# PARLIAMENTARY INQUIRY

INTO THE

# CLAIMS OF MR. BUCKINGHAM

ON THE

# EAST INDIA COMPANY.

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Pursuance of the Order of the House of Commons for the appointment of a Select Committee to take into consideration the circumstances connected with the Suppression of the Calcutta Journal, in the year 1823, and the loss of property entailed on Mr. Buckingham in consequence of that measure; and to report their opinion to the House, as to whether any and what amount of Compensation ought to be awarded to Mr. Buckingham for his Losses on that Account

LONDON:

PRINTED BY CHARLES WHITING, BEAUFORT HOUSE, STRAND.

1834.

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# MR BUCKINGHAM'S CASE.

Analysis of the principal Facts proved in Evidence before the Select Committee of the House of Commons, in the Sessions of 1826 and 1831, in the case of the Suppression of the *Calcutta Journal*, with the references to the pages in the Printed Evidence where the proof of each Fact is to be found.

*Facts proved, and Opinions offered, on behalf of Mr. Buckingham, by five Witnesses, all residents in India.*

1. That Mr Buckingham was resident in India in 1818 under the legal sanction of the necessary licence from the East India Company at home, and recognised by the public authorities in Bengal.

1 Copy of Mr Buckingham's Licence—*Minutes of Evidence*, extract page 1—Oct 1823.

2. That he established the Calcutta Journal, which was described by the Governor-General as having been conducted with great talent and ability, and the prosecution of enquiries which displeased the Government, as having been approved by the British community of India.

2 Character of the Calcutta Journal—*Minutes of Evidence* Mr J C S the first page 9, extract 17 to [illegible] Colonel Fitzclarence page [illegible] extract 1 to 17 to 19 Mr Colquhoun Grant page 77 paragraph 1 Mr Charles Buller, page 11, question 974, line 11, 12 to 30

3. That from the public professions of the Governor-General of India, Lord Hastings, relative to his removal of all restrictions from the Indian Press, save those of a responsibility to the ordinary legal tribunals, and the assent of a jury, Mr. Buckingham was encouraged occasionally to address himself to the unshackled Press, as correspondents to comment, on the public measures of the Government in that country.

3. Speech of Lord Hastings on removing all Restrictions from the Indian Press—*Minutes of Evidence* page 60.

4. That some of these articles were complained of, to the extent of seven or eight only, [illegible] of which only [illegible] of the writings of Buckingham in the *opinion of the writer*, reprehensible.

4 Extract of the [illegible] of the whole of the Editor.

5. That the only legal proceeding which was preferred in a criminal form before a Jury Mr Buckingham was acquitted in that case, namely, no actual guilt, the explanations given by Mr Buckingham in his replies to such remonstrances appear to have convinced the Governor-General that the articles complained of did not deserve the severe punishment of removal from the country.

5 Mr Buckingham's acquittal by a Jury—*Minutes of Evidence* page 1 [illegible] of Mr Buckingham's Rights, have changed the Resolutions of the Government—*Minutes of Evidence* page 62

6. That on the resignation of Lord Hastings, which took place shortly after the arrival of his successor, Lord Amherst, a trial which, to say no more, authority was exercised by Mr. John Adam as Senior Member of Council

6 Narrative of the Charge—*Minutes of Evidence* page 71 last paragraph.

7. That the [illegible] of a clerk for the supply of stationery to the public departments of Government, was conferred on the Rev Dr. Bryce, the editor of the Calcutta Journal and a resident in India.

7 Appointment of Dr Bryce—*Minutes of Evidence* page 78—last paragraph

8. That Mr Buckingham was stigmatized from the Bar at the, in which the duties of such an office were shewn to be incompatible with a due discharge of the reverend gentleman's sacred functions.

8 Article on Dr Bryce—*Minutes of Evidence*, page 71 last paragraphs.

9. That for writing and publishing this article, Mr. Buckingham's licence to reside in India was withdrawn, and he was ordered, without a trial, investigation, hearing, or

[illegible] process of law [illegible] by force.

[illegible]

10 [illegible] which were paid [illegible]

[illegible]

11 [illegible] the Board of Control, [illegible]

[illegible]

12 [illegible] notwithstanding [illegible]

[illegible]

13 [illegible]

[illegible]

14 [illegible]

[illegible]

15 [illegible]

[illegible]

16 [illegible] should be [illegible] the property [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

M[illegible] [illegible] B[illegible] [illegible] M[illegible]

## [illegible] HONOURABLE [illegible] KINNAIRD

"Mr. B[illegible] entitled to sympathy [illegible] [illegible] [illegible] to add [illegible] necessary to [illegible] Mr. [illegible] [illegible] so long a period, with the [illegible] to every incident of his [illegible]

## LORD JOHN RUSSELL

"I am of course [illegible] matter, and I [illegible] Mr. B[illegible] is, instead of being [illegible] which I have [illegible] Mr. B[illegible] [illegible] which, [illegible] by [illegible]

"For my own part, having [illegible] Mr. Buckingham's Journal, [illegible] the Indian Government, I can [illegible] to say that [illegible] although they must [illegible] for the publication of a daily paper, which [illegible] the character of the writer [illegible] lived [illegible] very [illegible] perfect [illegible] and the [illegible]

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In addition to [illegible] the following [illegible] by the signatures to a Public App[illegible] Mr. B[illegible] Right Hon. [illegible] Right Hon. [illegible] others.

## HOUSE OF COMMONS.—MONDAY, AUGUST 4, 1831.

### SELECT COMMITTEE

Ordered to take into consideration the circumstances connected with the suppression of the *Calcutta Journal*, in the year 1823, and the loss of property entailed on Mr. Buckingham in consequence of that measure; and to report their opinion to the House, as to whether any and what amount of Compensation ought to be granted to Mr. Buckingham for his losses on that account.

| | | |
|---|---|---|
| Mr. Charles Grant | Mr. Wilks | Mr. Robert Gordon |
| Mr. Williams Wynn | Sir Thomas Lennard | Mr. Walter |
| Lord Althorp | Mr. Guest | Mr. Hughes Hughes |
| Sir Robert Peel | Mr. John Smith | Mr. Brougham |
| Lord John Russell | Mr. Hamilton | Mr. Robert Grant |
| Mr. A. Baring | Mr. Barnes | Mr. Cresswell |
| Mr. Cecil Legrand | Sir W. Ingilby | Mr. Stuart Mackenzie |
| Lord Ashley | Mr. Lyall | Mr. H. Lootwell |
| Mr. Ainsworth | Colonel Davies | Mr. W. S. Gladstone |
| Mr. Peter Rivers | Captain Maxfield | Mr. C. A. Walker |
| Lord Granville Somerset | Mr. Sawle | Mr. Charles Ross |
| Mr. Hume | Mr. [illegible] | Mr. Bernal |
| Mr. Admiral Thompson | | |

### RESOLUTIONS REPORTED TO THE HOUSE.

1. "Resolved, That it appeared to your Committee, that Mr. Buckingham resided in Bengal from the year 1818 to 1823, under the licence of the East India Company, and was engaged as Proprietor and Editor of the *Calcutta Journal*, which was the only profitable concern, yielding to himself and his other proprietors adequate remuneration."

2. "Resolved, That it appeared to your Committee, that in the year 1823, in the exercise of the discretionary authority of Governor-General, Mr. Buckingham was, by the acting Governor-General, ordered to quit India within two months."

3. "Resolved, That it appeared to your Committee, that after the departure of Mr. Buckingham from India, the *Calcutta Journal* was, by order of the Governor-General, altogether suppressed."

4. "Resolved, That your Committee, without impugning the motives which actuated the measures of the Government, feel that those measures have in their consequences proved to Mr. Buckingham a most serious and unexpected calamity, which could not have been contemplated at the time of their adoption."

5. "Resolved, That your Committee are therefore of opinion that Compensation ought to be made to Mr. Buckingham."

6. "Resolved, That your Committee abstain from expressing any opinion as to the amount of Compensation, in the hope that that subject will be taken into the favourable consideration of the East India Company, and thus the interposition of Parliament, in the next Session, to fix such amount be rendered unnecessary."

# PARLIAMENTARY INQUIRY,

&c. &c. &c.

## SPEECH OF MR. BUCKINGHAM ON HIS CLAIMS AGAINST THE EAST INDIA COMPANY.

Delivered before a Select Committee of the House of Commons, on Tuesday, July 1, 1834.
E. W. W. Pennant, Esq., M.P. in the Chair.

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Feeling, as I do, Sir, the great importance of the question which is this day to be submitted to your judgment, I feel, also, that I shall stand in need of all the indulgence which the Committee can extend to me while I lay before them the principal facts of the case. The issue of their decision will be to determine, whether for the future I am to be consigned to an ignominious poverty, or whether I, and all those who are dependant on me for existence, shall be restored to the enjoyment of those rights of property of which I conceive we have been most unjustly deprived. I say ignominious poverty, because, if it should be decided that I have received no greater punishment than my offences justly deserved, then must my conduct appear in a highly criminal light indeed, to have merited so severe a sentence; whereas, should my property be again restored to me, it will re-establish my reputation, as well as my fortune, by showing that it had been unjustly and undeservedly destroyed. The length of time that has elapsed since the wrongs of which I complain were first committed, has suffered a vast mass of prejudice and misconception to be accumulated against me. The disadvantages which every single individual must experience in combating, alone, a wealthy and a powerful Company, have also been sustained by me in all their force. Nevertheless, whenever I have been asked, "How long do you mean to persevere in urging your claims?" my answer has invariably been, "As long as they remain uncompensated, or as long as I have life to press them." In pursuance of that solemn pledge, I have, without shrinking or withdrawal, continued to urge them in every form, and on every fitting occasion, always against a host of obstacles, and always unsuccessfully, it is true: but more, I believe, from the defective composition of the tribunals before which my case was brought for consideration, than from any want of merit in the case itself. I perceive, however, that the period has arrived, when a Committee of the House of Commons has been appointed to hear the evidence, and

pass their judgment on my claims. I have the strongest confidence in their integrity and honour; and setting, as they now do, in their judicial capacity, I feel assured that they will endeavour to divest from the minds all previous impressions received by them through any other source, and judge of the matters of claim before them from the evidence to be adduced, and from that alone. In the belief that they will do this, I shall endeavour to treat the subject as calmly, as fairly, and as impartially as possible. In so doing, it will be necessary for me to retrace a very painful series of events, not on the score of any pleasure which that recapitulation will afford me, for its retrospect can give me only pain. But, as it is constantly alleged that my banishment from India was not the punishment of any one particular act, but of several preceding offences, and as it is constantly said, that the suppression of my Journal was not because of any particular offence alleged as the reason, but for its general tendency and character in all time past; it is essential to me to show what that tendency and character, and what those preceding offences, were; so that the Committee may have the whole before them, and judge of it accordingly. I will begin, therefore, with the beginning, and leave no portion of the case untouched or unexplained.

In the year 1813, being in the Mediterranean Sea, engaged in those maritime and mercantile pursuits which had formed the occupation of my previous life, I suffered very severe losses of fortune, by the occurrence of the plague at Malta, and the disastrous effects on the commerce of that island which the calamity produced; and having visited Egypt with a view to repair, by other mercantile undertakings, the losses adverted to, a proposal was there made to me, that I should make a personal survey of the Red Sea, in order to ascertain its safety and practicability for merchant vessels, and then proceed to Bombay, to learn whether the merchants of that port would reciprocate the disposition which existed among the merchants of Egypt, to revive the ancient commerce which once existed between those two highly-favoured countries. To this proposal I readily acceded, all the habits and pursuits of my former life fitting me for its execution. In pursuance of this mission I accordingly went to India by way of the Red Sea, and arrived at Bombay in April, 1815. During my stay there I had the good fortune to be cordially received by the principal inhabitants of the place and to mingle with the first circles of society. The merchants, however, considering the matter too important to be decided upon hastily, required time to deliberate before they came to a final determination; and in the interim I received, from a Mohammedan merchant of Bombay, an appointment to the command of an Arab frigate belonging to the Imaum of Muscat, an independent prince with whom we were in amicable relations. I was employed in fitting out this ship for sea, when, being called upon by the East India Company's Solicitor, to say whether I had the Company's licence to reside in India, I replied in the negative; and gave as a reason for my not possessing it, an account of my visit to Egypt, and embarkation there for Bombay, not knowing that a licence was at all necessary to visit any portion of the British dominions, and consequently never seeking for that of which I was wholly uninformed. This explanation producing no change in the opinion of the Bombay Government, I was ordered to leave the country; when I applied for

permission to go round to Bengal, and appeal to the Governor-General there, who had power to grant licences to individuals unprovided with them in England until the pleasure of the Court of Directors at home should be known. This application was also rejected; and there seemed no hope of my being allowed to remain in India at all. An opportunity presenting itself, however, for my returning to Egypt, the country from which I came, the Chief Secretary to the Government, Mr Francis Warden, applied to the Governor, as a special favour, for permission for me to return by that route, which was at length acceded to. As the correspondence that took place on that subject is very brief, perhaps the Committee will allow me to read it. I wish to do so for the purpose of showing that at the instance of my first removal from India, there was not only no offence imputed to me, but there was a voluntary testimony of the exceedingly creditable character of my pursuits, pronounced by the Governor, Sir Evan Nepean, under circumstances which could leave no doubt of his sincerity, presenting therefore the most satisfactory proof, that I was wholly innocent of any criminal act or intention, though the punishment inflicted on me was most severe, being no less than my arbitrary removal from the command of a frigate, in which the commander who succeeded me, a gentleman no better qualified, but only more fortunate than myself, realized in the short space of three voyages to China, a fortune of 30,000*l.* sterling. The correspondence was as follows:

To Sir Evan Nepean, Bart.

My dear Sir Evan, *Bombay, June 19, 1815*

As the Prince of Wales is proceeding to Mocha, I conclude there can be no objection to Mr Buckingham being allowed to return to Egypt. He has concerns to settle there, and is desirous of returning thence, as you have not allowed him to go *via* Bengal.

Yours faithfully,

F. WARDEN.

Sir Evan Nepean's Reply.

Dear Warden,

I can have no objection to Mr. Buckingham's return to England, by the way of Mocha. He certainly understand by that route.

But I have an objection to the allowing him to go to Bengal, or to any other part of India, having determined to discourage all attempts which may be made by persons to settle in India without the licence of the Company.

To the individual himself I have not the slightest degree of objection. On the contrary he appeared to be a sensible, intelligent man, and I shall by no means be sorry to see him return with the Company's licence, believing as I do that he would be of use to the mercantile interests, in opening the trade of the Red Sea.

Yours, &c.

E. NEPEAN.

In thus asserting his belief that I might be of use to the mercantile interests of India, in opening the trade of the Red Sea, the Governor was borne out by the fact that the great object of my first and second stay in that country was to encourage the Pasha of Egypt to extend his intercourse with, and protection to, the mercantile interests of England, for which purpose I undertook to reopen the ancient canal between the Red Sea and the Mediterranean, and succeeded in obtaining a Treaty of Commerce, the three parties to which were, Mohammed Ali, as Viceroy of Egypt, on his own behalf; Mr. Peter Lee, the British

Consul, on behalf of the merchants of Egypt; and myself, on behalf of the merchants of India. That treaty was signed, sealed, and ratified in due form. Its purport was to give to British ships, and British merchandise, full protection, and reduced rates to the extent of one-half of the former amount. The original of this Treaty is in the possession of Sir Charles Forbes, and the advantages it conferred on the British trade in that quarter were considerable.

After my return to Egypt, and the execution of this treaty, I set out with it by an overland journey through Palestine, Mesopotamia, and Persia, to India; where I arrived a second time in 1816, and being no longer liable to transportation or banishment, as the Company's licence had been procured for me from England, by the applications made in my behalf at home, I was reinstated in my command of the frigate from which I had been displaced, the Mohammedan merchant who acted as agent of his owner, the Imaum of Muscat, having felt the cruelty of my removal, and pledged his honour, if ever I returned to the country, to reinstate me in that command, and to make that a condition with whoever should fill my place during the interim. This pledge he most honourably redeemed; and accordingly I performed a long and circuitous voyage in this ship, to Bussorah, on the Euphrates; Bushire and Muscat in the Persian Gulf; and down the coast of Malabar round Ceylon; up the coast of Coromandel, and thence onward to Bengal.

It was in the month of June 1818, that I reached Calcutta, where I found orders awaiting me on my leaving the ship to proceed to the coast of Macassar for the purpose of giving convoy to some vessels conveying slaves to some port belonging to the Imaum of Muscat, to whom the frigate belonged. But such was my hostility, on principle, to Slavery in every shape, that though my command was then yielding me an income of 4000*l.* a year, and though my predecessor had made a fortune of 30 000*l.* in three voyages, I resigned the command without a moment's hesitation, rather than even indirectly give my countenance to a traffic which I abhorred.

This circumstance becoming known, made a great impression in my favour among the merchants of Calcutta; and accordingly, soon afterwards, I was applied to by Mr. [illegible] Parbury, the oldest of the wealthiest, as he is still one of the most highly respected of all the merchants of India, to know whether I should be willing to undertake the editorship and management of a public journal. My first reply was in the negative, as I did not conceive that my previous occupations as a traveller by land and a voyager by sea, had sufficiently prepared me for such an undertaking. When the object of establishing such a journal came, however, to be explained to me, I was less reluctant to enter on the task. The state of the case was represented to me in these terms: There were then existing at Calcutta five or six different newspapers, each of which was conducted by an editor in the service of the Government, and wholly subject to its control. But while the Government interests were thus well protected and taken care of, there was no journal, among all the number, in which the merchants of the city could find admission for any communications calculated to call in question either the wisdom or the justice of any regulation, order, or law affecting their own peculiar interests. It was believed therefore that a

public journal, conducted by an independent gentleman, in the service of the Government, not under any party control, would afford such an antidote to excesses, and be greatly advantageous to the mercantile community in particular, and salutary even to the Government itself. Accordingly, perceiving that what was rather independence than ability that was wanted, and believing myself to possess a fair portion of this, I ventured to undertake the task. The unnecessary first expense was the copyright of two existing papers of very low circulation out of which the new one was to spring, was 30,000 rupees, or upwards of 3000*l.* sterling, and this was advanced by thirty gentlemen at a loan of 1000 rupees each. The *Calcutta Journal* then appeared, as first annual, to be issued on the 1st of October, 1818, and such was the attraction which it possessed for the Indian community, that in the short space of three months, its circulation opposed were sufficient to enable me to repay the whole of the 30,000 rupees advanced, and have a surplus beyond that in my possession. I am now speaking I believe in the presence of some honorable Members who are very well acquainted with the nature of newspaper property; and knowing as they do, the immense cost of labour and time, required to establish a paper journal, even up to the point of paying its own expenses, I think I may challenge contradiction when I say, in their presence, that I believe it is to your newspapers throughout the world present no parallel instance of a success at once so rapid, so solid, and so uniform. I lay the greater stress on this prospectivity, because, taken in connexion with the particular constitution and character of the society in which it happened, it is the best possible evidence of the good conduct of the Journal itself.

The Committee will, perhaps, allow me to explain to them, that in India the readers of newspapers, published in the English language, consist entirely of well-educated gentlemen. The officers of the East India Company's Civil and Military Service—the Judges, Barristers, and Solicitors—the wealthy merchants, bankers, and agents, are the only English persons resident there in any large numbers. There are few English shopkeepers, and no English artisans, or labourers, but all—or at least with very few exceptions, are well-educated English gentry. Such was the state of society in Calcutta when my Journal first appeared; and such it continued to be to the end of its career. In addition to this, the readers of the Journal were all by habit and interest, loyal, attached to existing institutions, and the farthest possible from what might be called an inflammable or easily-excited community. Of the natives of India—there were not twenty, certainly, who were habitual readers of my paper—first, from its great expense, each copy of the Journal costing a rupee, or two shillings sterling—and next, from their not being sufficiently acquainted with the language, nor interested in the political and literary topics of which it treated. Moreover, I was, during all this time, in the habit of visiting daily with the principal families of Calcutta—dined at the Governor-General's, and was admitted into the domestic circle of persons of the highest rank. The paper was published in my own name. Every one knew me to be the Editor; and seeing that my only readers were persons of station and intelligence, attached to the existing state of things, and that my own position in society brought me into constant intercourse with all parties—I had every conceivable motive of interest and

pleasure that could possibly actuate a man to shape his writings in such a way as should give general satisfaction. That this was really done, I think Sir, I could adduce no better proof than the brilliant and unparalleled success of the Journal itself, which before all the parties described, became so generally sought after and approved, that it was to be seen on the table of almost every Indian.

At length, an article appeared in its pages which became an object of censure by the Government, and as this was the first and only that was complained of, I hope the Committee will allow me to state its history. A letter was sent to me from Madras on mourning paper, conveying the intelligence advertised in the paragraph itself, and accompanied with the expression thus repeated the sun and substance of which was, that the continuance of Mr. Elliott in office, as Governor of Madras, was regarded at that Presidency as a public calamity. The expression I admit was a very strong one, and perhaps ought not to have been repeated; though we all know quite well, that men may safely say here, that the continuance in office of my Lord Grey or the accession of the Duke of Wellington, may be regarded as a blessing or a calamity, according to the views entertained by the party using the expression; and yet that no great evil would follow the use of such terms. That there may be no misconception, however, with respect to the article complained of, I will read it to the Committee entire. It will be found at p. 32 of the Printed Minutes. It is as follows:

"MADRAS.—We have received a letter from Madras, of the 10th instant, written on deep black-edged mourning post, of considerable breadth, and apparently made for the occasion, communicating as a piece of melancholy and affecting intelligence, the fact of Mr. Elliott's being confirmed in the government of that presidency for three years longer!!

"It is regarded at Madras as a public calamity, and we fear it will be viewed in no other light throughout India generally. An anecdote is mentioned in the same letter, regarding the exercise of the censorship of the press, which is worthy of being recorded, as a fact illustrative of the callosity to which the human heart may arrive; and it may be useful, humiliating as it is to the pride of consequence, to show what men, by giving loose to the principles of despotism, over which follows, *may at length arrive at.*

"It will be in the recollection of our readers, that a very brilliant and pathetic letter, from the late unfortunate Princess Charlotte to her mother, written just previous to her death, was printed in the *Calcutta Journal* about [illegible]. This was much admired at Madras, as it had been here, and the editors of the public prints there, very laudably desiring to add every possible interest to their columns, had inserted this letter, but it was struck out by the pen of the Censor (who the public of course exonerate, since it is known to all by whom it was necessarily directed), and the only reason that could be assigned for its suppression was, that it placed the character of the Princess Charlotte, and her attachment to her mother, in too amiable a light and tended to criminate, by implication, those who were accessary to their unnatural separation, of which party the friends of the director of the Censor of the press unfortunately were!!"

It is worthy of remark, that this article appeared in the *Calcutta Journal*, on the 26th of May, 1819, and was therefore the first article complained of ever since the paper had been established, which was nearly eight months. It is equally worthy of remark, that even this was not complained of till nearly a month after it was published. The truth is, that the Government of Bengal saw nothing offensive in it, or at least not sufficient to induce them to complain of its appearance

at all; but the article having excited the displeasure of the Governor of Madras, whose press was under a severe censorship—he, Mr. Elliott himself, complained of it to the Governor-General of Bengal, who, then, for the first time, made it the subject of remonstrance. Accompanying this letter of remonstrance also, was sent to me a copy of the Regulations, established for the conduct of Editors of Newspapers, which were then for the first time officially brought to my notice. For myself, I can declare most solemnly, that on my first undertaking the editorship of the *Calcutta Journal*, I believed the press of India to be as free as the press of England, that is, relieved from a previous censorship, and subject to no other restraint than responsibility to the laws of the country, after actually praying I heard everyone speaking of Lord Hastings's intention of removing the censorship. I heard nothing of any substitute proposed. I saw around me every day the most free discussions of the various topics discussed, and I never apprehended the least injury to myself or others, from expressing myself as freely in India as any man might do elsewhere. The Circular, containing the Regulations as they were called, was issued in August, 1819, just two months before the *Calcutta Journal* was established. My paper was not therefore in existence when it was first sent out; nor had any copy been sent to me since. The Editors did not make them public, as they were a badge of their degradation; and the reason for their being issued at all, is so curious as to deserve mention. It appears that from the time of Lord Wellesley up to that of Lord Hastings, the practice had been for the Chief Secretary to Government to act as a Censor of the Press, and every Editor of a newspaper was obliged to send his proof sheets to the Secretary's office, to be read through before they could be printed, and compelled to omit every thing which the Secretary might strike out, without any reason being assigned. This Censorship was never established by law; but the manner in which it was made binding on English Editors was this, that if they should refuse to comply with it, their licences to reside would be taken away, and they might then be sent out of the country. The dread of this punishment was more powerful than any law, and therefore no English editor resisted. It came soon to be discovered, however, that no such threats could be applied to an Indian-born Editor; because, as no licence of residence was necessary for him, he could not be banished for not possessing it; and there being no other way in which an evasion of the Censorship could be punished, an Indian-born gentleman set up a paper, refused to submit to the Censorship, and there was no remedy for the evil. Lord Hastings perceiving this, thought it, of course, extremely unjust, not to say absurd, that the well-educated and discontented Indo-British, or half-caste population, as they are called (being the mixed race of half British and half Indian blood, and generally the progeny of English fathers and Hindoo mothers), should possess an exemption from the Censorship, while the well-educated and loyal British population should be subject to that restriction. He accordingly took off the Censorship entirely from both, and proclaimed the Indian press to be free. But, as the members of his Council were elderly gentlemen, brought up in all the prejudices of the despotic system, and thought very differently from Lord Hastings himself, who brought out to India all the freshness and freedom of an English noble-

man, attached to the best parts of the British Constitution; and as the India Directors at home would be likely also to think very differently about the safety of a free press to India; so, for the partial satisfaction of the scruples of these two antagonist parties, it was thought necessary to calm their apprehensions, by issuing the Regulations in question, which were as follows:

To the Editors of Newspapers

Sir, *Council Chamber, 19th August, 1814.*

His Excellency the Governor-General in Council, having proceeded to revise the existing Regulations regarding the control exercised by the Government over the Newspapers, I am directed to communicate to you, for your information and guidance, the following resolutions passed by his Lordship in Council.

The Editors of Newspapers are prohibited from publishing any matter coming under the following heads

*1st Animadversions on the measures and proceedings of the Honourable* Court of Directors, or other public authorities in England, connected with the Government of India, or disquisitions on political transactions of the Local Administration, or offensive remarks levelled at public functionaries the Members of the Council, of the Judges, of the Supreme Court, or of the Lord Bishop of Calcutta

2d Discussions having a tendency to create alarm or suspicion among the native population, of any intended interference with the religious opinions or observances

3d. The republication, from English or other newspapers, of passages coming under any of the above heads, or otherwise calculated to affect the British power or reputation in India

4th. Private scandal and personal remarks on individuals tending to excite dissension in society.

Relying on the prudence and discretion of the Editors for the careful observance of these rules, the Governor-General has thought proper to dispense with the requisition of submitting their papers to the Officer of Government previous to publication. The Editors will, however, be held personally accountable for whatever they may publish in contravention of the Rules now communicated or which may be otherwise at variance with the general principles of British Law as established in this country, and will be proceeded against in such manner as the Governor-General in Council may deem applicable to the nature of the offence, for any deviation from them

The Editors are further required to lodge in the Chief Secretary's Office one Copy of every Newspaper, periodical, or extra published by them respectively

I have, &c

(Signed) J ADAM.

Chief Secretary to the Government.

The Committee will have the goodness to remember that these Regulations were wholly of a private nature They possessed no force of law; since the Act of Parliament granting the Charter of the East India Company, provides that all Rules and Regulations, before they can acquire the force of law, shall be registered in the King's Courts, by His Majesty's Judges, and be in strict conformity with the Law of England, which every one must perceive at a glance that these Regulations are not for if they were strictly followed, there would be scarcely any topic of public interest, on which any discussion could take place, the Regulations exempting from comment all public acts

of public authorities either in India or England, and all private opinions entertained by private individuals, for even these could scarcely be called a question without having a tendency in some degree to excite dissensions in society. Nevertheless, such was my desire to conform, in every respect, to the wishes of the Government, wherever this was clearly known, that I made no scruple to express my regret that the article complained of had been printed; and promised to make those Regulations or the press, now for the first time brought to my notice, the guide of my editorial conduct in the future. Thus the recorded this first offence complained of, which was aimed for, and set at rest by the answer described.

Meanwhile, however, I saw these Regulations violated by all the other newspapers of the Presidency every day; some breaking one, and some departing from another, of the stipulations enjoined, and acting with perfect impunity, and without any remonstrance, public or private, as far as I could learn. At length an event occurred, which gave an entire change to the view taken of the Indian press, by almost all parties: I mean both those who were hostile, and those who were favourable, to its introduction into India. The event was this: The Censorship continuing at Madras after it had been removed at Calcutta, made the British residents at that Presidency feel great dissatisfaction against Mr. Elliott, then Governor of that Presidency, and this dissatisfaction was the cause of the principal representing his continuance in office as a public calamity, already adverted to. Accordingly, when the British inhabitants of Calcutta had set them the example of holding a public meeting to vote an address of congratulation to Lord Hastings, they also assembled at Madras for the same purpose; and the conduct of his Lordship in his removal of all restraints from the press was the principal topic of commendation. The meeting at Madras was attended by some of the principal persons of that settlement; though the proceedings of the meeting were not allowed to be published there, as the Censor was the Chief Secretary; and he considered that praising Lord Hastings for removing the Censorship was indirectly censuring Mr. Elliott for still retaining it. Private copies of the proceedings were forwarded to Calcutta, however, for publication; and from these I will make only two extracts, the one from the speech of the East India Company's Advocate-General, an officer corresponding with the Attorney-General in England, and the other from the speech of Mr. Stavely, an eminent Barrister of the King's Court there.

*Extract from the Speech of Sir Samuel Toller, Advocate-General at Madras.*

"The wisest political arrangements have been made for the public safety, and to prevent the recurrence of those dreadful scenes. The Governor-General, in his answer to the address of the inhabitants of Calcutta, as with a manly frankness, developed the motives of his policy, which appeared to me pure, and fit for its results; and I am persuaded that he has not appealed in vain. A Government, when conducted with wisdom and patriotism, has nothing to conceal. It is involved in no mysteries, it declines and the strongest the light in which its principles and proceedings are presented to the public eye, the more it will be applauded."

*Extract from the Speech of Mr. Stavely, Barrister at Law.*

"To all that has fallen from my honourable friend, who has just sat down, I give my full assent; and add my voice to his recommendation of that freedom, than which, in my opinion, a greater blessing cannot be bestowed upon our Eastern

Empire. And, Sir, I know no law, no reason, no policy, why it should not be enjoyed to its fullest extent. I say, sir, I know no law. There is one upon your Statute Book, which restrains the liberty of the Indian Press; I speak in the hearing of those who will correct me if I am wrong. I own no regulation, and they are present who can set me right if I am mistaken. That there is no reason in such restraint, my own case of the law I have spoken of, has shown you fully. That there is no policy in it, I will prove to you before I finish.

"Of what nature is your Empire, and how is it maintained? Ask your Legislators of both Houses, who have made your laws to govern it. Ask your Directors, ask the public meetings of your principal cities, ask your States, of which have written, and poured forth their eloquence in its praise; and to each and the same words will answer you, "Our Empire in the East, is an empire of opinion, it is not, and never can be an Empire of force. An Empire of opinion, and that opinion not free, a kingdom erected upon thought, and men not free to think! It is a absurdity in language as well as fact, which needs but to be stated to carry its own refutation with it. If, indeed, you will admit, that your reign is a reign of force, that you hold your subjects by compulsion, I can have no hesitation to admit you so exercise for the enslavement of the mind and the restriction of thought, and, as you said, you would maintain your rule upon the proofs of your superiority in arms, and you excel me above all other nations, and over all, above those you govern; if you desire to reign within the hearts of your subjects, and govern by their affections, you must free their thought from restriction, and the expression of it from restraint. For what improves in effect but the collision of mind? and what recommends the mind to its rulers but the proof that its powers are occupied for its good? and how shall this be known if the great avenues of knowledge are closed up?

