General Stuart has suffered *too long*, and greatly *too much*.

What

What reason, or inducement, then, can there be for the continuance of so disproportioned a measure of punishment? And must not the East India Company feel themselves strongly called upon, in justice to General Stuart, and from a sense of propriety, to afford every possible relief to one whose hardships have been beyond all bounds, and whose services have long been acknowledged, and particularly by your Letter of the 14th of April, 1779, where his conduct, in what related to the civil as well as military concerns of the Company, has been approved of in terms highly flattering and honourable for him?

As some account has been given of those services, in the Letter which I had lately the honour to address to Lord Amherst, I think it my duty to abstain from any repetition on that subject.

From the unfortunate circumstances of the times, every thing that is valuable to the East India Company in *Indostan*, may now, perhaps, be decided by the events of war; for, besides the contests in which the Company are engaged with some of the country powers in India, there now exists a state of war with the French, who certainly will be disposed to improve every opportunity of injuring the East India Company, and benefiting themselves in that part of the world.—The state of hostilities lately commenced with the Dutch, adds to the number of foes in India, and may probably give birth to many military operations, either offensive or defensive, in that quarter of the globe.

If, then, there are officers in the Company's service, and now upon the spot in India, who are qualified to be highly useful to the State, can this be the particular and well-chosen time for the Company to deprive themselves of all possible utility from any officer of that description? Or is it consistent with the interests of the State, or of the Proprietors of the East India Company, that such a plan of conduct should be adopted, and at such a crisis, and that the merits of those officers should be at once extolled and neglected?

It is not for me to say how far this description of officers qualified to render essential services, at such a crisis, may be particularly applicable to General Stuart; but without subjecting myself to the imputation of partiality or presumption, I may be permitted to observe, that General Stuart either is, or ought to be, qualified to answer that description.—He has had the advantage of a regular professional education, had many opportunities, and particularly during the last war, of seeing real service, of acting under respectable commanders, and in situations well calculated to form an officer.—And as military knowledge has been the great object and study of his life, it is at least probable, that the estimation in which he is held by military men as a useful officer, is not entirely without foundation.

You yourselves, Gentlemen, in your Letter of April 1779, have been pleased to express this opinion of his military merits, and to found upon them an expectation of *important future services*.

But if the compliments that have been paid to him by the Court of Directors, are followed with no consequences that may stop the current of his misfortunes, and reinstate him in a capacity of being useful to the Public, what a discouragement will it be to the zeal of officers in your service, to exert themselves in acquiring those praises which they have hitherto been accustomed to consider as so valuable, and as the certain earnest of your future favour and protection?

Thus, Gentlemen, I have laid before you all the material circumstances of General Stuart's case;—his supposed offence;—his actual sufferings;—the refusal of his trial;—the acknowledgment of his merits;—and the method of redress which he thinks himself well entitled to solicit and expect. I considered it as a part of my duty to represent to you all these particulars,—it is your province to decide upon them; and I have nothing further to add,

I before

before I conclude this Letter, but a repetition of the assurances I gave you at the beginning of it, that no occasion can, I think, possibly occur, which shall induce me to give you any further trouble ; for, if all I have already said shall not be found sufficient to explain the unmerited hardships of General Stuart's situation, and to impress strongly on your minds the justice and necessity of affording the proposed relief, I despair of succeeding in that attempt by any further endeavours ; and I shall sit down, suspecting, that there either is some weakness in General Stuart's case, which my partiality prevents me from discovering, or that I have not been able to put forth the strength of it in such a manner as it deserves ; and it must be left to the impartiality of the world at large to decide, Whether the refusal of all redress to General Stuart (if such refusal can be possible) ought to be imputed to the defects of his cause, his advocate, or his judges ?

I have the honour to be, with great respect,

„G E N T L E M E N,

Your most faithful,

And obedient humble servant,

BERKLEY-SQUARE,
March 5, 1781.

AND^w. STUART.

L E T T E R

TO THE

Right Honourable Lord AMHERST

FROM

ANDREW STUART, Esq.

[January 3, 1781.]

M Y L O R D,

TH E duty which I owe to an absent Brother, whose situation stands distinguished by an accumulation of hardships, puts me under the necessity of requesting your Lordship's attention to the unusual circumstances of his case.

It is well known to your Lordship, that my Brother Colonel James Stuart had the honor to serve his Majesty during the course of last war; and that in the various branches of military duty which fell to his share in Europe, North America, and the West Indies, he conducted himself to the satisfaction of his several respectable Commanders, and acted with reputation to himself, and utility to the Public.

During the peace which followed, Colonel Stuart turned his thoughts towards the service of the East India Company, and before the commencement of the present war, having, by his Majesty's permission, entered into that service he sailed for India in the month of November 1775.

The situation in which he went to India, was that of Second in Command of all the East India Company's Forces upon the Coast of Coromandel, with the rank of Colonel; and, by express appointment from the East India Company, it was settled, that upon the death, resignation, or removal of Brigadier-general Sir Robert Fletcher, at that time Commander in Chief upon the Coast, and in a declining state of health, Colonel Stuart should succeed to that Command, and to the rank of Brigadier-general, in the same manner as they were enjoyed by Sir Robert Fletcher.

Colonel Stuart arrived at Madras in the month of May 1776. Sir Robert Fletcher died in the December following; and upon that event Colonel Stuart became of course Commander in Chief upon the Coast, with the rank of Brigadier-general in the Company's service.

In the month of August 1777, a Promotion of Officers in his Majesty's service took place; at which time a great number of Lieutenant-colonels obtained the rank of Colonel.

My Brother was then near the head of the list of those Lieutenant-colonels who were entitled to rank from that promotion; but that rank was withheld from him, while Thirty-two Lieutenant-colonels, younger in the service, were made Colonels upon that occasion.

Since the month of August 1777, the list of Officers now above him, and who were at that time below him, is increased by the number of Fifty-nine; so that since Colonel Stuart went to India, there are now no less than Ninety-one junior Lieutenant-colonels who have got rank over him, and to his prejudice, besides Forty-six Officers of Militia, Four of Fencibles, One of Artillery, and Five of Marines, who have likewise got the rank of Colonel in that period.

The first intimation of my Brother's being left out of the Promotion of August 1777, was by a Letter to me, then in Scotland, from Lord Barrington, the Secretary at War, dated the 3d of September 1777. A copy of that letter, and of my answer, and of a second letter received from his Lordship on the same subject, in October 1777, I have now the honour to inclose to your Lordship.

These letters do not expressly specify the motives for withholding the rank which Colonel Stuart was at that time intitled to expect, nor do they mention the time during which this suspension was to be continued, or what circumstances should be deemed sufficient to put an end to it.

There is, however, one paragraph in his Lordship's letter of the 3d of September 1777, which gives reason to conclude, that the disturbances which had happened at Madras in the year 1776, and of which
the

the most alarming reports had been spread in England, were the sole cause of with-holding from Colonel Stuart the rank in question, until it should be known what his conduct had been in these disturbances, and what had been the consequences of them in the Settlement at Madras.

The paragraph here alluded to, is in these words: " This letter
" therefore is not intended as an apology, but as an assurance, that full
" and perfect justice will be done to him (Colonel Stuart) hereafter, if
" his conduct in India resembles the rest of his conduct through life. I
" depend on your giving him this assurance in my name," &c.

From the terms of the above letter, as well as from the general tenor of Colonel Stuart's conduct and military character, there are two inferences which seem unavoidable.

The one is, that the hardship inflicted upon Colonel Stuart, at the time of the promotion in 1777, did not take its rise from any part of his conduct *while in his Majesty's service*.

The second inference is, that the keeping his rank in suspense was meant only to be a *temporary* measure, until authentic accounts should be received of the nature and consequences of these disturbances at Madras, in the year 1776, and of Colonel Stuart's conduct upon that occasion.

If it be admitted, and no one can dispute it, that the with-holding from Colonel Stuart his rank, did not proceed from any part of his conduct *while in his Majesty's service*, but that, on the contrary, he was held in estimation as an active, intelligent, and deserving officer, military men, with whom I have conversed on the subject, are of opinion, that upon these admitted facts, Colonel Stuart might reasonably have expected the benefit of a promotion which is allotted to officers in his Majesty's service, merely on account of their standing in that service; and that it would likewise have been natural to expect, that no rumours or reports about his conduct in the service of the East India Company, should have had the effect of depriving him, even for a moment,

of that preferment which he had earned, both by the number of years he had served in the King's army, and by the active and useful services in which he had been engaged.

It has further been observed, that what made it less reasonable that this rule should have been departed from, is, that those from whom Colonel Stuart holds a commission in another service, have in their own hands sufficient power to make him, or any other officer in their service, feel severely the effects of their displeasure, if he should be found to have merited it, after a proper enquiry or trial, which they of themselves have sufficient authority to institute.

And finally it has been remarked, that the mere *possibility* of an officer's having been guilty of offences in another service, ought not at any period preceding his trial and conviction, to prevent his receiving, as a matter of course, the benefit of a promotion in his Majesty's service; and this proceeds upon the plainest principles of justice, confirmed by constant practice, that every man is presumed to be innocent, and so treated, until he be actually proved to be guilty:—but in the present case, the strongest additional reasons concurred, because upon the supposition of Colonel Stuart's being tried and justly convicted in India, subsequent to his promotion in the King's service, it would always have remained, as it undoubtedly ought, in his Majesty's breast, to deprive him of all benefit from that and every other promotion, by dismissing him from his service.

In my letter to Lord Barrington, in the month of October 1777, I communicated some observations of this nature; but these observations were unavoidably too late for the desirable purpose of prevention, as before they could reach his Lordship, and indeed before any intimation was given to me on this subject, the hardship complained of had been actually done.

