

A FEW PLAIN TRUTHS ABOUT INDIA.

BY

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CHAPTER I.

INTRODUCTORY.

My good friend Mr. Justice Cunningham, who was one of my brother judges in the High Court of Calcutta, commences a very able article, which he has lately written upon the finances of India, with this somewhat remarkable passage : *

“The administration of the Indian finances is a topic in which Englishmen, naturally and rightly, feel a deep concern.”

I heartily wish I could endorse this sentiment. It would indeed be very right and very natural, if Englishmen did feel some concern about the state of Indian finances ; but I am afraid, as a matter of fact, they do not. My own belief is,

* “The Finances of India,” by Mr. Justice Cunningham, *Asiatic Quarterly Review*, April, 1888,

that not one Englishman out of a thousand, unless he has been in India himself, or has some personal stake in the country, feels any concern whatever, either in Indian finance or Indian affairs in general.

We are all full of foreign news, and foreign politics. Every move upon the continent of Europe is watched and discussed with the greatest interest. But upon our own great Empire in the East, for whose welfare and good government we are as responsible as we are for Great Britain itself, we rarely bestow a single thought ; and this, I feel sure, not from any want of good feeling towards our Indian fellow-subjects, but simply because we know so little about Indian matters, and consider it no part of our duty to concern ourselves about them.

So long as India consumes a fair share of our exports, and supplies us with wheat and tea at the lowest possible price ; so long as she maintains our armies, and provides lucrative employment for some thousands of our population, we are content to regard her as a very useful Dependancy, to say nothing of the power and influence which the possession of so vast an Empire confers upon the British nation.

But as for troubling ourselves about her difficulties, attempting to redress her wrongs, or inquiring into the prosperity of her people, all this we are apt to regard as quite beyond our province. We

see no more reason why an English gentleman should concern himself with Indian politics, than why an Indian zemindar should interfere with questions of Home Rule, or the protection of British industries.

Besides, have we not a Government specially designed by Parliament for the requirements of the Indian people? Have we not a Viceroy, and a Viceroy's Council, and a Legislative Council? Have we not Local Governments and Local Councils? Are not all these under the control of a Secretary of State, assisted by another august Council? Is not the Secretary of State himself under the control of the Ministry of which he is a member? And is not the Indian Budget under the special supervision of the House of Commons?

Surely with these safeguards it is unlikely that any difficulties should occur; and if they do, is it not wiser to leave the solution of them to the ruling power, than to attempt to busy ourselves with questions, which it might give us some trouble to understand?

All these, no doubt, are very comfortable reflections for John Bull. They suffice at any rate to quiet his conscience, and enable him to sleep soundly over Indian troubles, without any unpleasant feelings of responsibility.

But, however sound his slumbers may be, and however cloudless and serene the Eastern outlook

may be painted in some of the English newspapers, it is certain that India herself presents a very different picture. Our friends there believe, rightly or wrongly, that they labour under grievances, which call loudly for redress; and that reforms of a very serious nature have become of vital consequence to the country.

They say, moreover, and with too much reason, that, under the present system of Government, it is impossible that these matters should be properly discussed or understood; that the Government is deaf to their appeals, and the House of Commons seemingly indifferent; and that the time has now arrived, when, in accordance with the gracious proclamation of 1858, the people should be admitted more largely into the confidence of the Government; and the principle of representation, so far as it may safely be engrafted upon the present constitution, should be adopted in the Councils of the nation.

Whether these views are well founded or not, it is certain that there prevails a deep and general feeling, that they deserve to be carefully considered. And this feeling is by no means one of recent growth, or confined to the native population. It has been increasing in intensity for many years past; and in some respects, especially as regards questions of a financial nature, it is shared by the European community.

It was only a few months ago, that the Chambers of Commerce of the three great Presidency towns addressed urgent memorials to the Government upon several important subjects, to some of which I shall presently refer; and it must be borne in mind, that the gentlemen who compose these Chambers are the leading European members of the mercantile world, many of whom have occupied seats in the Supreme and Local Legislative Councils, and who, from their long experience in the country, their constant intercourse with the natives, and their intimate acquaintance with commercial and fiscal matters, are probably better qualified than any other class to advise the Government upon questions of finance.

The natives have adopted a bolder and more effectual means of proclaiming their political opinions. In each of the last three years they have held an important National Congress, the first at Bombay in 1885, the second at Calcutta in 1886, and the third at Madras in 1887. We hear that at the last of these great assemblies no fewer than 600 to 700 delegates, representing the talent, influence, and education of the native population, were collected from all parts of India.

It is no part of my present purpose to describe at any length what took place at these meetings. Suffice it to say, that on each occasion many excellent speeches were made, and important resolutions passed.

which were afterwards submitted to the Viceroy ; and that the proceedings were conducted in a spirit of loyalty to Her Majesty, and respect to the Indian Government, which should commend them to our sympathy and consideration.

I am aware that amongst many of our countrymen, and by a certain section of the Press, both here and in India, these Congresses have been regarded with disfavour. Their motives have been impugned ; their proceedings ridiculed ; and attempts have been made to depreciate their importance, by disparaging the rank and position of the delegates who composed them.

All this seems to me very much to be regretted. It is unjust, ungenerous, and impolitic. Such attacks are directly calculated to foment that unhappy spirit of disloyalty, which has manifested itself of late in the native Press at Calcutta, and which led in Lord Lytton's time to the passing of that unhappy measure, "The Vernacular Press Act."

Whatever may be said to the contrary, it is undoubtedly the fact, that the gentlemen who attended these Congresses are for the most part in high social position, and the recognised leaders of native thought and opinion ; and if, in their honest endeavours to correct abuses, and to bring about what they believe to be wholesome reforms, they are treated unfairly by the English Press, what wonder is it, that the crowd of disaffected scribblers, who write in the

native papers, should vent their spleen and indignation in the only way that is open to them, by abusing the British Government?