"Truth of printing has been eulogized as the greatest blessing which has ever been bestowed upon mankind; and we have been the introducers of this blessing to the East. But, Sir, while you confer a blessing on your people, is it wisdom to clog that blessing with a curse? A free and unfettered press is, indeed, a blessing to mankind; but a fettered press, in the hands of a despotic monarch, as my honourable friend has told us, may become one of the greatest scourges with which the hand of power can be armed, one of the most dreadful engines of torture with which it can rack the mind.

"And what are the arguments which they would oppose to persuade us it is unwise? "that our power would be endangered?" Sir, that argument was used against throwing open our trade; but has that measure at all weakened us? Endangered? and by whom? But is nothing else still more endangered by restriction? Regicide France has tried, and Napoleon Emperor we may call the fate of such control. He restrained the press, and tried to prevent political discussion, he suppressed all truth, and bade the land flatter, deceive, and delude, it vomited forth his slanders and falsehoods, measureless, and at what price could he buy the privilege to do all this? The press also was suppressed, and no portion of his care; religion formed no part of the scheme of government; he knew that the press dammed up, must burst out somewhere, so he allowed morality to profligates, and religion to the care of atheism.

"And are we prepared to purchase restriction at such a price? It is not so that I have been taught at home. The morality of our fathers was as carefully fenced round as their freedom; and their religion was dearer to them than both. And it is our serious business here, in a foreign land, to maintain our country's character for the one, and exhibit the purity of the other, exceeding that of any other people of the earth."

These were the sentiments of two of the most eminent lawyers then at Madras, and they were responded to by nearly the whole of the British community in India. The Address, which was prepared at this meeting, was most numerously and respectably signed, by officers of the highest rank in every branch of the public service; and in order to

give to its presentation the greatest *eclat* by which it could be surrounded, a deputation was formed at Madras of which Major Blacker was put at the head, to undertake a voyage of many hundred miles, and to convey this Address to Calcutta, and present it in person to the Governor-General. The British inhabitants of Calcutta feeling also as deep an interest in his question as the people of Madras, attended in large numbers on the day of its presentation, namely, the 24th of July, 1819. The Governor-General appeared in state in the great hall of audience, at the palace in Calcutta. All the heads of all the public departments in Bengal were present. Many of the principal natives of rank and opulence were invited to attend. The whole of the British Society in Calcutta, to the extent of perhaps two thousand persons, were present on the occasion. I was myself among the number, and saw and heard all that passed at this meeting—one of the most solemn and imposing, and I may add, one of the most cheering and impressive that I ever remember to have witnessed, either in India or elsewhere. After the usual formalities of introduction and congratulation had been exchanged, the Address from Madras was read at length by Major Blacker; but I confine myself with reading, to the Committee this short extract from it, relating to the Freedom of the Indian Press.

*Extract from the Address of the British Inhabitants of Madras.*

"The most accomplished statesmen, while they provide for the defence and security of the realm, neglect not to cherish the arts of peace. To cultivate the province of the human mind, to call forth its latent powers and direct its energies to the improvement of society, to give a character and colour to the morals, intelligence, and spirit of the age, is justly held considered essential to the welfare of the political system.

"*On agriculture, on arts and commerce, liberal knowledge exerts a powerful and permanent influence*, it adds to the resources of a people, while it increases their happiness, and is already connected with the real interests of mankind. Your lordship's attention to this important branch of legislation has not escaped our notice, and the munificent institutions founded for the instruction of the native population, are illustrious monuments of British generosity, consecrated by the wisdom of your lordship to the prosperity of the empire.

"*While contemplating this important subject, it must have occurred, that to the attainment of truth, freedom of inquiry was absolutely necessary, that public opinion was the strongest support of just government, and that liberty of discussion served but to strengthen the hands of the executive. Such freedom of discussion was the gift of a liberal and enlightened mind; an invaluable and unequivocal expression of those sentiments evinced by the whole tenour of your lordship's administration.*"

*Extract from the Speech of Lord Hastings, in reply to this Address.*

"You have observed my exertions to diffuse instruction through the extensive region with which we had become thus suddenly intimate. I cannot take credit for more than that having followed the impulse communicated by every British vessel from home. Yes! we all similarly confessed the sacred obligation towards a bounteous Providence, of striving to impart to the immense population under our protection, the improvement of intellect which we felt to be our own most valuable and dignified possession.

"One topic remains—my removal of restrictions from the Press has been mentioned in laudatory language. I might easily have adopted that procedure without any length of cautious consideration from my habit of regarding the freedom of publication as a natural right of my fellow-subjects, to be narrowed *only by special and urgent cause assigned. The seeing no direct necessity for* these invidious shackles, might have sufficed to make me break them. I know

myself, however, to have been guided in the step by a sense and well-weighed policy: if our motives of action are worthy, it must be wise to render them intelligible throughout an empire, on which is opinion.

"Further,—it is salutary for supreme authority, even when its motives are most pure, to look to the opinion of public scrutiny. When conscious rectitude that authority can lose nothing of its strength by its exposure to general commentment; on the contrary, it acquires a calculable addition of force.

"That Government which has nothing to dispense, wields the most powerful instrument that can appertain to sovereignty, the free expression of the collective and effort of the whole mass of its governed. And the triumphs of our beloved country, in its wild contest with tyrant-ridden Europe, speak the value of a spirit to be found only in men accustomed to indulge and express their honest sentiments."

Here then, was an open, public, formal, and solemn declaration, made by the Supreme Head of the Indian Government, that he saw no direct necessity for those invidious shackles on the press in India, which he had not only broken, but assigned reasons for so doing, and as this was at least of equal value, in point of law, with the Circular previously issued; for both were without the formality required for making them legal authorities, as neither of them had been passed through the King's Court; as it was posterior to the Circular by a whole year, in point of date; and as it was proclaimed with all the pomp and solemnity that could accompany any public act, I myself considered, and all around me concurred in the accuracy of the impression, that by this very act, the Regulations contained in the Circular were virtually abrogated; for as both could not be observed, in any doubtful case, the highest, and most public, and most recent exposition of the Governor-General's views, ought to be those that should be attended to.

The effect of all this was to give a sanction to, and I may so express myself, to shed a lustre around, every thing connected with the freedom of discussion, for a considerable period of time, during which, the *Calcutta Journal*, which was most in harmony with the Governor-General's views, prospered exceedingly: and such was the intense desire to possess it, even at the most distant stations, that the largest sacrifices were made by individuals to obtain it. I should explain to the Committee, that in India, newspapers are published without being stamped; but all copies sent by the post-office, into the interior, are charged with a postage, proportioned to their weight, and to the distance they have to travel. In some instances this was so heavy on the *Calcutta Journal*, as to make it cost five or six rupees, that is ten or twelve shillings sterling, for a single copy of the paper; the first cost and postage to a very distant station being included. It having occurred to me that this expense must materially contribute to check its circulation at the distant stations, I resolved, if possible, to equalize the charge over all India, by offering the Government a good round sum in lieu of postage, and having my papers stamped to go pos. free. I accordingly had an estimate made of the postage paid by me on the covers sent from Calcutta (where it had always to be paid in advance), and found it amounted to about 30,000 rupees, or 3000*l* sterling per annum. I accordingly offered the Government an advance upon this sum of about one-fourth, making it 4000*l*. a year, on condition of my papers being franked to all parts of India by the post-office stamp as "Full Paid;" the bonus I offered to the Government being the advance of 1000*l* a year beyond the sum actually paid, the advantage I

expected to myself being a large increase of circulation by the extension of the post-paid papers to the most distant parts of India. The result answered my most sanguine expectations, and my hopes were far exceeded. This arrangement commenced on the 27th of August, 1819, as *the Committee will perceive from the printed evidence of Mr.* Trant, who was then in office in India and who, being a member of the Committee of 1826, was examined on that point, and confirmed the fact, as falling within his own knowledge, both as to the period of the contract, and its money amount. His evidence will be found at page 14 of the printed Minutes now in the Members' hands. This arrangement too, continued undisturbed by any party for several months, up *indeed to January, 1820, when some articles* appearing in its columns, which were not agreeable to the Government of Madras, they, for the first time, ordered the *Calcutta Journal* to be stopped at Ganjam, the frontier town or station where the Madras jurisdiction commences; and though the papers were all marked "Full Paid" at Calcutta, by virtue of the contract described, and the full postage was actually paid, yet every cover was again charged a *second postage from Ganjam to all the territories beyond* it, and sometimes reached the distant subscribers charged with four or five rupees—that is, eight or ten shillings per cover, and sometimes were sent back to me bearing double postage all the way: thus producing the double injury to me, of cutting off all my subscribers beyond a certain distance—to secure which was the great object of the large sum of money paid, 4000*l.* a year—and accumulating upon me, *by every post, a large number of papers, which were either obliged to* be taken back by me, or their postage charged against me in account. In the bitterness of disappointment which such aggravated wrong might well inspire, I might perhaps have been forgiven if I had expressed myself indignantly against the authors of so much wrong. But the notice which I published in my paper was, as I think the Committee will see when I read it, as mild as could be well expressed: *though it drew down the severe remonstrance of the Government*—as though it had been an article of the most atrocious kind. The following is the notice in question.

*"To Subscribers under the Madras Presidency*

"Our Madras friends are already aware of the measures which have been taken to impede the circulation of this Journal through their Presidency, and will have already formed, no doubt, a correct opinion as to the motives which these measures originated. As, however, we find our desire to extend its circulation through their territories rise in proportion to the weight and authority that has been opposed to it, we have determined to make any sacrifice rather than suffer our friends in that quarter to be deprived of seeing new and thinking discussions on topics which they are not likely to find touched in other Indian papers. The Journal will therefore be supplied as usual at 20 rupees per month, at those stations which it may reach without having to pass through the hands of a postmaster, who may levy a tax on it by order of the Madras Government, and such as pass through Ganjam on their way where the additional impost of Madras postage must be paid, will be supplied at 10 rupees per month, the price at which it is delivered to Subscribers in Calcutta; by which means we shall suffer an actual loss of so much of the postage as is paid by us for the free passage of the paper as far as Ganjam, and be paying about 15 rupees per month for what we shall receive back only 10, making the overplus a premium to the Subscribers for their patronage of free discussion, which we hope to see made subservient to the great end of public good, for which alone it was granted us

"*The measures of the Madras Government, in discharging all the papers pass free beyond Ganjam, though marked 'full paid' at the post-offices, and placed on the same footing as post-paid letters, which go free to their destination without any impediment, have already occasioned us a considerable loss in not charging the postage exacted from a subscriber in that Presidency which had been already acknowledged to be fully paid here; though this measure has slightly tended to an increase of numbers from that quarter. The sacrifice we now propose will be, it is true, an addition to much pecuniary loss, but it will at least be a voluntary one; and we trust that the dissemination of sound principles in politics, and free inquiry on all topics of great public interest, will meet no check by this means, but that the triumph of liberal ty over its opposite quality will be full and complete, whatever obstacles may be opposed to it, or in whatever quarter such opposition may originate.*"

This harmless article was complained of by the Government of Bengal in terms of unmeasured severity; and after a letter of the strongest reproof, I was called upon by the Government of Bengal to prepare forthwith a full and ample apology to the Governor of Madras, to send the draft of such apology, within three days date, to the office of the Chief Secretary, to be by him approved or rejected; and when framed as he thought necessary, to publish it in my own Journal (see printed Evidence, Accounts and Papers, pp. 2, 3). On this I deliberated with all heed I could, and came to what I deemed a just conclusion. The fact was undoubted—that I had been doubly wronged by the Government of Madras in the way described; and I felt that I could not honestly and conscientiously apologize for what I was not persuaded was wrong. I accordingly wrote a long letter of justification, in which I showed by evidence that I was right, and in which, therefore, I respectfully but firmly declined making any apology in the terms prescribed, though I had no objection to express my regret at the remarks having given pain to any one. The Committee will no doubt be curious to know what was the result of this refusal to make the apology demanded, and I will satisfy their curiosity by showing them, that my facts were so undoubted, and my reasoning so well-founded, that the Government gave way, and confessed themselves in the wrong; by endeavouring to show that the Bengal Postmaster had not rightly understood their instructions respecting the contract; and by waving the demand for the apology in the terms first prescribed—concluding with this paragraph:

"*That your attention to those rules (established for the press) has not been more strictly enforced, may be a subject of just blame to the officer whose duty it more especially was to bring to the notice of Government any flagrant violation of those rules; but with every allowance which can be made in your favour, from a consideration whether of the circumstance, or of the misconstruction which the late Postmaster-General was led to put on the orders of Government, or of the disappointment which you may have experienced, and of the consequent irritation of feeling towards the supposed authors of that disappointment, his Lordship in Council thinks it indispensably requisite that a public acknowledgment should be made in the manner pointed out in my letter of the 12th inst. It is not his Lordship's desire that the acknowledgment should be worded in the terms which he would have judged necessary previously to the consideration of your letter; but he expects from you an early expression, in the Calcutta Journal, of your regret at having published observations so carelessly worded as to bear the appearance of disrespectful animadversion on the Government of Madras. His Lordship in Council is led to infer that you had no real intention of offering such disrespect, from the perusal of an article in your paper of the 11th inst. recently brought to his notice, and that persuasion has principally influenced the tenour of*

[illegible] publication, which was anterior to my first letter, proves the sincerity of the explanation given in your second letter to me"—*Printed Evidence, Accounts, and Papers*, pp. 9, 10.

*Accordingly a short letter was prepared by me, addressed to the* Governor-General of Bengal, to be sent by him to the Madras Government, which, after recapitulating most of the circumstances of this case, ended with this paragraph:

"I beg to repeat the expression of my regret at the many apparent misconceptions in the Post-Office Departments of both these Presidencies, which have occasioned me such serious and irreparable loss, and which rendered a public explanation of the transaction necessary, as well as that I greater regret that any thing I should have said on this subject should have given pain to his Excellency, the Governor-General in Council, or to any Branch of the Honourable Company's Government in India, my principal object in the "Notice to Subscribers under the Madras Presidency," having been to apprize them of the arrangements which I had made to counteract an evil from which we had both experienced very serious loss."

Thus then was terminated a case, in which the injury inflicted on me was immense, and that this was not for the mere act of paying the postage in Calcutta instead of at Madras, may be inferred from the fact that my papers had been suffered to pass for several months uninterrupted under this very system—that no other letters or papers "full-paid" at Calcutta were ever before, or even at the same time, arrested in their progress, or surcharged when sent forward—and that therefore the political freedom of the *Calcutta Journal* could have been the only cause of its circulation being attempted to be stopped in the manner and under the circumstances described.

With respect to the long letter of justification and reasoning sent in to the Government of Bengal, preceding the shorter one sent to Madras, this will perhaps be the proper place for me to advert to some variations between the letter printed by me in Calcutta subsequent to the close of the correspondence, and the actual letter sent in to the Government there. The facts of the case are these: During the sitting of the Committee of 1826, a letter was read by me in evidence on the subject last spoken of, and on comparing this with the letter furnished by the India House, it appeared that my copy contained several paragraphs—to the number of eight or ten—which were not found in the India House copy. My own impression at the time was that the omissions in this copy were suppressions; and when I was asked whether I could not recollect having made any alterations in the letter sent in to the Bengal Government after my original draft, I answered that I could not, but on the contrary, I felt quite sure that I had not done so. I was then asked how I accounted for the discrepancy between the numbering of the paragraphs in my own letter, and the references to these paragraphs in the reply; to which my answer was, that this discrepancy had been observed even in Calcutta; for in a collection of the correspondence published there in a small pamphlet, of which 500 copies were printed for circulation in that Presidency, the fact was pointed out in a note at the foot of the page; which showed at least my good faith then and now; for this collection was printed and circulated under the inspection of the Government, and no one then seemed conscious, any more than myself, of any variations beyond those which seemed to be indicated by the different

numberings of the paragraphs. My own printed version of the letter sent in to the Government is just the very reverse, however, of a suppression or mutilation, for it gives several paragraphs which were certainly contained in the original draft from which the printed edition was made, but which paragraphs, for some reasons not now remembered either perhaps because they were thought to add too much to the length of the letter or to be repetitions of what had been already said, were omitted in the fair copy sent in. If the letter presented to the Government had contained passages *not to be found* in my printed version, then *indeed*, a suspicion might have rested on me of having wilfully suppressed what did not appear. But the case is just the reverse. My original draft contained some paragraphs which were omitted in the copy sent in to the Government, but instead of keeping back any thing, I have printed the whole that the original draft contained, the omitted paragraphs and all: my memory having failed me, however, in any recollection of such omissions at the time, and my belief then being that no such omissions had taken place. If the whole of these are examined, however, it will be found that whether they were all in the letter sent to the Government, or all omitted, they would not affect the merits of the case in the slightest degree, nor alter any single view of the question. They may be considered as mere supplemental, and were no doubt on that account omitted: but their production in the printed copy leaves nothing unknown, and is far better than if they had not appeared at all. For myself indeed, I should not have attached any importance to it whatever, were it not that I have heard importance is attached to it in other quarters; and therefore I was desirous of setting the matter right with the Committee, that it may be fairly understood if it should be brought forward hereafter. The paragraphs will be found at pages 43 and 44 of the *Printed Minutes*.

On the 29th of February, 1820, there appeared a letter, sent to the paper by Lieutenant John Smith, of the Madras Cavalry, pointing out the fact that the mode in which the troops were paid at Nagpoor and Hyderabad, occasioned considerable loss to them in the exchange of the rupee. The author having sent his name for the information of Government, if it should be asked for, it was given up at the same place; the evil was remedied, and the utility of free discussion proved by this very act.

I come now, however, to a new era in the history of the Indian press. It was that in which the Government, sick and wearied as it would seem, of this long correspondence, which almost always terminated to their disadvantage, by showing them to be in the wrong, determined to proceed by law against all offences that should in future be committed against them through the press; and this was the occasion which led to that change. A short letter was addressed to the *Calcutta Journal*, signed 'Emuffus,' which gave it as the opinion of the writer, that in the Indian Army, merit had little to do with promotion; but that whoever had interest might be sure of getting appointments on the Staff. The letter was printed: but so opposite were the opinions entertained by me on this subject, that on the very day following, I wrote a long article to show that the writer was wrong. It was nevertheless subjected to a legal prosecution; and the Advocate-General, Mr. Spankie, having commenced proceedings, some friends obtained access to the Govern-

ment; and on convincing the Governor-General that as I had no participation in the sentiments of the writer, but gave them as the mere opinions of a correspondent, from whom I entirely differed, it would not be wise to pursue the prosecution to a close. A correspondence followed, which ended in this: that on condition of my instructing my counsel not to oppose the rule for an information being filed against me in Court, and expressing my regret at the publication of the letter, the prosecution should be withdrawn; which was accordingly done, and thus terminated this affair.

About this period another letter, headed "Military Monopoly," and disclosing some unfair transactions in the sale of Officers' houses at Military stations, also drew the attention of Government, who asked for the name of the writer, which was given up at his own request, Lieutenant Fell, of the 10th regiment. The matter was then inquired into, and the grievance redressed; furnishing another striking proof of the utility of such discussions through the press.

The next case that occurred, was one which led to the longest correspondence that ever passed between the Indian Government and myself; and was represented by them as one of peculiar impropriety on my part. I know not, indeed, any act that drew down upon me more severe censures than this. As I am very anxious that the Committee should judge for themselves how far these censures were deserved, I will with their permission just read to them the letter, and then offer a few remarks upon it. The letter is as follows:

To the Editor of the Calcutta Journal.

Sir, *Western Provinces, June 10, 1821.*

I shall be obliged by any of your Correspondents drawing up the following, for the benefit of your numerous subscribers at one of the largest military stations in India.—I am, &c., A CHURCHMAN,

And the Friend of a Lady on her Death-bed.

"Can a Military Chaplain, in a station where two King's Regiments are posted besides numerous other Civil Departments, which might employ two Clergymen generally, and where he is the chaplain, when alone, requires his constant presence, absent himself from the station without leave from the Commanding Officer?

"At this sickly season, his presence with the dying in hospital, and to inter the dead, sometimes six or eight per day, is urgently required, and cannot decently be dispensed with, independent of the impropriety of also neglecting the proper observance of the sabbath, for two or three Sundays successively, where so large a body of Christians are residing.

"It is asserted (but I conceive erroneously) that the Chaplains have received orders from the Lord Bishop of Calcutta, not to make themselves amenable to any military or other local authorities; and therefore when a young couple at an out-post prefer going to the expense of making the Clergyman travel 250 miles to go and marry them, he is at perfect liberty to accept the invitation, and to leave 3000 other Christians, his own parishioners, to bury each other, and postpone all their Christian ordinances till his return, which at this distance occupies, I understand, more than three sabbaths.

"In consequence of one of those ill-timed matrimonial requisitions in December last, the performance of Divine Service, and other religious observances of the season were entirely overlooked at Christmas, which passed by for some Sundays in succession, and Christmas-day included, wholly unobserved.

"It would appear, therefore, to be highly expedient, that no Military Chaplain should have the option of quitting the duties of his station, from any misplaced power vested in him by the Lord Bishop, unless he can also obtain

the express written permission of the local authorities on the spot to do so, and provided in all such cases the sermon be brief, strictly extemporaneous, and that he shall punctually return to the station before the Sunday following, that Divine Service may never be interrupted in consequence of such excursion."

The first letter of the Chief Secretary, addressed to me on this subject, merely demanded the name of the writer, as the matter appeared to contain disrespectful insinuations against the Lord Bishop; and it was subsequently known that this request was made at the instance of the Lord Bishop himself. To this a respectful reply was sent, expressing my inability so to do, as in point of fact, I had not the name of the author, it not being usual to require it in cases where opinions on matters of general notoriety rather than statements of private and particular facts form the subject-matter of communication. As the letters themselves, however, are very short, the Committee will perhaps permit me to read them. They are as follow:

To Mr. J. S. Buckingham, Editor of the Calcutta Journal.

Sir, *Council Chamber, July 11, 1821.*

The letter which was received in the *Calcutta Journal* of the 10th instant, under the signature of "A Christian, and the Friend of a Lady on her Death-bed," appearing to contain insinuations extremely disrespectful to the public character of the Lord Bishop of Calcutta, the most noble the Governor-General in Council has directed me to request you to state for the information of Government the name designation, and residence of the individual by whom that letter was communicated to you for publication.

I am, &c.

W. B. BAYLEY, Chief Secretary to Government.

To W. B. Bayley, Esq., Chief Secretary to Government.

Sir, *Calcutta, July 16, 1821.*

I have the honour to acknowledge the receipt of your letter of the 14th instant, and to state that the Author of the letter therein mentioned, being known to me, I am [illegible] at liberty to give up his name. At the same time I beg respectfully to submit for the consideration of the most noble the Governor-General in Council, that if publishing the letter in question under a conviction that a temperate and moderate discussion of the inconveniences likely to arise from a war to local control, in certain points, even Military Commanders might be productive of public benefit without infringing the respect due to the public character of the Lord Bishop of Calcutta.

I have the honour to be, &c. &c.

J. S. BUCKINGHAM.

I leave the Committee to judge whether a more temperate or more respectful letter could have been penned than this, under the actual circumstances of the case; yet, mild and inoffensive as it even now appears to me, it drew down upon me a censure of extreme severity, of which some judgment may be formed by the following paragraph, the only one I shall read, as the letter itself will be found in the Printed Evidence—Accounts and Papers, p. 14. The Chief Secretary says:

"It is a gross prostitution of terms to represent this intemperate and moderate discussion, an anonymous insinuation of an individual, involving at the same time a heinous charge, not the less offensive for being hypothetically put, that those in high authority have countenanced the delinquency.

"It would be with undissembled regret that the Governor General in Council should find himself constrained to exercise the chastening power vested in him; nevertheless he will not shrink from its exertion, where he may be conscientiously satisfied that the preservation of decency and the comfort of society require it to

[illegible] Instance, Sir, I intended to prove to you this morning, Should Government perceive that your opinions were tending to the principle which you have now asserted, there will be a precious discussion of any case which you may apply to have violated the laws of moral decorum and essential justice, which are equally binding on all descriptions of the community. You will at once perceive that you have to establish a standard, and you will be required to furnish security for your quitting the country by the earliest opportunity.

The communication of this determination gave me so much concern, that I began to form serious intentions of relinquishing my occupation altogether, for I could scarcely perceive the possibility of a newspaper being conducted on any principles that could ensure its escape from danger, if such harsh constructions were to be put on very harmless paragraphs, or such laws as those of 'moral decorum and essential justice,' about which, since they were undefined, no two men could agree, were to be made my rule of action. I remained therefore some days in deliberation on what should be the result of my final reply, which was not done till the end of August, from the letter of Government was received by me on the 17th of July. The reply is much too long to be read to the Committee now. It will be found entire among the Printed Evidence, pp. 19, 20, 21; but I content myself with reading here the two following paragraphs to show the tenor of the whole.

"That his Excellency, the Governor General in Council, is invested with the exercise of a constituting power, by virtue of which he may deport any man to England from India, without the description of any crime for such a act, is not for me to question; but of this I am perfectly assured that it would be indeed with an assent held regret, that the Governor General would be prevailed on to exercise a power that violates the very essential spirit of British legislation; against the principle of which, if it could be attempted, would justify the transportation of an individual who is suing even the Government itself for a wrong against him in a court of law, or the redress of a wrong against a man who had not been brought, but whose banishment might prevent his being brought, to every thing that state exigencies might possibly arise to render it as just and laudable as the suspension of the *Habeas Corpus* Act at home, may certainly intend; but the expounding of the exception, 'When a Chief or other subject or state is to be the exercise of the control,' could hardly be intended so to enlarge the State's to furnish the expediency of, recollecting that such a power would ever be exercised by the Government, and the Supreme Council seen found a adequate to meet the delinquency of the offending individual with a sufficient punishment. 'For a preservation of decency, and the tranquillity of society,' one would hope it could never demand such a remedy. The instance, indeed, to my respecting the exercise of which no two individuals will entirely agree. I am unwilling myself to offend or disturb others, but in the sincere and zealous discharge of my duty, and in endeavouring to fulfil the just expectations of Government, by the encouragement of such comments on public questions as shall benefit those in public employment, it will be difficult to avoid it. Every such comment will probably disturb the conduct of the individual to whose duties it is applied; and this would be in no degree to their credit, and to his consciousness of an approbation—by two strongest reasons for its exercise, and the surest pledges of their utility, as of a public and beneficial change, which the upright and faithful servant of Government would certainly disturbed, but surely not for long, as it would improve the public good, at a trifling sacrifice of private comfort, that Government would visit me with its extreme displeasure. If, on the other hand, the exercise against decency, and aspersions on individual character, public or private, is confined within the peculiar province of Government to watch over and avenge, I may safely say there is not an individual in India who would have larger claims on its interference and protection, as an unjustly calumniated person, than myself; but I would not insult its dignity, nor

so far evince my want of confidence in the tribunal open to all as to ask the Government to extend the shield of its protecting and avenging power to me.

"In reverting to the main points of this long letter which I have [illegible] endeavoured to shorten, I beg you will assure the Government of Fort William, that in publishing the communication which appeared in the Journal of the 10th instant, I had not the most distant idea that my language could be even construed into a want of respect for the public character of the Lord Bishop of Calcutta, that in the shortness, which I had the honour to address to your last demand of the author's name, I meant not to advocate any right I will not to vindicate any principle, though I humbly conceive the principle, if anything incorrect, merely that when discussions not operating to mischief, and may be productive of public benefit without infringing on the respect due to certain public authority, they may be safely indulged, will be deemed by his Lordship unobjectionable; and that your last communication of the 17th instant has given me considerable pain, at finding I had so unintentionally given such grounds for offence to a Government that I have ever desired to merit respect, [illegible]. I beg also that you will further assure his Lordship in Council, that the laws of my country are to be my future guide, I shall bow to the decisions of that tribunal with all due respect, if the writers and editors [illegible] shall be made my rule of action, I will endeavour as faithfully to adhere to it; even if the censorship be restored, I shall acquiesce in the compensation exacted from all by a power which, whatever legality it may have, I cannot but like myself could hope successfully to resist. But if so severe a punishment and restraint is to be inflicted on a supposed violation of the laws of a land I understand essentially [illegible], of which I know not where to look for any definite standard, I fear that my best determinations will be of no avail. My path will be so beset with dangers that I know of no way in which I can escape the risk of such supposed violations, when those who are at once to be both judge of the law and the fact, may at the same moment make the accusation, no one [illegible] sentence, and [illegible] into execution, except by relinquishing entirely an occupation thus encumbered with perils from which no [illegible] could [illegible] escape."

The next case was one that excited the highest interest in India, because it really for the time seemed to set at rest the long agitated question, of whether the arbitrary and summary power of the Governor-General in Council, on the legal and regular tribunals of justice were to be considered supreme in the decision of all questions relating to the press. The occasion was this. A controversy arose in the Calcutta papers, which was begun by Colonel Robison, of His Majesty's 24th regiment, a gallant and dashing officer, then in India, as to whether the dinners, concerts, balls, and other entertainments of Calcutta were well or ill conducted. The Colonel contended for the latter, and undertook to show that many improvements in this respect might be safely introduced. A writer in a rival paper, under the signature of "PARENTHESIS," very strongly contended that Colonel Robison, who wrote under the appropriate title of "SAM SOBERSIDES," was guilty of great disrespect to Government in passing these strictures on the public entertainments, contending that as these were chiefly conducted by the members of the Government, as the leading individuals in society, any attack on the perfection of the entertainments was an attack upon the directors of them also. To this Colonel Robison made a long reply, but I shall read only that portion of it which was selected for prosecution. I will give the Committee every word of this: and I will then leave them to judge of the wisdom of a Government that could undertake the prosecution of such an article, and arising out of such a controversy, as a "false, wicked, scandalous, and malicious libel, against all the

Secretaries to Government in India." The Committee, however, will [illegible] the [illegible], and they will then form their own judgment on its alleged authority. It is as follows:

"To those which I was tempted to draw public attention to, and which stand otherwise objectionable to my feelings, I have been induced to make by Mr. Parenthesis (a writer in another paper), and other *demons* who are of the pressing kind, 'I tell thee, I'm busy!' I request you will permit me to say a few words in explanation of what I do and what I do not mean.

"Most certainly I do not mean the slightest attack (as I am likely to be accused) upon the Government, or any member of it. I mean to return my thanks for the compliment paid to me, and to wish for him every *great and good quality*, not only to wish, but to be ready to stand to and join in prosecuting under any political change, as well as political; and this, not out of a college or grand parade, but from the heart, in hopes of expectation. I have [illegible] tell you [illegible], as I have written, though I was asked, and I wish to show to [illegible] *he may see to judge the fact*. I, so far as with the most sincerity, at least attack, mean, or understand to Government, is said in [illegible] to my thoughts, that I am known personally to all its members, and that I have great respect for the individuals.

"But I think it no ways inconsistent with my respect for them and, to call, as far as an humble individual dependent hope to do, the public attention to any matter of abuse, inconvenience, or subject of complaint, which is always in the power of the public to redress or get redressed, and if I saw things going on wrong, I'd be faithful to my own father I would never cut and expose them. But I no wrongs or to be redressed, or suggested improvements stated by, except those which go through secretaries and public officers to Government alone will be redressed or listened to but those which they favour, and the influence of their favour (not of their displeasure) extends further than the Government can be aware of, some striking examples of which will soon be brought to their notice, by your faithless Correspondent,

"SAM SOBERSIDE'S."