Having thus as concisely as possible brought under your Lordship's view the reasons which induced judicious and military men to be of opinion,

opinion, that Colonel Stuart had a just pretension to be included in the promotion of the year 1777, I shall not presume to take up more of your Lordship's time unnecessarily, on this branch of the subject, but shall proceed to shew, that even if the exclusion of Colonel Stuart from the promotion in 1777, could be considered as originally RIGHT, yet the further prolongation of that hardship would now be WRONG, as the *ground is essentially changed*, and none of the reasons on which the first measure of denying Colonel Stuart his rank was justified, can be thought in any degree applicable to the further continuance of this unusual and mark'd discouragement to an officer in his Majesty's service.

For establishing the truth of this assertion, it will be proper, in the first place, to mention to your Lordship the reports which were circulated in this country about the Madras affairs, and to state the best reasons which I have ever heard offered, for the measure of withholding from Colonel Stuart the benefit of the promotion in the year 1777; intreating, at the same time, your Lordship's particular attention to the very material difference there has been between the first reports that were current here, and the facts as they have since turned out.

The reports and alarms which, in the year 1777, had come over from India, concerning the transactions at Madras, in the month of August 1776, when Lord Pigot was arrested and confined by military force, had not only excited a great flame in this country amongst those who were attached to Lord Pigot, but they had likewise produced in many quarters an apprehension about the safety of the settlement where these transactions had happened. Some men really believed, that the settlement was in danger, either from the Company's servants, or from the country powers in India, or from both. A civil war, anarchy, and confusion, were represented as the unavoidable consequences of what had happened; and as it had fallen to Colonel Stuart's lot to carry into execution the orders issued by the Majority of the Council at Madras, for taking possession of the Fort at Madras, and for arresting

and

and confining, by military force, the person of Lord Pigot; he, Colonel Stuart, was represented and considered as a person principally concerned in those disturbances. Not only so, but it was reported, and loudly asserted, even at General Courts of the India Proprietors, that Colonel Stuart had got the army at his devotion; that he would set up for himself, and disregard any orders issued from England.

Such were the reports and alarms which prevailed. Under their influence (as is supposed), the measure of excluding Colonel Stuart from the promotion in 1777 was taken, and this supposed cause of that measure certainly formed its best justification. Permit me, therefore, once more to request your Lordship would observe, how totally different every thing has turned out in point of Fact; for the alarms and imaginary terrors, entertained in the year 1777, have now been long dispelled, and the injustice done to Colonel Stuart, by supposing him capable of such conduct or intentions, has been made manifest by the most authentic and unequivocal proofs.

Instead of confusion and civil war, there never was a more settled state of peace and security, than that which took place throughout the whole extent of the settlement of Madras, during the period of that government, which commenced in the month of August 1776, and continued till the month of August 1777; and, notwithstanding the temporary dissensions in August 1776, it is admitted, that while these dissensions were at their greatest height, even at that very critical period, not one life was lost; and that subsequent to the act of confining Lord Pigot, no individual in the settlement sustained any injury, either in his person or property.

Instead of resistance on the part of Colonel Stuart, as had falsely been predicted in this country, there has been the most uniform and implicit obedience paid by him to the orders from home.

When Mr. Whithill arrived at Madras, in the month of August 1777, with the new commission of government, Colonel Stuart was the first person who accompanied the new Governor to the parade; was present
at

at the public reading of that new Commission of Government, and of the order for his own *suspension*.

His behaviour upon that occasion is described in the following paragraph of a letter from the new Governor and Council at Madras, to the supreme Council of Bengal, dated the 31st of August 1777.

“ We think it also necessary to observe, with respect to Brigadier General Stuart, whose situation in the late transactions was peculiar, that he shewed the same implicit obedience, on his part, to the authority of the Company ; attended on the parade at the reading of the Company’s Commission of Government to the troops, and was studious, by his whole conduct, to shew to the officers and soldiers the proper sense which he entertained of the Company’s orders.”

Such was the conduct of Colonel Stuart, at the time when the first accounts were brought to him of his being suspended from the Company’s service, during six months, though no specific crime or charge was alleged against him in the order for suspension ; and though he thus found himself deprived of the command of an army, which it had been his study and his pride to improve for the advantage of the State, and of the East India Company ; and accordingly much credit had accrued to him from the success of the measures he had taken for putting it on the most respectable footing.

At the distance of some months after the arrival of this first order by Mr. Whithill in August 1777, additional orders from the Company were brought to Madras in February 1778, by the new Governor, Mr. Rumbold, who had left England in the month of July 1777. By these orders, Colonel Stuart found himself *superfeded* in the command, by the appointment of another officer, Colonel Munro, who was sent from England, on purpose to take the command of the army at Madras ; and this appointment carried with it, according to the military *etiquette*, an additional circumstance of mortification, as Colonel Munro was a junior officer in the King’s service.

The orders thus brought by Mr. Rumbold inflicting a hardship on Colonel Stuart, the more severe as no provision was at that time made

about his being restored to the command of the army at any period, or in any event, met, however, with the same implicit obedience on Colonel Stuart's part; and thus the new Commander in Chief, as well as the new Governor, found the settlement in a perfect state of obedience and tranquillity, without the smallest symptom of a disposition in any quarter, civil or military, to question or resist the orders of the East India Company.

The refutation which the above state of facts contains of the reports which prevailed in England in the year 1777, forms one very important branch of the proofs by which I hope to satisfy your Lordship of the *change of situation*; since it must be evident from what has been stated, that, in one material respect at least, the circumstances under the influence of which Colonel Stuart was excluded from his promotion, are now not only unquestionably changed, but totally reversed

I shall next beg leave to mention to your Lordship some other particulars, which shew still stronger the very essential change of situation.

In the month of July 1777, the Directors of the East India Company, at the same time that they sent out by Mr. Rumbold a new commission of government to Madras, sent out orders for calling home to England all the civil servants of the Company who had composed the Council at Madras at the time when the disturbances happened there; and with respect to the military officers who, in the arrest and confinement of Lord Pigot, had acted in obedience to the orders of the Majority of Council, directions were sent out by Mr. Rumbold, that they should be suspended the service, and tried by a Court-Martial. This order for suspension and trial related particularly to Brigadier-General Stuart, Lieutenant-Colonel Horne, Captain Edington, and Captain Lyfaught.

I take it for granted, that, in the month of August, when the general promotion of officers in the King's service took place, the Secretary at War had heard of this order, which, in the preceding month

of July, had been sent out by the India Directors; and if so, the knowledge of this step taken by the India Directors might induce the Secretary at War to consider that order in the same light in which he would have considered an order, under the royal authority in this country, for the trial of an officer by a Court-Martial for offence committed in his Majesty's service; in which case, I have been told, that the promotion of such officer is generally kept in suspense, until the event of his trial is known.

But these two cases are, in many respects, which will readily occur to your Lordship, so essentially different, that they cannot, I apprehend, without manifest injury to his Majesty's service, be considered as on the same footing; and it must be obvious, that many hurtful and inconvenient consequences would arise, if it were to be assumed as a principle at the War-Office, that when an Officer by the King's permission enters into the service of the East-India Company, he is, from that moment, to be subject to have all his future expectations in his Majesty's service, as well as all the consequences of his former merits in that service, regulated implicitly by the proceedings and opinions of the Directors of the East-India Company, or their Servants in India.

I am ready, however, to admit, that at the time of the promotion in 1777, it might very naturally and reasonably be presumed by the Secretary at War, that the orders given by the East India Company for Colonel Stuart's trial by a Court-Martial would, as speedily as possible, be obeyed by their Servants at Madras; and, therefore, that the intermediate short delay, by not allowing him the benefit of a promotion in his Majesty's service until the event of that trial was known, could not be very prejudicial either to his honour or his interest.

But in this the event has proved so contrary to all reasonable expectation, that if the measure of stopping Colonel Stuart's rank in the King's service proceeded at all upon the orders then recently sent by the India Company for his trial by a Court-Martial, and upon the idea that he would speedily have an opportunity, by that trial, of getting justice done to his character and conduct, there must now be the strongest reason

for reversing a measure founded upon a supposition which in the event has been found to be totally erroneous, and in its consequences highly injurious to Colonel Stuart. For the real fact is, that notwithstanding the orders sent out by the India Company in July 1777, for his immediate trial by a Court-Martial, that trial was, in the beginning of the year 1778, refused by the Governor and Council at Madras; and notwithstanding the renewed peremptory orders sent out in the month of December 1778 for his trial, the benefit of that trial by a Court-Martial has again, in the beginning of the present year 1780, been refused to him.

As no part of the Secretary at War's letter to me has specified the motives or particular grounds on which it had been judged proper to withhold from Colonel Stuart the benefit of the promotion in the year 1777, I have thought it necessary to consider these motives, under the only two possible aspects in which I apprehend they are capable of being considered,—as proceeding either from the reports then current, or from the orders that had been given by the India Company for his trial by a Court-Martial.

But it has been shewn, that, upon either of these principles, *the ground is totally changed*.—If the reports about the safety of the Settlement, or the rumours spread about the consequences of the conduct imputed to Colonel Stuart, gave rise to the measure, these reports and rumours have been proved to be false.—If it proceeded on a supposition, that Colonel Stuart's trial by a Court-Martial would certainly and speedily take place, the event, after repeated experiments, and after subjecting him to the most cruel state of suspense during several tedious years, has totally destroyed that supposition.