Of course, I do not mean for a moment to justify this abuse. There is no justification for it. It is doing incalculable mischief to the cause of unity and progress, and it is giving the Bengalis generally, (and very undeservedly), a bad name. The English people are naturally disgusted with the accounts which they read, of the disloyalty which prevails in the capital of India; and as Calcutta is taking a leading part in the proceedings of Congress, the excesses of the native Press become associated with Congress in the public mind.

If the loyal native gentlemen of Calcutta, who, I am quite sure, disapprove of this spirit of disaffection as strongly as we do, would boldly use their influence to repress it, they would not only be vindicating the honour of their own great city, but they would have a far better chance of commending the views of Congress to the favour of the English people.

One thing, I am afraid, seems tolerably certain: that unless India can find in this country some just and generous champions to espouse her cause, she has very little chance of fair play.

Neither Congress nor the Chambers of Commerce can do much more than they have done. They have performed their duty faithfully and well in

bringing to the notice of the Government what they consider to be defects and abuses in the present system. They have done this in the most open, straightforward, and respectful way, and with the concurrence of the great mass of the Indian people, who are capable of forming a judgment upon such matters. But the Government makes no response.

For myself, I have long been persuaded, that many of the abuses complained of are real and serious; and that some of the proposed reforms would not only be of advantage to India, but would materially strengthen the hands of Government.

I shall endeavour in the following pages to explain as clearly as I can my views upon this subject. I hope I may not be considered too radically disposed; my tendencies are generally in a contrary direction. (But I have lived long enough in India to realise some of the evils of despotic rule, and I cannot help thinking that the time has arrived for relaxing, in some degree at least, the tension of that system.)

I ought perhaps to mention, that, so far as my own local experience is concerned, it is principally confined to Bengal. I cannot, of course, pretend to any special knowledge, except in my own particular department; and I hope that any errors I may make through imperfect memory or infor-

mation, may meet with some indulgence from my readers.

This is probably the last service that I may be able to render to India; and if I am fortunate enough in any degree to enlist the sympathies of my countrymen, I shall be more than content.

CHAPTER II.

THE INDIAN BUDGET.

OF the reforms most strongly advocated, both by natives and Europeans, those relating to finance are amongst the most important.

Under the present system, the Indian people have no voice whatever in their own financial arrangements. The Government are all-powerful. They spend what they please ; tax as they please ; borrow as they please. All matters of revenue and expenditure are entirely in their hands, subject only to the control of the Secretary of State in Council, and the nominal supervision of the House of Commons.

It is true, that if the annual budget provides for the imposition of any new tax, which requires the aid of the Legislature, it must come before the Legislative Council, in order that the necessary powers may be obtained. But this very seldom happens.

The budget is usually prepared by the Finance Minister ; and after being approved by the Government, it is published as a final measure by a Resolution in the Gazette. I believe I am correct in

stating, that only upon three occasions since the year 1872 has the budget been submitted to the Legislative Council. 'Even then, the discussion is virtually confined to the points which require legislation; and the Government vote and influence is so powerful, that opposition to it is practically useless.

It does sometimes happen, that a non-official member, with the courage and ability of my friend Mr. Evans, one of the leaders of the Calcutta Bar, takes occasion to remonstrate, as strongly as the rules of procedure allow, against abuses and extravagance, which have long been the subjects of complaint. But to what good purpose? Such remonstrances fall lightly upon the ear of a despotic Government; and the same abuses, the same extravagance, will continue in the future, as they have done in the past, until Parliament finds some means of interference.

It is the constant recurrence, year after year, of these and other matters of complaint, without any means being afforded to the public of fairly testing their propriety, which has given rise in great measure to the present feeling of dissatisfaction.

It may be that the so-called abuses are capable of justification; that what is deemed to be extravagance, may turn out to be unavoidable. But surely there ought to be some constitutional means of inquiring into the truth of these matters; and I am free to confess, that I very heartily sympathise both with the Chambers of Commerce and with the native

Congress, in their disapproval of the present system of the budget.

There are, indeed, certain items of expenditure, against which a strong feeling exists, which it would probably be impossible to regulate effectually without the direct intervention of the home authorities ; as, for instance, the enormous cost of the army ; the heavy burden of the home charges ; the increased expenses of the Simla exodus ; the waste of money attending the Governorships of Madras and Bombay ; and the large sums expended by and upon the Public Works Department.

There are other items, to many of which the attention of Parliament has lately been directed by Lord Randolph Churchill, which are more directly under the control of the Indian Government.

But all these, it is considered, from the highest to the lowest, require vigorous and impartial handling ; and to be scrutinized in the same spirit of watchful economy, which is acted upon by the House of Commons in dealing with our Home expenditure.

But how is such a scrutiny to be effected ? The budget accounts in India are at present not open to investigation. The public have no means whatever of ascertaining the necessity or propriety of the various charges ; and the Government are, year after year, in the unpleasant position of being accused of wasteful extravagance, which, if duly

examined and explained, might be found to be inevitable.

Surely this is unsatisfactory, both for the Government and the people; and the remedy which is proposed for it, by the almost unanimous voice both of natives and Europeans, seems reasonable enough. It is simply that the budget, whether it requires the aid of the Legislature or not, shall be submitted for discussion to the Legislative Council.

The Calcutta Chamber of Commerce, in their Memorial to the Government, towards the end of last year, strongly urge upon them the importance of this change in the law; and, after quoting in favour of it the opinions of several distinguished Indian statesmen, and notably of Lord Mayo, Mr. James Wilson, and Sir John Mackay, the Memorial proceeds thus:—

“From those statements it appears that the Government of India has been fully conscious of the advantages which would accrue to it from a full discussion of its financial measures, and of the accession of strength which it would derive from the support of public opinion.