To prosecute this harmless paragraph as a libel, the six Secretaries of State in Council combined their purse and their influence—and I need not say how powerful these united must be. I had arrayed against me, therefore, all the authority of Government, and though it was a legal process, of which I consider I thought much more highly than an arbitrary proceeding, I scarcely dared venture to hope for success. The Committee should be informed, that in India the grand juries are composed almost exclusively of servants of the East India Company, and that there can never be any great difficulty in finding a bill of indictment where the Government or any of its principal functionaries are the prosecuting parties. The petit jury is composed wholly of British-born subjects, and as such are all living in India by virtue of a licence which may be taken from any of them, at any time, without reason assigned, and they themselves be banished from the country if they did any thing which should displease the Government. With such juries there would be little difficulty in obtaining convictions in any case in which the Government were to be a party. What then was the result of this trial? Why this—that after hearing counsel on both sides, and the summing up of the Judge—the Jury, without a moment's hesitation, and without even retiring from the box, gave a unanimous verdict of acquittal; and the six Secretaries of State, with all their wealth and influence combined, were defeated by a single individual, under all the disadvantages already enumerated, merely because their ground was absolutely untenable. During the time that

this trial was in progress, between November, 1821, when the indictment was first found, up to January, 1822, when the verdict of acquittal was given—that is, therefore, in the month of December, 1821—some discussions arose in the *Calcutta Journal*, as to whether the article prosecuted as libel was really such a libel: on which a criminal information was filed, to prevent any further discussion on that subject; and in the argument which took place in Court upon this proceeding, the following admissions were made—which, considering the rank of the parties, ought, I conceive, to be stated; and I will give them in succession.

"Mr Ferousson, who was the leading counsel for the defendant, in the part of his argument to show cause against the rule, *moving for that rule*, the Advocate General he observed, had entered very largely and more than was usually done, into the reasons which gave rise to his motion, in which he should endeavour to follow him. That learned gentleman had told their lordships that it was three years since the boon of the liberty of the press had been bestowed on India. He would tell them, however, that it was three years since the restrictions formerly illegally imposed on that liberty had been removed, by a statesman and a friend of India, characterized by the liberality and magnanimity of his sentiments, who had thus conferred an estimable blessing on this country, which would cause him to be remembered with gratitude by future generations; for if there was any one blessing likely to be more productive than another of great and lasting benefit to India, it was certainly that liberty of discussion, through the exercise of which, every suggestion for its improvement and the advancement of its interests might be brought into the field of fair and open argument, and if proved to be of advantage, adopted for the general good. He was ready to admit that the liberty of the press was subject to some evils, although he regarded it as the greatest blessing that could be conferred on society, but he knew of no boon that could be granted which was capable of producing so many beneficial effects as this, by its bringing into discussion, and to the notice of the Government, an infinite number of subjects connected with the interests of this immense empire over which its sway extended, and with the amelioration of the condition of our Indian subjects.

"Among other things, the Advocate-General had told their Lordships that it was impossible to go into the common business of life without being assailed with libels; he had represented us as in a whispering-gallery, where every word is noted and made public. In saying this, his learned friend must have alluded only to the chit-chat and gossiping tattle indulged in by the inhabitants of Calcutta about the affairs of the day, when taking their evening drives on the Course or elsewhere, such expressions could not allude to any thing connected with his client; for whatever may be the freedom with which public matters have been discussed, he was ready to assert, that no press on earth was more free from private scandal and an exposure of the secrets of domestic life than the *Calcutta Journal*.

"But as to attacks on private character with which his client had been so unjustly charged, there was no libel, no scandal, no vituperation, that had not been poured out by others on his client, who was himself the chief, nay almost the only sufferer from that abuse of the press of which he had been so groundlessly accused.

"The discussion which had given rise to this action, had arisen in consequence of a question started and long and warmly disputed, by very unlearned persons he thought as to the power of the Governor-General to transmit without trial, British subjects *licensed* to reside in India. Giving his opinion as a lawyer, he must say he thought there was no doubt of the existence of the power to transmit persons licensed to reside; and persons residing in India without a licence, were in a legal sense committing a misdemeanor every day, which the law however overlooked. But the power of transmission, although it did exist, was a matter of high trust and responsibility, which should not be exercised but on

occasions that imperatively called for it. He did not see that any such occasion had yet arrived, and he hoped that such occasion would never occur, nor did he believe that it would be ever exercised as long as the government of India was in the hands of its present rulers. Such a power had been vested in the Government, because a monopoly of the trade of the country had been given to the East India Company, and others were considered as intruders who should be removed from the country if their conduct was obnoxious to the servants of the Company. But this power of transmission, like the power of the servants of the crown during the suspension of the Habeas Corpus Act, and every other discretionary power could not be exercised without high responsibility, and was not to be used on slight occasions. In both these instances heads of justice were to be satisfied and not defeated, and no lawyer would deny but that wrongs occasioned by the undue exercise of this or any other purely discretionary power would be heard and redressed. He repeated however his conviction that for offences through the press such a power would never be exercised as long as the present ruler of India was at the head of its Government. On this question of transmission as it was called, the discussion was; and his client was of opinion, in which he (the learned counsel) fully agreed with him, that a trial by a jury of his countrymen, was better than any arbitrary sentence however high and exalted, and however illustrious the author might be. When his client knew that he was to be tried by a jury, he rejoiced that he and all others who entertained the same opinion as himself, had gained so proud a triumph over the advocates of summary transmission, and that after all that had been said a jury was resorted to at last, as the only legal and proper tribunal for trying offences through the press, he therefore expressed his content and satisfaction that instead of any other tribunal his case was to be tried by a jury of his countrymen.

"Mr. Spankie, the Company's Advocate-General, said, no one could speak of the liberty of the press, without admitting it to be one of the greatest blessings men can enjoy, but this was no reason that the abuse of it should be tolerated. The most salutary of all medicines might become by corruption the most deadly poison. Let not the liberty of the press then be made a cloak for general libelling.

"But he did not accuse Mr. Buckingham of having this intention. From him, if left to himself, we might expect better things, but we have been informed to-day that these letters are not written by Mr. Buckingham, but by his correspondents. This is the grievance; it is controlled by a self-elected censorship on the press, which prevents him from following the dictates of his better judgment. Volunteer combatants, who are always keener than regulars, enter the arena of disputation, and inflamed with the desire of victory, disturb the peace and quiet of society. It was a great evil that the press was so open and thus made an engine of disturbance. If Mr. Buckingham would exercise his own discretion on the writings of his correspondents, of which he is the proper censor, his paper might be productive of incalculable benefits.

"His Lordship, the Chief Justice, Sir Edward Hyde East, then passed to the consideration of the merits of the case before the Court. They had nothing to do, he conceived, with the liberty of the press abstractedly. The Government of the country, with the advice and sanction of the authorities at home, had established that Liberty; and he conceived that a free press, or the liberty of publication without a previous censorship, was calculated to produce much good."

Here then, again, was a distinct appeal to the tribunal of the law, an admission from the highest legal authority in the country, that the liberty of the press had been established in India with the sanction of the authorities at home—and an admission on the part of the counsel on both sides, that my own conduct in the use of this liberty had not been of such a nature, as to deprive me of the fair claim to such protection as this tribunal of the law could afford to me; from all which, the inference was very natural, that the law would be in future again

resorted to, and that banishment for offences committed through the press would never be inflicted without a trial, at least.

An event now occurred, which, though it forms no part of my correspondence with the India Government as yet material to be mentioned; as one of the accusations made against me was, that I disturbed the peace and good order of society, and was therefore a fit object of punishment. The event was this: An individual, Dr. Jamieson, who was well known as a writer in the rival paper called the *John Bull*, received from the India Government an appointment as Superintendent of the School for Native Doctors; and as the same individual already held no less than six different appointments, each of them sufficient to occupy the whole time and attention of any one man. I wrote in the *Calcutta Journal* an article tending to show that even admitting Dr. Jamieson to be the most clever and the most meritorious man in the world, still, as he could not by any process, expand 24 hours into 48—the mere impossibility of his commanding sufficient time to perform the duties of his new office without neglecting those of his old ones ought to be deemed a valid objection against his being confirmed in it. Dr. Jamieson on this applied to Lord Hastings, and entreated him to send me out of the country, for having dared to comment on an appointment made by the Government, and thus set myself up as a censor of their conduct. To this Lord Hastings is reported to have replied, that he had made up his mind never to send any individual out of the country without a previous trial, whatever might be the nature of his offence. He therefore recommended Dr. Jamieson to proceed against me by trial at law, as the six Secretaries had done in the proceeding by indictment in November, 1821, on which I was acquitted in January, 1822; or as the Government itself had done in the proceeding by criminal information, which was filed in November 1821, but never ever proceeded forward for judgment: or in the manner which only one of controversy, as to his fitness for office, or capacity to find time for its duties, the press was as open to defend himself as to raise the objections to his appointment. Dr. Jamieson being thus disappointed in receiving the aid he wished from the Governor-General, sent his friend Dr. Gordon to me, with a formal message, to say that as he had applied to the strong arm of power to punish me for what I had written, he did not think himself justified in demanding of me personal satisfaction for that act, as this would be to employ two weapons where one only ought to be used. But though he could not for this reason call me to account for what had already transpired, he demanded of me that I should give his friend a written pledge that I would never on any future occasion mention either his name, his office, or his duties, for the purpose of commenting on them in any way whatever: and if I would not do this, that he should expect me to give him the satisfaction due to a gentleman, by meeting him in a duel. As this appeared to me most preposterous and absurd, I declined complying with either alternative, and refused to give the pledge required in favour of any man, as that would be to make a virtual abandonment of the liberty of the press entirely; and I equally refused to meet any man in a duel for what I had not yet done, and what by possibility I never might do. It would be sufficient, I thought, when the offence was committed, to atone for it in the way desired: but as the history of duelling presented no case of fighting by antici-

pation, and as neither custom nor honour could demand it, I was determined not to set so bad an example as a precedent. Some hours after this message was returned, I had a conference with several friends on the subject; who conceived that in so highly military a society as that of India constituted, it was necessary to take one other step in advance of that already described; and in compliance with their wishes, rather than from any excess of my own (for no man can hold the practice of duelling in less esteem than myself), I sent to Dr. Gordon, to say that if his friend, Dr. Jamieson was not satisfied with the answer given, and still wished to receive satisfaction for what had actually transpired, I was quite willing to waive the objection to his seeking two modes of redress instead of one, and would give him the meeting if he desired it. The meeting accordingly took place on the following morning at daylight. Two shots were exchanged on either side, and the pistols loaded on a third fire, when my own second, Major Sweeney, used his exertions to prevent further proceedings, and the matter thus terminated, with quite as little success to those who appealed to this third tribunal for redress as accompanied by the press, as had previously attended those who sought by arbitrary deportation and by legal prosecution to settle that spirit so natural to Englishmen in their own country, and so difficult to eradicate from them anywhere—I mean the spirit so justly eulogised by Lord Hastings, as "found only in men accustomed to indulge and express their honest sentiments."

This occurred in the month of August, 1822, and about this period it was that the first announcement was made of an intention to dispose of a portion of the *Calcutta Journal* in shares, so as to give the Concern greater stability, by associating in its proprietorship gentlemen of character and property belonging to all the higher branches of the community. Accompanying this announcement was a schedule of the entire property of the whole Concern in its presses, types, paper, buildings, and other materials, the estimated value of which was two lacks of rupees, or 20,000*l.* sterling; and also a return of the actual profits made during the previous six months, which was at the rate of from 6000*l.* to 8000*l.* sterling per annum, by which the value of the *copyright and materials together were deemed worth fully four lacks* of rupees, or 40,000*l.* sterling; and yielding, even at that rate of purchase, from 18 to 20 per cent. interest. Certain other advantages in the gratuitous supply of the paper to shareholders were also held out, which, *adding the amount of the subscription value*, would make their dividends not less than from 30 to 40 per cent. interest on the sum invested in the purchase of such shares. The public were invited to inspect the whole property, as well as the books of account, for themselves; the office was visited by many for that purpose, to whom every facility was given, and when the period arrived for confirming the purchases, which was not until six months after the purchase-money was paid, giving every person, therefore, six months of trial, with liberty to withdraw at the end of the six months if he desired it, the number of shares sold were 70, some at 1000 rupees each, and some at 1200; making, on the whole, about 7000*l.* sterling, which was paid for about one-sixth of the whole paper, the estimated value being 40,000*l.*, to be divided into 400 shares of 100*l.* each, *of which it was stipulated that I should retain 200, and the rest be* open to me for sale.

All these facts the Committee will find in the Printed Evidence already before them; where also it is shown, on the testimony of Mr. J. C. Sutherland, a partner in the banking-house of Messrs Alexander and Co., in Calcutta, and of Colonel Franklin, of the India Company's Army, in Bengal, that they purchased such shares as a matter of profitable investment, that they realized their full amount of promised dividends, in two half-yearly payments; that the Concern was most prosperous, yielding large profits, in which they participated; and on the testimony of Mr. Sandford Arnot, then a resident in Calcutta, and attached to the office, it is shown in the printed evidence that the accountant of the Journal, who had the best possible means of knowing its actual value, purchased a share in it at the price stipulated, as a mercantile investment, for profit, and was perfectly satisfied with its returns.—See Printed Minutes of Evidence, pp. 1, 7, 11.

The stability thus given to the Journal by this extension of its proprietary interest, so as to include seventy gentlemen of station, wealth, intelligence, and high character, for there were not more than three or four natives of India among the purchasers, all the rest being officers of the India Company's civil or military service, and opulent British merchants of the city, made it of course an object of greater hatred than ever to those who saw in its increased stability the assurance of increased power and influence.

About this period, the Rev. D. Bryce, who was editor and proprietor of the *Indian John Bull* newspaper, commenced a series of letters against me, under the signature of "A Friend of Mr. Bankes;" the great object of which was to repeat certain calumnies of Mr. William John Bankes, then Member for Cambridge, who, among other things, had represented me as being a person wholly incapable of writing a book, and being about to publish, as my own, a volume of Travels in Palestine, the materials for which were stolen from himself. I need not now say any thing to the Committee to prove the utter falsehood of this imputation. I took the most effectual means that any man could take to put that matter to the test, by proceeding in a court of law against the original fabricator of such a groundless calumny; and the result was, that after a trial, which extended over nearly three years of time, and cost the parties who were declared guilty, upwards of 6000*l.*, and myself who was proved innocent, nearly 2000*l.*; that Mr. Bankes was found guilty of a false, scandalous, and malicious libel, by a verdict of a jury, and condemned to pay damages of 400*l.*, with costs. Dr. Bryce, however, by the most malignant perversions of the facts of the case, so distorted them as to produce a very great impression against me in Calcutta; and to show that his object, in attacking my private character, was, if possible, to undermine the influence which my moral character and integrity gave to my political principles, he himself makes this unblushing avowal of his end and aim. He says, under this signature of "A Friend to Bankes."

"The phenomenon of a journal stventing his sentiments without the aid of a Censor, is but new in India, and it was manifest, that in this country, such a man might prove the source of incalculable evil. Looking around me I beheld the evils that might be feared, actually occurring. I saw them insinuating themselves into the very stronghold of our power, and possibly paving the way for an event which the enemies of this power have attempted in vain. Entertaining these

views, the conductor of such a press became in my eyes a public enemy, and restraints [illegible] as his character and his principles, its reputation became a fair and legitimate object of attack, and its overthrow a subject of honest triumph to every lover of his country."

I have read this to the Committee for the purpose of showing to what extremes of violence and slander my opponents were permitted to proceed against me, in violation of the Regulations said to be issued to and made binding on all the Editors of the public papers alike, as well as in violation of those "laws of moral candour and essential justice," the slightest disregard of which, on my part, was threatened with instant banishment, without any previous discussion. And another object I have in view in reading this paragraph, is also to let the Committee know who Dr. Bryce is, and what were his sentiments and his character, to which I shall have occasion again, perhaps, to refer them, when I come to speak of that comment on his new appointment, for which I was ultimately banished without trial from the country.

There were two minor matters which formed subjects of correspondence, though not of complaint, between the Indian Government and myself, which will be found in the Printed Evidence, pages 22 and 26, but which I mention lest it should be supposed that I would omit any thing important. The first is, when, in April, 1822, we were publishing in the *Calcutta Journal*, section by section, "Sir John Malcolm's Report on the State of Malwa,' which the Government not wishing to be proceeded with, wrote to express their wish to have it discontinued, and it was discontinued accordingly. The second is, when, in August, 1822, there appeared a letter in another paper, the *India Gazette*, conducted by Dr. Grant, a Government servant, which "appearing to the Governor-General to be of a description highly offensive to the feelings of his Majesty the King of Oude,' I was desired not to repeat it, a desire with which I very cheerfully complied; though the Editor who originally inserted this "insulting" letter, as it was afterwards called by the Government, never received, as far as I could learn, the least punishment for his offence. I mention these cases to show the *animus* by which I was really actuated; and I can truly and solemnly declare, that whenever I knew what the specific wishes of the Government were I was always willing to meet them. But when they gave so vague a threat as to say, "The next time you give us any offence, we shall withdraw your licence," it was impossible to discover what might or what might not give them offence, since this would often depend far more on the temper of mind in which the offended party might be at the moment, than the nature of the thing said, especially when the party offended was to be accuser, witness, judge, and jury, in his own cause.

An exception to the minor cases, however, occurred about the same period, namely, in May, 1822, when a letter was written from the Upper Provinces, by Colonel Robison, of His Majesty's twenty-fourth regiment, the King's officer who had commented on the entertainments of Calcutta, under the signature of "SAM SOBERSIDES;" and, therefore, long subsequent to my acquittal for the publication of those comments. In this letter, he adverts to the benefits produced in the interior of India by a Free Press; and ventures to ask a question as to the propriety of publishing in the Government Gazette, all the promotions and advancements in rank conferred on officers, that they

might be more publicly known. The letter appeared to me as innocent as any that I had ever printed, and I [illegible] the [illegible] without scruple. But as it led to severe measures towards the unhappy author, as well as reproach to myself, I am anxious that the Committee should hear the [illegible]. It is as follows:

To the Editor of the Calcutta Journal.

Sir, *Delhi, April 13, 1822.*

We [illegible] will not be last to rejoice (but perhaps [illegible]) to have been done to the people [illegible] have taken place in the columns of your Journal, I shall [illegible] the whole of your Asiatic department at least a couple of days, and put to share if they have any, every one of the country well [illegible] deprive the Indian world of the free press, which [illegible] that very rabble people can enjoy. What bursts of power have already been [illegible] with what wholesome fear [illegible] servants, who were before [illegible] control what [illegible]. What [illegible], what attention, what kindness, what [illegible] in many of the public offices! you will [illegible], public spirit, [illegible] in their different callings, as it [illegible] place or appointment will [illegible] but how the most [illegible] to be made of it! How much more [illegible] play, [illegible] improvement in bazars, and [illegible] of [illegible] justice in [illegible], bribing and cheating—how much [illegible] out of that valuable compilation, as [illegible], the Bengal Code!

Yes Sir, I congratulate you most [illegible] on [illegible] number the [illegible] no improvements can all the laws and regulations that have yet been framed to improve things meritable. I congratulate the natives from the bottom of my heart at the good you have already done them, and I hope to see the time when it will no longer be in the power of those who are supposed to protect them from fraud and violence, to harass them even in legal Courts, under rules and regulations. That it still is so, and that [illegible] often experienced under legal forms, where the sufferer has little hope of redress, I could furnish some examples to any one who doubts the fact.

Respecting the brevet and local rank confirmed, or rather said to be conferred, by Indian chiefs, such as the Nizam, Berar Rajah, &c., upon British officers I should be obliged to any of your well-informed military Correspondents to answer me the following questions: Is it Wo [illegible] Captains, Lieutenants, Majors, and sometimes Brigadier-generals, of [illegible] these chiefs; is it the Chief, who [illegible] from the best authority, has [illegible] ever what he called his own troops, or is it the Governor-General who is *ex officio* the lord and master of those kingdoms? If the Governor-General, as I suppose it must be, does he get the authority by act of Parliament, or by order from the Court of Directors? Whether it be the Governor-General or the Chief, why are these gentlemen not notified in public orders, of the rank which they assume upon their visiting-cards, and [illegible] society. In Europe, whenever an officer is allowed by His Majesty to accept rank [illegible] any kind from a foreign prince, it is duly notified in the Gazette. These certainly are little things, so are most things that hold society together, [illegible] your worldly ceremonies are little things; but let me see the proud English knight who would be thrust out of his place at a feast by a Knight of Malta or the Ionian Islands. Don't then let us expect an old captain, or subaltern in the army, to yield or give way to his junior in rank, [illegible] himself whatever he pleases, or dress himself in every [illegible] staff uniform.—I am, Sir,

A MILITARY FRIEND,
NEITHER A MULL NOR A GULL.

The Government first asked the name of the writer of this letter, which I stated that I confidentially possessed; but wished rather that he should himself communicate it to the Chief Secretary, which I had

no doubt he would do most cheerfully, from his having publicly stated his readiness to give proofs of his assertions if needed. But the Government would hear of no compromise, and insisted on the name immediately, which was accordingly given, as Colonel Robson had publicly authorized that step, though I should have preferred its being done by himself. As far as I was concerned, this matter ended here, but I regret to say that with such severity was Colonel Robson pursued, that after being driven from his station in the heart of the country, and ordered to march to Bombay, in a state of ill health, and in the burning heats of autumn, he was ultimately ordered home from thence; and his spirits and health together were so much broken by this harsh treatment, that he died almost within sight of the English coast and was buried, I believe, off the Lizard a victim, undoubtedly, to his ardour in the promotion of reform, in all its constitutional, sincere, and disinterested attachment to the cause of the Press in India.

The last occasion of complaint, and the last warning that I received, and I am as glad as the Committee can possibly be to approach their termination, arose out of the following circumstances. A discussion had existed for a long time between the Editors of the Indian newspapers, as to whether the Regulations for the Press contained in the Government Circular, were or were not binding in law. My opinion always was that they were not; the best proof of which was, that there never had been, and all lawyers admitted there never could be, any legal proceeding against any party for infringing them. They had not been registered in the King's Court, a formality without which they could no more become law, than a bill carried through both Houses of Parliament can become an Act, without receiving the Royal assent. The only way in which they could be enforced was this: An Editor was told, "Here are certain rules which we choose to lay down. If you do not conform to them, we will deprive you of your licence of residence; and when we have taken this from you, we can send you out of the country, not for breaking any of our rules but for not having the licence which we have taken away." But an Indian Editor could not be so dealt with; and when they broke the rules, which they did often, there was no legal process could be had against them, because the rules themselves had no legal existence. This was the doctrine I maintained, in opposition to the other writers in India; and subsequent events have proved that I was right, as those very rules were afterwards registered in the King's Court, to give them that power in law, which they never possessed before. For so writing, however, I received again a severe reproof. The letter will be found in the Printed Evidence, Accounts and Papers, p. 26, as well as my reply. I will quote only one paragraph from the letter, and another from the reply. The closing paragraph of the Government letter, which is dated September 5, 1822, is as follows:

"Whether the Act of the British Legislature, or the opinion of an individual shall be predominant, is now at issue. It is therefore imperatively the duty of the Local Government to put the subject at rest. The long-tried forbearance of the Governor-General in Council will fully prove the extreme reluctance with which he adopts a measure of harshness; and even now his Excellency in Council is pleased to give you the advantage of one more warning. You are now finally apprized that if you shall again venture to impeach the validity of the statute quoted and the legitimacy of the power vested by it in the chief authority here, or shall therewith

disregard any official injunction, past or future, from Government, whatever communicated, in terms of severity, to integrate the language of intimidation, your licence will be immediately cancelled, and you will be called to depart forthwith from India."

To this letter, as I before stated, a long reply was sent, which will be found in the Printed Papers, p. 26; but I will read only the closing paragraph of the whole. It is this:

"As to the nature or extent of the freedom of the press, concerning which such various and conflicting opinions have been entertained, it is now enough that the English-born Editors who may be hereafter found entertaining such opinions as to its existence or total annihilation, or such freedom as can be only legally supposed to exist, and as far as I am concerned by bringing it into discussion, it is likely that his Lordship in Council will never come to troubled with discussions upon a question now so entirely settled." Of the merits or demerits of the several systems of censorship, restrictions, or freedom as by law established, whatever may be my opinion it must be matchless to offer it now. I have before offered desired to know only distinctly and precisely what the system to be to be maintained actually was, and expressed my readiness to conform to it, for the justice or injustice, policy or impolicy of any system must rest with those who establish, and not with those who are called to merely observe it, and who have no share in its formation. Every apparent deputure that I have yet made from such conformity to the established system of the moment, has arisen from the ambiguity of the terms in which its code of this appeared to me to be involved, and from the inferences fairly warranted by the various modes of proceeding adopted against offenders through the channel of official correspondence, but more frequently, and in the most important cases, through the regular channel of proceedings in the Courts of Law. To this last appeal I have never once objected, and so far from my attempting to set any act of the Legislature of my country at defiance, my never-ceasing cry and prayer has been, that the dominion of the law should be upheld and maintained as the only dominion under which we all ought to live. Whatever system it may be my duty to obey, and even under the system laid down by the Governor-General in Council as that finally the Legislature for the Government of British India, however it may fall short of that standard of excellence which ardent minds might wish to see attained, it will be my aim to live as usefully and honourably as I can. If I fail in effecting all the good I wish, I must strive to be content with doing that which is strictly practicable, and endeavour to balance the sacrifices of the present by indulging hopes for the future.

*I beg the Committee to remark, that this last warning distinctly tells me that if I ever impeach the validity of any statute, or doubt the legitimate power which it gives, or disobey any official injunction, past or future, which the Government might issue, I should have my licence taken away.* I contend that in the attack for which I was ultimately banished, I did neither of these things against which I was warned—I called no statute in question—I doubted no power whatever—I disobeyed *no injunction, past or future.* The Governor-General, the Judges, the Bishops were not to be spoken disrespectfully of in India, nor the Directors or other public authorities of the East India Company in England; but the individual, on whose singularly inappropriate appointment I felt it safe to raise a good-humoured smile, was not included in the excepted Dignitaries, nor was he, in any sense of the term, one of the public authorities of the country, but merely a Presbyterian minister, as will presently be seen. The history of the transaction was as follows: and as it was for this that I was actually banished from the country, it is important that it should be clearly understood.

Subsequent to this last warning, which was written by the Chief Secretary, in September, 1822, my best friend, Lord Hastings, left the country, embarking in January, 1823, and leaving an interregnum until the arrival of his successor, Lord Amherst; during which interval, the *supreme authority was vested in the hands of Mr. John Adam*, as senior member of council, who was then temporarily the Governor-General of India, or *locum tenens* till the actually appointed Governor, Lord Amherst, should arrive. Mr. Adam had been the original censor of the Indian press; and was the leading person of the opposition to Lord Hastings's views on the subject of *free publication* in the Council; and he had been heard to declare, that if he possessed the reins of power but for a single day, he would use it to send me out of the country. I felt it my duty, as I believed it to be my interest, to excite so somewhat more than my usual attention on this account; and indeed I was taunted by my rivals and opponents of the press Dr Bryce *among the number*, with "*something like a shrinking from my duty*," and a line from Shakspeare was often repeated of me—

"Hedge-creeping Buckingham grows cautious."

With all my caution, however, I was unable to escape. In the short period of Mr Adam's interregnum, he took great care to reward handsomely those who had been most active and most violent in their opposition to the freedom of the press in India: and among other most inappropriate appointments, he conferred upon the Rev. Dr Bryce the situation of *Clerk of the Committee* for supplying the Government offices with stationery, a place worth about 600*l.* or 800*l.* a year. So much importance was attached by the Government to this appointment—so desirous, at least, did they appear to be to give it all possible *éclat*—that instead of being included in the Government *Gazette* of the morning, where appointments of the highest importance are always announced, it was made the subject of a special announcement, in the shape of an "Extraordinary Gazette," in the manner in which victories and other important events are announced in England, which was paraded about the town, and delivered to persons as they rode or walked through the streets. This whole affair was a subject of *such ridicule in every body's mouth*, that I but *faintly responded to* the general feeling of the entire community—the patron and the *protégé* perhaps alone excepted—when I penned and published in my Journal of the 8th of February, the following good-humoured exhibition of the appointment in question:

*From the Calcutta Journal, of the 8th of February, 1824, page 541*

"During the evening of Thursday, about the period at which the inhabitants of this good City of Palaces are accustomed to sit down to dinner, an Appendix to the Government Gazette of the morning, was issued in a separate form, and coming in the shape of a Gazette Extraordinary, was eagerly seized, even at that *inconvenient hour, in the hope of its containing intelligence of great public importance*. Some, in whose bosoms this hope had been most strongly excited, may perhaps have felt disappointment, others we know, drew from it a fund of *amusement* which *lasted them during the remainder of the evening*.

"The reverend gentleman named below, who, we perceive by the index of that useful publication, the Annual Directory, is a Doctor of Divinity, and Moderator of the Kirk Session, and who by the favour of the higher powers, now *combines the office of parson and clerk in the same person*, has no doubt been selected for the arduous duties of his new place from the purest motives, and the strictest possible attention to the public interests. Such a clerk as is more re-

qained to inspect and [illegible] should be a competent judge of the several sorts of paste-board, sealing-wax, ink-stands, sand, lead, gum, pounce, tape, and leather, and he would argue that nothing short of a regular apprenticeship at Stationers Hall would qualify a candidate for such a station. As this information, however, the reverend gentleman no doubt possesses in more than a mere theoretical degree, he would be found to do the duties of such an office, and though at first sight such information may seem incompatible with a theological education, yet we know that the country abounds with surprising instances of transcendent genius which fits a man in a moment for any post to which he may be appointed.

"In Scotland we believe, the duties of a Presbyterian minister are divided between preaching on the sabbath, and on the other days of the week visiting the sick, comforting the weak hearted, conferring with the bold, and encouraging the timid, in the several duties of their religion. Some shallow persons might conceive that if a Presbyterian clergyman were to do his duty in India, he might also find abundant occupation throughout the year, in the zealous and faithful discharge of those pious duties which ought more especially to engage his devout attention. But they must be persons of very little reflection indeed, who entertain such an idea. We have seen the Presbyterian flock of Calcutta take very good care of themselves for many months without a pastor at all; and even when the shepherd was among them, and abundant time to edit a controversial newspaper (long since defunct), and to take a part in all the meetings, festivities, addresses, and flatteries, that were current at the time. He has continued to display this eminently active, if not holy disposition up to the present period, and according to the maxim, 'to him that hath much (to do) still more shall be given, and from him that hath nothing, even the little that he hath shall be taken away;' the reverend doctor, who has so often evinced the universality of his genius and talents, whether within the pale of Divinity or without it, is perhaps the very best person that could be selected, all things considered, to take care of the foolscap, pasteboard, wax, sand, gum, lead, leather, and tape, of the Honourable East India Company of Merchants, and to exercise an enlightened jurisdiction on the quality of each, so as to see that no drafts are given on their treasury for gum that won't stick, tape short of measure, or inkstands of base metal.

"Whether the free discussions that have agitated both the wise and the foolish of this happy country, from the Brahmpooter to the Indus, and from Cape Comorin to the confines of Tartary, have had any influence in hastening the consummation so *devoutly* wished, we cannot presume to determine. We cannot profess to know anything of the occult sciences; and being equally ignorant of all *secret* influences, whether of the planets of heaven, or the satellites of earth, we must content ourselves, as faithful chroniclers of the age, with including in our records, the important document issued under the circumstances we have described."