The fact of Colonel Stuart's being twice refused in India his trial by a Court-Martial, is very generally known; and it is also known, that, upon both occasions, that trial was earnestly solicited on his part: but the strongest

strongest proof of this will arise from the perusal of the proceedings at Madras in the years 1778 and 1780, while the granting or refusing the Court-Martial was in agitation. I have therefore taken the liberty to accompany this Letter with a full and exact state of these proceedings.

The contents of these papers are material, because they not only contain the most unquestionable proofs of his zeal to be tried, and of the strongest efforts used by him to bring on that trial without delay, but because they also contain the reasons given by the Governor and Council at Madras for refusing the trial.

Thus, in the General Letter to the Court of Directors from the Governor and Council at Madras, dated the 14th of March 1778, there is the following paragraph on the subject of the first trial that was ordered :

“ General Stuart, as soon as he was furnished with a copy of your orders, and before we came to any resolution concerning him, addressed three letters to us, all of them pressing upon us, in the most anxious manner, his desire to be tried by a Court-Martial; and fearing lest any doubts or difficulties should occur to us on the subject, he introduced several arguments to shew his right to demand a Court-Martial, and pointed out different articles in the Articles of War, by which he thought he might be tried. Although his letters did not contain any reasons of sufficient strength to induce us to alter our opinions upon his case, yet the uneasiness of mind expressed in them was such, that we felt much concern for the peculiar circumstances of his situation.”

Here it is proved, by the most unquestionable authority, that of the very persons who refused the Court-Martial, and who were endeavouring to justify themselves to the Court of Directors for disobedience to their orders, that it was not owing to any fault or reluctance on the part of Colonel Stuart that the trial had not proceeded; on the contrary, that he had used every effort to promote it.

Other parts of the same letter from the Governor and Council at Madras, shew that the reasons which induced them to refuse the trial, were chiefly founded on prudential considerations, and upon a doubt whether

a Court-Martial was competent to decide upon a case which involved questions of nice discussion, relative to the Company's constitutional Government. This is expressed very clearly in the following paragraph of their Letter :

*" The acts of arresting and imprisoning the person of the late Lord Pigot
 " were sufficiently clear. Your disapprobation of those acts is strongly ex-
 " pressed in your late orders; but that disapprobation does not make them
 " offensive in the eye of martial law, and no charge could be grounded upon
 " it. In order to determine whether General Stuart's conduct be criminal
 " in that view, and before any charge could be prepared, it became requi-
 " site to consider the nature of the orders and authority under which he
 " acted, with other particular circumstances attending the arrest of Lord
 " Pigot. The Company's Records, and General Stuart's own Narrative
 " of the transaction, clearly shew, that his Lordship was arrested by an
 " order under the signature of George Stratton Esquire, Sir Robert Met-
 " cher, Henry Brooke, Charles Floyer, Archdale Palmer, Francis Jour-
 " dain, and George Mackie, Esquires; which order General Stuart, in
 " the Narrative, declares he considered as legal, and the Gentlemen who
 " issued it the legal Representatives of the Company. GENERAL STUART
 " APPEARS TO HAVE DONE NOTHING IN THIS TRANSACTION IN-
 " DEPENDENT OF THAT AUTHORITY WHICH GAVE HIM THE
 " ORDER. If that authority were clearly illegal, or the order illegal, the
 " arrest and imprisonment of Lord Pigot, by military force, may be deemed
 " an act of mutiny, and the persons concerned liable to be tried, by an ex-
 " press article of war; but we own to you, these questions appear to us to
 " be of so nice and important a nature, that we did not think ourselves com-
 " petent to form a judgment upon them, with that precision which was
 " necessary to constitute and maintain a charge against an Officer for a crime
 " deemed capital by martial law."*

The paragraph here copied expresses distinctly the grounds on which the Court-Martial was refused; but it is material in another respect, inasmuch as it contains the opinion of the Governor and Council at Madras, with regard to the full extent of what could be alleged against
 Colonel

Colonel Stuart, and the ground on which he must be tried, if ever his trial should take place; for it expressly declares, not only that he had acted under the authority of an order from the Members of the Council therein named, (which is a fact proved indeed by the written orders themselves still extant); but it is material to observe, that it further contains the opinion of the Governor Mr. Rumbold, the Commander in Chief General Munro, and the other Members of the Council at Madras (the very persons to whom the orders for granting the Court-Martial were directed), "That Colonel Stuart appeared to have done nothing in this transaction independent of that authority which gave him the order;" from which the inference made by the Governor and Council is, that the sole foundation for constituting or maintaining a charge against Colonel Stuart, must depend on the *legality* or *illegality* of the order and authority under which he acted.

The matter having been brought to this issue, it could be judged of in England as well as in India, and might be judged of without the intervention of a Court-Martial as well as with it.

The Letter, from the Governor and Council at Madras, to the Court of Directors, dated the 12th of February 1780, which makes part of the printed collection now transmitted to your Lordship, expresses the reasons which induced them, a second time, to refuse the trial which had been ordered by the Directors, and so earnestly solicited by Colonel Stuart. These reasons are, in most respects, similar to those which had been assigned by them for refusing the Court-Martial in the year 1778.

This appears particularly from the following paragraphs of their Letter of the 12th of February 1780:

" You leave it to our judgments to form the specific charges; and having so done, the responsibility of the measure rests almost entirely upon us,
" without

“ without any clue to guide us through the embarrassments which we formerly stated, and which are rather increased than diminished by the opinion of the Law Counsel; for those Gentlemen have taken away from this case the point upon which we conceived the conduct of Brigadier-general Stuart, in a military view, principally turned, *namely, the legality or illegality of the authority by which he acted, and have given us nothing to go upon in its room; since they declare, that whether his conduct, in executing the order, can or cannot subject him to a charge of Mutiny, depends on circumstances, of which they have no proper information.*”

The Letter then proceeds in these words:

“ As the late Lord Pigot was arrested at the distance of half a mile beyond the walls of the garrison, a natural question arose, which we stated in our Letter of the 14th of March 1778, relative to the extent of his command as Governor of the Fort. General Munro’s opinion on this subject, which we have already recited, declares, that the arresting Lord Pigot, out of the Fort, was an act which did not come under any article of war. This is a point which seemed to us material to have been ascertained; but your instructions, and the opinions of the Council, are quite silent on the subject.”

The whole tenor and progress of the proceedings at Madras, in the years 1778 and 1780, on the subject of the Court-Martial in question, clearly indicate, that it was the opinion of the Governor, the Commander in Chief, and the Council there, that unless Colonel Stuart could be made subject to a charge of MUTINY, for the arrest of Lord Pigot, there could be no foundation for bringing him to a trial by a Court-Martial: at the same time they have clearly shewn their opinions, and the opinion of General Munro the Commander in Chief, that as Lord Pigot had been arrested out of the garrison of Fort St. George, this was an act which did not come under any article of war.

The principal, if not the only hesitation with the Governor and Council at Madras, seems to have been, whether Colonel Stuart might not be brought in as guilty of *Mutiny*, by making him *responsible* for the *legality*
or

or *illegality* of the order under which he acted. But any idea of involving him in the crime of *Mutiny*, in this way, was obstructed by the Law opinions that had been sent from England, where the Attorney and Solicitor General, and other eminent Counsel, had given it as their opinion, “ *That it would not follow as a necessary consequence, that the illegality of the order would subject the Officer to a charge of Mutiny.*”

On this point there are so many facts and arguments in justification of Colonel Stuart’s conduct, that, supposing the *illegality* of the order to be clearly established, there can be no chance of his being involved in a charge of Mutiny by that means; although it must be owned that, from the expressions of the Letter from the Governor and Council at Madras to the Directors, there seems to have been a strange idea entertained on their part, that it might be possible to involve Colonel Stuart in a *capital offence*, by this new species of *Mutiny* which had occurred to them, though not thought of or expressed in the Mutiny Act, or in the Articles of War.

Upon the whole, therefore, of what has passed in the course of canvassing this matter, it cannot be unreasonable to maintain, that although there has been no formal sentence of a Court-Martial upon Colonel Stuart, yet facts have been ascertained, and opinions given, which, in a case of this nature, ought to be considered as *equivalent to the sentence of a Court-Martial*.

The circumstances of Colonel Stuart’s case, from the full printed state of it which I gave in to the India Directors in December 1778, and from other means of information, are now so fully known, that these, joined with the opinions above mentioned, given by the Commander in Chief, and the Governor and Council at Madras, and with the opinions quoted of the Law Counsel in England, may fairly be allowed, in a case so peculiarly circumstanced, to have the same effect as if Colonel Stuart had succeeded in the repeated requests he so earnestly made, for having the
judgment

judgment of a Court-Martial, with all the forms that usually attend it.

Such interpretation may with the more reason be contended for, as Colonel Stuart and his friends, from the year 1777 to the present year 1780, have, in the face of every possible hazard with respect to him personally, not only provoked and solicited a trial by a Court-Martial, but demanded it as his right. And it ought further to be considered, that, by the hurtful and mortifying delays and disappointments in the course of those years, he has already suffered more than any Court-Martial could possibly have inflicted upon him, even if he had been found guilty of what is laid to his charge.

The proof of this assertion leads to a new subject; and I flatter myself it will be found, that the assertion is not rashly made, when your Lordship considers what I am now to state, concerning a memorable trial that happened last year in Westminster-Hall.

The whole of the transactions at Madras, in the year 1776, and particularly what related to the disturbances at the time of the seizure and confinement of Lord Pigot, have, in the course of this last year, undergone a strict and solemn scrutiny in the court of King's Bench, in a prosecution by his Majesty's Attorney General against Mr. Stratton, and the other members who composed the Majority of the Council at Madras, when Lord Pigot was seized and confined by their orders.