“The Committee of the Chamber of Commerce has no reason to doubt, that the present Government shares the views of its predecessors; and it has been confirmed in this confidence by the public speeches of the present Viceroy. In the judgment of the Committee, the annual discussion of the budget in

the Legislative Council, with a detailed scrutiny by the Committee of the Council, afford the best available means of securing the advantages which have been described."

The Madras Chamber, in a similar Memorial, after expressing their approval of the views of the Calcutta Chamber, proceed as follows :—

" Under existing arrangements, the budget cannot be presented to the Legislative Council, unless it is connected with some project of law. This virtually hands over the public purse to the sole control of the Finance Minister, and discussion is effectually stifled. This state of things is so out of accord with the spirit of the age, and so much at variance with the efforts of the Government, in the promotion of Local Self-Government, that this Chamber shares the opinion of the Bengal Chamber, that it is desirable to make such a change in the law as shall permit of the annual discussion of the budget in the Legislative Council of the Viceroy. The Government has nothing to fear from such a discussion, since its aim is not to shelter the theories of the Finance Minister from legitimate criticism at the hands of men of practical experience, but to do what is best calculated to promote the financial and general welfare of the country."

Thus far the views of the Chambers of Commerce seem quite in accord with those of the native Congress. But Congress goes a step further. They not only condemn the present system, and desire

a discussion of the budget in the Legislative Council, but they ask for an expansion of that Council, upon a principle of representative selection, instead of nomination by the Viceroy; and they also ask, that the right of interpellation, by which, as I understand, they mean the same right of asking questions of the Government, which is exercised in Parliament, should be allowed in the Legislative Council.

It certainly seems difficult to imagine, how the views of the Chambers of Commerce can be effectually carried out, without some such expansion of the Council and alteration of its rules, as is proposed by the Congress.

At present there are only six non-official members of that Council, all nominated by the Viceroy, and half of them generally native gentlemen. The remainder consists of the six members of the Council of the Governor-General, and of six other official members, who are also nominated by the Viceroy.

It is obvious, that no fair or effectual discussion of the budget, such as would or ought to satisfy the Indian public, could possibly be carried on by these few non-official gentlemen, when opposed to the weight and influence of the Government members.

The very object, I apprehend, of such a discussion would be, not only to test the wisdom or expediency of the measures proposed by Government, but to supply the Council, as far as may be, with all

requisite information as to the wants, the feelings, and the opinions of the people.

I suppose that no Government in the world requires more of this peculiar knowledge, both for legislative and administrative purposes, than the Government of India. The variety of races, religions, interests, and customs, with which it has to deal, renders information of this kind especially necessary to the due discharge of its functions. And yet, as the Council is now constituted, it is almost entirely devoid of this valuable assistance.

Now the proposals of Congress, with a view to improving this state of things, seem sensible enough.

Their effect would be to leave the balance of power sufficiently in the hands of Government to insure them a good working majority; whilst they would also secure to each member the right of free discussion, and afford the Government a much larger share of information, than it has at present.

They propose that the Legislative Council shall be considerably expanded; that one half of it, instead of two-thirds, shall consist of non-official members; and that these shall not be nominated by the Viceroy, as they are now, but selected upon some equitable principle, which will afford a fair share of representation to the civilized sections of the Indian community.

I am unwilling at present to hazard an opinion,



whether the plan that has been suggested by Congress for establishing an Electoral College would work altogether satisfactorily. I am not sufficiently acquainted with the constitution of the various bodies, out of which the selection is proposed to be made, to form any proper judgment upon that question.

Much care and consideration would, of course, be required, before any decision could be arrived at, either as to the numbers or the composition of the expanded Council; but I cannot help thinking that, whatever plan may be adopted, it ought to provide for a fair representation of the three great religious sects in India,—Christians, Hindoos, and Mohammedans; and that the official as well as non-official members should be selected from different provinces, so as to represent, as far as possible, the feelings and opinions of every portion of the Empire.

The right of interpellation, and of calling for the production of papers and accounts, seems only a necessary incident to the right of free discussion. This privilege must of course be protected from abuse by any rules which Parliament may think proper; but it would obviously be impossible, without such a right, to attempt any useful inquiry into particular items, especially such as are within the exclusive cognizance of Government Officials.

If reforms of this nature could be carried out in such a way as may commend itself to the wisdom of

Parliament, I most firmly believe, that they would not only assure to England the gratitude and confidence of the Indian people, but that they would add materially to the strength and popularity of the Government, and would be the means of supplying, both to the Secretary of State and to the House of Commons, a vast deal of valuable information, which cannot possibly be obtained under the present system.

We often hear it stated, indeed it is sometimes urged as a matter of reproach, that the discussion of the Indian budget in the House of Commons is little better than a farce. And so it is. But that is not the fault of the House of Commons. It is the fault of the system, of which the Indian public so sorely complains. What means, I would ask, has the House of Commons, when the Indian budget comes on for discussion, of investigating the propriety of a single item in the accounts? Let a Member of the House be ever so able, ever so conscientious, ever so well disposed to do justice to India, and to check undue expenditure; how is he to set about it? He has absolutely no information or materials to guide him. The accounts submitted to Parliament look well enough on paper; and however unwise or unreasonable the proposed expenditure may be, or however odious the taxation to the Indian people, the accounts would not be likely to disclose it.

But if, on the other hand, the budget were

always open to discussion in India in a properly constituted forum; if objections could be freely and fearlessly made to this or that mode of taxation, or this or that item of expenditure; if the debates in Council fairly represented the argument on either side, and a full report of the proceedings appeared in due course in the Gazette, the difficulty would be practically removed.

The Secretary of State in Council would thus obtain far more reliable information as to the state of public opinion in India, than he ever has at present; and the House of Commons would learn what are the really questionable points in each succeeding budget, and would have the means, if they so pleased, of keeping a wholesome control over Indian finances.