Let me now ask the Committee to contrast the good-humoured banter of such an article as this with the fierce and bitter paragraph which I read to them at a former part of my address, from the pen of this same Dr. Bryce, who avowed, that as my principles derived great strength from the excellence of my character, it was important to attack and overthrow that character, if the principles could not otherwise be refuted. Let them place the mildness and utter absence of all feeling on my part, in contrast with the bitterness and venom on his: and let them say what they must think of the fairness or justice of a Government that could permit such a man, who was subsequently convicted of libels against me by a Court of Justice, the Judge even declaring from the bench that they were too atrocious to be thought of without horror, to remain unmolested and amass a fortune by his pursuits,—while I, who had never yet been convicted of libel, nor had evinced either severity or bitterness towards the Government or indi-

viduals, was to be banished without trial, and ruined, as the sequel will unhappily show. On the day after the article in question appeared, the following, which was the last communication I received from the Indian Government, was sent to me.

To Mr J. S. Buckingham.

Sir, *Fort William, Feb 12, 1823.*

Referring to the editorial remarks contained in the *Calcutta Journal* of the 6th instant (page 711), and to the communications officially made to you on former occasions, I am directed to apprize you that in the judgment of the Governor-General in Council you have forfeited your claim to the countenance and protection of the supreme Government.

2 I am further directed to transmit to you the enclosed copy of an order issued by Government on the present day, by way of the direction of the Court of Directors, authorizing you to proceed to the East Indies, as declared to be void from and after the fifteenth (15th) day of April next.

3 You will be pleased to notice that any assets should be found in the East Indies from and after, but due, you will be mindful to take the proper steps and bring in the East Indies with the authority for that purpose, and will forthwith be sent to the United Kingdom.

I am, Sir, your obedient servant,
W. B. BAYLEY, Chief Secretary to the Government.

From such a mandate as this, there was of course no appeal. Considering the only course left open to me therefore, to be that of retiring from the country where my further residence was forbidden—useful and honourable as were my pursuits, and dear as were the friends from whom I should thus suddenly be torn—I began to prepare for my departure. What greatly aggravated the hardship of my case was, that my wife had but a few weeks before joined me from England, after a painful absence of ten years; and that our children were expected to be on their way out to join us, as orders for their coming had already been sent home. The short time allowed for my stay would not enable me to wind up my affairs, and settle my accounts, as the greater number of those who were indebted to me as subscribers to my Journal were resident in the interior of the country. My domestic establishment, just completed with great care, for the reception of my family, was obliged to be abruptly broken up, and a large sacrifice of property suffered on that account alone; besides which, the removal of my personal superintendence from such a Concern could scarcely fail to lessen its value to myself, and to every other proprietor. The spontaneous expressions of sorrow and indignation which were communicated to me from all quarters, were such as any man might well be proud of; but though they soothed the feelings, they could do but little to repair the losses inflicted on me by so severe a measure. To add to the aggravation of the evil, I was then standing in the Supreme Court as a plaintiff, seeking reparation for the injurious libels on my character, written and published by Dr. Bryce, in the *John Bull* newspaper; and to banish me without trial from the country, was of course greatly to lessen the chances of my obtaining justice at the proper tribunal to which I had appealed. In short, it is mockery to speak of the protection of the laws existing in any country where an individual may be taken from a Court of Justice, either as plaintiff or defendant, and banished without trial by the ruling power. Nevertheless, to show how strong my case must have been, I may mention that even in my absence, after I had been

sent away, and the cause therefore deprived of much of its strength the following opinion was expressed of the libels of my opponent, by the learned Judge, Sir Francis Macnaghten, from the Bench.

"That the plaintiff was entitled to just damages was undeniable. That he had suffered no special damage was proved, and special damages accordingly were not claimed. To his Lordship's mind there was no question of the malice of the writers in the *John Bull* towards Mr Buckingham. It was true, Mr Buckingham had appealed to the public, but he did not apply to be expelled from society, and his friends to be prosecuted. Really, to his Lordship's mind, they were most malicious libels; he could not speak of them with out horror. If he received Mr Buckingham had stuck in his newspaper, or in his mind, his Lordship would award him the most ample and exemplary damages; but as special damage was not pleaded, he did not consider heavy damages necessary. Concluded his Lordship, 'Let the Plaintiff have a thousand rupees damages and costs.'" *Report of the Trial in the Supreme Court of Calcutta, April 7, 1823.*

The truth is, that thinking more of character than damages, I had instructed my counsel to say, I did not come into that Court to seek compensation in money; for atrocious as these slanders were, my character stood so high among those who knew me, that they had no way affected the sale of my papers, and therefore my property remained uninjured by them; while, consciousness of innocence, the tranquillity of my mind remained undisturbed. But I brought these libellers into Court as the only effectual means left me of proving to the public of India, by whose support and approbation I lived, that even the writers of these libels were ashamed to avow themselves, and that they had not a shadow of evidence to substantiate their case. The result of the trial effected this object most completely, and with this I was satisfied.

I may perhaps add, that in the course of the trial a question arose as to the general character of the *Calcutta Journal*, which Mr. Cutlar Fergusson, than whom no man knew it better, or was more competent to form a just opinion of it, gave this as the result of his convictions:

"After Mr Longueville Clarke had read to the court what he considered the worst parts of a long series of the *Calcutta Journal*, in order to show that its character would at least palliate the libels of his clients on the Editor; the following was the reply made by the counsel on the other side. "As to the extracts selected by Mr Clarke, from the twenty-six volumes of the *Calcutta Journal*, and which have been read, I am satisfied that if my learned friend could have discovered any *one libellous* matter he would have produced it to the Court. As he has *not* done so it may be safely taken for granted, that it did not exist. Now he had not been able to produce *one* libel on private character, there was not a single word of calumny on *any* private individual. In fact, upon my learned friend's own showing, *there could not be a purer paper in existence*. If it come to libels between Editors, the most objectionable expression that could be found (in the *Calcutta Journal*), was that which accused a former Editor of the *John Bull* of being 'subservient;' and even that is applicable to *public* conduct. And is it for this that Mr. Clarke thinks it justifiable for a few powerful men, if they be so, to combine together to hunt down Mr. Buckingham from society, and prosecute all who should countenance him? Law which nothing is more repugnant to English law, or more abhorrent to the spirit of Englishmen."—*Report of the Trial in the Supreme Court of Calcutta, April 7, 1823.*

The Committee will be prepared to think, no doubt, that under such aggravated circumstances as these, I did every thing in my power to show my hostility to a Government from whom I had received such treatment, and that I encouraged my successors to do the same. The world would have forgiven me I believe, even if that had been the case.

But while I took such steps as I thought would best secure to the absent proprietors, as well as to myself, the full protection of which our property would stand in need, by placing it under the editorship and management of an Anglo-British subject, who, as a native of India by birth, needed no licence to reside there, and could not therefore be subjected to banishment for not having such licence as I had been,—I also took pains to secure the co-operation of two other assistants; and to the three parties thus united, I issued a set of instructions, copies of which were deposited with my agents also to see that they were carried into effect; and in order that the Committee may see fully and fairly in what spirit those instructions were written, and how far my conduct was not unbecoming itself, contrasted with the injuries I had received, I beg to read only three paragraphs which I take from the *Printed Evidence*, page 13. It is as follows:

"As I begin with the express recognition of loyalty, I would add with respectful obedience to my employers, I desire to avoid even the greatest semblance of unbecoming language, or to provoke the slightest *contention* or *controversy*. It will materially contribute to this end, if the two gentlemen more especially engaged in the management of the paper be vested with the power of correcting any portion of the communications sent for the press, whether written with the office or coming from without; as by this *means every security will be made against any thing objectionable escaping*; and as to the other Long Mr Sandys's section, will have the task and responsibility of exercising his consent on all that is to be published, I desire that Mr Arnot and Mr. Sutherland shall equally exercise the right of wholly rejecting or partially correcting, softening, and modifying any thing intended for *publication, so that nothing may appear which has not the concurring consent of* all parties named. Neither of them will have the right to *add* a word to what is written by the other, without the writer's consent; but each must have the right of *striking out* any portion of what is written by the other, whenever he may think it objectionable in any point of view.

"I give myself up willingly to this friendly revision of others, because I am aware that the writer of any article is seldom a good judge of the danger or impropriety of any particular opinion or expression which escapes him in the *ardour of composition*, as it is on *other* persons who exercise his cool judgment on it after it is written. I shall by this means be satisfied that nothing of undue warmth or improper application, and as the great mass of the subjects of the Journal are to be of high and noble principles, as well as persons of weight and rank in the community, I shall thus be as well assured as I could desire, that *nothing calculated to be a lasting or injurious blemish on any class* will be permitted to be published. The firm to carry it independent spirit of the Journal may of course be maintained by all, but to prevent any thing escaping that may be likely to do injury rather than good, I particularly desire that this power of censorship be permitted to be equally exercised by Mr Sandys, Mr. Arnot, and Mr Sutherland, and that *nothing* be published which is not *sanctioned* and approved by each of them.

"I have nothing further to add, but my earnest hope that concord and unanimity will prevail among all parties, that the Journal may flourish under its present management even more than under mine, and that it may continue to be the source of private benefit to all concerned in its reputation, and of public good to the Indian Government and the people over whom its sway is extended."

Having completed all my arrangements, by thus protecting my property against any further invasion—off instructions with my successors as editors—sold off all that belonged to my domestic establishment—and publicly announced my confidence in the protection of the laws, as being sufficient to secure the property I left behind me from further injury or from violation—I embarked from Calcutta on the

1st of March, and reached England on the 30th of June, in the same year 1823, arriving only just in time to prevent the sailing of our children, whose passages were taken and paid for—and whose baggage was embarked in a ship lying wind-bound at Deal, but destined to take in her passengers at Portsmouth.

As soon as I landed in England I repaired to London; and after waiting a short period of time to allow the India Directors to become acquainted with all the circumstances of my case, I made a mild and respectful application, first to them, and then to the India Board, soliciting, not compensation for the injury inflicted, but merely permission to return—which was in both cases denied. The letters are so short that they may all be read without occupying much time.

TO THE HONOURABLE THE COURT OF DIRECTORS OF THE EAST INDIA COMPANY.

HONOURABLE SIRS, *London, Sept 3, 1823.*

I was unwilling to intrude myself prematurely on the notice of your Honourable Court, until sufficient time should have elapsed for all its members collectively and individually to become acquainted with the particulars of the alleged offence, for which my licence to reside in India was annulled by Mr Adam, the acting Governor-General, in February last. As I have reason, however, to believe that the period is now arrived when your Honourable Court is in full possession of the merits of the case, I think it proper to address you without further delay on the subject.

My ground of complaint is, that I have been made to suffer a most grievous punishment for a very slight offence; and that my business and fortune I must have already produced to my affairs in that country more than sufficient evil, compared with what might be due to the fault laid to my charge.

My request is that your Honourable Court will take this case into your consideration, and grant me a licence to return to India, there to pursue my lawful occupation as Editor of the *Calcutta Journal*, without being again liable to banishment from the country at the mere will and pleasure of the Governor-General in Council; but guaranteed in the safety of my future residence in India, subject only to the laws as administered in the Supreme Court of Judicature established in Bengal, for the express purpose of maintaining to the British Inhabitants of that presidency the free enjoyment of their legal rights.

I have the honour to be, &c &c,

J S BUCKINGHAM.

TO MR J S BUCKINGHAM

SIR, *East India House, Sept 17, 1823*

I have laid before the Court of Directors of the East India Company your letter of the 3d instant, requesting a licence to return to and reside in India, and I am commanded to acquaint you that the Court do not think it to comply with your request

I am, &c,

J DART, Secretary

TO THE PRESIDENT AND MEMBERS OF THE BOARD OF CONTROUL

HONOURABLE SIRS, *London, Sept 20, 1823.*

In conformity with the provision made by the statute 53 Geo III cap 155, sect 33, I have the honour to transmit for the information of your Honourable Board, copies of an application made by me to the Court of Directors of the East India Company for permission to return to India, under the circumstances therein described, with their reply, and I have to request that your Honourable Board will exercise the powers granted to you by Parliament, in providing me with that authority to return to and reside in India, which the Court of Directors have refused

I have the honour to be, &c &c,

J S BUCKINGHAM.

To Mr. J. S. Buckingham

Sir, *India Board, Sept. 27, 1823.*

In reply to your letter of the 20th instant, I cannot but be sensible of the kindness of the sentiments, and conveyed by the Board to convey to you the sense in which you have lately made to the Court of Directors of the East India Company, expressing your opinion, was duly and before them by the Court, together with the decision of the Court thereupon, in conformity with the provisions of the 33rd and 34th Geo. III. c. 15; and that the Board have not [illegible] necessary [illegible]

I am, &c.,

W. P. COURTENAY.

Conceiving it to be quite impossible that either the Directors or the India Board could approve of the appointment of Dr. Bryce; and yet being unable to comprehend how they could consent to visit me with so severe a punishment if they disapproved of the appointment, for in that case I should have been merely giving vent to their own sentiments—I made this the subject of particular inquiry, and the Committee will not wonder at my astonishment when I discovered that so far from their approving the appointment, they had no sooner heard of it than they condemned it so strongly that they did not wait to hear of any opinions expressed on it in Calcutta before they condemned it: but that it was condemned by all parties at the Court and at the Board as soon as it became known. At first there was great difficulty in my getting proof of this. But in the Committee of 1826 we obtained from the India House an extract of the despatch sent out from England on the 5th of November, 1823, *annulling the very appointment*, for merely consuming which I was expelled the country and refused permission to return. The document itself is contained in the Evidence, p. 18, but the extract referred to is so striking, and so important, that I must ask the permission of the Committee to read it here. It is as follows:

EXTRACT OF A LETTER FROM THE EAST INDIA COMPANY TO THE GOVERNOR-GENERAL OF BENGAL.

PARAG. 5, *November 5, 1823.*

In your letter of the 15th and 27th of February, the appointment of Dr. Bryce, *being a Minister of the Scotch Church and an Presbytery*, to the office of Clerk to the Committee of Statutory, has been brought to our notice. The reasons given for this appointment in the Governor-General's minute of the 27th of February, are *by no means satisfactory to our minds*. We regard it as objectionable on general principles, that a clergyman should hold a civil office under the Government; and we see nothing in the case of Dr. Bryce to warrant an exception in his favour. *We accordingly direct*, that on the receipt of this despatch the appointment be immediately revoked.

Here, then, is proof beyond all question that my objections to the appointment of Dr. Bryce were perfectly well-founded; and that they were believed to be so by the very parties who had punished me for making them; since they had themselves expressed the same opinion in a graver form. This, therefore, ought to spare the necessity of any further inquiry into the merits or demerits of the particular article for which I was banished and subjected to all the loss and suffering described: as the *India Directors themselves have, by this act of annulling the appointment*, proved the justice of my censure, by adding the sanction of their own.

While awaiting in England intelligence from India as to the state of my affairs there, every ship brought me more and more disastrous

intelligence. I learnt, from various quarters, that some further blow was meditating against the property I had left behind me, though I could not distinctly learn what. I found, however, at length that the Government in India having grown proud of the country, had for some time previously been preparing a secret blow to be struck when we were gone; and this was now in the shape of an attempt to introduce an arbitrary new law into Calcutta, for the express purpose, as it afterwards too plainly appeared, of putting down the *Calcutta Journal* entirely, and annihilating all that remained of value in the only property I possessed in the world.

The first step taken by the Government was to register the Regulations *for the Press*, by having them registered on oath in the King's Court, which was done on the 8th of April, 1823. Now, as it was for a pretended breach of those very Regulations that I was banished from the country, it must be clear that I was punished without having broken any *law*, for if they were *lawful* without being registered, it was totally useless to register them again, except to give them an *ex post facto* application to my individual case.

The next step was to introduce two new Rules, or Ordinances for licensing Journals and otherwise regulating, or rather restraining, the freedom of publication, which are so unique in the history of British Legislation, that they ought to be preserved, if only to excite abhorrence at the spirit which could frame, and the power which could confirm, such arbitrary and despotic edicts. I content myself with giving only the preamble and a paragraph or two of each. The first is dated the 4th of April, 1823, and is as follows:

"Whereas matters tending to bring the Government of this country as by law established, into hatred and contempt, and to disturb the harmony, peace and good order of society, have of late very frequently printed and circulated in Newspapers and other Papers published in Calcutta; for the prevention whereof it is deemed *expedient* to regulate by law the printing and publication within the settlement of Fort William in Bengal, of Newspapers, and of all Magazines, Registers, Pamphlets and other Printed Books and Papers, in any language and *the acts*, published *periodically, containing, or purporting to contain public news* or intelligence, or strictures on the acts, measures, or proceedings of Government, or any political events or transactions whatsoever.

"*Be it therefore enacted*, that no person or persons shall within the said settlement of Fort William, print, publish, or cause to be published, any Newspaper or Magazine, Register, Pamphlet, or other Printed Book or Paper whatsoever, *in any language or of any nature whatsoever, without having obtained a licence* from the Governor General in Council, which licence shall be revocable at pleasure.

"And be it further ordained, that if any person within the said settlement of Fort William, shall print or publish, or cause to be printed or published, or shall sell, vend, deliver out, distribute, or dispose of, or if any Bookseller or other *person shall receive, lend, give, or supply, for the purpose of perusal or otherwise*, to any person whatever, any such Newspaper, Magazine, Register, or Pamphlet, or other Printed Book or Paper as aforesaid, such licence, as is required by this *Rule, Ordinance, and Regulation, not having been first obtained, or after such* licence if previously obtained shall have been recalled, as aforesaid, such person shall forfeit for every such offence, a sum not exceeding sicca rupees four hundred.'

The reception of such a law as this in a British community may be well judged of. It excited, as it was so well calculated to do, almost universal condemnation. The second law was quite in harmony with

*its predecessor. It was introduced on the following day, April 5,* 1823. I need not read any of the clauses, except the last; and will only say that the previous clauses give power to the Magistrates, to enter any houses where they have even strong presumption to believe that printing materials are to be found, to seize and attach them, and by summary process to fine the offenders 1000 rupees, or 100*l.* sterling each, *and in default of payment to commit them to the common jail.* The last paragraphs of the second law are as follow:

"If the Governor-General in Council, shall at any time deem it expedient to prohibit the circulation of any particular News-paper or other Printed Book or Paper, or any description (which description may be printed in the town of Calcutta or elsewhere) an immediate notice of such prohibition will be given in the Government Gazette. The officers of Government, both Civil and Military, will also be officially apprized of such prohibition, and will be directed to give due publicity to the same, within the range of their ordinary official intercourse.

"Any person who shall circulate such prohibited publication, shall circulate or sell, or cause to be circulated or sold, or deliver out or distribute or in any manner cause to be distributed, any Newspaper or other Printed Book or Paper, so prohibited, shall *on conviction before the Magistrates of the District in which the offence may be committed*, be subject to the first offence to a fine of 100 rupees, or to imprisonment for two months; and for the second and every subsequent offence, to a fine of 200 rupees, or to imprisonment for four months."

These, then, are the laws which the Government of India determined to impose alike on British as well as native subjects of the King; by which they would be empowered to prohibit the circulation of the *Edinburgh* or *Quarterly Review*, the *Times* or *Morning Chronicle*, or any publication of any kind coming from England, as well as those printed in India; the object of which no doubt was, after destroying my Journal in India, to prevent the introduction and circulation of the *Oriental Herald*, which I had announced my intention to publish in this country, and thus, if possible, to crush me entirely. That this effect was produced, I can prove to the Committee by a very striking fact, which is this: On my first putting forth a Prospectus of the *Oriental Herald in London*, I had copies of the announcement stitched in among the advertising sheets at the end of the *Quarterly Review*, so as to give them circulation wherever that work extended. On the arrival of the *Quarterly Review* in India, the Booksellers were at first afraid to sell it with this announcement among its advertisements, and in some instances the Prospectus of the *Oriental Herald* was torn out, before the Review was deemed safe to be publicly sold, delivered out, or circulated.

At length the matter came to be argued in the Supreme Court, before one of the King's Judges in Calcutta; and the proceedings occupied the entire day. Mr. Cutlar Ferguson, and Mr. Thomas Turton were the counsel who endeavoured to resist the passing of the law; and a short extract from the eloquent speech of the former, will put the Committee in full possession of the views entertained by that learned gentleman on the subject.

*Extracts from Mr. Ferguson's Speech.*

"My Lord,—By the leave of the court granted to me on a former day, I am to address myself to your Lordships on behalf of Mr. Buckingham, the principal proprietor of the *Calcutta Journal*, against the registering of the proposed rule and ordinance, affecting the periodical press within the town of Calcutta. Those who have been charged with the interests of Mr. Buckingham (no longer able, as it is well known, to watch over them himself), have considered that the proposed

regulations [illegible] behind him, and which is embraced [illegible] of the *Calcutta Journal*. I appear, therefore, with my learned friend, to be heard for the private interests of Mr. Buckingham. Into [illegible] I understand by your Lordships' indulgence we are permitted to be heard use. They are composed of most respectable individuals, [illegible] Calcutta: one description consisting of the sons of British [illegible], [illegible] styled Indo-Britons, the other of native Hindoos, whose names are affixed to [illegible] which has just been read, all of whom consider themselves as having [illegible] the *protection of British law*, and entitled to the freedom which that law has given to them, and which some of so valuable privileges [illegible] seriously invaded, should the regulation in question [illegible] as Court.

"The preamble, your Lordship will be pleased to observe, does not [illegible] the necessity or expediency of this regulation [illegible] their particular knowledge of Government [illegible] respect to the state and condition *of the country*, or the *minds and dispositions of the Indian community*, as mutually affected by such publications. It speaks of the *tendency* of such publications. If the preamble had said, that such publications had had the effect of exciting in the country of India, or in any part of it, any thing like a feeling of discontent against the Government, &c., the necessity of this regulation would, at least, have been asserted on the face of it. But as it is now, such necessity is neither asserted nor can be inferred. Does it, I will ask, follow as a necessary consequence from the fact assumed, of publications having such a tendency being calculated, that the freedom of the press must therefore be restrained? I deny the conclusion altogether. To justify the odious restrictions sought by this regulation to be put *upon the press*, it should have been shown not only that such mischievous publications were circulated, but that the law as it stood was insufficient to repress them. If libels have been circulated, tending to excite hatred and discontent against the Government, why have not the authors of them been brought to punishment? It is now five years since the censorship, which never had the sanction of legal authority to support it, has been withdrawn from the press. During that period, there has been one prosecution by indictment and another by information, neither of them for publications levelled at the Government. The first, indeed, was alleged to be a libel against some of its public officers. The publisher, my friend and present client, Mr. Buckingham, was acquitted by a Jury on that *indictment*; and I confess I never could but wonder how it should have been considered possible that a conviction could follow.

"Government, by the regulation now before the Court, seek to effect with penalties that no person shall print or publish a newspaper or other periodical paper without their licence; and that such licence, when given, may be recalled at pleasure. This is the scope and substance of the regulation. Its necessary effect will be to place the press entirely at the mercy of the Government. They are not bound to give any reason—to assign any cause for recalling, any more than refusing the licence. It is sufficient that it is their will; so that the person who *one day embarks his capital in an establishment upon the faith of a licence which* he may have obtained, may receive on the next the order for recalling it, operating as a confiscation of his property, without investigation and without appeal. It may be said, that although the licence be taken from one editor, it may be given to another, but if it be necessary to do day to day to change the editor of a newspaper, the property may and must go to ruin.

"But it is time that I should proceed to the second point to be considered in this case. *Is the regulation lawful?* The acts of Parliament on which the authority to pass this regulation is made to rest, by the terms of the regulation itself, are the 13th of Geo. III., c. 63, s. 36, and the 39th and 40th Geo. III. the regulation called the 40th of Geo. III. c. 10, s. 18, 19. It may here be observed, that the 39th and 40th of Geo. III. does not give any authority to make regulations which did not exist under the former act. It only gives a power of enforcing additional punishment by the 18th section, and by the 19th, takes away the writ of

*ce, however, to appeal upon [illegible] to any superior court. The authority for passing the regulation must rest therefore on the words of the 37th section of the former act, which are these: 'It shall and may be lawful for the Governor-General in Council of the said United Company's settlement at Fort William, in Bengal, from time to time to make and issue such rules, orders, and regulations, for the good order and civil government of the said United Company's settlement at Fort William aforesaid, and other factories and places subordinate and to be subordinate thereunto, as shall be just and reasonable (with the consent and approbation of the said court, in manner aforementioned), *such rules, ordinances, and regulations, not being repugnant to the laws of the realm.*'*

"How I make my bow, and I do so cordially, with the respect which becomes me before your lordships, but with a conviction that the structure which nothing can shake, that *this noble edifice, which stands out to be law of England and consecrative of its most sacred principles.* I am truly with freedom of the press as part of the law of England, but the free and unrestricted liberty *of publication, subject to the responsibility of the law, I shall have to be called upon for authorities in support of this position.* I will content myself with citing the words of a learned and well-known writer, to whom I cite not *merely on account of the weight to which they are entitled, as authority in such a matter,* but because they express only what *can* be said, and I need not add, *better* than anything which I can say upon the subject. Sir William Blackstone, the author to whom I have referred, in discussing the subject of libel, expresses himself thus: "'Liberty of the press is indeed essential to the nature of a free state; but this consists in having no *previous* restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments or opinions he pleases before the public; to forbid this is to destroy the freedom of the press, but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity. To subject the press to the restrictive power of a licence, as was formerly done, both before and since the Revolution, is to subject all freedom of sentiment to the prejudices of one man, and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government. But to punish (as the law does at present) any dangerous or offensive writings, which, when published, shall, on a fair and impartial trial, be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order of government and religion, the only solid foundations of civil liberty. Thus the will of the individual is still left free, the actions only of that free will are the object of legal punishment.'

"Nothing in public or private life would be more convenient certainly than to be able to say, 'No man shall speak or write about me who has not obtained my *leave for that purpose!* Yet we do not find that *in times of the greatest alarm* and dismay, occasioned by the alleged *licentiousness of the press,* in times too of rebellion, insurrection, and foreign war, such a scheme as this has ever been *hinted at. In fact, no minister has existed in modern times who would have dared* to ask such a proposition in either House of Parliament, and if he had, his discomfiture would, I trust, have been certain; but if he had succeeded, and the proposition had passed into a law, there is a public which would probably not long have borne it. Would any man in England have hesitated to say it was wrong and to the laws of the realm? If repugnant to such laws in England, there is no power that can make it law here. There is no such restriction in the words used in 13 Geo. III, they limit and confine the power of the Governor-General in Council, with the consent and approbation of the Court, to make rules and regulations 'not repugnant to the laws of the realm.' This was a new power given by 13 Geo. III. It had been given by the Charters granted by Geo. I. and Geo. II., establishing Courts of Justice in this settlement. By the first of those charters, which was granted in the thirteenth year of the reign of Geo. I., being the year 1726, the Governors or Presidents and Councils of Madras, Bombay, and Fort William, were empowered to make by-laws, rules, and ordinances, &c., to be approved and confirmed by the Court of Directors, 'provided that all such by-laws, rules, and*

ordinances, and all pains and penalties thereby to be enforced, be *agreeable to reason, and not contrary to the laws and statutes of England*"

"In my opinion, if there be an authority to pass these regulations, there is a general authority to turn any act into a capital crime, triable by justices of the peace, and at once to do away with the trial by jury, and oust the jurisdiction of this Court

"After all, will this regulation prevent, by effects, the publication of the sentence? If there be licensed journals at Calcutta, will there not be licensed journals at Serampore? Who will prevent their introduction into this settlement? Will Government surround Calcutta with a *cordon sanitaire*, as has been done in France to prevent the influx of medical opinions from Spain? The papers will be purchased and sent after with more rapidity than ever, in spite of prohibition. 'A prohibition writing,' says Lord Bacon, 'is thought to be an instant spark of truth that flies in the face of those who seek to extinguish it.' Besides the introduction of such papers from the foreign settlements, which no power can prevent, I should like to know what will prevent a British subject, the moment of this regulation from setting up his press at Chowringhee? News papers may be so printed and published beyond the Mahratta Ditch, by a British subject, without any infringement of this regulation, or of any existing law, or of any law that can be made by the authorities of this country. Parliament gave no power, nor to them to make even rules and regulations for British subjects at Calcutta. Their privileges and their disabilities are defined by act of Parliament, and I contend that they have by law every right of a British subject, which is not expressly taken away."

To show that the Judge, Sir Francis Macnaghten, was really anxious to exempt the existing Journals from any violation of property, and to protect the interests of individuals, even under the operation of this law—he says, in his judgment:

"In regard to the property which any gentleman may have in the paper (the *Calcutta Journal*), in the first place, I believe, there is no intention to refuse a licence to any paper now printed in Calcutta. I speak from my own opinion merely. But if it be not the case, if any one entertain any apprehension of such refusal, I will assure them that a licence shall be granted to him, because I will not consent to register the rule until it be granted."

The same Judge, after his return from India, volunteered to come before the Committee of 1826, where he was several days in attendance, in order to give his testimony to the effect, that had he had the most remote idea that such a use could have been made of this law, as was afterwards done for the entire suppression of the *Calcutta Journal*, he would never have consented to register it: but, as it was, he considered the power to be wrested from its original object and perverted to a wicked and unjust purpose.

I may add, that though the regulation was afterwards confirmed by the Privy Council at home, in opposition to the learned and powerful arguments of Lord Chief Justice Denman and Mr. Baron Williams, who where then employed as counsel in the case, yet, when on the strength of this, the India Company sent out orders for its registration at Bombay, the two Judges of the King's Court there, Sir Edward West and Sir Charles Chambers, rejected it with becoming spirit, as an infringement on the liberty of the subject, and wholly repugnant to the laws of England. Their judgment was pronounced so recently as July 1826, when all the facts and all the arguments of the preceding cases were fully before them, and it is remarkable that the Chief Justice Sir Edward West, uses these memorable expressions; namely, "It may be remarked that the power of sending British subjects home from India, as it has been exercised over the press, was probably

never contemplated by the legislature,' an opinion in which all history bears him out. It was a power given merely to remove from India rival traders under the old monopoly, and was meant for commercial purposes alone. It is therefore wholly a perversion of this power to apply it to persons whose only offence is that they entertain and express opinions not agreeable to the Government.