In that proceeding, those members were charged with assuming the government in August 1776, and with the seizure, confinement, and detention of Lord Pigot, and for having issued the orders to Colonel Stuart, in consequence of which Lord Pigot was so seized and confined.

The persons accused acknowledged the assumption of the government, but defended themselves on the ground of civil or political necessity, on their being in duty bound to prevent the subversion of the constitution, which, they alleged, had been manifestly attempted by several violent, illegal, and despotic acts on the part of Lord Pigot.

They

They further maintained, that the legal government of Madras was vested *not* in the Governor with a *Minority* of Council, but in them the *Majority* of the Council; and that the measures they had taken were under the firm persuasion, that this was the true Government of the Madras Presidency; in short, that they had acted upon the true principles of that constitution, upon the necessity of the case, and upon motives of public utility; and that, in fact, the peace and safety of the settlement had been preserved by what they had done, and that the affairs of the East India Company in that settlement had prospered greatly during their administration.

There never was a cause prosecuted with more zeal, or more abilities; and though the jury brought in a verdict against Mr. Stratton and the other gentlemen, for assuming the government, and for having issued the orders for seizing and confining Lord Pigot by military force, and for having afterwards detained him a prisoner; yet the Judges of the Court of King's Bench, after weighing the whole of the evidence for and against the persons accused, pronounced an unanimous judgment, by which the total extent of the punishment inflicted by them was a fine of *One Thousand Pounds* to be paid by each of the defendants.

One consideration that weighed with the Judges in their decision, as appears from their opinion delivered by Sir William Ashhurst, was, that the measures taken by Mr. Stratton, and the other Members of the Majority of Council, in the month of August 1776, had been first produced by several arbitrary and illegal acts on the part of Lord Pigot, which were strongly arraigned in the opinion delivered by the Judges of the King's Bench;—but besides this, attention was also paid to the various other particulars above mentioned, which had been urged by the defendants in justification or alleviation of their conduct.

Here it is highly proper to remark, that from what passed at the time of pronouncing this judgment, there is reason to doubt whether the fine would not have been restricted even to a lesser sum, if the defendants had not been considered as particularly blamable for suspending (after they had assumed the government) four of the Members of Lord Pigot's

D

Council,

Council, Messrs. *Russell, Dalrymple, Stone, and Latham*. Great weight was laid upon this circumstance of the defendants conduct. The Judges upon the trial particularly condemned it, and remarked, that in this the defendants had followed the conduct which they themselves had condemned in Lord Pigot. But in so far as this offence, committed by the Members of Council, had effect in producing the judgment that was pronounced against them, no inference can be made from it against Colonel Stuart, or the other military officers, who were employed only for carrying into execution the orders they had received for seizing and confining Lord Pigot; for neither Colonel Stuart, nor any of these Officers, were Members of the Council which suspended Messrs. *Russell, Dalrymple, Stone, and Latham*.

The inferences from the whole of what thus passed, upon the most solemn trial of those Members of the Council at Madras, must, I am persuaded, have been already anticipated by your Lordship.

When we see that the Members of the Majority of the Council had, by a verdict of their country, been found guilty of assuming the government, and of issuing the orders for seizing and confining Lord Pigot, &c.; and when it appears that the circumstances in *mitigation* of their offence, after such a verdict, had the effect to restrict the total amount of the punishment, inflicted by the Judges, to a fine of One Thousand Pounds;—it must certainly follow, that Colonel Stuart, who did *not* usurp the government, who was *no* Member of Council at the time of Lord Pigot's confinement, who issued *no* original order, but only obeyed the orders he had received from the Majority of Council, in whom he firmly believed the legal powers of the government to be vested;—I say it must follow, that upon these grounds he would have been absolved from any punishment or fine whatever; or at the most, that any fine or censure allotted to his *inferior offence*, must have been reduced to something so insignificant, as to be free from any prejudicial consequences; for, in the report made by the present Governor and Council at Madras, to the India Directors, it is expressly said, “Colonel Stuart appeared to have done nothing in

“ this transaction independent of that authority, which gave him the “ order.”

The prevailing opinion, in the settlement itself, had long been, that the legal government was vested in the Majority of Council, and this also was the opinion of the Supreme Council at Bengal. The East India Company themselves, by their Instructions sent out by Mr. Whithill, in the year 1777, declared the legal government of Madras to be vested in the Majority of Council; therefore, supposing it to be afterwards discovered, upon a very nice investigation in courts of law, that the Majority of Council had not the complete legal government vested in them, excepting in certain cases, and under certain restrictions; yet it could never be expected of a military man, that he should be so much master of all these niceties and distinctions, as to render him culpable for a mistake in a point of law, and for believing, in common with many others, that the Majority of the Council had a complete right to require obedience from him, especially as his immediate superior Officer, Sir Robert Fletcher, the *Commander in Chief of the army* (a circumstance to which I beg leave to call your Lordship’s particular attention), was one of the Members of that Majority who signed the orders which Colonel Stuart obeyed.

These things would, in any tribunal, have necessarily been taken into consideration for justifying Colonel Stuart’s conduct, or, at least, for alleviating any fine or punishment that might be allotted to his offence, if it could be supposed, that, in such circumstances as those which have been described, he was in any degree responsible for the *legality* of the orders which he received and obeyed.

This necessary inference from the proceedings, and from the judgment given in Westminster-hall upon this occasion, is one reason why I have thought it proper to state them to your Lordship; and another reason for stating these proceedings, which happened only within these twelve months, is, because they make an additional and important branch of the circumstances by which I meant to prove an essential

change of situation since the year 1777, when it was thought proper to with-hold from Colonel Stuart the benefit of the promotion of that year.

I shall now conclude what relates to the *change of situation*, by requesting your Lordship's attention to a very honourable testimony, which has, in the year 1779, been given by the East India Directors, with respect to Colonel Stuart's general conduct in India, in matters civil and military, unconnected with the events of the month of August 1776, so often alluded to.

In the beginning of the year 1779, the Directors of the East India Company thought it proper and suitable, on their part, to take a particular view of Colonel Stuart's conduct, from the time that he had entered into their service. This they were enabled to do, from the Records and Consultations of the Madras Presidency, in their possession at the India-house ; and the object of this scrutiny, as expressed by the Directors themselves, in their Letter to the Governor and Council at Madras, dated the 14th of April 1779, was, that they the Directors might be able " to communicate to the Governor and Council at Madras such " remarks and instructions as might be necessary for their guidance, in " case General Stuart should be acquitted by a Court-Martial."

The Letter then proceeds to state the various particulars of Colonel Stuart's conduct, as proved by the Records ; and upon each article so proved, an explicit opinion is given by the Directors. Thus the first article is expressed in these words :

" The memorial, estimates, and calculations of General (then Colonel) Stuart, of the 16th December 1776, and 20th January 1777, " are convincing proofs of his possessing the most perfect knowledge of " the Company's military affairs and political interests on the Coast of " Coromandel, and of his attention to every thing necessary for the security of our possessions on that coast," &c. &c.

In the same manner the Directors then proceed to give their opinion upon various very material transactions that had occurred in India, in which Colonel Stuart had been principally concerned; and the result of the whole is a strong and marked approbation of his conduct.

The whole of the Letter here alluded to is creditable for the Directors, from the proof it contains of their attention to the behaviour of their servants in India, and of their anxiety to separate those parts of their conduct which had not been hitherto totally cleared up, from those which were evidently meritorious.

The testimony above mentioned, given by the East India Directors, and supported by the evidence of the Records, is not of that sort which conveys an idea that Colonel Stuart's conduct was *merely unexceptionable*, but it ascribes to him the *positive merit* of signal services rendered to the Company by his active and useful efforts, both in his military capacity, and in the exercise of the civil functions belonging to his station during the time that he was a Member of the Council of Madras, after the death of Sir Robert Fletcher.

The discovery thus made, in the beginning of the year 1779, of the services that had been rendered by Colonel Stuart, made a proper impression on the Directors, who gave that honourable testimony of his conduct, and appears to have excited in them a desire of rewarding his zeal, not merely by the tribute of applause, which their Letter contains in terms the most flattering for him, but further by resolutions in his favour, different from any that had been taken since the period that the first accounts were brought to this country of the Madras disturbances; for till this Letter in April 1779, all the resolutions and instructions sent to India respecting him, carried evident marks of severity and unlimited hardships.

The instructions in June 1777, by Mr. Whitlist, *suspended* Colonel Stuart from the service for six months, without any specific charge made against him; those sent out by Mr. Rumbold in July 1777, *superfeded* him in the command of the army, and appointed, that he should be

tried!

tied by a Court-Martial ; but in case he had been guilty of no crime which martial law could reach, then it was ordered, that his suspension from the service should be continued, and that he should be sent home. Afterwards the instructions of December 1778, sent out by Sir Edward Hughes, contained a renewed order for his trial by a Court-Martial ; but without any provision made for him in the event of his acquittal, or any intimation, that, even in that case, he was to be restored to the command of the army.

However, the instructions contained in the Letter of the 14th April 1779, were wrote in a very different strain from any of the former instructions respecting him, and breathed a very different spirit ; for, after reciting and applauding his merits, and after declaring their opinion of Colonel Stuart's ability to render the most important services to the Company, the Letter of April 1779 (a copy of which is annexed), concludes with expressing a desire, that, in the event of his acquittal, he should remain in India as Second in military command during the continuance of General Munro (who had given notice, that he meant to return to England in the course of the year 1780) ; and directs, that he, Colonel Stuart, should succeed to the Chief Command of the troops on the Coast, upon the first vacancy that should happen after his acquittal by a Court-Martial.