But great as would be these advantages, I believe that a still greater benefit would result to India herself from this liberal and generous change of policy. It would engender a feeling of mutual trust and confidence between the Government and the people, which has never been what it ought to be; and which it never will be, I fear, so long as the policy of reserve, which is always, I suppose, more or less a characteristic of despotic rule, is allowed to continue.

Perhaps some of my readers, who have never been in India, and who enjoy here in England all the blessings of a free constitution, may hardly understand what I mean by "*a policy of reserve.*"

I have tried to find a more appropriate expression,

and I use this one, I need hardly say, with every feeling of respect. What I mean is, that spirit of self-reliance which induces the Government of India to exclude the people and the Press from its confidence and counsels, even in matters where they are most entitled to have a voice.

A remarkable instance of this has occurred very lately, even during the reign of one of the wisest, and most conciliatory, of Indian Viceroy.

On the 10th of January, 1886, a Commission was appointed at Simla, which is known by the name of "The Finance Committee."

Its object was to inquire into the best means of effecting economy in the public expenditure, and relieving the Government from its financial embarrassments.

It was appointed at a time of great pecuniary depression. The landowners could not get their rents; the stagnation in the commercial world had become a grave subject of anxiety; the official classes were suffering from the low rate of exchange; and as regards the Government itself, the despatch sent to the Secretary of State upon the question of the Currency disclosed only too clearly the critical state of the Exchequer.

It must be confessed, that the constitution of the Committee was not quite what the public would have wished. It was undoubtedly composed of gentlemen of high character and ability: but they

were supposed to be wanting in that independence of position, and freedom from Court influence, which was essential to the due discharge of their duties.

And yet the fact of such a Committee being appointed at such time, and the belief that the Government was really in earnest in trying to curtail expenditure, produced a confident expectation in the public mind that the result could hardly fail of success.

Their proceedings were consequently watched with extreme interest. They extended over several months, and by the end of the year 1886, the Report of the Committee was laid before the Government.

It may be imagined, that, under these circumstances, the publication of the Report was looked for with some anxiety. The waste of public money had long been complained of; and it was supposed that one chief reason for appointing this Committee was to satisfy the public that the Government was fully resolved to adopt every reasonable economy.

And yet, from the end of 1866 to the 5th of June in the present year, the Report remained a secret.

One would have thought, that if there were any State Paper, in which all ranks and classes in India were more deeply interested than another, and the contents of which every member of the community had a right to see, it surely was that Report!

How differently in such matters are we treated in England!

Whilst the Finance Committee was thus engaged in India, another Commission in London, under the presidency of Sir Fitzjames Stephen, was inquiring into the working of the Ordnance Department. No sooner was the Report of that Committee in the hands of Government, than it was at once made public ; the newspapers were full of it, and its contents were discussed from one end of the country to the other.

And why should not the people of India be permitted to share the confidence of the Government in the same way ?

Why should a matter so full of interest as the Report of the Finance Committee be kept back from the public for a period of eighteen months ? I suppose there was some reason for it ; but I confess I cannot help thinking, (in common, I believe, with thousands of our countrymen in India), that this apparent want of confidence in the people is much to be regretted, and that it gives rise, not unnaturally, to suspicion and distrust.

CHAPTER III.

TECHNICAL EDUCATION, AND PROMOTION OF INDUSTRIES AND MANUFACTURES.

A VERY healthy sign in India, and one which shows that public opinion is progressing in a right direction, is the Resolution passed at the last Congress, in favour of technical education, and the promotion of Indian industries.

It is possible, that this Resolution may have been influenced to some extent by the views of the Education Commission. Certain it is, that at the two former Congresses at Bombay and Calcutta, the subject was not brought prominently to the front, although a good deal was said on each occasion as to the increasing poverty of the people, and the necessity for reviving the old indigenous manufactures.

But the demand for a largely increased system of technical education is by no means a new idea amongst enlightened native gentlemen. I have heard it discussed frequently as one of the great requirements of the age; and I remember that in the

year 1879, a very excellent article upon it was written by my Honourable friend, Rajah Peary Mohun Mookerjee, of Calcutta, the President of the British Indian Association, and a distinguished member of the Supreme Legislative Council.

The great want in India is "*employment for the million*;" a diversity of employment for all classes, from the poorest ryot to the gentleman who has taken his degree at the University.

We have spent a good deal of time and money over what is called *high class education*. We have encouraged dreams of ambition amongst thousands of young men, which it is of course impossible to realise; and the consequence is, the growth of a vast body of unemployed well-educated men, all craving for appointments in the public service, and many of them, I grieve to say, more or less in a state of destitution.

This condition of things is bad enough in England, but in India it is far worse; because there are so few professions or employments in that country which men of that class consider worthy of their position. Law and justice probably provides for the largest number; the medical profession absorbs its fair share; and many more find a place in the various branches of the Uncovenanted Service. But all these are sadly overcrowded; and there still remains a large residuum, who are either too proud or too wanting in energy, to betake themselves to the humbler occupations of life.

And what is the consequence? Why, this is the very class out of which come the preachers of sedition and disloyalty, who abuse the Government in the native Press. Many of them are of inferior caste, the sons of tradesmen and others of very moderate means. They have been sent to college, because they are sharp, clever boys, and their parents are ambitious for their future. They all expect to be made judges or magistrates, or to obtain some good administrative appointments; and when they have toiled hard, and taken their degrees, they become utterly disgusted at finding themselves without money or employment. They have been taken out of their proper sphere; they are ashamed to return to their fathers' occupation, and sometimes even to consort with their own families; and they vent their spleen in a way which is perhaps not unnatural, by abusing the Government which has placed them in this position.

If only one half of the money, which has been expended upon high-class education, had been devoted to technical schools and colleges, and to the promotion and development of arts and industries, the result would have been far more satisfactory.