I beg the Committee, then, to consider the hardship of my case, in being first banished, under a power evidently given for a totally different purpose from that to which it was applied and even were it granted to punish offences through the press (which however is wholly denied), still no one can say that my receiving an appointment which the highest authority thought so improper that it was annulled as soon as heard of, could be sufficient ground for the exercise of that power in my case; since nothing but national danger could justify so extraordinary a step; - and being secondly ruined by the destruction of all the property I left behind me through the operation of a law, which it cannot be doubted is wholly repugnant to the laws of England, which was never intended by the Judges in Bengal, who registered it, to be applied to such a purpose, and which was rejected as wholly inadmissible by the judges in Bombay For myself, I think a stronger case of hardship, not to say oppression, was never presented to any assembly of British gentlemen

It is now then my duty to describe the manner in which this law was applied to effect the destruction of my property complained of, which I will endeavour clearly and briefly to detail. The law was registered on the 4th and 5th of April, 1823, and in September of the same year, there arrived from England among the supplies of books sent out from time to time to the booksellers generally for sale a copy of a pamphlet published in London, under the following title, "Sketch of the History and Influence of the Press in British India, by Leicester Stanhope." The author of this work having been in India, as a Colonel of the King's army, and filling the high and important situation of Deputy Adjutant-General to the King's troops in that part of India, had taken deep interest in the subject of the press, and was one of those who attended the great public meeting at Madras to vote an address of thanks to Lord Hastings for removing the censorship in Bengal, as before adverted to in a former part of my address to the Committee. The pamphlet consisted of twenty sections, in a convenient form for republishing in parts; and the Editor of the *Calcutta Journal*, having read its contents, and deeming them very interesting, announced his intention to republish the work, section by section, in the Journal, until it was completed. The Committee will have the goodness to observe, that this was not a prohibited work, according to the terms of the Regulation previously quoted; no notice had been given, either in the Gazette, or elsewhere, of its being objectionable to the Government in any way whatever, and therefore its republication could not be deemed contrary to any law. In the very similar case of the republication of "Sir John Malcolm's Report on Malwa," before described, and which it was intended to publish, section by section, in the same way, it will be remembered, that as soon as the first section had appeared, the Chief Secretary to Government wrote a letter to me, stating it to be the wish of the Government, that

*no more should be published, and no more was published accordingly.* So also in the letter that appeared in the *India Gazette*, a request not to copy it was as readily attended to. In the present instance, however, not the slightest intimation was given by the Government in India, or *any of its functionaries*, as to the republication of Colonel Stanhope's Pamphlet being against the wish; though, had it been so, nothing would have been more easy than to have stopped it, by issuing a notice in the Government Gazette, prohibiting its appearance, and *any publication of it after such notice would have legally subjected the* party so publishing it, to the specific fines imposed by the act, or imprisonment, in default of payment. But no such notice, no remonstrance, no hint, no indication, however slight, was conveyed to the Editor on the subject, and he *accordingly continued the publication* from day to day, extending the whole over several weeks of time, as stated in the evidence of Mr. Sandford Arnot, then a resident in Calcutta, examined before the Committee of 1826. The last section of the whole appeared on the 30th of October, and no *evil* was either felt or even alleged to be created by its publication; yet ten days after its close, a letter was sent from the Chief Secretary to Government suppressing the paper entirely, and wholly prohibiting its further appearance, and assigning this republication, and the revival of *topics* that had been prohibited, as a reason for such a step. The letter is contained in the Printed Evidence, p. 19, and is addressed to Mr. John Palmer and Mr. George Ballard, the principal co-proprietors and agents of mine on the spot. It is as follows:

To JOHN PALMER, Esq, AND GEORGE BALLARD, Esq

GENTLEMEN, *Council Chamber, Nov. 10, 1823.*

You were apprized by my official letters of the 18th of July, and 3d of September last, of the sentiments entertained by the Governor-General in Council *in regard to the repeated violations, on the part of the conductors of the Calcutta Journal*, of the rules established by Government for the regulation of the periodical press. The Editor of the *Calcutta Journal*, notwithstanding these communications, has since, by the insertion, in *three successive numbers* of that newspaper, of *numerous extracts* from a pamphlet published in England, revived the discussion of topics which had before been officially prohibited, and insinuated and enforced opinions and principles which, as applicable to the state of this country, the Governor-General in Council has repeatedly disavowed, and reprobated, the extracts themselves so published, containing numerous passages which are in direct violation of the rules prescribed by Government, under date the 5th of April last.

The Right Honourable the Governor-General in Council has in consequence this day been pleased to resolve, that the license granted by Government, on the 18th day of April, 1823, authorizing and empowering John Francis Sandys, and Peter Stone De Rozario, to print and publish, in Calcutta, a newspaper called "The Calcutta Journal of Politics and General Literature," and Supplement thereto, issued on Sundays, entitled and called, "New Weekly Register and General Advertiser for the States of the East, with News of the Latest Intelligence, published as a Supplement to the country edition of the Calcutta Journal," shall be revoked and recalled, and you are hereby apprized and respectively required to take notice, that the said license is resumed, revoked, and recalled accordingly.

I am, Gentlemen, your obedient servant,

(Signed) W. B. BAYLEY,

CHIEF SECRETARY TO GOVERNMENT.

Now, let the Committee mark the difference. If the republication of

*Colonel Stanhope's Pamphlet had been expressly forbidden, even while it* was in progress (and nothing could have been more easy than this on the part of the Government), the utmost punishment that could have been legally enforced, would have been the specified penalty of one hundred rupees for the first offence, or two months imprisonment of the offending party. But in the present instance there was no prohibition: the work was permitted to appear progressively, spread over several weeks of time; and yet, the utter annihilation of a property which it cost 20,000*l.* sterling in money, and six years of labour in time, to bring to its highest state of production, when it yielded from 6000*l.* to 8000*l.* a year net profit, and shares in it to the extent of 7000*l.* had been sold on the fair valuation of 40,000*l.* for the whole, was the heavy punishment which the Government thought fit to inflict on me and my co-proprietors, *for an act perfectly innocent in itself*, and with which I at least could have had no concern, as I was then many thousand miles distant; being in England at the time, and of course utterly incapable of exercising the most remote control.

But the evil, great as it was did not end here; and further measures were taken, which led first to the utter extinction of all value in the materials and copyright of the paper, and next to the accumulation of a heavy load of debt created by these measures, and these measures alone. The proprietors on the spot, anxious of course to make the most of the property that remained, *applied for the renewal of the licence*, which was at first promised by the Government to be complied with. On the faith of this, the large establishment of printers was kept up, and their wages daily paid, in order to keep them together, as when scattered in such a country as India they are not easily gathered together again. Meanwhile, every day's delay doubly increased the evil; for on the one hand it added to the expense incurred, on the other, it caused the subscribers to the paper to become wearied with waiting, to drop off, and to attach themselves to other papers; and the various other expenses besides wages, continued in this manner through several weeks, and even months, without any return in receipt or profit, so changed the state of my banker's cash account a one, to say nothing of my other engagements, that on the testimony of Mr. J. C. Sutherland, a partner in the banking-house of Alexander and Co., in Calcutta, as given in the Printed Evidence, p. 12, the floating cash balance of 27,000 rupees, about 3000*l.* sterling, which I left behind me as cash to carry on the current daily expenses of the Concern, was wholly exhausted, and the advances necessary when this was done, made me a debtor to them in about the same sum of 3000*l.*, making to me therefore a difference of 6000*l.* by the mere operation of the protracted delay made on the faith and distinct promise of the Government to renew the licence, which from day to day, and week to week, however they constantly deferred.

At length, an Editor was obtained, whose control of the paper the Government thought safe; for, besides being one of their own servants, as a member of the Medical Board, he was the son-in-law of one of the members of the Supreme Council, namely, Mr. Harrington; so that there was every guarantee for his careful conduct. A licence was then agreed to be granted, and a day fixed for the paper to reappear on the 1st of December, 1823. This being settled, a notice of the revival was written by Mr. George Ballard, one of the partners of the

banking-house of Alexander and Co., an intimate friend of the Chief Secretary, Mr. W. B. Bayley, and a gentleman most devoted to the Government and its authority. It appeared to him necessary, however, *to prepare the Subscribers for the reception of a Journal of less attractions than its predecessor*, and to assign as a cause for this, the natural effect which all restraints on the press must have, to make papers subject to them less free, less varied, and less interesting. This announcement, however, so harmless as it was deemed then, and so innocent as I am sure it will appear to the Committee now, gave such offence to the Government, that before the first number of the revived Journal could appear, though all the copies were printed off, a letter was sent late at night to the office, *forbidding the appearance of the* Journal on the following morning, and assigning the objectionable character of the notice as the sole reason for that step. The whole correspondence will be found in the Evidence, p. 21; but I content myself with reading here, the paragraph of the notice which was especially marked for reprobation. It is as follows.

"Those to whom the late Paper was acceptable will find, it is hoped, in that now offered, a substitute not less entitled to their patronage. But it must *not be concealed that the late embarrassments being from their nature probably* somewhat indefinite, have by their influence thrown a *mischievous* check on the spirit of inquiry and discussion, which seemed to promise much ultimate *benefit to the country and its Government*. It is *not asserted, that* the law was intended to prohibit all inquiry and discussion; its avowed object was merely to prevent: but its effect was to intimidate many from writing at all, *and to cripple the efforts of those who still ventured to indulge in the* expression of sentiments at all at variance with the existing state of things."

This simple truism, put forth as an apology for the curtailed and limited Correspondence which was likely to be seen in the Journal, and as *mild in its expression as it was undoubted in its fact*, was the *only* reason assigned for what may be called a second suppression of the Journal, a stranger, in its second birth, after a manner quite as arbitrary, and to the full as injurious as the first.

Another fatal phrase occurred in these proceedings; when, at length, Dr. Muston, the son-in-law of the Member of Council named, agreed to lease the types, presses, buildings, &c., for a year, and pay a given rent for their use, to conduct a paper of his own, for which he hoped to get a licence from the Government. This was acceded to by the proprietors of the Journal, in despair of doing anything better, and the contract was settled. But even to this the Government objected; and the reason assigned by them for the refusal to grant a licence under such circumstances, was this: that they had no assurance but that, when the contract for the year was at an end, my influence would again return, to exercise a control over the paper; and they had determined that no licence should be granted to any paper in India, so long as I had any share whatever in its property, or could derive any pecuniary *benefit whatever from its publication!* Here then, was a war—not against my principles, for I was no longer there to advocate them—not against my person, because I had been already removed—but against my property; and that, too, when the distance at which I was placed *endered any control over its management* utterly and entirely impossible.

Nay more, as if to leave no doubt whatever, as to the object of the Government, and to show that it was neither to the establishment of a

paper, not to having Dr. Muston as its editor that they objected; but that it was my deriving any benefit from the fair and profitable use of my own property that they wished especially to prevent; it is sufficient for me to state, that though they refused to grant Dr. Muston a licence, as the lessee of my materials, they subsequently gave him a licence to establish a paper on his own account. This failed, by setting up a Journal called *The Scotsman in the East*, printed with my types—published at my premises—supported by my subscribers—but the profit wholly his own. He had all the advantages of the valuable copyright or good will, which my previous labours had created, without paying a single shilling to me for that benefit. The 70 co-proprietors of the Journal in India, had each a free copy of his new paper, as part of the rent-charge for the use of the materials, worth to them individually perhaps *about 10l. a year each*, but I, who held not 70 but 330 shares of equal value with theirs individually, and worth collectively nearly five times the amount, had no consideration whatever allotted me, though it was my labour and capital entirely that had given all the value to the Concern, of which Dr. Muston was thus made the possessor.

To bring this melancholy history to a close, I have only further to add, that this copyright, which was literally taken from me by the suppression of the Journal, and conferred on Dr. Muston by the licence given to him to publish the *Scotsman in the East* on the ruins of my paper, was subsequently *sold* by that gentleman for a sum of money to Mr. Smith and Mr. Cock, proprietors of another paper, the *Bengal Hurkaru*, as *proved by Mr. J. C. Sutherland*, which will be seen in the Printed Evidence, p. 30; and that when the copyright was thus wrested from me the printed materials being of little or no use to any one without the licence to use them and the library attached to these not being permitted to be opened—the whole were sold by auction in a place where there could be no competition as there were no bidders, and the complete and total wreck of all I left behind me was the result, leaving me *not only without any balance to be remitted to me from India*; but the proceeds of the materials being absorbed in the payment of debts created by the circumstances described, and leaving a large amount of debt due from the Concern, for all of which I am still responsible;—a result brought about, first by my banishment without trial, secondly by the suppression of my Journal without process, and thirdly by the refusal of a licence to any one, for the use of my presses and materials *so long as I had any property in them*.

If the Committee consider that the article I wrote on Dr. Byees appointment deserved the first punishment, the exposition of Colonel Stanhope's pamphlet the second, and the notice of Mr. Ballard for the Revival of the new Journal the third, of these calamities inflicted on me (for the aggravation of this case is, that while others were the actors, I am the only sufferer, and that I am punished more severely for what I did not do, and what I could not possibly have prevented others from doing, than were they who performed the deeds complained of, my fortune being annihilated, and theirs comparatively untouched)—if the Committee think I deserve all this, then of course they will discard my claims altogether. But if I refer them to the communications sent home by the Bengal Government, which will be found among the Printed Papers, given in evidence, sec. 3, p. 10, 13, 14,

and 15, the Committee will see that this plan was really premeditated, and that I was doomed to be driven from the country. At p. 10, par. 68, the Governor General admits that "cases may be well imagined in which the banishment of an individual from India may be his total ruin;' and he says "the call for the enforcement of such a penalty should therefore be broadly visible,' before so "overwhelming a severity' should be resorted to; which the Committee will, I think, agree with me, was not visible in the slightest degree in the case for which I was banished. At p. 13, par. 6, the Government collectively, writing on the 15th of February, 1823, apprize the Directors at home that they have ordered me to quit the country, and they add in that part of their despatch this emphatic paragraph: they say,

"Your honourable Court will observe that Mr. Buckingham's high station of placing the conduct of his press, during what he calls his temporary absence in hands which are not tangible, *except by process of law.* Some such expedient was to have been expected. We do not apprehend in our commencement from the exercise of such a right, and we shall accordingly proceed to the adoption of such measures as may be calculated to meet the case."

Now, I ask, would it not have been more candid and more manly for the Government to have said, 'We will have no freedom of the press in India, as we hold it to be dangerous. At the same time we do not wish to violate the rights of property, or inflict a punishment on innocent individuals (for of course a man can be deprived of all his property without his wife and children being made participators in the evil); therefore, acting in the same fair spirit as is observed in England, when men's estates are cut up for public roads, or men's houses pulled down to improve new streets, we will ascertain the actual value of the property about to be destroyed for the public good, we will compensate the individual from whom we take it, but we will have the obstruction which it occasions removed." If they had done this, I should have had even then to complain of their preventing my acquiring that fortune which was fairly within my grasp, but I should at least have had no claim to further compensation. But was that the frank and open course pursued by them? No! Instead of this, they permit me to leave India under the delusive impression, that though my person was removed my property would be protected by the laws (for, as the law then stood it was safe from violation); and they write home, in letters dated before I leave the country, that 'they have measures in progress which are calculated to meet the case,' meaning, to suppress the *Calcutta Journal* entirely; and in the letter of the 28th of February, which will be found at page 15, and which was despatched by the very ship in which I was myself sent home they say, in effect, that they mean to keep all their measures secret until they get me out of the country. By that means, they add, they shall escape my opposition, avoid the contest which otherwise they might have to encounter, and thus having effected my "actual removal from India, they would be "enabled more effectually to strike a decided blow at the system,' and accomplish "the final suppression of the mischief.' Sir, these are the terms in which the Indian Government express themselves at the very moment of their sending me out of the country, expressly for the purpose of preventing my appeal against their measures to destroy my property; and if this be not adding treachery to oppression, then is it very difficult indeed to give it any other name.

But it is time that I should hasten to a conclusion, more especially as I have pledged myself to the Committee, to bring all the facts of this long and painful history, which I should think it necessary to lay before them, in to commit on, within the compass of a single sitting, so as not to protract their proceedings even too long, at a space of time. I am aware of the great disadvantage which this course has been to me; because, the necessity of compressing, the history of all the wrongs that were spread over nearly ten years in India, and ten years since in England, into an address of one or two hours in length, has obliged me of course to omit many material acts altogether; to abridge greatly those that I have glanced at, at all; and to leave the bare and naked narrative wholly unaccompanied with those reasonings and those reflections which the facts themselves were so powerfully calculated to suggest. But I the less lament this, when I remember that I am in the hands of a Committee of independent and impartial English gentlemen, who will judge without bias or interest, and decide without favour or fear. My appeals to the India Company through eight years for year to year, supported by men of the highest character and intelligence—Sir Charles Forbes, Sir Henry Strachey, Mr. Douglas Kinnaird, Mr. John Smith, Mr. Rundle Jackson, Mr. Hume, and many others—and the last appeal so recent as only two or three months ago, when I offered to leave the matter entirely in their own hands, if they would only undertake to re-open the consideration of the question, in a *bona fide* determination to do justice in the case—have all been unavailing. My appeal to the House of Commons in 1826, was rendered null and void, from the sudden dissolution of Parliament, which occasioned the Committee to break up before it could give a Report. But I feel that now at least my case must and will receive a final decision, from which there will probably be no appeal. As to the amount of my losses, in a mere pecuniary sense alone the Committee will see that it has been to the extent of 40,000*l.* at least, to say nothing of the large debts since incurred, for the greater part of which I am still responsible; and to leave out of view also all the bodily suffering and mental pain which ten years of unavailing struggle for redress could not fail to bring in their train.

Some attempts at compromise have been made at various times, and the smaller sums of 5000*l.*, and 10,000*l.*, have been mentioned as payments which would satisfy me for all. But the Committee will, I am sure, distinguish between a compromise and an adjudication. There may be cases in which much less than the amount due would be accepted as a composition—when the whole amount is unattainable. If the Committee is to determine the amount of my actual loss, and the amount of compensation which I ought to receive, I hope they will see that justice requires they should make the one correspond exactly with the other; for instead of there being ground for abatement on account of the length of time that has elapsed, that circumstance only aggravates the evil, and ought, if it had any influence at all, really to augment the claim. But I will waive all further observation on this topic, as another occasion, perhaps, may offer for this, before these proceedings are entirely brought to a close. I desire only to show to the Committee of 1834, what were the sentiments of the Committee of 1826, or at least of its noble Chairman, Lord John Russell, and I may the more readily speak of that nobleman's opinions, since he is not here present to-day to tell the Committee himself what his convictions were.

That noble lord attended as Chairman of the Last Committee, during every day but one in which it sat, and on that occasion and in many previous opportunities, he became intimately acquainted with the most circumstance of every case of difference between the East India Government and myself. My case had been first taken up by Mr. Hamilton, now Lord Dalkeith, who brought before the House of Commons with a power and an eloquence which obtained for it all that could then be hoped for—attention and sympathy in the public mind. I may add that Lord Dunmore, some time in my attendance, from that period to this, has shown that constancy, zeal, and firmness of mind, which assisted his earnest expressions, and the reality with which I have been charged, and by strong claims to gratitude and regard. On Lord Dunmore's retirement to the upper House, Lord John Russell did me the kindness to take up my case, and brought it before Parliament in 1826, when he obtained the Committee, of which he sat as Chairman, till it was dissolved in the sudden and unexpected manner described. To show what were his lordship's impressions at the Committee was thus broken up, I will cite a speech delivered by his lordship at a Public Meeting at the Freemasons' Tavern, on the 3rd of June, 1826, a few weeks after the Parliament was dissolved and with this, I will for the present close my [illegible]

*Speech of Lord John Russell M.P.*

"Lord JOHN RUSSELL said, On the 11th of last April I was requested to take the chair on this occasion, because it was my first duty to present to the House of Commons a petition from Mr. Buckingham, praying for redress, and because a Committee might be appointed on my motion to inquire into the merits of the case—I was instructed on behalf of it, and have consequently read all the evidence which has been adduced, and which, though it has not led to a conclusion, so far extended to considerable length as the Committee sat, I am of course in possession of the facts which would have been the Committee's, and which may be of any value to Mr. Buckingham, I have very recently state, that having attentively listened to what was said in the Committee, my opinion of the unmerited sufferings inflicted by Mr. Buckingham's absence, rather strengthened by the experience and knowledge which I have acquired.

"When I attribute to the institution requested of the House of Commons by Mr. Buckingham, I assumed that the Government of India, or the Parliament having decided the propriety of setting aside any notion, and as probably will again come to such a decision, I should appear to be the secretion of this meeting. What we have met to consider is the great hardship and grievous losses sustained by Mr. Buckingham, in consequence of conduct well, so far from attaching any blame to him, is in my opinion highly honorable and praiseworthy, and perfectly conformable to those rules of conduct, and those examples of fixed in, which we are accustomed to admire, and to hold up for imitation, by others of an inferior complexion. It is probably in the knowledge of very great part of Mr. Buckingham's, and I have no doubt of it, that he, at the necessarily in the vigour of life, in the possession of talents which would probably have enabled him to acquire a fortune in any of those various ways, which is well known lead open to a man of talent and ability. It happened however, that Lord Hastings had about that period abolished the censorship of the press, and that very old "Free Press," which had been rough handled by his predecessors, and which had been in England, enticed and allured Mr. Buckingham and his friends to undertake the conducting of a Newspaper, by which he hoped to promote the general improvement of that great portion of the British Empire, whilst at the same time he consulted the interests of his own fortune. In consequence of transactions, which I need not now detail, the East India Government considered that a free press, instead of being useful, was injurious, and issued a mode for the removal of Mr. Buckingham from India. That however is not the greatest hardship of Mr. Buckingham's case, the most [illegible] that after he had left India, *in the full confidence*

*laws*, it was, *from no fault of his own*, but a series of measures wholly originating with others, utterly destroyed, and the competency which he had acquired by his talents and industry, was altogether overwhelmed by one single wave, and sunk and buried [illegible]

"[illegible] of the sympathy of the people of England, they should feel that one of their [illegible] *of the globe*, but at the same period [illegible] on account of which not [illegible] to expect that those who happen to be [illegible] should first come forward to support them [illegible] but [illegible] which could [illegible] to withhold from [illegible] support for [illegible] and [illegible] Mr. Buckingham, and [illegible] of his connexion with the Press in India, and of the privilege of communicating knowledge to his fellow-men, by [illegible] his paper to a vehicle for [illegible] not so much a just and [illegible] oppression, as a thing [illegible] those in authority. But, [illegible] own part, having fully had an opportunity of examining all the articles published in Mr. Buckingham's Journal, which were particularly found fault with by the Indian Government, I can undertake to say, that *there is not one of those articles, although they must have all been written and inserted in the hurry inseparable from the publication of a daily paper, which not only does not reflect the slightest stain upon the character of the writer, but are such as would do honour to any man possessing an honest zeal for the welfare of the community in which he lived*, and such, as there is every reason to believe, were written and published, with a perfect conviction, on the part of the author and publisher, that he was serving the cause of truth, and was therefore entitled to the thanks of his fellow-subjects, and the approbation of a wise and benevolent Government."

## *Mr. Buckingham's Concluding Appeal.*

The time of the sitting of the Committee having expired, there remained some arguments on the case, which were necessarily omitted, but, as it is desirable that the readers of these pages should possess a complete view of the matter, I will occupy the small portion of space that remains, by supplying the heads only of those discussions, which the want of time alone prevented my pressing at the moment. They are as follow:

It would be an imperfect estimate of the injury inflicted on me by these proceedings of the Indian Government, to confine it merely to the question of pecuniary loss; though that appears to observers generally to be the greatest evil. The amount of this, as has been already shown, including arrears of debt accumulated, was not less than 50,000*l.* sterling. To this, however, must be added, the long catalogue of privations and sufferings created by the original injustice, and prolonged by the determined rejection of every appeal for redress. The impression created against me by my banishment from India, has been constantly operating to my disadvantage. *The almost inevitable consequence of persons knowing* this fact of my expulsion from a country governed exclusively by British laws, was, that they considered me to have been previously tried, found guilty, and therefore deservedly so, that no amount of subsequent explanation could ever induce them to regard me as wholly and entirely innocent of some crime, at least without a conviction of which they could never bring themselves to believe that I should be, not only punished, but exiled, ruined, and repelled all hope of redress. If ten years of difficulty and embarrassment in England be added, therefore, to the original wrong, it may be truly said that the injury done to me is inexpressible, and that, if measured by a money standard, it would be difficult to name the sum. Strict justice would demand, however, that I should be put, as far as could now be done, in the same situation in which I should have *probably stood if no such wrong had been inflicted. If so, it is quite within* the compass of the most reasonable probability, that I should in a very few years have acquired in India a fortune of 100,000*l.*, and have been now residing in England, not merely as an opulent, but probably an influential person; as the experience acquired in a long course of years passed in such varied countries as my life has been, could hardly fail, if coupled with an independent fortune, to have given me that station in society here, to which these combinations would have fairly entitled me.

# PARLIAMENTARY INQUIRY,

&c. &c. &c.

## MR. BUCKINGHAM'S FINAL REPLY ON HIS CASE AGAINST THE EAST INDIA COMPANY

Delivered before a Select Committee of the House of Commons, on Friday, July 7, 1837, in the W. Passages, Pall Mall, M.P., &c.

In availing myself of the privilege afforded me by the Committee, of replying to the observations of the gentleman who has appeared as a witness from the India House, Mr. Peacock, I am glad to find that my task will be much lightened, from his not having called in question the accuracy of any of my own statements as to facts, and from the differences between us, therefore, being limited to the evidences of opinion as to whether the freedom of the press in India was or was not established by law; whether the articles I published were or were not of a dangerous tendency; and whether the Government of India was or was not justified in sending me away from India, and suppressing my Journal, or the reasons alleged. On these differences of opinion the Committee will judge between us, and I shall most willingly leave the issue in their hands; but, as I was [illegible] to take notes of Mr. Peacock's statements, during the two days' sitting over which they extended, I shall ask the permission of the Committee to offer a few observations on the points that I thought, at the time in which they were made, as by his means I shall embody such portions of the statements as occurred to me as worthy of observation at the time, and thus make my reply intelligible, without absolutely repeating these statements themselves.

Following this order, then, the first argument of Mr. Peacock was, that I had covenanted, by the very terms of my licence to reside in India, to obey all the rules and regulations of the Government, whatever they might be; and that, if I did not so obey them, my licence became null and void, my contract broken, and my removal from the country a fit and legal punishment. I will turn to the licence itself, which the Committee will find among the Printed Papers, section 1. p. 1, where the part of my covenant, or contract, referred to by Mr. Peacock, will be found in these words:

"And the said James S. Buckingham, for himself, his heirs, executors, and administrators, doth hereby covenant, promise, and agree with and to the said United Company, in manner and form following, that is to say, First, that the said James S. Buckingham, from the time of his arrival at either of the Presidencies of the said United Company in the East Indies, shall and will behave and conduct himself, from time to time, and in all respects conformably to all such *rules and regulations* as now are or hereafter may be *in force* at such Presidency, or at

any other Presidency in the East Indies, which the said James S. Buckingham may happen to be, and which shall have reference to him or to his conduct, and which he *ought* to obey, observe, and conform to.'

In this covenant three conditions are clearly laid down; First, That the orders I covenanted to observe, should be *rules and regulations*, and not merely private or circular letters. Secondly, That they should be *in force* at the presidency where I resided, or in other words, be invested with legal authority. And thirdly, That they should be such as I *ought* to obey; that is just, reasonable, and not repugnant to law. Now I contend that every condition of this covenant I did fulfil. I never disobeyed any *rule or regulation*; I offended no law that was *in force*; and I broke no commandment which I *ought* to have obeyed. The Circular Letter sent to the Editors of Newspapers, forbidding their discussion of particular topics, never *was* a rule or regulation before I left India; it was never invested with any legal *force*, and its strict obedience was impossible. The Committee should understand that the term "rules and regulations," in the language of Indian writings, is equivalent to "laws and statutes" in English. In the same manner as the Parliament of England are empowered by the constitution to make laws for the people of this country, so the Governor-General in Council is authorized to make rules and regulations for the people of India, but while no bill can become a law in England till it has received the assent of the three branches of the State, no circular or draft of a law can become a rule or regulation in India, till it has received the assent of the Supreme Court of Judicature there, which the Circular against which I was said to have offended (though I did not literally even infringe that in the article for which I was banished) never had that assent. This is so clearly stated by Mr. Cutlar Fergusson, in his Speech before the King's Judges in India, and is so clearly laid down, that I will trouble the Committee by repeating it from my previous statement, where it will be found at page 82.* It is as follows:

"But it is time that I should proceed to the second point to be considered in this case. Is the regulation lawful? The acts of parliament on which the authority to pass this regulation is made to rest, by the terms of the regulation itself, are the 13th of Geo. III. c. 36, and the 39th and 40th (in the regulation called the 40th) of Geo. III. c. 79, ss. 18 and 19. It may here be observed, that the 39th and 40th of Geo. III., does not give any authority to make regulations which did not exist under the former act. It only gives a power of ordering additional punishment by the 18th section, and by the 19th, it takes away the writ of *certiorari*, or appeal upon conviction, to any superior court. The authority for passing this regulation must rest, therefore, on the words of the 36th section of the former act, which are these:—'That it shall and may be lawful for the Governor-General and Council of the said United Company's settlement at Fort William in Bengal, from time to time, to make and issue such rules, ordinances, and regulations, for the good order and civil government of the said United Company's settlement at Fort William aforesaid, and other factories and places subordinate and to be subordinate thereto, as shall be *just and reasonable* (with the *consent and approbation* of the *Supreme Court*, in manner therein mentioned), such rules, ordinances, and regulations *not being repugnant to the laws of the realm*.'

"Here I make my stand, and I do contend, with the respect which becomes me before your lordship, but with a confidence, at the same time, which nothing

* It should be observed that the references to particular pages in all this Report, are made to the Printed Evidence in the hands of the Committee, and not of this Review.

can shake, *that this regulation is repugnant to the laws of England and destructive of its first and most sacred principles.* I maintain that the freedom of the press is a part of the law of England; I mean the free and unrestrained liberty of publication, subject to the responsibility of the law. I shall hardly be called upon for authorities in support of this proposition; I will content myself with citing the words of a celebrated and well-known author, and which I cite not merely on account of the weight to which they are entitled as authority in such a matter, but because they express nearly all that can be said, and I need not add, better said than any thing which I can say upon the subject.

"Sir William Blackstone, the author to whom I have alluded, in discussing the subject of libel, expresses himself thus: 'The liberty of the press is indeed essential to the nature of a free state; but this consists in having no previous restraint upon publications, and not in freedom from censure for criminal matter when published. *Every freeman has an undoubted right to lay what sentiments he pleases before the public;* to forbid this is to destroy the freedom of the press; but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his temerity. *To subject the press to the restrictive power of a licence, as was formerly done, both before and since the revolution, is to subject all freedom of sentiment to the prejudices of one man; and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government;* but to punish (as the law does at present) any dangerous or offensive writings, which, when published, on a fair and impartial trial, be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order of government and religion, the only solid foundations of civil liberty. Thus, the will of the individual is still left free, the abuse only of that free-will is the object of legal punishment.'"

Nothing can be more plain, nor of higher authority than this; and like Mr. Fergusson, I may say, "Here I take my stand;" and contend that to banish me, without trial, from India, for the pretended infringement of a Circular, which was never made a rule and regulation, which never had any legal force, which was neither just nor reasonable, and which was wholly repugnant to the laws of the realm, was in itself a violation of all justice, and such as alone would give me a very powerful claim to compensation for the injuries inflicted on me by this arbitrary step.