These proceedings do certainly infer a very marked *change of situation* subsequent to the period at which the Secretary at War, from his uncertainty about Colonel Stuart's conduct in India, thought proper to advise the withholding from him the immediate benefit of the promotion in his Majesty's service.

I have now, my Lord, finished all the proofs I meant to produce in support of the proposition I had undertaken to establish respecting the *essential change of situation* ; and I apprehend, that the effect of each of the four branches of evidence above referred to, but still more the united

united effect of all of them together, must be, to establish that proposition in the most convincing manner.

I am extremely sorry, that, from the variety and nature of these proofs, they should have imposed upon me the necessity of giving your Lordship the trouble of reading so long, and, I fear, so tedious, a detail of particulars; but in a matter, where the character and conduct of an officer have been called in question, and where his situation in his Majesty's service has been deeply affected upon the authority merely of rumours and deceitful reports, it is impossible to do justice to his cause, or to afford satisfactory grounds for obtaining redress to him, without producing such a full and accurate state of facts as may be sufficient to afford conviction, that he never has merited the hardships he has met with, and that he is now entitled to have them completely redressed.

I must now beg leave to bring under your Lordship's view, some particulars of Colonel Stuart's MILITARY SERVICES; and shall then hope to be indulged with a few observations upon the singularity of the unfortunate situation, in which he feels himself at this moment involved, both with respect to the King's service and that of the East India Company.

From the time that Colonel Stuart arrived in India, he applied himself zealously to every thing that could tend to the improvement of the army; he planned, and carried into execution, many useful regulations relating to the troops, the military posts, and garrisons belonging to the Company, and likewise those of the Nabob of Arcot. He made himself master of accurate knowledge relating to the various passes, leading from the territories of the neighbouring princes into the CARNATIC, through which bodies of troops might be able to invade or enter that country; so as to enable him to form a judgment what posts

posts would be proper to be established, and what other precautions might be necessary for preventing the incursions from these neighbouring powers.

The measures suggested by him in consequence of the knowledge so acquired, and the military regulations which he carried into effect, reflected much credit upon him in India, *where*, even his enemies have admitted the utility of his efforts and of his unremitting attention to all the various branches of his military duty.

The army was in many respects new-modelled by him, particularly the *battalions of Sepoys*, the number of which was augmented, and arranged upon a plan different from the footing on which they had ever formerly been. I have in my possession copies of the Memorials and Estimates, which, after much pains bestowed in acquiring accurate information, and after much attention to the subject, were framed by him, and gave rise to this measure. These papers were shewn to the late General Harvey, and other experienced officers in this country, who testified the highest approbation of Colonel Stuart's plan, and of the reasons given by him in support of it; and, fortunately for the interests of the State, as well as those of the Company, that plan was adopted by the Government of Madras, and carried into execution while Colonel Stuart was Commander in Chief of the army.

The important consequences of this well-timed attention to the state of the army, and to the Company's military concerns on the coast, were felt in the year 1778, when the orders from England arrived for undertaking the siege of PONDICHERRY.

These orders were capable of being carried into speedy execution, merely from the circumstance of there being an army ready formed, and fit for the most important enterprises; the merit of which preparations has universally been given to Colonel Stuart: and it has also been admitted, that the enterprise against *Pondicherry*, undertaken when the season was far advanced, and completed but a few days before the season when the monsoons in that climate would have increased every difficulty,

difficulty, could not have succeeded, if the army, in point of discipline, numbers, and arrangement, had not been put by Colonel Stuart on the respectable footing in which it was found at the time when the orders from England arrived for undertaking that siege.

Among other strong and explicit testimonials to this effect, there is a Letter from the Governor of Madras to the Chairman of the East India Company, dated the 31st of October 1778, and brought to the India-house at the same time with the first accounts of the success of the troops against Pondicherry.

The paragraph of the Letter relating to Colonel Stuart is in these words :

“ I think it necessary to mention to you, in justice to *Brigadier-General Stuart*, that one great advantage on our part, and which enabled us to carry the order of the Court of Directors for attacking *Pondicherry* into immediate execution, was the state in which we found the army upon this establishment at the time of receiving those orders, owing to the very seasonable augmentation that had been made, and the proper military regulations and discipline which had taken place, during the time he commanded the troops.”

In the year 1778, when the accounts reached Madras of the rupture with France, and of the probable prospect of hostilities in India, Colonel Stuart was under *suspension*, had been *superfeded* in the command of the army, and had met with a *refusal* of the demand made by him for his trial by a Court-Martial.

He had also then recently heard of the hardship inflicted upon him in his Majesty's service. His behaviour, however, upon that occasion, in the offer he made of his services against the enemy, in any shape that they could be deemed useful, was such as became him ; and he is perhaps intitled to the more credit for it, when it appears how strongly he felt, at that very time, the unmerited severities that had been inflicted upon him. This is strongly painted in his Letter of the 9th of July 1778, to the Governor and Council at Madras, which contains

E the

the offer of his services against the enemy, where he thus expresses himself :

“ Without entering into any further discussion concerning the very
 “ singular hardship of my case, aggravated now almost beyond mea-
 “ sure by a most *unexpected* temporary influence upon my *situation in*
 “ *his Majesty's service*, so as to be upon the whole, as I believe, un-
 “ paralleled in the life of any British military officer ; I say, notwith-
 “ standing these circumstances, and although I assert with confidence,
 “ and am ready to prove, that *such conduct towards me has neither been*
 “ *warranted by military practice, nor justified by my own conduct, in any*
 “ *respect* ; yet I now take occasion to inform your Honour, officially, of
 “ that call, which for the present stifles in my mind every sense of per-
 “ sonal injury, and which leads me to assure you, in the event of these
 “ last reports from Europe proving true, or in case of any approaching
 “ war in the *Carnatic*, that your Honour will ever find me ready to
 “ serve against the enemy, in any manner you shall see most proper
 “ for the public welfare, during the continuance of hostilities ; adding,
 “ with all due respect at the same time, that, in my present view of
 “ things, no earthly consideration will ever, in quiet times, induce me,
 “ of my own accord, to serve the Honourable Company in any station
 “ inferior to that which I had regularly succeeded to by their former
 “ orders, and in consequence of agreement before I left England.”

Colonel Stuart's behaviour on this occasion, and his zeal afterwards for the success of the measures adopted with respect to the siege of *Pondicherry*, produced the following commendation of his conduct, in a Letter from the Governor and Council at Madras to the East India Directors, dated 17th October 1778.

“ Upon the first probability of hostilities commencing, *Brigadier-*
 “ *General Stuart* presented to the Board a Letter, dated July 9th, with
 “ an offer to serve, during the war, in any manner we thought proper
 “ for the public welfare. We felt much concern, from the nature of
 “ your orders in respect to Brigadier-general Stuart, that it was not in
 “ our

“ our power to accept of this offer. In justice, however, to that officer, we acquaint you, that we have been witnesses of his zeal for the public service, and of the sincerity of his wishes for the success of the measures adopted at this crisis.”

In mentioning the peculiar situation in which Colonel Stuart thus found himself, at the time of the enterprize against *Pondicherry*, it is not easy to abstain from some reflections on the severity of his fate; when it is considered, that the person who thus offered, upon that occasion, to serve against the enemy *in any situation*, was the very person, who, if things had remained in their ordinary course, must, in right of the rank he had attained, have been *Commander in Chief* upon that expedition.

Such opportunities as this for a military man to serve his country, and at the same time to acquire credit and honours to himself, do not often present themselves; and when an officer, to whom his rank and situation open so fair a prospect, finds himself deprived of it by adverse incidents, the disappointment will ever be felt by him as a personal misfortune; however ready he may be to rejoice sincerely with his country upon the success of the enterprize under another Leader, and however cheerfully he may congratulate the Commander who, acting in his place, had merited and obtained the laurels and the honours due to his success.

Without troubling your Lordship with any further detail respecting Colonel Stuart's merits in the service of the East India Company, I shall here beg leave to appeal to the Letter before mentioned, of the 14th of April 1779, signed by the Directors, which contains the most ample testimony of his steady and useful attention to the interests of the Company in their civil as well as their military concerns; and specifies material services rendered by him upon various occasions, where knowledge and good judgment of the true interests of the Company, as well as good intentions, were requisite.

The only part of Colonel Stuart's conduct upon which the Directors were then silent, was what related to the disturbances of the

month of August 1776; as to which they have in that Letter abstained from giving any opinion, favourable or unfavourable, because they considered that matter to be under the cognizance of a Court-Martial; and I may with truth venture to affirm, that the universal opinion was, that the consequence of that trial must necessarily have been an acquittal.

But even with respect to this only part of Colonel Stuart's conduct that has ever been at all called in question, the particulars and motives of it are now fully known to the world from various authentic sources of information, and the prejudices against him personally, grafted on the original false rumours, are now so much subsided, that it would be impertinent in me to take up your Lordship's time in combating them. I have ever avoided entering at all into the merits of the disputes between Lord Pigot and his Council, which gave rise to the disturbances; but I must beg leave to observe, that, with respect to Colonel Stuart's behaviour when matters came to extremities between these parties, there are the most honourable testimonies of the services he had rendered to the India Company and to the State, by the temper, good conduct, and discretion, with which he had carried into execution the orders issued to him by the Majority of Council at the critical period in August 1776.

The Supreme Council at Bengal, who had the best opportunities of being well informed of all the facts and circumstances which preceded, accompanied, and followed the arrest of Lord Pigot, and who were both competent and disinterested judges, gave the highest approbation of Colonel Stuart's conduct.