Let us now consider the condition of the agricultural classes.

Here we have an immense population, in many districts far greater than the land can support, and most of them without any means of useful employment.

It constantly happens in Bengal, that between the zemindar, who pays his rent to Government, and the ryot, who cultivates the soil, there are no less than seven or eight intermediate tenure-holders, each subject to his superior landlord, and each trying to obtain as much rent as he can from his own immediate tenant.

This is a natural consequence of the permanent settlement, and one main reason why Bengal is so terribly over-populated.

It is a rich, fertile country, and so far as its cultivation is concerned, I believe there is little fault to be found with it. The poverty which was so loudly deplored at the Congress, arises generally, I fear, from the enormous mass of people which the land has to maintain, and which year by year becomes more formidable.

The practice of early marriages, and the joint family system, which entitles each male member of a family to an undivided share of the family estate, helps largely to increase the evil.

Those people are as fondly attached to their old ancestral holdings as an Irishman; and each member of the family has as much right as another to remain in the family dwelling-house, and to share in the profit which the tenure, whatever it is, affords. Consequently, the little farm, which twenty years ago provided comfortably enough for ten persons, is unequal now, although probably better cultivated, to

maintain a hundred; and it will have more difficulty still, in the course of a few years, to support a much larger number.

Then what is to be done? Surely the most obvious remedy is that which for years past we have been experiencing in England, and which is now proposed by the Indian Congress,—namely, by promoting industries and manufactures of various kinds, and educating and encouraging the rising generation to betake themselves to occupations of that nature.

If capital and enterprise could only be found for starting such industries, there would be no difficulty in obtaining labour; and the more the system is extended, the cheaper labour would become. The working classes in India are remarkably clever at handicraft of all kinds, and they soon learn the difference between the good pay of the factory, and the pittance which they earn in the fields.

The main difficulty, I fear, at present would be the disinclination which exists amongst the richer agricultural classes to invest their capital in trading speculations.

One reason for this is, that these gentlemen can generally lay out their money to greater advantage, and more in accordance with their own customs and convenience, by lending it to needy members of their own class. These loans in Bengal are very common indeed; and the interest obtained upon them seems to our English ideas extravagantly high. Upon good

security it ranges from eight to twelve per cent., and is generally much higher upon second-class mortgages. The poorer tenure-holders are often crushed by these transactions, whilst the wealthy zemindars and bankers become richer and richer, and acquire the mortgaged properties at a ruinous sacrifice to the owners. Capitalists naturally find this a more easy way of making money, and enlarging their estates, than by entering into trading speculations, to which they are not accustomed.

Another reason is, that men of rank and position in the Mofussil consider it beneath their dignity to engage in commercial pursuits. They have the same sort of feeling about this, that our own aristocracy had only a few years ago. But such prejudices are fast disappearing in this country, and I believe they would do so in India, if a breach were once made in the rampart of conventionality.

In the towns, of course, and amongst the commercial classes, there would be no difficulty of this kind. Industrial projects there would be readily undertaken, if people only saw their way to a fair prospect of success.

Of one thing, however, we may be quite certain; and that is, that the question whether this most desirable policy is to be encouraged and promoted by native gentlemen, depends mainly upon the Government.

Sir William Hunter never said a truer word, than

he did in his lecture reported in the *Times* on the 12th of May last, that "India was now waiting *for a commercial Viceroy*; for an English statesman with breadth of mind to grasp the situation, and with firmness of purpose to give effect to his views."

It is no use to spend money upon technical schools and colleges; it is vain for Congress to pass resolutions in favour of this movement, unless the Government itself, both in India and in England, shows *by deeds, as well as words*, that it is desirous of promoting private industries and enterprise.

At present there is a strong feeling that the Government is not in earnest in this respect; and that English politics and English interests are allowed to interfere unfairly with Indian trade and industry.

And how can it be otherwise? The repeal of the cotton duties, although now an old story, is not at all likely to be forgotten. (Those duties were not only of immense importance to India's cotton industry, but urgently required in aid of the Indian Revenue.) Lord Northbrooke, to his lasting honour, preferred even to resign his Viceroyalty, than be a party to the injustice of repealing those duties.) Of course we all know the true reason for that measure. (We all know that it was the pressure put upon England by the Lancashire cotton spinners,) although the pretext assigned for it was the plausible one of Free Trade.

But what have we to say with regard to gold and silver manufactures? England's manufactures of

that kind have long been admitted into India duty free, whilst similar Indian manufactures are still subject in England to a heavy import duty. Let us hope, from what we hear, that this injustice may soon be discontinued; but it has lasted long enough to make India doubt the sincerity of England's Free Trade principles.

And what have we to say to the Indian tea industry? No men in the world have worked harder, or under greater difficulties, to establish their position, than the tea planters in India. What has England done to aid those men? Have we given them the benefit of our vaunted Free Trade principles? Although tea is one of the necessaries of life, and, many people would say, *one of the special necessities of the poor*, Indian tea is now paying a duty to England of sixpence per pound, amounting annually, I believe, to upwards of two millions sterling!

Is this Free Trade? Does the duty upon Indian coffee or Indian rice savour of Free Trade? I confess to being myself a Protectionist. I agree with Sir Edward Sullivan that a reasonable measure of Fair Trade would be beneficial both to England and to India, because I believe it would go a long way towards providing employment for the people. But whatever we are, I say, whether Free Traders or Protectionists, let us at least be just and consistent. Let us not adopt Free Trade or Protection to the detriment of India, just as it answers our own purpose for the time being!

And now, before I leave this subject, let me venture to say a word to the Government of India.

When the associated Chambers of Commerce urged a few months ago upon the Indian Office the necessity for an extension of Indian railways, Sir John Gorst, who received the deputation, very truly told them, that India was a poor country; that she had already spent large sums upon railways, and had undertaken to lay out another large sum in the course of the next three years; and that it was impossible for the India Office, having regard to the state of their Exchequer, to sanction any further outlay.