In endeavouring to show that this power of sending persons away from India by the mere mandate of the Governor-General, had been exercised on other persons, and in other times, Mr. Peacock cited the case of a Captain Williamson, of the East India Company's army, who, in 1798, wrote and published in India a Letter, highly subversive of military discipline, for which he was suspended from the service, and sent home; but in a short time he was allowed to go out again, and therefore was very little injured by the light punishment he received. Now his was a very grave offence, more especially as he was a military officer in their own service. But to show that—great as was the punishment inflicted on me, who never have been permitted to return, even to gather up the wreck of my ruined establishment, and whose losses have been immense, and sufferings severe—there was nothing in my writings having a tendency to produce mutiny, rebellion, or peril to the State, I will cite the testimony of a gentleman, whose evidence has not been quoted before, but whose authority will be highly valuable to me in the present case. During the sitting of the Select Committee on India Affairs, so recently as 1832, Mr Charles Lushington was examined on the subject of the Indian Press. That gentleman was, during my residence in Calcutta, one of the Secretaries to the Government there. He was one of those who joined in the prosecution of

the alleged libel of Colonel Robinson, under the signature of Sam Sobersides, which ended in an acquittal, and he was from office, habit, and disposition, disposed to take a very unfavourable view of the *Calcutta Journal*, and of the freedom of the Indian press. I beg the Committee, then, to observe what he says. In vol. 583, which I have just got from the Library of the House of Commons, the following evidence of Mr Charles Lushington will be found. I will read it to the Committee verbatim; it is as follows:

*Evidence of Charles Lushington, Esq*

"972 What was the state of the press in Calcutta at the period of your residence there, and what do you understand it to be at the present time?—The press in Calcutta was for a long time under a censorship; at last, in the time of Lord Hastings, an Anglo-Indian editor, discovered that he could not legally be sent out of the country for press offences; the consequence was, that he set the Government at defiance, and refused to adopt the measures of the Chief Secretary, who was the censor of the press. The Government then, making a merit of compulsion adopted a set of regulations, by which they required that the proceedings of the public press should be conducted, and took off the censorship, and those regulations were for a time, as far as I recollect, very fairly adhered to. At last a gentleman established a newspaper, called the *Calcutta Journal*, which soon became *extremely popular*, and which was *excellently conducted*, I mean as to *ability*. The editor certainly *created in India a great taste for literature*, and for the *prosecution of enlightened pursuits*, but unfortunately he thought it necessary to *infringe* the regulations, which produced remonstrances from Government. To those remonstrances, as far as I recollect, he generally returned respectful answers, and the next day repeated his infractions. The Government, pursuing their system of weakness, continued to remonstrate with the editor. I am not certain whether I am correct as to dates now, but about this time an address was presented from certain individuals at Madras to Lord Hastings, congratulating him and complimenting him upon having taken off the restrictions on the press, which restrictions were in existence at that time. Lord Hastings was extremely pleased with this address, and dilated upon the advantages of a free press, and the credit which reflected upon a liberal government, from allowing its measures to be publicly discussed. Whilst he was receiving these compliments as Governor-General, he was authorizing remonstrances and threats to the editor of the *Calcutta Journal*, as Governor-General in Council, and latterly, whenever the Editor received one of those letters of remonstrance from the Chief Secretary, he *of course* threw into the teeth of the Governor-General, those liberal expressions in his speech. The consequence was, Lord Hastings felt himself *committed*, and though he acknowledged the necessity of curbing and coercing the Editor of the *Calcutta Journal* to the very utmost, yet he was in a *dilemma*, and he deferred exercising the infliction of severe punishment, until he left the country. The Editor in question continued, after Lord Hastings's departure, to defy the Government. One of the usual warnings, but I believe in little stronger terms, was conveyed to the Editor upon the part of the then Governor-General in Council, Mr Adam. He continued, and having *reflected* upon some act of the Government, the consequence was, that he was ordered to quit the country. Afterwards another individual incurred the same fate during the government of Lord Amherst. After a time, the regulations being *loosely* drawn up, and *easily to be misconstrued* by such as wished it, the Government applied to the Supreme Court for a *by-law*, which should reach all native editors, Anglo-Indians, and Bengalees, and a by-law was in consequence enacted, which put the press under *severe regulations*, and made the editors liable to very *strong penalties*, I think they went so far as to *confiscate the press and the materials*; and also involved a *fine* upon each copy of the newspaper published, which was considered *offensive*. Such was the state of things when I left India. I understand since that Lord William Bentinck has allowed a system of the press *totally licentious and free*, by licentious, I mean, that he has given it *full licence*.

"973. What were the offences, generally speaking, imputed to the publication

of the Editor of the *Calcutta Journal?* Generally *calling in question* the acts of the Government, so far as I recollect.

"974. Do you recollect any specific instance of having excited natives to rebellion, or the soldiers to mutiny, or any offences of that description, *tending* to put the Government in peril? No.

"975. Do you know what were the consequences to the Editor of the *Calcutta Journal* of his summary deportation? The consequence was that he suffered *very severely in his fortune.*"

Nothing can be more striking, I think, than the testimony of such a witness, in favour of the general character of my Journal, and he speaks of it from an intimate acquaintance with all its offences—as one of the functionaries of Government at the time; and as the Committee sees also with a full knowledge of all the ruin which the suppression of this "excellently conducted" Journal, as he himself calls it, entailed upon me.

Mr. Peacock next made us acquainted, for the first time, with the fact, that Dr. Bryce had been editor of an Indian newspaper, called the *Asiatic Mirror*, and it was admitted that in that capacity he had been guilty of misconduct, which was complained of by the Government in Bengal. But no mention whatever is made of any *punishment* having been inflicted on Dr. Bryce; and it is that which constitutes the peculiar hardship of my case—that while others were permitted to offend with impunity, I alone was selected as the victim for punishment. In the same volume, 583, there is the evidence of another gentleman, who resided in India during all the period referred to, which shows this contrast so strikingly, that I will add it, with the permission of the Committee, to what has been read before. It is this:

*Evidence of James Sutherland, Esq.*

"1071. Under what regulations practically is the Calcutta press at this time? How is the press at present conducted?—Every paper is published under a licence from Government, revocable at pleasure, with or without inquiry or notice.

"1072. Do you mean with or without assigning reasons?—Yes; with or without assigning reasons.

"1073. Has this regulation ever been acted upon; and if so, at what period?—It was first acted on in the case of the *Calcutta Journal*, in the year 1823, that paper having been suppressed under that regulation.

"1079. I think it was stated by you in the case of the *Calcutta Journal*, the reason assigned was the republication of the pamphlet of Colonel Stanhope's?—Yes, I think that was the principal reason assigned, the official letter may have referred to other publications.

"1080. Will you explain what you mean by *assigned*?—Do you mean formally notified by the Government to the proprietors? I mean it was adverted to in the letter suppressing the paper.

"1081. Do you recollect whether that was the sole ground stated in the letter?—I do not at this moment distinctly recollect.

"1082. But it was your own impression at the time, that that was the real cause of its suppression?—Not that it was the *real* cause. My own impression was, that the law itself had been made *with the express view of putting down that paper.*

"1083. How long previously to the suppression, had that regulation been made?—It came into operation a few months previously.

"1084. Was that prior or subsequent to Mr. Buckingham's transmission?—Subsequent to Mr. Buckingham's transmission.

"1102. In the case of Mr Buckingham, were any warnings given to him officially?—Yes, several.

"1103. Was his conduct altered in consequence of them?—I believe so. In consideration of his own interest, he must have endeavoured to frame his conduct according to the wishes of the Government, but that he did not succeed is apparent, inasmuch as he was first transmitted, and the paper subsequently suppressed.

"1106. On the occasion of the suppression of the papers in question, was there any loss of property sustained by the proprietors?—In the first a very enormous loss

"1107 At how much do you estimate that loss?—I should say it had not been overrated at 40,000*l*

"1108 How do you estimate that, was it divided into shares?—It was divided into 400 shares, 200 of which were offered for sale, and upwards of ninety of them readily sold at that valuation, prior to Mr. Buckingham's transmission.

"1148. During your connexion with the periodical press, have you known any instance in which writings have been charged as having a tendency to promote sedition or revolt among the native troops?—I am not aware of any instance of the kind

"1149. What benefit do you suppose to have arisen from the free discussion of the press in Bengal?—I think it has acted as a check on the conduct of public functionaries, and occasionally led to *very useful investigations.*

"1150 What reason have you for supposing that it operates as a salutary control on any of the functionaries at Bengal?—I imagine they all stand in awe of that public constituted by the Europeans in the service and out of the service, a large body of Anglo-Indians, and a number of intelligent natives in Calcutta.

"1185 What regulations, according to your view, would it be expedient to make for the press, due regard being had to the safety of the British empire in India?—I see no reason why the press in India should not be left as perfectly free, subject to the control of the laws, as it is in Great Britain itself; on the contrary, I think, that freedom is attended with even less danger, if possible, in India than in Great Britain

"1186. State to the Committee the grounds on which you form that opinion?—I conceive that the press for the present, and for a very long time to come, can only operate on the minds of the English, Anglo-Indians, and natives very considerably enlightened; that if the Government desire to have the good opinion of such men, which I presume to be cherished by all public functionaries, the natives in general in India would enjoy the advantages of a free press, without being aware of the instrumentality which they are benefited, or even capable at present of understanding it I would appeal also in support of that opinion to the fact recorded in Indian history, that in the time of Warren Hastings, certainly the most critical period of our empire in India, the press laboured under no other restrictions than the law of England, which was found amply sufficient to check its licentiousness. I have had an opportunity of referring to the earliest paper published in Bengal, and it was violent, and even scurrilous in the extreme, in its attacks on public men, but the law in that case was found sufficient to suppress it, by subjecting the editor to numerous and heavy fines.

"1187. Were the fines enforced by prosecutions for libel?—By prosecutions for libel in the Supreme Court, and the verdicts of juries.

"1188 Do you think that writings of such a description, would be tolerated in the present state of society in India?—No such writings as those contained in the earliest paper published in Bengal would now be tolerated one day, according to the present taste of the community of India.

"1189 Was it the enforcement of the English law of libel, that was found sufficient to put it down?—Yes, the English law of libel."

Now this was all that I ever contended for in India. Though the law of libel is deemed tolerably severe in England, we should have re-

joiced to have had it as our protection in India; and if it were powerful enough in all time past, when our empire in India was so unstable, how much more sufficient in later days, when our power became more consolidated and permanently settled. But after all, the removal of my person from India, never was, and never could be, a means of suppressing discussion on the Company's affairs, and the public conduct of its officers. And another piece of evidence, which I shall cite from a third gentleman, who resided in India at the same time with the two former ones, will put this in so striking a light that I will read it also. It is in a Letter addressed by Thomas Bracken, Esq., of Calcutta, to the Board of Control, dated March 18, 1822, in answer to a Circular sent by the Board to different Gentlemen for replies. It is this.

*Evidence of Mr. Bracken.*

"I am of opinion, also, that in all cases of transmission of Europeans from India, the preservation of the political power of the Company, as separate from that of this country, has been the ruling motive. In the instance of Mr. Buckingham, I can scarcely think that any one individual, participating in or approving of that 'great wrong,' seriously and conscientiously dreaded any injury to the general relations existing between India and England from his writings, but they saw a door open by which the particular character of the present system would or might be brought more clearly than was desirable before the attention of the public. After that gentleman published the *Oriental Herald*, I have heard observations from several of his bitterest opponents in India, to the effect that 'it was a *mistake* in sending him home, as he hurt the *Company's interests* more by writing in London than in Calcutta.' This feeling of hostility against Europeans not in the service, operates also I fear to the commission of injustice, or at all events, to the denial of justice, wherever it may so happen that a collision takes place between them and the local authorities. Such, for instance, as the case of Mr. Peter Gordon."

Some gentlemen may think that these opinions may refer to too recent times, and be at variance with those of earlier date; but I will avail myself of this opportunity to show that even long ago, and in very troublesome times, and by a very distinguished authority in Indian affairs—no less a person than Sir John Malcolm—the value and importance of free discussion of the public acts of public men in India, was openly avowed and advocated. Sir John Malcolm published, among his very earliest works, an interesting history of the Military Disturbances at Madras, under the administration on Sir George Barlow; and though at that period our empire in the East was in imminent peril, not only from the insurrections of the native troops, but from the insubordination of the English officers, Sir John Malcolm saw no evil but much good in that very freedom of discussion and publication, of which he was said to be so great an enemy. The passage is so remarkable, and so important at the same time, that I will not venture to give the substance of it, but will read it entire. It is as follows:

*Sir John Malcolm's Opinion.*

"Publications in England on the affairs of India, have been rare, except on some extraordinary epochs, when attention has been forcibly drawn to that quarter; and a groundless alarm has been spread, of the mischiefs which (many conceive) must arise from such free disclosure, and consequent full discussion, of the acts of the Indian Government. This practice, in my opinion, will have a direct contrary effect. It must always do great and essential good. The nature of our possessions in India, makes it necessary that almost absolute power should be given to those intrusted with governments in that quarter; and there cannot be a better or more efficient check over these rulers than that which must be

established by the full publicity given to their acts, and the frequent discussion of all their principles of rule. Such a practice will expose imprudence and weakness however defended by the adherence of powerful friends in England; and it will be more certain to prevent oppression or injustice, than the general provisions of law, which may be evaded; or the check of superiors, who may, from conceiving the cause of an individual identified with that of authority itself, feel themselves condemned to support proceedings which they cannot approve. This practice, in short (restrained, as it always must be, by the *laws of our country*, within moderate bounds), must have the most salutary effects. Its inconveniences are obvious, but trifling when compared to the great and permanent benefits which it must produce; and I am confident that every effort made to repress such discussion, is not merely a sacrifice to personal feeling and to momentary expedience of one of the best and most operative principles of the British Constitution, but a direct approximation to the principles of that *Oriental tyranny* which it is, or ought to be, our chief boast to have destroyed."

After this, I proceed with the narrative, as taken down in the notes which I made on Mr. Peacock's statement as he went along, commenting on such parts as may require it as I proceed. It appears then that in January 1823, just one month only before I was banished from India, a draft of a despatch was sent up from the India House to the Board of Control, to be sent out to Calcutta, complaining of the freedom of the press in Bengal, and ordering the authorities there to restore the Censorship. This despatch was never sent out, however, and as this fact became known, the inference was, that the Board of Control was more liberal then the Court of Directors, and objected to the renewal of the Censorship, as opposed to that liberality. The Court admit, in the correspondence accompanying this that from Lord Hastings not having publicly mentioned the Circular of Restrictions when he removed the Censorship, the editors generally might naturally infer that it was never intended to enforce them, which was strictly true; and it is remarkable enough that the Directors here express the very sentiment for which I was so severely reprimanded in India, when I contended that whereas Lord Hastings's speech was public, and the Circular of Restrictions only private; and whereas the former, which was in favour of the freedom of the press, was as high in authority and later in point of date, we were justified in taking it to be the best guide of the two.

Mr. Peacock next said that the delay which took place in the noticing of the first article on Mr. Elliott, the governor of Madras, was not, as I had supposed, because it was not deemed offensive at Calcutta, but because the interval had been employed in consulting the Advocate-General Mr. Spankie, as to whether the article was a libel, and whether it should not be prosecuted; and Mr. Spankie's reply was, that undoubtedly no lawyer could deny that it was in the technical language of the law a libel, but he should hesitate to recommend its prosecution: an admission from such a quarter and under such circumstances, which may be interpreted to mean that no jury would find it to be a libel in the ordinary sense in which that term is generally understood.

The Post-office contract, before referred to, is somewhat differently understood by Mr. Peacock and myself; but in point of fact, the misconstruction of that agreement was on the part of the Postmaster-General in India, and it would be hard to punish me for his want of attention or intelligence; and in reality, though the loss to me was excessive by its breach, I never had refunded to me any thing for the

losses of the past, and when the contract was expired, the government would not renew it on the revised scale, so as to give me the benefit of the future.

Passing from this to the next topic touched on, namely, the minute of Lord Hastings, which was adverted to in a letter from Bengal to the Court in England, dated 1st of January, 1822, it is seen by Mr. Peacock's own statement that Lord Hastings viewed the banishment of an editor without trial as a most excessive punishment. He says, "Cases may be easily imagined in which the removal would be the *total ruin* of the individual." He adds, the call for the enforcement of such a penalty should be therefore "*broadly visible.*" He afterwards calls it "*an overwhelming severity*," and he admits that nothing I had yet written or published deserved to be so punished. The despatch itself, and the passage referred to, will be found at page 80 of the Printed Papers, section 4. I may mention here, a fact that will be referred to in the speeches of Mr. Douglas Kinnaird and Lord John Russell hereafter, that after my arrival in this country, and consequently when all my offences were fully known to Lord Hastings, he wrote a letter to Mr. Douglas Kinnaird, giving his authority to make particular mention of its contents, in which he says that I had never, during all his stay in India, written any thing which he thought deserving of so severe an infliction, nor did he believe, if we had each remained longer, I ever should have so done. So much for the opinion of Lord Hastings.

Mention was made by Mr. Peacock of a general order issued from the House Guards by the Duke of York, and published in India, prohibiting all the officers of the army from writing or publishing in the newspapers there. Such an order might be binding on those in the military service; but it could not surely be held binding on me, though I believe I may add that after its publication in India, for it bears date June 1822, no military letters known to me as such were published, at least none of any note, though if any were, the offence would be not mine but that of the officers writing them, as they, and not I, were the persons forbidden to write, and on them alone was such order binding.

After this a second minute was read, in which Mr Adam, Mr Bayley, and Mr. Fendall are said to concur in the opinion, that there was no British public in India beyond 300 persons. I am at a loss to understand the data on which this limitation is fixed; because in Calcutta alone there are 4 or 5000, and taking all the officers of the King's and Company's Civil and Military Service, there are more than 50,000 British-born subjects in India, who constitute a part of the public there as much as they would do if in England. But supposing it were literally true that there were only 300, surely that is a number large enough to have some claim to the enjoyment of their opinions, and the liberty of making them known. It was never contended, in any case that ever I heard of, that the smallness of an assembly was a reason why it was not safe to allow them freedom of debate; nor the fewness of the inhabitants of a district a reason why they should not enjoy their liberties as fully as the inhabitants of ever so large a town; and yet, to such an absurdity should we be driven, if we admitted, that because there were only 300 British gentlemen in India, therefore there was no public opinion, and no freedom of expression ought to be allowed to those who belonged to this community.

In speaking of the article on Dr. Bryce's appointment, for the publication of which I was banished without trial from India, I was glad to find that Mr Peacock made no comment on it whatever. He showed his discretion in not attempting to dwell upon what he must have known would have been investigated; and his silence on this subject speaks volumes in my favour. If he could have shown to the Committee that the article in question was improper, or dangerous, and that the banishment I received for it was therefore fitting and just, no doubt he would have done so; for this may be said to be the strongest part of my case. He knows it, however, to be the weakest of that of the East India Government, and he therefore very prudently and very skilfully passes over it in haste.

In adverting to the laws made for licensing the Indian Press, Mr. Peacock cited the authority of Sir Francis Macnaghten, to show that as the British Constitution did not extend to India, so he did not conceive the freedom of the press to be extended to India either. Now, Sir Francis Macnaghten, when he made this assertion, was one of the Puisne Judges of the Court, and sat alone upon the Bench when he uttered it. I will place beside it, therefore, an authority of even still greater weight, that of Sir Edward Hyde East, who was the Chief Justice in the same Court, who was supported on the Bench by two Puisne Judges when he presided, and who, on the occasion of the argument raised in that Court about a year before, as to whether it had the power to file a criminal information for offences committed through the Press, uses these express terms. The Committee will find the passage at p. 69 of the Printed Evidence.

"His Lordship the Chief Justice, Sir Edward Hyde East, then passed to the consideration of the merits of the case before the Court. They had nothing to do, he considered, with the Liberty of the Press abstractedly. *The Government of the country, with the advice and sanction of the authorities at home, had established that liberty;* and he considered that a free press, or the liberty of publication without a previous censorship, was calculated to produce much good.'

Sir Francis Macnaghten, in his speech on the Licensing Law for the Press in India, contended that it was not repugnant to the laws of England, *because* every man, having a printing-press, was obliged to register it there. But I beg the Committee to mark the difference between these; and to say whether any two things can be more dissimilar. In England, it is true, every press must be registered, in order that all printed works may have some person legally responsible for their contents. But any man who chooses to have a press, has merely to buy it and register it, and he *cannot* be refused the full enjoyment of it afterwards. No person can prevent any man from having a press in England, the only condition being that when he first uses it, he makes entry of the fact at the proper office. But in India, the licensing law was to put it into the power of the Governor-General to refuse any man a licence for a press that he chose, without any reason assigned; and if he were found with a press and types in his possession without such licence, they were all liable to be seized and confiscated, as Mr. Bushington, in his evidence already read, very truly describes. The difference, therefore, is immense. But besides this, when a press is registered in England, no power in the country can touch it, but through the law. Neither the King, Lords, or Commons, can take away the registry, or seize any man's press, or put

down any man's journal; he can only be punished in any way through trial by jury, and no verdict was ever yet given that suppressed any newspaper for any offence ever committed by its Editor. The difference here, therefore, is even still greater, and the wonder is how any man could ever think of associating things so utterly dissimilar.

Even this licensing law was, however, wholly unnecessary; and so was the Censorship. The power already possessed was more than sufficient for every purpose; and Mr. Canning had very truly said, that "provided he could have the rules prescribed by the Circular of Lord Hastings, he would not require any greater power;" because, by them, *all* topics about which a Government cared any thing were excluded from public discussion; which I myself before remarked, when I stated, that if these Resolutions were strictly adhered to, there was scarcely any thing of public interest that could be discussed at all in the columns of a newspaper.

Following the order of Mr. Peacock's statement, we come again to the *Correspondence between the India Directors and the Board of Control*. On the 17th of January, 1823, it appears that the Directors sent an open letter to the Board, condemning the freedom of the Indian Press, as full of evil, and calling on the Board to assist them in putting it down.* To this the Board turned a deaf ear, and though pressed to apply to Parliament for stronger powers than already existed to crush this dreaded evil, no such application was made, either because it was deemed unnecessary, or thought likely to be unsuccessful—a proof at once of their opinion, that the evil was not so great as had been pretended; and also, that the law as it stood was sufficient to repress every abuse, provided it were put into execution, which was all I contended for, from beginning to end, and is all I contend for now.

An event now occurred, the history of which is as new to me as it is no doubt to the Committee, and as it will be when made known to the public—I mean the Secret Meeting at Fife House. This took place on the 1st of March, 1823, on the very day that I was setting sail from India as a banished man.

This meeting at Fife House was attended by Lord Liverpool, Mr. Canning, Mr. Wynne, the Chairman and Deputy-Chairman of the East India Company, and Mr Sergeant Bosanquet, their solicitor. The object of the meeting was to confer on what should be done to put down the Freedom of the Press in India, and the issue of it was, that the parties named drew up a minute, in which, while they declared that they did not think it necessary to apply to Parliament for any new powers to restrain the Indian Press, Lord Amherst, who was just then going out as the new Governor-General was encouraged to proceed to the removal from the country of any offending Editor, without any particular degree of delinquency being assigned; this being left entirely to his discretion, and he being assured of the fullest support from the King's Government at home, as well as of the East India Directors, in any measure he might think necessary for this purpose But even in this document, no idea is suggested of the suppression of the offending Journal, or the destruction of the property so invested, as a fit punishment for the offence. In the minute of the Secret Committee of the India House on this document, which minute is dated on the 4th of

March, 1823, only three days afterwards, the Court concur in thinking that Lord Amherst should have all the support which the Government here could give him, to restrain the Liberty of the Press in India; but even in this also, not the least idea is thrown out of the propriety of suppressing any Journal, or destroying any property, the ultimate extent of punishment contemplated by either party being, the removal from India of the offending Editor. In the letter of the Board of Control, dated the 5th of April, 1823, in answer to the letter of the India Directors of the 17th of January, the Board say, that it was not thought desirable to apply to Parliament for stronger powers than already existed. But in the mean time, Lord Amherst had sailed for India, with the secret instructions given him at the Secret Meeting at Fife House in his pocket, as his authority and guarantee for any measures he might think fit to pursue, as far as the removal of offending Editors could accomplish this end. I again repeat, however, that this was the largest measure of punishment then in the contemplation of any party, for the very worst offences that could be committed through the Indian Press, and this was severe enough; though, as the Committee will I am sure admit, it was nothing in comparison with the annihilation of all his fortune and future prospects, superadded to the banishment itself. In this letter, the Board further say, that "*much stronger reasons than any yet assigned* would be requisite to induce the Parliament to give large powers to the Indian Government than those they possessed already, for restraining the Indian Press." And let the Committee observe, that this expression is used when all the *strongest reasons* afforded by my conduct were fully before them; as by this time they were acquainted with every one of the articles complained of in the *Calcutta Journal*, except that on Dr. Bryce's appointment, which all parties now admit to be so harmless, that even my opponents are obliged to trace back their search after earlier and more objectionable articles, to accumulate a sufficient amount of offence against me, by adding them all together, as though many misdemeanors would make up one capital felony, or several trifling errors amount to one overwhelming crime."

I have now, I believe, gone over all the topics advanced by Mr. Peacock, in his statement on the first day of his addressing the Committee, namely, Friday, the 11th instant, after an interval of ten days from my closing statement. I need not dwell on the false prophecies with which the letters and the minutes that he read were so filled, that our empire would be overturned if a free Press were permitted in India, and that a conquered country would never be retained if we allowed free discussion among its inhabitants, or even among our own fellow subjects holding that dominion there. All these predictions, so easy to put forth, and so impossible to be contradicted at the moment, have been amply refuted by that best corrector of all errors, Time: for free discussion has existed in India in as great latitude as in England, almost ever since I left it, and yet not only does our empire in the east exist, but it was never more firm and stable than at the present moment, when all the influence of the utmost freedom of discussion has been tried upon it, and found to give it stability and strength.

In opening the proceedings of the second day on which Mr. Peacock addressed the Committee, namely, Tuesday the 16th after another interval of four days from his first statement—that gentleman

read to the Committee his justification for what might by some be construed as a breach of official confidence on his part, in his producing the secret minute signed at Fife House. The original, which he produced, was not only marked secret, but was enjoined to be kept most secret; and at the time of Mr. Peacock's producing it, there were not, he believed, more than five persons then living who had any idea whatever of the existence of such a paper. He considered that the production of the document was essential to the ends of justice, and therefore he brought it forward, in order that the East India Company might not be exclusively blamed for that which was in fact the act of the King's Government, who here furnished Lord Amherst with the secret instructions alluded to. Mr. Peacock considered that the King's Government having done this, they were bound to support the Company through all the consequences of it; which they had, it is true, done up to the present time; but which they would not do if they now turned round upon the Company, and recommended them to give me compensation. On this I will merely remark that, as far as I am myself concerned, and as far as my injuries are the object of inquiry, and I hope redress, it is not of much moment to whom I am indebted for them. It may be to the King's Government of that day, of which Lord Liverpool and Mr. Canning were at the head, it may be to the India Directors then in power at the India House, several of whom are now no more; or it may be to the authorities in India, one of whom, Mr. Adam, has paid the debt of nature. But by whomsoever inflicted, the stroke has fallen on my devoted head; and as, whether I am the victim of the errors or the oppressions of the one or the other, it can in no degree invalidate the reality or lessen the extent of my losses, so I hope it will not be permitted in any degree to weaken my claims to redress.

We next arrive at the minute of Mr. Adam, in which he enters on the justification of his conduct in banishing me from India; and in speaking of this, Mr Peacock read from a printed pamphlet, which he said was well known to be written by Mr. Adam, and published at the Government Press of Calcutta, copies of it having been sent home to England, as hints to his numerous friends, to put them in possession of the strong points of his case. Now, it is somewhat remarkable that while the constant cry of complaint used by Mr Adam and his party against the Indian press was, that its publications were anonymous, and that there was no ascertaining the credibility or value of their statements, because of their anonymous character, he was himself committing the very offence of which he complained. This pamphlet, which was full of criminatory accusations against myself and others, was anonymous. It had no name of author, printer, or publisher and was only inferred to be the work of some functionary high in office, from its contents, and the expensive style of printing, executed as it was at the Government Gazette Press. But what will be said of an acting Governor-General—for such Mr. Adam was at the time—appealing to the very public in India whose existence he denied, through a press whose power he despised, and in an anonymous form, which he had again and again condemned—there being, as I said before, neither name of author, printer, or publisher, attached to any part of the work; though the "great offender," for so Mr. Adam may in this instance be called, only a few weeks afterwards introduced a

law, compelling all printers and publishers to affix their names and places of abode to every thing printed by them, on pain of heavy fines for each omission, and confiscation of all their materials of trade, and imprisonment besides! This surely needs no comment. The truth is, the act of banishing me from India for so harmless an article as that on Dr. Bryce's appointment, created such a feeling of contempt and indignation towards the temporary Government of Mr. Adam (for be it remarked, he was merely holding office *pro tempore*, till his successor arrived), that he, Mr. Adam, himself found it necessary to his own justification to put forth this anonymous defence of his own conduct—a thing unparalleled in the history of our Colonial Governments, and an act which in itself shows more powerfully than any language of mine can do, how strong the feeling against him must have been felt to be, even by himself, to do any thing so distasteful to one of his disposition, as to appeal to a non-existent public through a decried and despised press! Now; in this pamphlet of Mr. Adam's, my conduct in publishing the article on Dr. Bryce's appointment is said to be "gross and insulting" to the Indian Government. These are the words which Mr. Peacock quoted on Mr. Adam's authority. The terms are severe; but to know their exact import, and their true meaning, it is necessary to ascertain what was Mr. Adam's standard of "gross and insulting" conduct; for when this is ascertained, it may appear that in the minds of other people the conduct which he would characterize by these terms would be "highly honourable and praiseworthy." I will give, then, an extract from this very pamphlet, a copy of which I hold in my hand, corresponding, as the Committee will see, in every respect with that produced by Mr. Peacock, and they will there see that the mere fact of my having *defended* an article, of which I knew the Government had *disapproved*—that is, persisting in opposition to the *opinion* of the Government, for it was nothing more—was "an act than which it was not possible to *conceive* any thing *more* gross and insulting." This was Mr. Adam's standard; and interpreted into ordinary language, it would mean nothing more than this—that any man presuming to differ in opinion from his authority was guilty of a "deliberate outrage." The passage is so curious, that I will, with the permission of the Committee, read it entire. It will be found at p. 36 of the pamphlet, and is as follows:

"In the Journal* immediately preceding it, was an article in the Editor's own name, on the subject of the letter of which Lieut. Col. Robison was the author. It was a professed defence of that letter, and of the motives of the writer, although Mr. Buckingham knew at the time that it had incurred the displeasure of Government, by his being obliged to give up the author. The occasion was artfully taken, of exciting by anticipation the sympathy and commiseration of the public, and he had again the FRENONTERY to quote the qualified declaration of the Governor-General in favour of a free press, in defence of the general tone of his paper, notwithstanding the repeated intimations he had received, that the recorded Regulations of Government were to be the rule of his conduct. *It is not possible to conceive a more gross and open insult to Government than the publication of the defence of a paper which he knew had excited its displeasure.* This was not done in a letter addressed to Government, when he might be supposed to be justified in using such arguments as would best help his cause, but in the face of the public, to which the fact of his having been required to give up the author was no secret, thus openly and DELIBERATELY DEFYING AUTHORITY, and

* *Calcutta Journal*, 20th May.—Editor's Note, page 269.

*appealing to the public* AGAINST *a measure of the Government.* By his defence of Lieut. Col. Robison's letter, he became equally responsible for it (even if the publication had not made him so) with the author, and the same measure of punishment ought to have been dealt out to both." He could not plead the surrender of the author's name in mitigation, as that publication was subsequent to that act; nor was there the smallest room for exculpation. If it had been a new offence and suitably atoned for, it might have been passed over by a liberal and indulgent Government; but the various recorded offences of Mr. Buckingham, of a similar character, the frequent warnings he had had, the great indulgence he had experienced, the continued and increasing offensiveness of his publications, their plain object, and above all the extensive mischiefs which they had occasioned and would continue to produce, seemed to impose on Government the necessity of putting it out of his power to pursue that course, and by the same act to vindicate its own authority, which he had been so long permitted to defy with impunity.

The whole passage has been read, at the request of an honourable Member, so that its full bearing may be seen; but if the Committee will refer to the parts on which I dwelt, they will see that Mr. Adam says, "It is not possible to conceive a more gross and open insult to a Government than the publication of a defence of any paper which the party so publishing knew to have excited their displeasure," and that "to appeal to the public against any measure of the Government, was openly and deliberately to defy its authority." These are his words; and they can only be accounted for from the circumstance of his having been brought up from a youth in the service of a despotic Government, and being suddenly invested with supreme power himself, which had thus perverted a disposition, originally, I believe, humane and amiable. I have no wish to speak otherwise than correctly of any one, but more especially of one now no more; but truth and justice to my own cause compels me to show that these terms of "gross and insulting," as applied to my conduct in editing the *Calcutta Journal* are of very little weight, as they are equally applicable to the conduct of every Editor in the world, who in every number of his paper appeals to the public against some measures of the Government, and this, in Mr. Adam's view, is being guilty of "openly and deliberately defying authority." To show, however, what was thought by others, as well as myself, of Mr. Adam's defence, I may mention that copies of it were sent home to many Members of the House of Commons to prepare them against the discussions expected there, and to interest them in Mr. Adam's favour. One of these was sent to Mr. Denman, the present Lord Chief Justice of the King's Bench; and he avowed publicly, that though he had been a schoolfellow and an intimate friend of Mr. Adam, it was impossible to read this defence without finding in the very document itself sufficient proofs of Mr. Adam's condemnation. All who know the present Lord Chief Justice, will attach due weight to this declaration. I will content myself for the present with reading only that part of his speech which refers to the part in question; but, with the permission of the Committee, I will precede it by some other declarations of opinions delivered on the same occasion, as properly part of the Evidence on my case. The occasion was, when Mr. Lambton first brought my case before the consideration of the House of Commons, on the 25th of May, 1824.