This appears particularly from the Letters of Governor Hastings and Sir John Clavering, who agreed in this, though their opinions on other subjects had often been different. Governor Hastings, in his Letters which have been published, gives great credit to the mode in which the orders of the Majority had been carried into execution; "*without bloodshed, without tumult, and without the violation of one legal form.*" These are the words of his Letter, where he expresses a degree of admiration of this as "*a thing almost without example.*"

Sir

Sir John Clavering, in his Letter to Colonel Stuart of the 15th of September 1776, not only approves totally of his conduct at the time of the Madras disturbances, but gives him applause for the *honour* of conducting *so difficult and dangerous a business*, and for the *spirit* and *magnanimity* with which he had executed it.

Sir John Clavering continued uniform in that sentiment; and it is well known that he considered the safety and quiet of the settlement at Madras to have been principally, if not totally, owing to Colonel Stuart's conduct. In proof of this, I might appeal to several Letters of General Clavering's, now in this country; and I cannot allow myself to doubt, that the sentiments of a man so honourable, and so well qualified to judge of military merits, as well as of points of honour, must have weight in every quarter where his own personal merits were known. Had he lived to have seen the accumulation of hardships that have been inflicted upon Colonel Stuart,—the man whose conduct he so much approved and admired—such events must not only have been extremely mortifying to Sir John Clavering; but might perhaps have been considered by him, as, in some measure, indignities *offered to himself* personally.

I shall now briefly mention, without any commentary, what Colonel Stuart's fate has been in the service of the East India Company.

He has, in consequence of the first reports brought to this country, been *suspended* from the service, and *superseDED* in the command of the army; and that command given to a junior officer in the King's service; and all this done without any trial or specific crime alleged against him.

The delusive hopes of a trial by a Court-Martial in India, have, at two different periods, been afforded him, by the orders sent out to Madras for that purpose; and these hopes have been, and *may ever continue to be, defeated* by the Company's servants in India; so that, at this moment, Colonel Stuart is not in any respect further advanced towards obtaining redress for the injuries he has met with, than he was several

years ago, excepting only, that the East India Directors, in the year 1779, after a scrutiny into his general conduct, and after discovering his knowledge of the Company's affairs, and the services rendered by him to the Company, have rewarded him by the tribute of applause; and have declared their resolution, that, upon certain contingencies, he shall be restored to the command of the army; in expectation of which command, he originally went to India, and had already attained it, according to the terms of the agreement made at the time of his entering into the service.

Permit me now, my Lord, to relate what has been Colonel Stuart's fate in *his Majesty's service*.

In the course of the last war, he had the good fortune to contribute, as far as his inferior situation could enable him, to the success of the British arms in many different parts of the world.

The first opportunity he had last war of seeing material active service was in North America, in 1758, when he had the honour to serve with the army under your Lordship's command at the siege of LOUISBOURG: The success of that enterprise was, at that time, esteemed a material object to this country in the war with France; and he had the satisfaction of seeing the Place surrender to your Lordship, with the garrison belonging to it, and several line of battle ships which the French then had at *Louisbourg*.

At the reduction of BELLEISLE, in the year 1761, by the British troops, under the command of General Hodgson, he was Major of Colonel Morgan's regiment; and by the appointment of General Hodgson, during the course of the expedition, he acted as *Quarter-master-general*, in consequence of which, he soon obtained the rank of Lieutenant-colonel.

From BELLEISLE he went to the West Indies, and served, during all the operations against the island of MARTINICO; the complete conquest

quest of which, by the army under the command of General Monckton, was accomplished in the month of February 1762. During that campaign, he commanded the regiment of Light Infantry, which had been raised by Colonel Morgan, who died soon after his arrival at Martinico.

Upon the conquest of MARTINICO, that regiment was immediately ordered upon the expedition against the HAVANNAH; and though Colonel Stuart's health had suffered much at Martinico, he insisted on attending the regiment under his command, and happily, during the passage, recovered so well as to be able to sustain the fatigues of a very active campaign, which fell to his lot at the *Havannah*.

The situations in which Colonel Stuart was employed, during the operations of that Campaign, by Lord Albemarle, the Commander in Chief, sufficiently testify in what estimation he was held as an active and useful officer. The command of a detached corps was given to him during part of the campaign, in the course of which he acquired so much the confidence of the Commander in Chief, that he was the person chosen to command the *Affault* upon the MORO CASTLE; one of the most difficult, as well as most important, enterprises that had occurred in the course of that or any other campaign-last war.

The failure of success in that attempt would, as I have heard from military men, have been as fatal to the objects of that expedition against the *Havannah*, as the success of it was productive of important consequences.

As I do not wish to attribute, even to a brother, any merits that are not well ascertained, I thought it proper to read over the account of the operations at the *Havannah*, published in the London Gazette Extraordinary of the 30th of September 1762, which is now lying before me; and in which are found some particulars, which, in your
Lordship's

Lordship's estimation, will, I am persuaded, be thought highly creditable for Colonel Stuart's military conduct.

That Gazette contains the first accounts that were brought to this country of the important success of his Majesty's arms against the town of the *Havannah*, which, with all its dependencies, surrendered by capitulation on the 13th of August 1762. In the Letter from Lord Albemarle, upon that occasion, dated the 21st of August, reference is made to the *Chief Engineer's journal of the siege of the Moro Fort*, which journal is published in the Gazette Extraordinary; and in that journal, at the date of 22d July 1762, there is the following article:

“ About four this morning there was a sally made by the enemy
 “ from the town, which, by the information of prisoners, amounted to
 “ 1500 men, divided into three different parties; one pushed up the
 “ bank behind the Sheppard's battery; *they were stopped for near an*
 “ *hour by the guard posted there, consisting only of about thirty men, com-*
 “ *manded by Lieutenant-colonel Stuart of the 90th regiment*, until he was
 “ joined by about one hundred sappers, and the third battalion of the
 “ Royal Americans; the fire continued hot all that time, the enemy
 “ were then driven down the bank with great slaughter; as many as
 “ could, got into their boats, and many leapt into the water, where there
 “ were 150 drowned.”

The same Journal of the Chief Engineer gives an account of the *Assault* of the *Moro Castle*, on the 30th of July 1762, in these words:

“ About two o'clock in the afternoon the mines were sprung; that
 “ in the counterscarp had not a very considerable effect, but that in the
 “ bastion, having thrown down a part of both faces, made a breach
 “ which the General and Chief Engineer thought practicable; upon
 “ which the troops, under orders for the assault, were ordered to mount,
 “ and which they did with the greatest resolution, and forming very
 “ expeditiously upon the top of the breach, soon drove the enemy from
 “ every part of the ramparts. The Spaniards had about 130 men, with
 “ several

“ several officers, killed. About 400 threw down their arms, and were
 “ made prisoners, the rest were either killed in boats, or drowned in
 “ attempting to escape to the Havannah. Our loss in this GLORIOUS
 “ AFFAIR amounted to two officers killed, and about thirty men killed
 “ and wounded.”

. Another part of the same Gazette proves that Colonel Stuart was the person who led on the troops to the assault of the *Moro Fort*, and specifies the numbers he had under his command; the article is introduced in these words:

“ Return of the Numbers under Lieutenant-colonel Stuart,
 “ of the 90th Regiment, at the Assault of Fort Moro,
 “ July 30, 1762.”

. Under this title in the Gazette, the number of officers and men, and the regiments to which they belonged, are mentioned; from whence it appears, that the total destined for the first assault were 281 rank and file, and to sustain them 150 rank and file, making in all 431, exclusive of officers and sergeants; besides 150 sappers, under the command of a captain, who were present at the assault.

. In another part of the same Gazette there is a state of the garrison of *Fort Moro* when taken by storm, and the following return of the Spaniards, killed, wounded, drowned, or taken at the assault. Killed 130, wounded 37, prisoners 310, officers ditto 16, drowned or killed in their boats 213. Total 706.

From these particulars it appears, that this hazardous enterprise was accomplished even by a force inferior to the garrison which defended that Fort, remarkable for its strength and natural advantages, and which had the advantage also of being commanded by a very gallant officer, DON LOUIS DE VELASCO.

In addition to these proofs which have been stated of Colonel Stuart's behaviour last war, I shall only further beg leave to appeal to the testimonies given by the Generals under whom he had the honour to serve,

and to the recommendations they gave in his favour, which, I believe, will be found at the War-office.

However creditable for Colonel Stuart it may be, that the particular of his behaviour last war should be made known, I never could have thought of entering into them, had not an appeal to his former conduct now become inevitable.

A recital of services uncalled for by any occasion, will always carry with it an appearance of presumption; but it will stand clear of every such imputation, when produced only as a necessary support against the weight of unjust prejudices, and for the redress of injuries which have been founded upon them.

When an officer in his Majesty's service meets with hardships, such as those Colonel Stuart has met with, and particularly when his course of preferment is withheld, and many younger officers put over him, suspicions may be entertained about the general character and former conduct of an officer thus excluded from promotion. Those who are acquainted only with what has *lately* happened to Colonel Stuart, must from thence be led to imagine, that his former conduct had been doubtful, or exceptionable; or, in the mildest construction, that no positive or singular merits had belonged to him; for merits of that description have usually, and not unreasonably, been deemed sufficient to protect a tried and approved character from hardships founded merely on the authority of reports, and especially reports concerning transactions in a distant part of the world.

One of the best refutations of any such unfavourable constructions must arise from an appeal to the whole tenour of Colonel Stuart's conduct while he had the honour to serve his Majesty.

Nor is this the only reason, my Lord, which induces me to wish that the whole of that former conduct may be brought into view;—I wish it likewise for this additional reason, that both his former situations
and

and his former services may now be contrasted with his present sufferings.