"But," added Sir John Gorst, "if it is true, as you gentlemen say, that there is so much room in India for new railways, what a chance is here for private enterprise!"

Poor private enterprise! Having been virtually expelled from India for the last twenty years, so far at least as railways are concerned, she is now invited at the last moment, after all the best lines have been constructed, to come over to India and complete the railway system, with all the disadvantages of course which would naturally attend such a thorough change of policy!

But private enterprise is one of those succours, which a nation cannot call to its aid just as and when it pleases. It is a plant which requires careful nursing and generous treatment; though, when it has once taken hold of the soil, it soon puts forth

its branches, and repays your care and generosity a hundredfold.

Look at England's vast network of railways, all constructed in the course of a few years, and all the work of private enterprise ! And who were the promoters of this wonderful system ? You need only have visited the Parliamentary Committee Rooms during the great railway mania from 1840 to 1860 for an answer to that question. The men who set this mighty machinery in motion were some of the most eminent engineers, surveyors, contractors and solicitors of the period ; and behind these again, not occupying so prominent a position, but assisting, nevertheless, in their several capacities, were bankers, timber merchants, iron-masters, brick-makers, sub-contractors and others ; all, from the highest to the lowest, taking part in the wonderful work, and inciting landowners and the public generally to lay out their money in undertakings, which were destined in a marvellous degree to swell the prosperity of the nation, and to assist in the development of other great industries.

And what was England's policy with regard to these railways ? Why, a thoroughly generous one, and worthy of a free nation. She asked no money for concessions ; she took no profit herself out of the pockets of the public. She imposed upon the companies, who carried out these schemes, no harassing control or conditions. She allowed them to

spend their money, and to take their own profits in perpetuity, subject only to certain statutory provisions, which were necessary to protect the interests of the public, and to prevent the rights of private persons from being unduly invaded.

Let us now look, on the other hand, at the policy of India. Of late years Indian railways have, with some few exceptions, been made and managed, and their profits appropriated, entirely by the Government. But even under the guarantee system, which was in force some twenty years ago, and under which some of the earlier railways were made by English Companies, the whole control of each scheme was practically in the hands of Government.

They provided the necessary land, and guaranteed certain interest upon the paid-up capital; but, in return for this, they exercised a complete practical control over the proceedings of each Company, and at the end of a few years retained the option of buying up the concern on certain specified terms. So that, if the project succeeded, the Government might reap the benefit of it; if it did not succeed, the Company were saddled with the burthen.

In speaking of this system, General Chosney says, in page 389 of his work upon Indian Polity :

“ The truth is, that all these devices for guaranteed interest or guaranteed traffic receipts, are merely transparent disguises of the fact, that Indian railways, under any form, are really Government under-

takings ; and until this fact is distinctly recognised, a thoroughly satisfactory policy in regard to railway affairs appears to be impossible."

General Chesney's opinion was, that Indian railways, and, I believe, all other public works of every description, ought to be made and maintained by the Government itself.

And there is so much high authority in favour of this view, that I fear it is almost presumptuous in a humble individual like myself to doubt its wisdom.

It may be, that the peculiarities of our Indian system of Government, or perhaps of the people themselves, render a policy of this kind advisable in India, which would be intolerable in a country like England.

It may be that in 1854, when the Public Works Department was first established by Lord Dalhousie upon its present basis, private enterprise, however carefully and generously fostered and encouraged, would have been utterly unable to carry out, or even to aid effectually in, the undertakings, which that great statesman thought necessary for the development and improvement of the country.

And it may also be that, having once established that vast and expensive machinery, and having learnt to lean upon it more and more for the execution of all its operations, the Government, as time went by, may have become less able or willing to dispense, even partially, with its support and assist-

ance, although the increase of civilization, and the improvement in the status and education of the people, may well have warranted the adoption of a more liberal policy.

But whatever may be the merits or demerits of the present system, I am afraid that, so long as it exists, and so far as its operations and influence extend, it must be destructive of private enterprise.

In the matter of railways, for example, what room is there in India at the present time for the class of men whom I have described, as having been the great promoters of the English railway system? Such men would be lost in India. They would find no room there for the exercise of their energies and talents. Their occupation is entirely monopolised by the Government.

And what is true of railway enterprise, is true also, more or less, of all other classes of industry, which are excluded from employment by the Public Works Department.

That Department is in fact a gigantic Government monopoly. It appropriates to itself not only railways, but roads, canals, buildings, bridges, irrigation, drainage, and a thousand other works, both civil and military, which in England would be open to public competition.

It expends upon its own staff of officers and servants several millions annually of the public money, which would otherwise be distributed amongst a

vast variety of professions, trades, and businesses, and would afford that very stimulus to private enterprise, which India so urgently requires.

I shall be told, I know, by those who approve of the present system, that the Government is bound to get its own work done as well and economically as possible; and that this can be better accomplished by means of its own staff, than by employing private agency. I can only say, that I believe this is by no means the general opinion; and I have heard it denied over and over again, by those who are well qualified to form a correct judgment. I would only ask any of my readers, who take an interest in this great question, to be kind enough to read the evidence upon it, which was taken before the Select Committee of the House of Commons during the years 1871, 1872 and 1873. I think they will find there good reason to doubt, whether the work done under the present system in India is either so good or so economical as it might be.

I need hardly say, that this is a matter of which I have no personal knowledge, and upon which I cannot presume to offer an opinion; but it is one which, in the interest of the Indian public, deserves to be most carefully investigated; and it is obviously impossible to investigate it satisfactorily, so long as all information as to the cost and details of this enormous establishment are in the sole and exclusive keeping of the Government.