"Mr LAMBTON, after detailing the principal facts of the case concluded by saying, I have thus, as I conceive, confined myself to a clear and distinct narrative of this case, and I trust I have succeeded in making it intelligible without en-

cumbering it with details. (Hear!) I shall refrain on the present occasion from making any remarks on the general question as to the advantages of a free press in India and the East particularly, because it is my intention, early in the ensuing Session, to call the attention of the house to the subject. (Hear, hear!) I mean to move for the appointment of a Committee to inquire how far the existence of a free press is an advantage or injury to our Indian possessions. (Hear, hear!) At present I shall confine myself strictly to the case of the Petitioner, who has been a victim of the most cruel oppression, not warranted by sound policy or expediency, but springing from a wanton and aggravated spirit of despotism. (Hear, hear, hear!) If such things are allowed to go unredressed, it is due to the dignity of the responsibility of the Indian Government to maintain that this Petitioner has suffered from the grossest tyranny; and that to suffer the repetition of such practices is to endanger the very existence of the empire. (Loud cheers.)

"Mr Hume said, he had resided long enough in India to know what good might be produced by the liberty of the press, and he had no hesitation in saying, that from the time Mr Buckingham set up this paper, his proceedings operated beneficially for India. It taught the English people in that country to state their opinion on passing events, when they saw that those events were contrary to the interests of the public. When Government misconducted itself, gentle hints were given, which produced very salutary results. He challenged the enemies of Mr Buckingham to look over the file of the *Calcutta Journal* during the four years when it had been under the control of that gentleman, and to find a single article half so seditious as those which constantly appeared in the *Indian John Bull*, a paper which was absolutely set up by the servants of the Government. The Secretary of the Government and other persons in office were connected with it. The *John Bull* in England, bad as it was, did not equal its namesake in sedition.

"Sir Charles Forbes begged to offer a few observations on the question before the house. In the first place he would take the liberty to read extracts from two letters which he had received from a very intelligent and most respectable British resident at Calcutta, Mr John Palmer (hear, hear), which would show the estimation in which Mr. Buckingham was held by that gentleman. The honourable member then read the following extracts of the letters alluded, the one dated on the 1st and the other on the 17th of March, 1823, from Calcutta.

"'1st. I present my friend, Mr. Buckingham, the Editor of the *Calcutta Journal*, to your notice and friendly offices, under a full persuasion that your judgment of him, upon acquaintance, will justify the liberty I assume in recommending a banished man to you. The whine about the hazard of free discussion in this country, will receive your contempt; whilst you will be satisfied that infinite benefit must result to the true interests of all societies from its indulgence.

"'17th. I have recommended Mr. Buckingham to a few of the East India Directors, without fear of being considered an officious, a rebellious or discontented spirit. I am satisfied of the salutary influence of a free press every where. I believe the *Calcutta Journal* has done much good, and was doing more. I request your notice of Mr Buckingham, who, I believe, in spite of all sorts of calumny, to be worthy of your good offices and protection. Mr Buckingham got very inadequate damages yesterday, in an action for libel, against the *John Bull*, though the judge spoke of their malice with abhorrence.'

"In the judgment of Mr Palmer, he placed the most perfect reliance, and the sentiments which he had expressed were sufficient to prove Mr Buckingham was a gentleman who did not deserve the severe treatment which he had experienced. (Hear, hear!)

"Sir T. Dyke Acland said, he heard with great satisfaction the opinions which had been uttered by the honourable gentleman who had just sat down, but he had yet heard nothing to palliate the act of tyranny (for he could call it by no other name), which had been committed against Mr Buckingham. He felt bound to declare that a more gross case of cruelty than that which his honourable friend had brought forward, had never been presented to the notice of the house (hear);—and de-

clared, that his peculiar motive for rising, was to entreat the hon. member near him (Mr. Lambton) not to rest contented with pledging himself, in the next Session, to discuss the general question of a free press for India, but to give the petitioner, during the present Session, the advantage of his talents in a motion specifically directed to the hardship of his case.

"The hon. Chairman of the Court of Directors had said much, but he had informed the house absolutely of nothing. He had spoken of "warnings" given—(of which more hereafter); but there was no account of the charge made against Mr. Buckingham (hear)—of the charge upon which he had been sent to England. He was warned about this, and warned about that.—But what did he commit; where was his fault?

"——————————Quis suam
Delator? Quibus indicis? Quo teste probavit?
Nil horum. Verbosa et grandis epistola venit
A capitis"————

And *multa* might be added, for there were more than one of these letters to which the displeasure of the Government had been directed. It might be that the remarks which he made were very proper and necessary. No doubt the comments of a public writer were not often palatable to those whose acts were commented upon. (Hear, hear.) No doubt, there were epistles upon epistles, and they were most probably urged and repeated when the editor was fairly, properly, and most laudably employed in exposing their very proceedings.—Those warnings were no proof of offences against law. Of Mr Adam's character he (Sir I. Burdett) knew nothing; but he was justified, from his acts, in concluding that there was sufficient to raise a suspicion as to his motives. It was imputed, as an offence, to Mr. Buckingham, that he had found fault with the appointment of Dr. Bryce.—Yet that very appointment the Directors rescinded, and members of the Church to which Dr. Bryce belonged found fault within for accepting it. The question for the house was, not merely whether Mr Adam had exceeded the letter of his power, but whether he had exercised that power with due temperance and discretion—whether he had used the authority fairly for the purposes to which it was intended to be applied?

"The object before the house at present was, the relief of a particular individual, whom he considered to have been treated with a cruelty unmerited, and almost unparalleled. Situated as Mr. Buckingham had been, the most incessant anxiety to conform himself to the regulations (however slavish) imposed upon him, would have been insufficient to assure his security. No charge of any description, but that he had neglected certain warnings (whatever they were), was made out against him; and for this neglect, his property, and perhaps his prospects, were to be destroyed.

"Mr. DENMAN contended, that the concluding observations of the right hon. gentleman who had just sat down, and the opening observations of the right hon. the President of the Board of Control, were founded on a complete fallacy. The right hon gentleman had misstated both the law and the fact. He seemed to suppose that Mr. Buckingham had contravened the law, and that it was in consequence of that contravention he had been expelled from India. That was not the fact. Mr. Buckingham had contravened no law, he had not even contravened the Marquis of Hastings's regulations: nor did even a breach of these incur the penalty of embarkation for England.

"Important as he held the liberty of the press to be, that formed but a small part of the question under consideration. And yet, upon that point, a more mistaken notion had never existed than that which had led to this outrage upon the person of Mr Buckingham. Undoubtedly to talk of a press, and that press not free, was to talk of a secret enemy instead of an open friend. But that was not the single question before them. The question was not, why the press was not unrestrained in India, but why, there being laws regulating the press, in the event of any violation of those laws, was not the violator pursued in the proper and regular course of justice? When he heard the hon Chairman of the Court of Directors talk of the five warnings which Mr. Buckingham had received against the commission of the offence with which he was charged, it naturally occurred to

him to ask the hon. Chairman why the offender had not been brought into a court of justice? He would answer, that unless the power were allowed freely at home and abroad of canvassing the conduct of persons in authority, discontent would soon take a more dangerous form than that of speech, and swell into danger on every occasion. At the time that Mr. Buckingham was charged with the offence in question, he had brought an action in the Supreme Court against the proprietors of the *John Bull* newspaper, by whom an action had also been brought against him, so that he was in the double capacity of plaintiff and defendant. Yet Mr. Adam had torn him from his business, from his friends, from all his hopes, and had sent him away from that country, where he was married, and was perhaps on the very verge of beggary. *It was horrible to hear of such things.* It was horrible to see any thing like an attempt to introduce into this country that [illegible] which he for one was not prepared to breathe.

"The first Parliamentary inquiry would be instituted into the treatment that Mr. Buckingham had experienced. It had been considered necessary to submit the conduct of newspapers, situated as Mr. Buckingham had been situated, to the judgment of a court of law in India in several instances. If in one, why not in all? Was it not in Mr. Buckingham's favour, that in the civil action which he had himself brought for a libel on his character he had recovered damages, and that the revival of the criminal information against him by Mr. Adam was considered so unwarrantable by the judge, Sir Francis Macnaghten, that he refused to send it to a jury, and declared the whole proceeding to be cruel, oppressive, and illegal? What reason could be assigned for the existence of so despotic a law as that under which Mr. Buckingham was suffering, unless it were an overwhelming necessity? Yet no such necessity appeared to exist. Why preserve this perpetual Alien Bill in India? an Alien Bill, too of the most strange description, for Aliens were free from its operation, which was directed against Englishmen alone. It was not because any man had been mild and amiable in this country that he must necessarily be so in India. It was very true, as the right hon. gentleman opposite had himself allowed, that arbitrary power frequently altered character. The right hon. gentleman could not have forgotten that beautiful passage in one of the most beautiful histories of the world, where the future tyrant answered the prophet who foretold what he should do, 'Is thy servant a dog, that he should do this great thing?' But he did it. Such, indeed, were the naturally vitiating consequences of the possession of arbitrary power, that no wise or good man would wish for it. With respect to Mr. Adam, it did happen that that gentleman was an old schoolfellow of his, and he recollected him to have been a boy of a most amiable and gentle character. Nevertheless, he must declare *that on the present occasion, Mr. Adam seemed to him to have committed* one of the most cruel, oppressive, and unjustifiable acts which he had ever known to have been committed by a British Governor in the histories of the colonies—bad as they were. (Hear.) So far was his conduct in the transaction from deserving to be regarded with indulgence, except indeed from the one instance of his not being in this country to defend it, that in his (Mr. Denman's) opinion, it ought to receive the most marked and general reprobation. But although Mr. Adam was not in the country to defend himself, he had published his defence, and no person could read that defence without finding in it Mr. Adam's own condemnation, and seeing the arbitrary and uncontrolled power which he had exercised. (Hear, hear.)"

I do not know that it would be possible to add any thing to the force of this; and therefore I shall only say, that when the terms, "gross and insulting," are again applied to my strictures on the conduct of the Government in India, I hope it will be remembered that these terms mean only that I ventured to advocate the supremacy of the law as superior to arbitrary power, and that I deemed trial by jury the birthright of every British subject, of which he ought not to be deprived in any part of His Majesty's dominions.

It was next asserted by Mr. Peacock, that though Dr. Bryce was convicted of libels on my private character, which were characterized

by the Judge as too atrocious to be thought of without horror, yet that there had been a subsequent verdict against the *Calcutta Journal* for libels on the character of Dr. Bryce; and that as the damages awarded to him were larger than to me, it might be inferred that the libels against him were more severe of the two. The differences between these cases are material. In the first place, the libels in the *Calcutta Journal* against Dr. Bryce, were written by different correspondents *after* I had resigned all charge of the paper, and had ceased to write or even inspect a line in it, on the very eve, indeed, of my embarkation from India, so that I had no participation in them whatever. In the next place, I claimed no special damages whatever, and yet had 1000 rupees awarded to me, with costs, while Dr. Bryce laid his damages at 100,000 rupees, and received only 2000 by the verdict, with a reprimand or censure from the Judge, in reflections as to his busy and meddling, and controversial character. I will refer the Committee to two extracts from the printed report of the trial, in the first case referred to, which will confirm my statement.

*Testimony to the Purity of the Calcutta Journal.*

"After Mr Longueville Clarke (the counsel for Dr Bryce), had read to the Court what he considered the worst parts of a large series of the *Calcutta Journal*, in order to show that its character would at least palliate the libels of which the editor, the following was the reply made by Mr. Cutlar Ferguson, the counsel on the other side: 'As to the extracts selected by Mr Clarke from the twenty-six numbers of the *Calcutta Journal*, and which have been read, I am satisfied, that if my learned friend could have discovered any more libellous matter, he would have pronounced it to the Court. As he has not done so, it may be safely taken for granted that it did not exist Now, he had not been able to produce one libel on private character, there was not a single word of calumny on any private individual In fact, upon my learned friend's own showing, there could not be a purer paper in existence. If it come to libels between editors, the most objectionable expression that could be found (in the *Calcutta Journal*) is that which accused a former editor of the *John Bull* of being 'subservient,' and even that is applied to public conduct. And is it on this, that Mr. Clarke thinks it just ground for a few powerful men, if they be so, to combine together to hunt down Mr. Buckingham from society, and prescribed what should countenance him, than which nothing is more repugnant to English law, or more adherent to the spirit of Englishmen?"—*Report of the Trial in the Supreme Court of Calcutta, April 7*, 1823

*Judgment of Sir Francis Macnaghten, the Judge*

"That the plaintiff was entitled to just damages was undeniable; that he had suffered no special damage was avowed and special damages accordingly were not claimed. To his Lordship's mind there was no question of the malice of the writer in the *John Bull* towards Mr. Buckingham It was true, Mr. Buckingham had appealed to the public; but he did not apply to be excelled from society, and his friends to be proscribed Really, to his Lordship's mind, they were most malicious libels, he could not speak of them without horror. If he conceived that Mr. Buckingham had suffered in his newspaper or in his mind, his Lordship would award him the most ample and exemplary damages, but as special damage was not pleaded, he did not consider heavy damages necessary. Concluded his Lordship, 'Let the plantiff have 1000 rupees damages, and costs.'"—*Report of the Trial in the Supreme Court of Calcutta, April 7*, 1823.

It is worthy of remark, that though the Government were most sensitive as to any breach of the Circular of Restrictions, which forbad the discussion of political topics, they were just as relaxed in their licence of private libel, although one of the prominent prohibitions of the Circular was to forbid the insertion of any matter coming under

the head of personal scandal, or calculated to excite dissensions in society. This rule was broken every day by Dr. Bryce and others, who published the most bitter and virulent attacks on myself and others, but because they eulogized the Government, they were therefore unmolested in their career.

This brings me to that part of Mr. Peacock's statement, in which he says, that when I contended that the Circular Restrictions had never been made law until they had been enacted into a Rule and Regulation, by being registered in the Supreme Court, I had forgotten that they never *had* been so registered, but that they emanated from the Licensing law, which had. This, I think, is in substance the same thing. Before the 5th of April, 1823, when I had left the country, they did not possess any force of law, and therefore it was no legal offence to disregard them—even if I had done so, which I deny. But after the 5th of April, they for the first time became law, by virtue of their emanating from a Licensing Act, passed through the Supreme Court, in the usual way; which still leaves the great grievance of my case unaltered, namely, that I was banished without trial, for the pretended infringement of a set of Regulations for the Press, which were not lawful when I was said to have offended them, and were only made lawful after my punishment had transpired; making me, therefore, the victim of their *ex post facto* application. Speaking of the Licensing Law, Mr. Peacock says, it was appealed against before the Privy Council in England by myself, and the appeal was dismissed with costs; from which he would infer, that its present legality was established beyond all doubt. But, besides its having been subsequently rejected at Bombay by the Judges of the King's Court there, as *repugnant to the laws of the realm*, even after the decision of the Privy Council, which would make its legality somewhat doubtful—besides this objection to it, I say, I do not now wonder in the least degree at the Privy Council dismissing the Appeal; for, according to the maxim of Mr. Peacock himself, the Secret Meeting at Fife House, which armed Lord Amherst with powers for crushing the Press in India, morally pledged the King's Government to uphold that of the Company in every act they might commit in conformity with these instructions: and therefore, many of the members of the same Government still continuing in office, their sympathies were more likely to go with the Privy Council than with the Appellant, and the case being rather of a political than of a civil nature, their decision was guided by reasons of State policy, which would not have operated had no such Secret Minutes as that signed at Fife House existed. But State policy and strict legality are of course very different things.

The next topic adverted to was the case of Mr. Arnot, and the Correspondence between the Court of Directors and the Indian Government upon that subject was read, in which his removal from India is mentioned; and in which the Court assign as their reasons for remunerating him by a grant of 1500*l.*, the fact that his losses were such as were not contemplated by the Indian Government when they removed him, and therefore they were repaid. I hope the Committee will bear with me, while I mention a few of the particulars of Mr. Arnot's case. That individual was residing in India without a licence, and was employed by me on the *Calcutta Journal*, as an assistant, at

a weekly salary. On my leaving India, he was continued in the office as one of the Assistant Editors. In that capacity, he wrote more severe articles than I had ever done, and was ordered home because he had no licence. He resisted this order, and took refuge in the Danish settlement of Serampore. There even he resisted the orders of the Government, and was ultimately taken by military officers, and confined in the fort of Calcutta. He was put on board the Fame for England. That ship touched at Bencoolen, near which place she caught fire, and Mr. Arnot's clothes, and such books or papers as he had with him, were destroyed. For those losses, not occasioned by any act of the Company, but by the elements, he was awarded by the Court of Directors 1500*l.* Now, in the first place, he was unlawfully residing in India, never having had a licence to visit it at all, while I was duly provided with that requisite. In the next place, he openly defied and resisted the legal orders of the Indian Government, which I never did, as I left the country even sooner than the date fixed for my departure. And lastly, he was so destitute of property on leaving India, not having 10*l.* when he first entered my employment, and but a moderate weekly salary afterwards, that 300*l.* were advanced to him from my own funds by my agents there by way of loan, to enable him to pay his passage homeward; while my property was, when I left India, of the full value of 40,000*l.*, and all has been destroyed. Mr. Arnot was remunerated beyond what he even possessed, while to me even the slightest aid has been denied.

This brings me to the next point to which Mr. Peacock adverted, the Proceedings before the Court of Proprietors of India Stock, when a grant of 5000*l* was proposed to be voted to me, as some small assistance to enable me to overcome my pecuniary difficulties; but by no means as a full and complete remuneration for the far more extensive losses that I had sustained. And it was inferred, that because in the ballot which took place there was a large majority against me, that this was decisive of the merits of the case; the numbers being, I believe, 157 in favour of the grant, and 400 and upwards against it. But let the Committee consider for a moment what the question was: it was in reality to decide whether I or the East India Company were right; and who composed the tribunal of judgment? Why, the East India Company themselves It was the servants of this body that were to receive the censure, if the vote had been carried; and it was the members of this body who were to pay the money, if the grant should pass. It will be admitted, I think, that something more than the merits of the case were requisite to outweigh such odds. But even here, it was a great tribute to the excellence of my cause, to find 157 of the Members of this very body voting on my behalf. A few extracts from the proceedings of that day will, however, set this subject in a much stronger light; and though I will content myself with reading the requisition by which the meeting was called, and the speech of Mr. John Smith, the eminent Banker of the City, whose father was then a Director, I shall, with the permission of the Committee, do as I did in the former case namely, put in portions of the speeches of other gentlemen on that occasion, as testimonies to the character of my writings and conduct, and therefore important to me as Evidence in this case. The extracts of the proceedings which I wish to submit are as follow:

*East India House, April 7, 1826.*

This day a special Court of Proprietors was held.

The Minutes of the proceedings of the last Court having been read—

The Chairman informed the Court, that it was made special in pursuance of the following requisition:—

London, March 18, 1826.

"To the Honourable the Court of Directors of the East India Company:

"Honoured Sirs,—We, the undersigned Proprietors of East India Stock, duly qualified, request that you will be pleased to call an early Special General Court of Proprietors, at which we shall submit the following motion:

"That the severe loss of property sustained by Mr. Buckingham, in consequence of the measures of the Bengal Government subsequently to his departure from India, having involved him in pecuniary difficulties, which it could never have been within the contemplation of the parties to occasion, but against which no human foresight on his part could have provided, and those difficulties having been greatly augmented by the circumstances which prevented him from returning to Calcutta for a short period to wind up his affairs, the Proprietors of East India Stock, actuated solely by a desire to relieve that gentleman from the embarrassment in which he is now unjustly plunged, earnestly recommend to the honourable Directors, that there be granted to Mr. Buckingham, from the funds of the Company, for the purpose of assisting him to surmount his present difficulties, the sum of 5000*l* sterling, being not more than one-eighth part of the estimated loss of actual property occasioned by the proceedings adverted to; assuring the honourable Directors that they will meet with the cordial support of this Court in helping to repair misfortunes and alleviate sufferings, no doubt unwittingly witnessed, and immediately intended."

We have the honour to be,

Honourable Sirs, your most obedient humble servants,

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| JOSEPH HUME, | DUNCAN KINNAIRD, |
| HENRY GRATTAN, | CHARLES FORBES, |
| JOHN WILKS, | J. DOYLE, |
| C. J. DOYLE, | H. STRACHEY, |
| W. MAXWELL. | |

JOSEPH DART, Sec.

"Mr. D. KINNAIRD then rose and spoke as follows: In submitting this motion to the Court, I feel myself relieved from the necessity of stating at any length the grounds upon which I hope it will receive the support of the Proprietors. The case has been already fully discussed in this Court. Those who heard me bring forward the case of Mr. Buckingham will, I think, give me credit for having endeavoured *fairly* to establish it upon its own merits, unconnected with any collateral question. For myself and my honourable friends who support me, I can say that in advocating Mr. Buckingham's cause, we have had no indirect object to gain, no indirect purpose to serve, and have desired to cast reflection in no quarter. If any intention of this kind be entertained by any persons, I for one disclaim it. I have no wish to connect the present question with any other, and shall confine myself strictly to following the course which I formerly pursued. The Company's servants who were in management of their affairs in India, considered it necessary for the good government of that empire, to send this unfortunate gentleman from India, for pursuing what he (Mr. Buckingham) conceived to be a legitimate course of conduct. Mr. Buckingham having been sent from India, the question of his conduct there is at an end. I have nothing to do with it. An appeal to the Court on the ground, that after Mr. Buckingham's removal from India, his property has been made worse than nothing, by measures which certainly were not adopted with a view to his punishment, and were therefore unintentional, for it never could have been intended that Mr. Buckingham should be thus persecuted by the loss of his property. I request the Government of any intention to destroy Mr. Buckingham's property. If any person will undertake to say, that this was intended to form part of Mr. Buckingham's

punishment, I will at once give up the appeal which I now make to the Court. I, however, state on the part of the Government—I make it the ground on which I stand—that the destruction of Mr. Buckingham's property was not intended by the Government as any portion of the punishment which they inflicted upon that gentleman, for what they conceived to be the evil manner in which he had conducted the press in India. I state this boldly on the part of the Government, and I defy contradiction. I contend, without meaning to reflect unfairly on any body, that the loss of property which has happened to the unfortunate gentleman was an evil never intended by the Government to befall him. This gentleman possesses an unblemished character, has pursuing a laudable purpose in this country, by the success of which he must stand or fall; but while he is thus conducting himself, deprived of those resources which he had calculated upon as the foundation and sole support of his distinguished exertions, steal from him a property in his paper in India, and leave him destitute, he is deprived of all, and involved in debt also, and all this by the measures of Government, who decreed that so long as Mr. Buckingham had any property in the paper or types, a licence should not be granted for its publication. The result was, the property of the paper was transferred from Mr. Buckingham to other persons, without that gentleman receiving any compensation for what might be called the good-will of it. I state this, without meaning to cast reflection upon any one, as the ground of my motion. The motion touches on no collateral question; it simply states the case as I have put it, and if any person wishes to confine it more strictly to an act of gracious compassion, I am perfectly willing to adopt his suggestion. The hon. Proprietor concluded with moving the motion already given in the preceding question:

"Mr. Hume—I rise to second the motion, in the hope that the appeal now made to the humanity, consideration, and justice of the Proprietors will be successful. I do not recollect any occasion on which an application on the part of any individual has been supported on such strong grounds of justice and reason, as this claim on behalf of Mr. Buckingham. It would not be proper, as my hon. friend justly observed, to discuss, on the present occasion, the grounds on which Mr. Buckingham's recall from India originally took place. The offence for which the Government ordered him to be removed, was in the opinion of every candid man, sufficiently expiated by his transmission from India. That being the case, I submit to the Court, that there never was a case in which a strange case came before them and appealed to them for the fortunes of an individual who has been utterly ruined, after the most meritorious efforts to obtain independency. Under these circumstances, after the numerous appeals which have been made to the Court, I cannot conceive that the Proprietors of this Company, a body of wealthy and independent men, celebrated for the liberality of their transactions, will fail to give a favourable consideration to the case of an individual who has been ruined by no immediate fault of his own, but by the acts of your servants in India. I have seen some very sensible observations on Mr. Buckingham's case, by the Editor of a provincial paper. The writer, after giving an account of the proceedings in India, says, "The suppression of the 'Calcutta Journal' is the last instance in the page of English history, of an English newspaper being put down by the act of Government." The Proprietors are now called upon to exercise their estimable privilege they possess, by granting to Mr. Buckingham only a small part of the loss which he has sustained. This appeal to the generosity of the Proprietors is made in the fairest manner possible, by not being confined to the few who are assembled here, but to the body at large, who all know the merits of the case, and can come prepared to give an unbiassed decision upon it when the proper time shall arrive. I hope that no person will mix the present question up with any other from which it is distinct. The question of the freedom of the press is in no way connected with the present question, which was entirely one of compensation for the loss of property sustained whilst he was absent from the scene, and could not possibly have done any thing to deserve such a punishment. My confidence is strong that Mr. Buckingham's case will receive the support of the Proprietors when it comes to be decided by ballot. I have never, on any occa-

sion, been anxious to vote away the public money, either here or elsewhere, without the strongest grounds for its necessity; and if I did not believe that the present claim was founded on justice, I would not support the motion. (Hear, hear.)

"Mr. John Smith—I am anxious to state the reason which led me to support the motion that has been submitted to the Court. I can recollect instances, in former times, of individuals who had most grossly and shamefully neglected their duty, committed the most grievous offences, being sent home to England, but permitted to carry with them the gains of their perfidy and guilt, instead of being reduced, like the unfortunate gentleman whose case has been brought under our consideration, to hopeless penury. (Hear, hear.) It appears, that notwithstanding the various offences which the hon. Proprietor says that Mr. Buckingham committed, the Governor-General, although highly dissatisfied with his conduct, did not send him from India. (Hear.) In this, Lord Hastings perhaps acted in opposition to the sentiments of other Members of Council; but be that as it may, he was not so much dissatisfied with Mr. Buckingham as to send him from India. To return to the question immediately before the Court, I am inclined to support the motion, both upon the general principles of justice, and the usage of the Company. Gentlemen will permit me to remind them that libels of a very gross character have been published in this country in the course of the last twenty years, libels of a most dangerous description, and which the Attorney-General has felt it his duty to prosecute, but what was the course of proceeding in this country? The libeller was not pursued to destruction. On the contrary, I appeal to the knowledge of every gentleman present, that the judge, in passing sentence, takes into consideration the amount of the offender's property. He does not sentence an individual who is not worth 500*l.* to pay a fine of 10,000*l.*; thereby condemning him to hopeless imprisonment. The decrees of our judges are tempered by mercy and common sense. (Hear.) I apprehend that Mr. Buckingham was exceedingly indiscreet in his conduct; but, after all, it is tinctured by some shades which, if fairly and candidly examined, might entitle him to indulgence. At all events, is it just that the whole of his property should be confiscated? I very much wonder at the proceeding by which this was effected. It might have happened that the property in India belonged to Mr. Buckingham's wife, or his children, or to me, or to my hon. friend, or any body else. It is hardly consistent with the rule of justice to adopting any proceedings which must have the effect of destroying property, without first inquiring to whom it belonged. (Hear.) I certainly have my suspicion that Mr. Buckingham's conduct has not been so bad as is represented, and that those acquainted with Indian history might remove the gloss which has been thrown over it. The conduct of Lord Hastings, I think, proves this. In any view of the question, the destruction of Mr. Buckingham's property and means, is a punishment utterly incommensurate with his offence. I support the motion for the reason given by the hon. Proprietor who spoke last, namely, that justice is eternal, and because I think, that in common sense and fairness, it is wrong to punish with too much severity—with a severity unheard of, and to which I defy any man to produce a parallel. Notwithstanding all that has been said by the hon. Proprietor, notwithstanding the resolutions of the Government and the Board of Control, I feel firmly persuaded, that the Proprietors of this Company will, on this occasion, follow those sentiments and feelings which it has been justly said belong to them as a sort of property, and make Mr. Buckingham some small reparation for the injury which he has sustained. (Hear, hear, hear.)

"Mr. Callaghan said,—It has been well observed by an hon. Proprietor (Mr. John Smith), that the Judges, in apportioning punishment, always look to the circumstances of the offender; but in the instance now before us, every consideration of that kind appears to have been forgotten. The Indian Government, having fulfilled what they conceived to have been their duty by transporting Mr. Buckingham, ought not to have gone farther. Rigorous as that measure was, they might perhaps justify it, by saying, that they adopted it for their security; but what excuse can be alleged for taking those steps which destroyed Mr. Buckingham's property when he was himself in England? The noble Lord, at the head of the Indian Government, might say, "I have heedlessly ruined a property which I

never meant to destroy." But of what avail would this confession be to Mr. Buckingham? That property having been ruined, no matter whether wilfully or inadvertently, surely the injured party should receive reparation. If, Sir, the Indian Government chose to exercise their power and rigour, they ought to take care at least that they exercised it in justice. If they inflict an injury which they never intended, they ought unquestionably to afford some redress for it. (Hear, hear.) I shall suppose, for the sake of argument, that any member of one of the great houses of agency in Calcutta had become obnoxious to the Government, and was sent home in consequence. Suppose for instance, that individual was Mr. John Palmer, and that he, for speaking or writing libels against the Government, was deported from India; after that sentence was carried into execution, could Lord Amherst say to the House of Palmer and Co., 'Gentlemen, I have, by the authority intrusted to me by law, sent Mr. Palmer out of this country, and I now warn you that you shall not carry on business under the designation of Palmer and Co. Not only that, but Mr. Palmer's share shall be taken out of this firm: it shall be sent into the market, and it may fetch, under the hammer, whatever it will bring!' (Hear, hear.) I put it to the Court, whether this would not be a case of great hardship, and one which deserved remuneration? Yet such was Mr. Buckingham's case exactly—such was the injury inflicted on him; and I call on you, in the name of justice and equity, to repair the evil which has been inflicted on this much-injured individual.

"I will now say a word or two as to the law of this question. An hon. Proprietor says, that the Indian Government was by law armed with power to do what has been done. He declares, in effect, that they had a right, in the first instance, to send Mr. Buckingham away, and afterwards to take those steps which have destroyed his property. But, Sir, the law says no such thing—the law gave no such power. The Government might say, 'Here is a person acting in a manner which we conceive improper; seize him, tipstaff—put him on board a vessel—send him immediately out of the country.' The law gave the Governor-General a right to do this; but the law at the same time said, 'Touch not the offender's property.' When Dr. Muston applied for a licence, the regulations of the Government in the month of April ought to have pointed out to them the course which it was their duty to pursue. They might have said at once, 'You shall have no licence,' and there would have been an end to the matter. In that case, Mr. Buckingham's agents would have known what to have done. But, instead of that straightforward proceeding, they had recourse to delay and procrastination. They said, 'We know whose property this is, and it is of this property, while Mr. Buckingham is connected with it, that we are afraid. So long as Mr. Buckingham has any thing to do with it, we will grant no licence.' This declaration was not made until after a long delay, and the ruin of the property was the consequence. As I have said before, I do not believe that this destruction of Mr. Buckingham's property was knowingly and coldbloodedly effected. It is sufficient for my purpose that it was effected. It is sufficient for me to know that Mr. Buckingham has been deprived of the means wherewith to live like a gentleman. And when that is the case, surely I do not ask too much, when I call on the Court to grant him a sum which, though by no means equivalent to his losses, will yet send him away in some degree satisfied. (Hear, hear.)