Colonel Stuart had attained the rank of Lieutenant-colonel before the campaigns either of the *Havannah* or of *Martinico*; and now, at the distance of more than eighteen years from the day on which he had the good fortune to lead to victory the troops which so gallantly stormed the *Moro Castle* at the *Havannah*, he finds himself in possession of no higher rank in his Majesty's service than that which he enjoyed at that moment. This, of itself, would only prove, that he had not been remarkably fortunate. But the regard due to truth in a relation of facts, obliges me to add, what must appear incredible to those who were witnesses of his behaviour last war,—instead of promotion, he finds himself mortified and degraded in the service, where the only distinction he has obtained, is that of being the marked and single exception from the benefit of a promotion allotted to all officers of a certain standing, and where, by that means, more than ninety Lieutenant-colonels, who were formerly under him, have now acquired rank over him, and to his prejudice.

It would be difficult, I believe, for any person, even the most conversant in the history of military men, to discover many instances of such a complication of mortifying disappointments and hardships, as those which Colonel Stuart has, in the course of these last four years, experienced, both in his Majesty's service, and in that of the East India Company. They are such as would have been more than sufficient to atone for real offences, even of considerable magnitude; but they have been inflicted upon him without any trial, and without proof of his having been guilty of any intentional offence: for if he has been guilty of any offence, the utmost extent of it can only amount to this, that, in point of judgment, or in point of law, he was mistaken in imagining that the Majority of Council, even though his superior

I 2

Officer,

Officer, the *Commander in Chief*, was one of that number; had a right to require from him obedience.

The extent of his sufferings has likewise been greatly increased, by the length of time during which he has been continued in an almost insupportable state of anxiety and suspense. Obligated to attend to the discussions and determinations of his fate, agitated alternately in England and in India, and, as if it were in mockery of his misfortunes, the mandates from the India-house, under the authority of which his conduct was to be decided upon, and his future situation regulated, have been repeatedly referred backwards and forwards from *London* to *Madras*, and from *Madras* to *London*, without producing any other effect than that of mortifying the person whose prospects in life were thus obstructed, and his reputation sported with.

The result now is, that after consuming some of the most valuable years of his life in this unavailing and humiliating state of suspense, he now finds himself just as far advanced in his progress towards the redress of his injuries, as he was some years ago, when the first instructions respecting him were sent to India.

But if these things have happened to a person who, instead of being guilty of offences against either the State or the East India Company, has been intitled to merit and applause from both, I may surely in that event presume, that his case and his misfortunes must be deeply affecting to your Lordship, and to every person possessed of the same sentiments of humanity and justice.

That this description applies precisely to Colonel Stuart's case, I may now be allowed to assume as a fact, established as it is by the unquestionable proofs that have been given of his exertions, and his positive merits both in the service of the Crown and of the East India Company; and yet the singular consequences are, that he now finds himself placed in such an unfortunate situation in both services, that it is not possible for him to act for the public utility, or for his own personal credit, either in the one or the other—a situation surely the most

most mortifying to an Officer of character and experience, who ardently loves his profession, and who has shewn, by the whole tenor of his conduct, that he wishes for nothing so much as opportunities to distinguish himself in it.

Of all the misfortunes Colonel Stuart has met with during the course of these four last tedious years, none has affected him more deeply than the event of the year 1777, when he was passed over in the promotion in his Majesty's service.

The news of this event affected him the more, as there was impressed upon his mind a complete confidence, that whatever hardships he might meet with from other quarters, during the dominion of prejudice or of faction, excited by the Indian civil commotions, yet he might rest secure against the possibility of *any* hardships being inflicted upon him in his Majesty's service, where he flattered himself that his character and conduct were well known; and it appears from the whole course of his correspondence, that he relied on this protection from that quarter, and looked forwards to his situation and prospects in his Majesty's service, as affording to him the honourable opportunities of distinguishing himself in the immediate service of his King and country, in case, by any perverse events, he should happen to meet with an unjust return for his efforts and exertions in that of the East India Company.

From the state of Colonel Stuart's mind, thus laid open to your Lordship, it will not appear extraordinary, that the first accounts of what had happened to him in the line of his profession in his Majesty's service should have affected him very strongly. I am in doubt whether I should venture to state it precisely in the words of his Letter to me on that subject, but knowing that your Lordship's candour will make allowances for the strong feelings of an Officer who thought himself injured and treated with indignity, and who at the same time that he

was struggling with bad health, was stunned by an unexpected blow from a quarter where he had confidently assured himself of favour and protection, I shall take the liberty of communicating to your Lordship the impression which these first accounts made upon my Brother precisely in the words of his Letter, which is at your Lordship's command whenever you are pleased to call for it.

The first part of his Letter contains bitter complaints against the Governor and Council at Madras, for having refused to him the trial by a Court-Martial. The Letter then proceeds in these words :

“ This delay, or rather refusal of justice, of itself might, I say, have
 “ otherwise sunk my spirits entirely; but when your Letters by the Eagle
 “ Packet, with the news of that most dreadful stroke at the War-office,
 “ found me in my most private retreat, struggling to recover my health
 “ and strength (by advice of physicians at a neighbouring place on the
 “ coast here), I say *to you*, these Letters dropped from my hands, and
 “ I lost my senses for some minutes. I think it fortunate that I was al-
 “ most alone; because, upon my recovering, I formed the resolution
 “ to check even my most natural feelings, and to look only for resources
 “ in myself, now that I seem to be abandoned by all the world.”

These were his feelings upon the reception of the first accounts of what had happened to him in his Majesty's service; and, from his correspondence since that time, it has continued to be the grievance and the misfortune which dwells most upon his mind because the most contrary to every expectation which he had considered himself intitled to entertain.

Though he is known to possess more than ordinary strength of mind, yet the long and severe hardships he has had to encounter, during a state of bad health in that climate, and various contentions he has unavoidably been engaged in, joined to the late cruel disappointment in the last refusal of a trial by a Court-Martial; all these things united have now had the effect of sensibly affecting his health and spirits, and have urged me to present with great earnestness, though
 with

with great deference, this address to your Lordship on the subject of his rank; because if a promotion of General Officers were to take place, in which Colonel Stuart's name, in the rank he expects, should happen to be again omitted, I am certain, that such an event, if he should survive it, would infallibly destroy his happiness; and, from what I know of his dispositions and turn of mind, highly susceptible on every point of military honour and distinction, there is much reason to apprehend, that the severity of such a repeated disappointment, liable as it would be to many contractions to his prejudice, might, in the present impaired state of his health, be attended with the most fatal consequences.

I am persuaded, my Lord, that the case of a deserving Officer, suffering unmerited injuries, will sufficiently engage your Lordship's attention, without offering, in addition to the preceding state of facts, any arguments to enforce them; and I represent the state of my Brother's military hardships with more satisfaction to your Lordship, than to those to whom I have hitherto been under the necessity of addressing them; because, though the Gentlemen in the Direction of the East India Company's affairs are in their situations highly respectable, it is not to be supposed that they can, like your Lordship, conceive and enter into the feelings of an Officer,—his professional pride (which your Lordship would wish rather to cultivate than discourage), and all the nice sensibilities of military honour.

These, I know, will have their full weight with your Lordship; and, therefore, it is sufficient for me merely to have related the facts and circumstances which attend my Brother's interesting situation.

But as the number of those facts, and the extent of the subject, have unavoidably increased the size of this address much beyond the bounds within which I proposed and wished to have confined it, and as the connection of the several parts with the main object of it may by that means

means have been rendered less evident, I shall beg leave to resume, in a few words, the propositions I have maintained, and the proof I have offered in support of them.

FIRST, I have endeavoured to shew, that Colonel Stuart was clearly entitled to expect the benefit of that promotion in his Majesty's service in 1777, which was allotted to officers of his standing in the army; and that no reports concerning his conduct in a distant country, and in another service, ought to have deprived him, even for a moment, of that promotion which he had earned by many years of faithful and useful service, while he had the honour to serve his Majesty.

MY SECOND PROPOSITION was, that, supposing the measure of withholding Colonel Stuart's rank to have been RIGHT in the year 1777, yet the continuance of the hardship thereby inflicted would now be WRONG; because the ground on which the measure was at first taken, is, in its circumstances, *essentially*; and in its reason, *totally*, changed.

In proof of the assertion contained in this Second Proposition, I have found it necessary to compare minutely the circumstances which attended Colonel Stuart's situation in the year 1777, with those which now exist; from whence the conclusion follows, that, in the most material respects, that situation is totally changed.

I.

BECAUSE the reports which had, in the year 1777, been circulated in this country, concerning the disturbances at Madras; the alarms about the safety of the Settlement; the assertions about Colonel Stuart's past, and the predictions about his future, behaviour in that Settlement, under the influence of all of which united, his exclusion from the benefit of the promotion 1777 had taken place, have not only been unconfirmed, but, by the event, have been totally and entirely disproved.

II. BECAUSE

II.

BECAUSE the *supposition* that Colonel Stuart would not only *certainly*, but *speedily*, be tried by a Court-Martial in India (the only other ground upon which his regular promotion could have been withheld from him in his Majesty's service), has, after repeated assurances to the contrary, and after several years anxious expectation, been found to be a *supposition* totally erroneous.

Under this head I have also proved, by incontestible evidence, that Colonel Stuart, both in the years 1778 and 1780, while the granting or refusing the Court-Martial was in agitation at Madras, had used every possible effort not only to obtain that trial as a favour, but had even strongly insisted upon it as his right. I have stated at the same time the reasons or pretences made use of by the Governor and Council at Madras for refusing that trial, and have shewn, in considering those reasons and pretences, that several material facts have been cleared up, and several weighty opinions given, which, in a case so peculiarly circumstanced as Colonel Stuart's, ought to be considered as *equivalent to the sentence of a Court-Martial*, the forms of which only have been wanting.