There is one thing, however, which I think must be patent to every one; and that is, the inconvenience and imprudence of keeping up an immense permanent staff of this kind, at a time when in all likelihood it may become necessary or advisable to make a large reduction in the public works expenditure. The average annual cost of what are called unproductive public works has been for several years past about five or six millions; and if this were reduced by one-third or one-half, what a waste of power and money would necessarily be involved in keeping a large portion of the staff unemployed.

CHAPTER IV.

SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS.

THE only two remaining matters with which I propose to deal, relate to abuses, or what are considered to be so, in the administration of justice.

The first of these was made the subject of a Resolution at the Calcutta Congress in the following terms:—

✓ “That this Congress do place on record an expression of the universal conviction, that a complete separation of executive and judicial functions, (so that in no case the two functions should be combined in the same officer,) has become an urgent necessity; and that, in its opinion, it behoves the Government to effect this separation without further delay, even though this should in some provinces involve some extra expenditure.”

This is, indeed, as the Resolution expresses it, “*a universal conviction.*” I believe the mover of this Resolution was quite justified in saying, that the principle embodied in it had been accepted, not only by the whole country, but also by the Government of

India, and by almost all the Local Governments ; and I sincerely hope that the only obstacle now in the way of carrying out that principle is the additional expense which it involves.

The injustice of the system against which the Resolution is directed, can hardly be appreciated in a country like England. In a very modified form the combination of police and magisterial duties has been the subject of animadversion in Ireland ; but when the functions of a policeman, a magistrate, and a judge, are all united in the same officer, it is vain to look for justice to the accused.

Imagine, my good reader, an active young magistrate, having heard of some daring robbery which has alarmed the neighbourhood, taking counsel in the first place with the heads of the police, with a view of discovering the offender. After two or three vain attempts he succeeds at last, as he firmly believes, in finding the right man ; and he then, still in concert with the police, suggests inquiries, receives information, and hunts up evidence, (through their agency,) for the purpose of bringing home the charge to the suspected person.

Having thus done his duty very zealously in the first stage of the case, he next proceeds to inquire, as a magistrate, whether the evidence which he himself has collected is sufficient to justify a committal ; and having come to the conclusion, not unnaturally, that it is, he afterwards, upon the self-same evidence, tries

the prisoner in his judicial capacity, without the assistance of a jury, and convicts him.

However monstrous this may appear to an English public, the picture which I have presented is by no means overdrawn. It is not so common now as it used to be ; but it was a matter of constant occurrence only a few years ago ; and there are additional circumstances in India, which render it still more objectionable.

In the first place, it is extremely difficult in outlying districts, especially in the case of a poor man, to obtain the assistance of a competent advocate. In the next place, there is no public opinion, no wholesome influence of the Press, to operate as a check upon the magistrate. And lastly, the police themselves, upon whom the magistrate is obliged to depend very much for his facts and information, are neither so honest nor reliable, as they are in this country. Besides which, there is always the fear that the charge against the prisoner may be the work of some wicked conspiracy. In England, the getting up a false case against an innocent man is a comparatively rare thing. In India, it may almost be called one of the customs of the country. If you want to spite your enemy, or to revenge some injury to yourself or your family, one of the most ordinary means of doing it is to bring a false charge. There are always professional witnesses to be had, who would join in such a conspiracy for the sake of a few annas ; and it some

times happens, that the police themselves are engaged as the chief actors in making these abominable charges.

No wonder, with the knowledge of all this before their eyes, that the Congress at Calcutta should have passed two other cognate Resolutions, in addition to that which I have already quoted ; first, with a view to extending the system of trial by jury ; and secondly, that a provision, (similar to that contained in the Summary Jurisdiction Act in England), should be introduced into the Code of Criminal Procedure, to enable an accused person in serious cases, instead of being tried by the magistrate, to be committed to the Court of Sessions.

• It is not that the Indian public have any want of confidence in European officers, as such ; on the contrary, they have the greatest faith in English honour and uprightness ; and I believe that, as a rule, they would rather be tried by an English judge, than by one of their own nationality. But to be tried by a man, who is at once the judge and prosecutor, is too glaring an injustice ; and it is only wonderful, that a system so indefensible should have been allowed to prevail thus long under an English Government.

CHAPTER V.

THE STAMP FEE SYSTEM IN BENGAL.

ANOTHER subject of complaint, which is urged very justly by the Calcutta Chamber of Commerce, is the heavy tax by way of Stamp fees which is imposed upon civil suitors in Bengal. It is one which I represented to the Government on no less than three occasions, during my tenure of office; but the grievance still continues unabated.

In the present state of the law, no suit or appeal can be instituted in the Mofussil Courts, until the plaintiff or appellant, as the case may be, has first paid a heavy *ad valorem* duty in the shape of a Stamp fee.

The amount of this duty was fixed by "The Court Fees Act, 1870," at about 5 per cent. upon the value; and I believe that is the rate at the present time.

People here would hardly believe, that before a man can bring a suit in India upon a bond for 10,000 Rupees, he has to pay a duty to the Revenue of 475 Rupees. If the value of the suit is as much as

410,000 Rupees, the Stamp fee is 3,000 ; but this is the maximum duty ever charged.

The grounds for imposing this tax upon civil suitors are thus explained by the Legislature in the " Objects and Reasons " of " The Stamp Fees Act, 1867 " :—

" It is not contended that the expenditure on the Courts of Justice should be met in full by a tax on such individuals of the community as alone resort to the Courts, because it is manifest that all classes have more or less a direct interest in the administration of justice, especially of justice in the Criminal Courts.

" But it is only reasonable that those who resort to the Courts should contribute in a larger proportion than the general public to the support of them, as Institutions by which they, more than others, are immediately benefitted.

" It has been found, too, that some tax upon litigants is absolutely necessary, to restrain the special tendency of the public in India to resort either to the Civil or Criminal Courts on the occasion of every petty claim or dispute."