III.

BECAUSE in the years 1779 and 1780, there was a solemn trial in Westminster Hall, of the persons principally concerned in the transactions of the year 1776, at Madras, who issued the orders which Colonel Stuart obeyed; and the obvious inferences from what passed on that trial, and from the sentence itself, must, in the circumstances of Colonel Stuart's case, necessarily tend to his exculpation or acquittal.

IV.

BECAUSE Colonel Stuart's general conduct in India had, in the course of the year 1779, been the subject of an accurate scrutiny at the India

House ; where the Directors, after examining the records of the Madras Presidency in their possession, have, by their letter of the 14th of April 1779, given the most honourable testimony with regard to his general conduct in military and civil matters since the time that he entered into their service.

After having established in this manner the propositions above mentioned, I took occasion to bring under your Lordship's view some particulars of Colonel Stuart's MILITARY MERITS since the time he went to India, and likewise while he had the honour to serve his Majesty's last war ; which naturally led me to contrast his late and present sufferings with his former situations, and his former services.

Upon the whole I have thought myself authorized to maintain, that Colonel Stuart, without any trial, has suffered more than there could possibly be any reason to apprehend, would have been inflicted upon him, if he had been tried, convicted, and even punished, by any court of judicature ; and certainly much more than could ever have been inflicted upon him by that Court-Martial which he has been so often promised, and so unaccountably refused, and which he so long, so earnestly, and so ineffectually solicited.

At the same time I have appealed to the authority of such well-established facts, as justify Colonel Stuart's friends in maintaining, that instead of deserving to be treated or considered as an offender, his conduct, both in the service of the Crown, and in that of the East India Company, has been such as actually intitles him to merit ;—in as far as merit can be ascribed to a faithful discharge of his duty, and to useful services rendered upon important occasions.

If in the preceding enquiry and discussions I have been fortunate enough to afford satisfaction to your Lordship, I must be permitted to think, that the time is now arrived for realizing the assurances given in

Lord Barrington's letter, concerning the *full* and *perfect justice* that was to be done to Colonel Stuart ; which, in so far as it relates to his rank in his Majesty's service, can only be accomplished by placing him in that situation of the promotion of the year 1777, which from his standing in the army he was then intitled to have expected.

I must once more make an apology to your Lordship for the length of this address, which, though it may be tedious, I am willing to think is unavoidably so ; and I shall add nothing further to detain your Lordship, but one single short observation.

Before Colonel Stuart could accept the offers, and enter into the service of the East India Company, it was incumbent upon him to obtain his Majesty's permission, which he, unfortunately for himself, as it has proved, solicited, and his Majesty graciously condescended to grant. If this step had not been necessary to Colonel Stuart, it would yet have been highly eligible to him, as it intitled him to consider himself, while he paid a local obedience to the East India Company, as still within his Majesty's protection. What he always looked up to as his best support, is now, by the course of events, become his most effectual consolation ; and in whatever manner his Majesty, in his wisdom, shall think fit to decide on the misfortunes and injuries which have been suffered by Colonel Stuart, that decision will, both by him, and by those who are most affected with his misfortunes, and most anxious for his prosperity, be acquiesced in, as in duty it ought, with the utmost humility and submission.

That the whole of Colonel Stuart's case,—that the several particulars contained in this address, will undergo a thorough examination, is not to be doubted ;—from your Lordship's love of justice, they will meet with a fair, and from your Lordship's partiality to men of service and of merit, I flatter myself you will think they are intitled to a favourable consideration.

In whatever other respects Colonel Stuart may justly deem his situation to be unfortunate, he feels the highest satisfaction in reflecting, amidst the calamities he has undergone, and all the disappointments and severities to which he has been exposed, that those accumulated evils will be truly represented by your Lordship; and that the final redress of them IS IN HIS MAJESTY.

I have the honour to be, with great truth,

Your Lordship's

BERKLEY-SQUARE,
January 3, 1781.

Most faithful and obedient humble servant,

AND^w. STUART.



E X T R A C T

O F

A LETTER from the Directors of the East India Company, to the Governor and Council at MADRAS,

As far as relates to Brigadier General STUART.

April 14, 1779.

Paragraph 12. **I**N our Letter of the 22d of December last, we replied to your advices relative to *Brigadier General Stuart*; and having given directions for his trial by a Court-Martial, and pointed out such Articles of War as appeared to us most proper on that occasion; we have nothing at present to add on that part of the subject.

13. But as the conduct of General Stuart, at your Settlement, exclusive of the part taken in the late unhappy revolution, has been active and conspicuous, we have been induced to take a particular view thereof, in order to communicate to you such remarks and instructions as may be necessary for your guidance, in case the General shall be acquitted by a Court-Martial.

14. The Memorial, Estimates, and Calculations of General (then Colonel) Stuart, of the 16th of December 1776, and 20th of January 1777, are convincing proofs of his possessing the most perfect knowledge of the Company's military affairs, and political interests on the coast of Coromandel, and of his attention to every thing necessary for the security of our possessions on that coast. The subject is comprehensive and important; and, in justice to General Stuart, we must declare,

declare, that the perspicuity of his Statements, and his zeal for promoting the good of the Service, by the establishment of such excellent regulations as were recommended in his Memorial, are very deserving of our commendation.

15. The vigilance of General Stuart, when absent from the Presidency; his care to improve every opportunity of obtaining useful knowledge, and the communications made by him in consequence thereof, in pointing out what might have a tendency to promote the public safety, cannot fail to render that part of his conduct very acceptable to us.

16. We observe it was in consequence of General Stuart's Memorial, that application was made to the Nabob of the Carnatic to admit a garrison of the Company's troops into the important fort of Permacoil, in the neighbourhood of Pondicherry, which measure has our entire approbation.

17. The reasons stated by General Stuart, for declining to obtain the grain of Tanjore by compulsion or forcible interference, and against sending the Dobbeer to Madras without the Rajah's consent, were equally wise and humane. His deference for the Company's orders, and instructions relative to Tanjore, were such as became his station; and we are well pleased with his whole behaviour on those occasions.

18. The conduct of General Stuart relative to the repairing of the Annacutta, or Bank, which divides the river Cavery, was highly proper. We are very sorry to find, that a measure on which the cultivation and prosperity of Tanjore so entirely depend, and without which the Rajah's engagements could never have been fulfilled to the Nabob or the Company, should on any account be obstructed; and, we must own, it appears to us, that the country is in a very great degree, if not entirely, indebted to the laudable firmness and perseverance of General Stuart for the speedy accomplishment of this most useful business. The General entertained a just idea of the absolute necessity of prosecuting the work without delay; and he took care to urge it with so much warmth

warmth and propriety, as must have fixed a dangerous responsibility upon those who should persist in impeding it; and to this end we attribute the removal of these obstructions which seemed calculated to distress the country, and to disable the Rajah from complying with his stipulations.

19. The motion of General Stuart for placing a garrison of 1 Company's troops in the fort of Vizianagram, the capital of Sittera Rauze's brother, was so perfectly consistent with the letter and spirit of the Court's orders, and must have appeared so conducive to the establishment of the Company's authority in the northern Circars, that we are surprised it could have met with opposition from any Member of Council at Fort St. George.

20. The facts stated are, That, in August 1777, the Rajah of Vizianagram, brother to Sitteram Rauze, with several thousands of his people, were actually in arms; that the said Rajah had been guilty of disrespect to your Government, by imprisoning one of your renters and of contempt of the Company's authority, by refusing to set him at liberty upon the President's requisition. The cause of imprisonment of the renter is not the subject of our present inquiry or remarks.

21. In the Company's General Letter to Fort St. George of the 12th of April 1775, their views relative to the Rajahs and Zemindars of the northern Circars are stated in terms too plain to be mistaken. The substance is, that the said Zemindars should be secured in their property, without being under the necessity of keeping an armed force; and that the inhabitants of the country should be protected from oppression. The impropriety of suffering Rajahs or Zemindars to become formidable, was specially noticed; and it was suggested, that if Sitteram Rauze was already become so, the system must be corrected. It was also resolved, that every military man residing in the Circars should be absolutely under the Company's command, obliged to serve them.

then whenever he might be wanted, and not left at liberty to take part with an enemy, in case troubles should arise in the country.

22. The Company's order, being thus explicit and peremptory, and General Stuart finding the conduct of Vizianamize inconsistent with those orders, he wisely judged that garrisoning the fort by the Company's troops would cure the subsisting evil, and ensure the future obedience of this refractory Rajah to the Company's regulations. We agree in opinion with the General, approve his attention to the Company's orders, and hope no change of government has operated to prevent the measure from being completely carried into execution.

23. It was very commendable in General Stuart, upon the first probability of hostilities, to offer to serve during the war, in any manner you might see proper for the public welfare; and although, from the nature of our orders respecting the General, you were not at liberty to accept his personal services, we are well pleased with the testimony given by you of his zeal for the public service on that occasion.

24. Having thus given you our sentiments on the conduct of General Stuart, independent of every consideration relative to the late troubles; and confirmed as we are in our opinion of his great experience, and of his ability to render the most important service to the Company in the present conjuncture of public affairs, we think proper to acquaint you, that in case the event of General Stuart's trial by a Court Martial shall be an honourable acquittal, we shall be well satisfied that he remain in India as Second in military command at Fort St. George, during the continuance of General Munro at that Settlement; and that he succeed to the Chief Command of the troops on the coast, upon the first vacancy that shall happen in such command, after he shall have been so acquitted by a Court-Martial as aforesaid.