It is clear, therefore, that the object of the Government in imposing this tax was *not to make suitors pay the whole cost of the Civil Courts*, and certainly not to burden them with a large surplus in addition ; whereas the amount of the tax now raised in Bengal exceeds by at least one-half the entire expense of the Civil Courts.

From the High Court Report, which was forwarded to the Government for the year 1882, it appears that the total estimated cost of the Civil Courts in Bengal was Rs. 3,396,066, whilst the total income to the Government from the Stamp fees was Rs. 6,612,983.

This surplus had at that time been increasing for several years past, and I learn that it is now even larger than it was in the year 1882.

The result is, that civil suitors in Bengal are not only made to pay the entire cost of the Civil Courts, but of the Criminal Courts also, besides contributing a very large surplus for the benefit of the general public. All this I stated very plainly in a Minute, which I addressed to the Government in 1883, and, as far as I am aware, my facts have never been questioned.

Now this is a manifest injustice, which falls with peculiar severity on the poorer class of litigants. To the rich the payment of so large a fee is often a serious matter; but in the case of the poor, it absolutely bars the door of justice. It often happens that suitors cannot possibly raise the necessary sum to enable them to enforce their rights; and consequently suits in India, both by rich and poor, are frequently carried on, not by the claimants in whose names they are brought, but by suit-brokers and money-lenders, who undertake the case and pay the necessary expenses, upon the terms of getting a share of the property, if the suit should prove successful.

This mischievous system, which is known in England by the name of champerty and maintenance, is here considered illegal, as being contrary to public policy, and tending to encourage strife and litigation; but it has been tolerated in India for no better reason, than because, without it, many unfortunate claimants would be without any means of redress. There is no doubt that, both among Europeans and natives, but especially the latter, a very strong feeling exists against the undue severity of this imposition.

There is not the same reason now, as there was in former times, for preventing unnecessary litigation by means of a tax. The subordinate Courts are far stronger than they used to be, and fully able to deal summarily with unfounded claims; and I should hope that the very questionable policy of denying justice to the poor, for the purpose of restraining generally a spirit of litigation, would not find much favour at the present day.

But there is another reason, and a strong reason too, why this tax is peculiarly unjust to the suitors of Bengal; and that is, that whilst Executive officers are almost invariably provided with good and suitable offices and dwellings, the Courts of Justice are in too many cases a disgrace to the Government; whilst the habitations which Mofussil Judges are often forced to occupy are utterly unfit for gentlemen in their position. The contrast between the accommodation provided for Judicial and Executive officers is very

marked, and tends, I need hardly say, very materially to lower the judiciary in the estimation of the people.

Not long before I left Calcutta, my good friend, Mr. Justice Prinsep, our most experienced Civilian Judge in the High Court, made a tour of inspection in certain of the Bengal districts ; and in his Official Report, which bears date in July, 1885, he thus describes the state of things he found there ;

“ The next matter to which I would draw attention is the insufficient and inappropriate accommodation generally given to Civil Courts. The Moonsiffs' Courts are nearly always most unsuitable structures. In many places they sit in hovels unfit for human habitation ; dark, unventilated, and filthy. At some places mat bungalows have been erected on a standard pattern.

“ No doubt these are an improvement on the places in which the Courts used to be held ; but still they cannot be regarded as suitable Court-houses. The accommodation is generally insufficient, and the retention of valuable papers in a thatched mat house is attended with the greatest risk. Let any one contrast even these improved Court-houses with the Court of a Subdivisional Magistrate, or even the local Post Office or Telegraph Station, and the inferiority is most striking ; but how much more so in the case of the huts or sheds, in which many Moonsiffs' Courts are still located.

“ In Burrisaul I found four Moonsiffs huddled together in a dirty dilapidated house, one of them

sitting in an exposed side verandah, indifferently protected by a slanting mat from sun and rain. The unsuitableness of this accommodation was noticed by the Lieutenant-Governor about two years ago, and orders were issued for the preparation of proper Courts. But there matters remain.

“At Subdivisions, the contrast between the accommodation given to Judicial and Executive officials is especially remarkable in their private arrangements.

“The contrast is not only in the Court-houses, but in the arrangements made for private accommodation. The Deputy Magistrate (a native) lives in comfort in a building belonging to Government; the Moonsiff must be content with the best lodging that he can procure, and often, when his Court is placed in a small village, the only lodging procurable is so unsuitable, that he is forced to send away his wife and family to his own home. Is it surprising that, with such disadvantages, the Executive should be regarded as the favoured service, and that Judicial officers should feel that their interests and comforts are neglected?

“As a separate department, Civil Justice yields a large income to Government. Why then should the claims of this branch of the public service always be deferred to those of other departments? It is notorious that a collector, a district magistrate, or even a superintendent of police, finds little difficulty in obtaining funds for any improvement to his offices, or even those of a subordinate. But the obstacles

placed in the way of District Judges deter them from asking for the most trifling expenditure, and even admitted claims are so constantly postponed, that they are apt to be lost sight of.

“I am conscious of my inability to ascertain the real cause of this persistent parsimony in the departments of Civil Justice ; but, whatever be its cause, I trust that in the future its claims may be more recognised, and more jealously watched until they are actually satisfied.”

I sincerely hope, that since the date of this Report, some steps may have been taken to remedy this unhappy state of things. The attention of Government has been called to it over and over again, and there undoubtedly exists a very strong feeling upon the subject. If the very large surplus, which is now received by Government for Court fees, were (even to any reasonable extent) appropriated to the improvement of the Courts, there might be less ground for complaint.

But when, for the express object of providing for the necessities of the Civil Courts, this large sum of money is taken out of the pockets of the suitors, and then appropriated to other purposes, whilst the Civil Courts are left in so disgraceful a condition, it naturally gives rise to very serious complaint.



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