"Sir Charles Forbes.—Considering this, Sir, as an appeal to the humane feelings and liberal disposition of this Court, I shall abstain from saying one word on the circumstances which occurred previously to the departure of Mr. Buckingham from India. I shall confine myself to that which appears to me to be admitted on all hands, namely, that Mr. Buckingham has sustained very heavy losses, that those losses could not have been in the contemplation of the Government of India, when the measures which produced them were resorted to; and that this unfortunate gentleman's situation is such, as calls on us to extend to him that degree of assistance which will prevent him and his family from being reduced to beggary. With respect to Mr. Buckingham's pecuniary circumstances, I have reason to know that that gentleman would disclose with pleasure what the state of his circumstances is, and that he even courts inquiry into his situation. Mr. Buckingham, I can assure the Court, is very far from being in the state of affairs described by an hon. Proprietor. If he is one sixpence before the world, it is a fact contrary to what I think and believe. I know he is in debt to his agents in

India, and I am sure that not only they, but individuals in this country, can bear out my statement.

"It is said, Sir, that I have an interest in this question. I have, it is true, an interest, but not of a pecuniary nature. It is an interest infinitely stronger, in my estimation, than that of a pecuniary character—the interest of humanity. (Hear, hear.) It has been asserted, that I have advanced large sums of money to Mr. Buckingham. I deny it. Mr. Buckingham does not owe me a shilling; and, what is more, never applied for assistance. (Hear, hear.) He has, however, been assisted by his friends, who, much to their credit of their feelings, came forward with their money and prevented his family from being turned into the streets. Yes, Sir, Mr. Buckingham has been assisted,—generously assisted by his friends, and if present conduct is not a circumstance that will militate against him, I trust it will not operate against, I will not say the claim of Mr. Buckingham, but against the object which his friends have in view, in bringing this question before the Court. Rather, thank, Sir, in this country, that it will be considered as strengthening the appeals so forcibly made to our feelings on this occasion. (Hear, hear.) As to the style in which Mr. Buckingham lives, I can inform the noble Proprietor, that he lives in the most humble and frugal manner. It would, I am sure, surprise the Court if I described to them the extreme moderation of that unfortunate gentleman. He has been obliged to give up a comfortable dwelling, which he was induced to take on his return to this country, in the hope of enjoying the property which he had left behind him in India, but which property has vanished in consequence of the course pursued by the Indian Government. He is now in a worse situation than he ever contemplated, he is largely in debt to his friends, he has been compelled, by distress, to remove from his comfortable dwelling, and he has retired to a small house in the suburbs of this city. (Hear, hear.) I pledge myself, Sir, if it be necessary to put it in the power of any gentleman in this Court to satisfy himself of the truth of this statement. See, Sir, is Mr. Buckingham's situation. If gentlemen have doubts on this subject, let it be proved by Mr. Buckingham's friends—his friends are here, who will stand by him whatever may be the result of this day's proceedings. Yes, Sir, I am proud to say that he has friends who will support, and advocate the cause of justice against oppression, over and over again, even to the termination of our existence, even to the conclusion of that which may follow; and I earnestly hope they will never lose sight of the object they have in view, until they have accomplished it. (Hear.) The object of my honourable friends is, to make an appeal to the humanity of this Court, to grant to Mr. Buckingham a very small portion of that property which he has lost, or, to speak more correctly, of which he has been deprived, not, as I am willing to believe, by the design of the Indian Government, or with the connivance of the authorities in this country,—but which property has been irretrievably lost, under circumstances which have occurred in consequence of his leaving India. In making this appeal to your humanity, I am happy to say, whatever may be said in this Court, or out of it, whatever may be said out of this Court, that a great body of the Proprietors at large will be disposed to adopt the resolution which is now under consideration. I will say, that out of this Court, and even within its walls, I have met with very few Proprietors who did not acknowledge that they are disposed to give Mr. Buckingham some consideration, and I trust, Sir, that when we come to the ballot, these generous feelings will operate to influence all honorable and liberal minds, will operate to procure for Mr. Buckingham the sum which is now called for.

"I conjure them not to let what has been stated, and so ably and eloquently stated, in favour of Mr. Buckingham, particularly by the hon. Proprietor (Mr. John Smith) whose address made so powerful an impression on the Court, to pass without producing a commensurate effect. (Hear.) From the manner in which that excellent speech was received—from the weight which is attached to every thing which falls from the lips of that honourable gentleman, I augur favourably for the cause of Mr. Buckingham. I hope, Sir, that every gentleman will come to the ballot on this occasion, banishing from his heart all unkind feeling towards Mr. Buckingham, and prepared to do that which his better feelings—the feelings of compassion and humanity—must dictate to him, namely,

to impart to Mr. Buckingham, to his wife, and to his children (one of them an infant only a few months old), that assistance which will enable them to maintain their present rank in society, and which will secure them from being plunged into destitution. Sir, I anxiously hope that when we come to a ballot, the Proprietors will give to Mr. Buckingham the trifling sum which is now called for. It is, Sir, trifling compared with the extensive losses he has sustained, but still it will, to a certain degree, repair that loss. As I have before said, I have no interest whatsoever in this question, except that great interest of humanity; and I do not believe that there is one gentleman who has signed the requisition before the Court, or who has put his hand to the paper containing for a requisition, that has any more interest in it than I have. I beg pardon for having stated my sentiments at such length. I could not, however, avoid it, as this is a subject on which I feel very strongly; and I hope, however incorrectly I may have expressed myself, that the Court will give me credit for speaking my opinion plainly and sincerely." (Hear, hear.)

To show that these views were strengthened, rather than weakened by lapse of time, I beg to add to the preceding, a very few short extracts from the second proceedings in the House of Commons subsequent to this, when Lord John Russell, in the absence of Mr. Lambton at Naples, kindly brought my case again before Parliament, and obtained the Committee of 1826. On that occasion the following speeches were made:

"Lord John Russell said—Within a short time after Mr. Buckingham's departure, an order was given to suspend the publication of his Journal. He had come home to England and, at considerable expense, had sent out materials for printing and other purposes, in order to support his establishment in India, but an order in the mean time had been issued to suspend the publication of his Journal, which order destroyed his property. This, it may be imagined, was a serious injury to the Petitioner. Let the House, for a moment, consider the situation in which he was placed. He had sent out, at an immense expense, materials for carrying his paper, all of which were rendered useless by the order for suspending its publication. In answer to the applications of his agents for permission to another person to manage it for him, it appears that Dr. Mosto, a son-in-law of one of the Members of the Council, was the only person who would be permitted to superintend it. But it was not to be expected that Mr. Buckingham could be satisfied to have the management of his property in such hands. This limitation amounted, in fact, to a total prohibition of the copyright. In conclusion, the Petitioner stated, that in consequence of all these arbitrary and oppressive proceedings on the part of the Indian Government, he not only lost the 20,000*l.*, which he progressively invested in the paper, but that he was also 10,000*l.* in debt.

"Such, then, being the statement of the Petitioner (Lord John) thought it was a case calling for the serious attention of this House. The punishment was disproportioned to the offence with which he was charged. The second point upon which he rested the claim of Mr. Buckingham to the attention of the House, was the severe and unmerited hardships to which he was subjected. These hardships were intimately connected with the liberty of the press in India, because it would seem the Governor had the power of sending away any obnoxious person on the supposed abuse of that liberty, without any other ground, could be so taken away on such slight grounds. The Marquis of Hastings, wishing to restore the press of India to something like liberty, abolished the Censorship which previously existed, by way of experiment; but upon the departure of the Marquis of Hastings, the experiment being found not to succeed, the whole punishment, by banishment and the loss of his property, was visited upon the petitioner. Though under the Government of such a man as the Marquis of Hastings, fair discussion might be carried on so long as we have abstained from slander and abuse, even with a censorship, yet he had the foresight to see that such might not be the case with his successors, and therefore abolished the Censorship. It had been said, that the measures of the Marquis of Hastings had led to these transactions, but he had seen communications from that noble Marquis, in which the removal of Mr.

Buckingham was condemned, because, says Lord Hastings, whatever might have been the *tendency* of Mr. Buckingham's writings, *of wilful and deliberate offence to the Government, he never was guilty.* As to the propriety or inexpediency of a free press in India, that was a question to which he did not mean to enter at present; he should confine himself strictly to the wrongs which the Petitioner had suffered; and he complained of it as gross injustice, that, because the Marquis of Hastings thought fit to abolish the Censorship, and try the experiment of a free press, under certain regulations—and because that experiment had not succeeded, that, therefore, the whole loss should fall upon the Petitioner. (Hear.) However, there could be no doubt that Mr. Buckingham had been most cruelly dealt with, in having his property altogether destroyed without compensation, because it suited the views of the Government to destroy the freedom of the press. This was a case of individual grievance which imperatively demanded the attention of the House, and he therefore meant to move, that the petition be now read, and be referred to a Select Committee, instead of the usual course of moving it on the table. (Hear, hear.)

Mr. Scarlett observed, that no action could be brought against the Government for the exercise of that prerogative, and the only redress therefore left, was that stated by the noble Lord—a Select Committee of Inquiry. He was surprised that the House, who were sworn to be the guardians of the lives, the liberties, and properties, could hear one cause of the petition read, without instantly affording the Petitioner the means of redress. The Petitioner stated, that he was banished from India himself, and that the licence or copyright of his Journal was taken from him and co-proprietors without compensation, and presented as a gift to the son-in-law of one of the members of the Government. Could the House endure such statement, without endeavouring to ascertain its truth? Not only was he banished but the most valuable part of the property he left behind him was also taken from him without consideration. If these statements were proved, the Government of India deserved the reprehension of the House and the country, for punishing a man without trial. Without giving him the opportunity of defending himself, they transported him, and destroyed his property; and then the only answer they gave him was, that it was given to his friend, Dr. Muston. He was willing to observe any restrictions, but this conduct was not only oppressive, but corrupt, and should his noble friend, acting upon the hint given him by the right hon. gent. on the opposite, give notice of a motion for a Select Committee of Inquiry on another day, he would certainly support him.

This subject of the transfer of the copyright of my Journal to Dr. Muston, by which property was taken from me without consideration, which the favoured individual himself subsequently sold for a large sum of money to the proprietors of another newspaper, the *Bengal Hurkaru*, and which Mr. James Scarlett, very truly describes as corrupt as well as oppressive, was proved in evidence delivered before the Committee of 1826, by a series of letters to and from Mr. Bayley, Mr. Ballard, Dr. Muston, and others, the originals of which are still in my possession, and were shown to the Committee then, as will appear by reference to the Printed Evidence in the hands of the Committee, section 3, p. 23. I will content myself here with alluding to the fact which they prove, but with the permission of the Committee I will use the same privilege which has been extended to Mr. Peacock, of giving the substance of the documentary evidence verbally, to save the time of the Committee, and placing the documents themselves on record at length. The letters are as follow:

To J. S. Buckingham, Esq., London.

Dear Sir, *Calcutta, Jan. 2, 1824.*

We have delayed writing fully to you on the subject of the affairs of the *Calcutta Journal*. We were aware that communications were made direct to you from the office, and have rather postponed writing until we might be able to inform you of the final arrangements intended to be adopted for the concern.

We need not repeat the circumstances which led to the suspension, in November last, of the licence under which the Paper was published. With a view to promote your interest, as well as that of the other Proprietors, we used every exertion to procure the restoration of the licence, and, at one time, had some prospect of success

We have now ascertained that no licence will be granted for the issue of any Paper from the Columbian Press *whilst the ownership is constituted as at present* This being the case, it has become necessary to make some arrangement for the close of the *present* concern, and the *transfer* of the property to the best advantage

Mr. W. P Muston has been negotiating with us for the purchase of the stock in trade and good-will of the concern, *such as it is now is*, and we expect a formal overture from him *when he has assured himself that he will be able to obtain a licence*

Should we fail in effecting to him, or some other person, a private sale, which may be deemed satisfactory, it will become necessary to dispose of the whole concern by public auction. Further delay will detract from the value of the property

We are, dear Sir, your obedient servants,

ALEXANDER & CO.

To J. S Buckingham, Esq, London

My dear Buckingham, *Calcutta, Jan. 8, 1824.*

Your several Correspondents here will have reported the progression of destructive events, which was closed with the utter ruin of your Press. It is sunk irretrievably and eternally, until some constitutional change be operated in the Government It has been disclosed that *no* Paper in which *you* had an *interest* would be TOLERATED, or even in which those who had an interest in the (Calcutta) Journal might be concerned; but the *public* declaration of this proscriptive doctrine has not been hazarded, so that we can only refer the fact by means always unwillingly resorted to, and which might be disavowed as a rule of Government, though uttered by one of its members!

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Believe me always yours faithfully,

JOHN PALMER.*

To J S Buckingham, Esq, London.

My dear Sir, *Calcutta, Feb 10, 1824*

I regret that I have nothing satisfactory as yet to communicate in respect to the affairs of the *Calcutta Journal*, since our letter of the 2d of January. The enclosed copies of Correspondence will show how matters stand at present, and you will form from it a correct idea of the feeling felt towards the *property* vested in the *Calcutta Journal* It is sufficient to say that Mr. W. P. Muston's last letter has as yet received no reply.

This procrastination is fatal to your property. In the hope of Mr. Muston being able to hit the concern on the principle of an arrangement specified in the circular to the shareholders, a heavy establishment has been kept up; and by the delay, the chance of your subscribers transferring their goodwill to the "British Lion," a successor of the Journal, is nearly annihilated

The party who gains most at your cost is the owner of the *Harkaru* newspaper You may recollect that on the suspension of the licence of the Journal, Mr. S. Smith, proprietor of the *Harkaru*, volunteered and was employed to furnish, *pro tempore*, your subscribers with his paper. This arrangement at once made that paper productive—so much so, that the owner has been enabled to induce Dr. Abel, the private physician of the Governor-General, to accept the Editorship, on terms which I have heard improve as the profits of the paper may increase.

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* Head partner of the firm of Palmer and Co., the wealthiest and most extensive mercantile firm in India.

[illegible] the value of the Journal is now only limited to its printing materials. We shall probably shortly have to advise the final close of the concern by sale.

We cannot much longer keep up the present establishment, while the Government is slowly considering the expediency and safety of permitting use to be made of types and materials which were bought with a fund in which you have a [illegible] interest.

The Correspondence enclosed is only part of what has passed. As you may wish to see the whole it shall be sent hereafter.

Yours faithfully,

J. C. C. SUTHERLAND *

No. 1.—November 10, 1823.—Mr. Ballard to Dr. Muston.

My dear Muston — Mr. Ballard and myself now tender you the Editorship of a new Paper we are instructed to publish from the late *Calcutta Journal Press*. You shall have fixed at 600 rupees per month, and if the paper flourishes, you shall have our recommendation of a proportionate increase. If you accede to our terms, say so, and I will immediately execute the form of application for a licence.

Yours,

G. BALLARD.

No. 2.—November 28, 1823.—Dr. Muston, to Mr. Bayley, Chief Secretary to Government.

Sir:—By the enclosed it will appear that I have engaged to be the Editor of a Paper belonging to certain Proprietors, the principal of whom are Messrs. Palmer and Ballard, and I beg you will assure the Right Honourable the Governor-General in Council, that I do so on principle and interest, independently of my previous official situation (which would alone render it my duty), I shall pay the most scrupulous attention to the letter and spirit of the Press Regulations, and therefore hope to obtain that licence which it is the object of this letter to solicit.

I have the honour, &c.,

W. P. MUSTON.

No. 3.—December 18, 1823.—Mr. Ballard, to Dr. Muston.

My dear Muston, Unless you can get Mr. Harington to interest himself on your account, *the licence will not be granted.*† I cannot imagine where the difficulty lies; if I could, I would do any thing not incorrect to remove it. I am, on all accounts, anxious to see you at work.

Yours,

G. BALLARD.

No. 4.—December 20, 1823.—Mrs. Muston to her Husband.

My Love,—Here you may be certain that I have seen Mr. Fendall, from whom he learnt that the licence had been refused, and *would be refused* so long as Mr. Buckingham had *any* share in the concern. They have not the slightest objection to you, but the writing of Mr. Ballard's letter to you says you will have the sole control, so long as he and Mr. Palmer are Proprietors; for which the Government take you would have it only so long, and then you might be subject to Mr. Buckingham's interference.

Yours,

M. MUSTON.

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* Partner in the firm of Alexander and Co., Mr. Buckingham's agents, and one of the largest houses of business in Bengal.

† Director, resident partner of the house of Alexander and Co., the head partner being then absent from Calcutta, and now in England.

‡ Mr. Harington was at this period a Member of the Supreme Council of Government, and the father of Mrs. Muston.

§ Mr. Harington, the gentleman named in the preceding note.

Another Member of the Supreme Council.

No. 5.—December 27, 1823.—Mr. Bayley to Dr. Muston.

Sir:—I am directed by the Right Honourable the Governor-General in Council to acknowledge the receipt of your letter of the 13th instant, and to apprize you, that after full consideration of the circumstances stated in it, and in Mr. Ballard's private* communication which accompanied it, his Lordship in Council does not deem it expedient to sanction the application contained in your letter of the 28th ultimo, and in that acknowledged.

I am, &c.,

W. B. BAYLEY, Chief Sec. to Gov.

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No. 6.—December 31, 1823.—Dr. Muston to Mr. Bayley.

My dear Sir:—Having informed that the Agents of Mr. Buckingham have given orders to pay off the Establishment of the Columbian Press, preparatory to a peremptory sale of the property, I was desirous of ascertaining whether I could get assistance from my friends to purchasing the same. Provided I can satisfy them that the purchase will not be merely that of the types, &c., without the power of using them, I am led to hope the sum for which it will sell will be within the power to raise. I, of course, feel no fears respecting the conduct of Government towards myself, but it is still a matter of the most serious importance that I should ascertain the certainty of being allowed a licence, before I avail myself of their kindness or embark myself in so serious a undertaking. Will you kindly do what may be within your power on this occasion, and inform me whether it would be necessary or proper that I should solicit an audience of his Lordship.

Yours, very faithfully,

W. P. MUSTON.

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No. 7.—December 31, 1823.—Mr. Bayley to Dr. Muston.

My dear Sir:—I think it would be advisable for you to request an audience of Lord Amherst, before you make any engagement of the nature adverted to in your note. Government would not, I think, grant the licence, except from a perfect assurance that the concern and influence were *altogether transferred from the former hands*, that the ostensible are the real proprietors, and that the rules regarding the Press would be attended to in their spirit as well as in their letter.

Yours, very truly,

W. B. BAYLEY.

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No. 8.—January 9, 1824.—Mr. Ballard to Dr. Muston.

My dear Muston:—Of all our constituents none have proved so troublesome as the defunct Journal, we cannot satisfy to please any political interests or views of those whom we are found to serve as agents or subjects.

However, I have determined not to trouble the Government, my friends, or myself, any more, but to sacrifice the property; and it is therefore at your service, if you are bold enough to buy it at a fair valuation or at auction. Or if you please to rent it, which I think is a better plan, I will let it to you for a twelvemonth certain, at 2500 rupees per month, including house-rent, and at the end of this period of probation you shall have the refusal of it. The entering can be applied only to permanent stock, not that which is consumed in the using, for such you must pay as far as that on hand goes, and provide yourself in future. Before you do anything, however, ascertain if you can get the assistance you expect; and, above all, a licence.

Yours,

G. BALLARD.

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No. 9.—January 10, 1824.—Dr. Muston to Mr. Ballard.

My dear Ballard:—From the impression left on my mind, after a long interview with the Governor-General on the subject of a licence for the *Calcutta Journal*, I am inclined to believe that no objection will be made (on a renewal of my application) provided another name be substituted for its designation, and that the Government is convinced at the same time of my being *bonâ fide* the proprietor of it. The property Mr. Buckingham possesses in it is no objection,

* This private communication has not been sent with the rest of the Correspondence.

it can be held to *not a right of influencing its details by any interference on his part*; and this is a point on which you must be better able to speak than I can. It appears, at first sight, to be impossible to prevent the proprietor exercising a proprietary right; but as I suggests, you may do perhaps what he could not do himself—I mean, *dispossess him of that right*, by letting the press, as you have already proposed to do, for a certain period of time. In this manner I might become the *bonâ fide* proprietor for that time, and could apply for a licence to that period only. The rule also was objected to by Lord Amherst, and I should think the Scotsman is the least (as that is in my opinion the best paper now in existence), the least name for a new publication. I will see Mr. Duncan and Mr. Sutherland, for the purpose of ascertaining what and I can get; without that, the attempt would be vain. Yours,

W. P. MUSTON.

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(No. 10.—January 13, 1824.—Mr. HARRINGTON* to Dr. MUSTON.

MY DEAR MUSTON,—I spoke to Bayley,† who thinks Government will not be satisfied with a transfer of the management to you for twelve months or any other limited period. He thinks *nothing less than a transfer of the property from the present proprietors* will suffice; and says the licence must be given to the proprietors, printer, and publisher, not to editor only.

Yours truly,

J. H. HARRINGTON.

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No. 11.—January 15, 1824.—Dr. MUSTON to Mr. BAYLEY.

MY DEAR SIR,—I heard from Mr. Harrington it was your opinion that no licence would be granted to me, unless I became proprietor of the concern, or an actual transfer of the property was made from the present proprietors, to others who should apply with me and the proprietors jointly, for a licence to publish a newspaper. If this be the case, I have misunderstood Lord Amherst, who appeared to me to require *only* the exclusion of Mr. Buckingham from all and every power of interference or control, and in no way to injure that gentleman's property.‡ Indeed, as Lordship distinctly stated it to be his wish, not to injure the property vested in the Columbian Press; but this wish cannot be realized if the property be transferred from the present proprietors.§

His Lordship also stated the necessity for changing the name of the *Calcutta Journal*, which, I conceive, his Lordship would not have deemed of importance to mention, had he not intended to favour me with the grant I applied for, in the event of my being able to effect the object of exclusion before mentioned.

Mr. Hogg is preparing a draft, securing to me the entire control of the contents of the paper, and full and sole possession of the concern (I agreeing to pay the profits of the same after meeting every disbursement, including my own percentage on the returns of the paper), for one year, renewable at the option of the parties concerned.

This draft I intend to forward for his Lordship in Council's inspection and approval, and any alterations suggested in consequence will be instantly complied with.

The property will be a *bonâ fide* transfer from the proprietors to me for one year, and I shall only solicit a licence for that term; at the close of which the Government will be able to judge how far the paper is deserving of a renewal of its licence or not. Yours, &c.,

W. P. MUSTON.

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* Dr. Muston's father-in-law, and a Member of the Supreme Council.

† Mr. W. B. Bayley, Chief Secretary to Government.

‡ There is something extremely novel and ingenious in the idea of depriving a man of all control over his own property without doing the least injury to the property itself.—It could have originated in no other country than India.

§ Here is a direct acknowledgment of the injury—which even Dr. Muston saw was inevitable—from a compulsory change of proprietors.

No. 12.—January 16, 1824.—Mr. Bayley to Dr. Muston.

My dear Sir,—I cannot, with propriety, write on this subject in my private capacity. I stated to Mr. Harington my impression that a *temporary transfer*, of the nature described, would not be such as would induce the Government to grant the licence. But, of course, the question will be considered with reference to the circumstances which may be stated in your proposed official communication.

Yours, very truly,

W. B. BAYLEY.

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No. 13.—January 24, 1824.—Dr. Muston to Mr. Williams, Solicitor.

My dear Sir,—The accompanying documents, No. 1, 2, 3, 4, and 5, relate to terms now with Mr. Ballard (as Attorney for Mr. Buckingham) and myself arranged; and provided the subject continues to be, we propose to conduct for a time the Paper we may be allowed to publish for the Columbian Press on terms all delightful to the private interests at stake. And I will point out the difficulties to be overcome, and how necessary it will be to obviate every one capable of being made on the subject of state to which Government may be disposed to destroy. What is required, at present, is that you should prepare a draft of a deed in such manner as your judgment and experience will suggest in order that it be submitted to Government for the sanction previously to its being engrossed. I shall be happy to consult with you personally on the subject, should you require any further information.

Yours, truly,

W. P. MUSTON.

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No. 14.—January 26, 1824.—Mr. Williams to Dr. Muston.

My dear Sir,—In want of the documents I have required, I cannot prepare a deed with proper force and effect. I should have been *very glad* to draw such a deed *professionally*, if I had possessed the requisite materials. For several (perhaps 200) shareholders have *legal rights in the property* in question and I cannot convey them to you without having some visible authority for so doing.†

Yours, faithfully,

J. WILLIAMS.

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No. 15.—January 26, 1824.—Dr. Muston to Mr. Bayley.

Sir,—I beg to inform you that the closed draft of agreement (making over to me the property of the Columbian Press, for a twelve month, by Messrs. Alexander and Co., the Agents of Mr. Buckingham*, having obtained also the sanction of the shareholders assembled for that purpose), and at the same time to submit for the Governor-General in Council to be approved, form my letter of November 28, 1823. Should the Government be satisfied with this draft, it shall be immediately engrossed and executed. The intimation I received from the Governor-General, respecting a new name by which the Paper is to be designated, will be duly attended to, and should it meet the sanction of Government, it is proposed to call it 'THE BATTAVIA.'

I have the honour to be, Sir, your most obedient humble servant,

W. P. MUSTON.

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No. 16.—January 30, 1824.—Mr. Bayley to Dr. Muston.

General Department.

Sir,—I am directed by the Right Honourable the Governor-General in Council, to acknowledge the receipt of your letter of yesterday's date, and of its enclosure. The *temporary nature* of the proposed arrangement, as described in those papers, does not afford any security that the *control* and *influence* of Mr. Buckingham in the management of the Paper may not *again* be exercised AT THE INTIMATION

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* In his capacity of partner of the Firm of Alexander and Co.

† Those *legal rights*, which an English lawyer could not even temporarily *convey*, without due legal authority, the Governor-General took upon him altogether to *destroy*, without a shadow of right to justify such an unlawful proceeding.

[illegible] Government [illegible] to [illegible] your application submitted by you. [illegible] I have, Sir, your obedient servant,

[illegible] W. B. BAYLEY, Chief Sec. to Gov.

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No. 7.—[illegible] 1821.—Mr. Sutherland to Dr. Muston.

Dear Sir,—As Mr. [illegible] has [illegible] days, we take it for granted you mean to obtain a license for a new paper; the weeping up the old establishment [illegible] (you [illegible] set out [illegible]), [illegible] Yours truly,

[illegible] (J. C.) SUTHERLAND.

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No. 8.—[illegible] 1821.—Dr. Muston to Mr. Sutherland.

My dear Sir,—[illegible] stated my [illegible] respect [illegible] be considered [illegible] Yours truly,

W. P. MUSTON.

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No. 19.—February 10, 1821.—Dr. Muston to Mr. Bayley.

Sir,—A [illegible] hearing [illegible] the concern [illegible] Calcutta Journal, [illegible] enclosed, [illegible] Press Regulations, will be [illegible] Government [illegible] to edit and publish *The British India* [illegible] &c.,

W. P. MUSTON.

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No. 20.—[illegible] 13, 1821.—Mr. Bayley to Dr. Muston.

My dear Sir,—You [illegible] official answer to your last [illegible] letter, [illegible] Government were [illegible] that application for a license is [illegible] Yours truly,

W. B. BAYLEY.

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No. 21.—February 10, 1821.—Mr. Sutherland to Dr. Muston.

My Dear Sir,—Perhaps [illegible] taken the preliminary [illegible] Government on application to establish [illegible] Very truly yours,

J. C. C. SUTHERLAND.

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No. 22.—February 11, 1821.—Dr. Muston to Mr. Sutherland.

My Dear Sir,—Mr. Bayley promised me a reply to my last application (which was a public one for a license commensurate with the lease for one year)

in the course of only [illegible]. Let [illegible] advise me to [illegible] that I have [illegible] *[illegible]lly*, and [illegible], as [illegible], slow [illegible] Mr. Buckingham [illegible] *[illegible]* [illegible] his (as an individual, [illegible] a public servant) that no objection would be made. From [illegible] application [illegible] to the *Calcutta Journal*. If your Honour will [illegible], for [illegible] I say [illegible] you, [illegible] at [illegible] the [illegible] (for [illegible] years) [illegible], I [illegible], and set up [illegible] the *Calcutta Journal*, [illegible] you

Yours truly,
W. P. MUSTON.

No. 23.—February [illegible], 1824.—Mr. Bayley to Dr. Muston.

Sir,—I am directed by the Right [illegible] the Governor-General in Council, to [illegible] a copy of the present date, with its enclosure, [illegible] your [illegible] permitting Mr. Peter Stone De Rozario [illegible] you [illegible] a daily newspaper entitled *The Scotsman in the East*. I am likewise directed [illegible] sent to you [illegible] your [illegible] and [illegible] that of Mr. De Rozario, [illegible] on the 5th of April last,

I am, Sir, your obedient humble servant,
Council Chamber, [illegible]
W. B. BAYLEY,
Chief Secretary to Government.

No. 24.—February 12, 1824.—License.

General Department.—William Pitt Muston, a surgeon in the service of the Honourable Company on the Bengal Establishment, having applied to the Right Hon. the Governor-General in Council [illegible] to print and publish in Calcutta a daily newspaper, [illegible] *The Scotsman in the East*, and having delivered to the Chief Secretary to Government the [illegible] affidavit, subscribed and sworn by the said William Pitt Muston, and by Peter Stone De Rozario, [illegible] Governor-General in Council does hereby authorize and empower the said Peter Stone De Rozario to print, and the said William Pitt Muston to publish, in Calcutta, at No. 4, [illegible] Street, ([illegible] in the said affidavit [illegible]), [illegible] a newspaper [illegible] called *The Scotsman in the East*, [illegible] which [illegible] the said Peter Stone De Rozario (and no other person or persons) [illegible], and the said William Pitt Muston (and no other person or persons) [illegible] proprietor.

By order of the Right Hon. the Governor-General in Council, this 12th day of February, 1824.

W. B. BAYLEY, Chief Secretary to Government.

The object of the Government was, then, by this series of wrongs on my person and property, now at length effected, and by them it was intended, and by others repeated, that after this removal of my control and destruction of my Journal, the Freedom of the Press in India would be destroyed, and all its excesses curbed. Let us see, then, whether this was the case. You have it in evidence that the Press in Bengal, under Lord William Bentinck, is, in the language of Mr. Lushington, perfectly licentious. In Bombay, the Regulation for licensing it was rejected by the King's Judges, so that there the Press is perfectly

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* The house of Mr. Buckingham, in which the *Calcutta Journal* had been carried on, in premises built for that purpose out of Mr. Buckingham's own money.

† This transferring a property of stock, materials, copyright, and goodwill, which it had cost 20,000*l.* in sterling money, and five years of hard labour, to create, from its rightful owners—including at least 100 English gentlemen—to an individual who had not paid a farthing nor spent a day in the accumulation of that property, of which, by a single stroke of the Government Secretary's pen, he was thus constituted *the sole and exclusive proprietor!*

fice, and what it is at Madras, may be gathered from the facts stated by Mr. Pearson, who last did the Committee a report of a case in the Supreme Court of Madras, for a libel published in the *Madras Gazette* of the 2nd of December 1833, and tried on the 10th of January, 1834. The alleged libel was to be a letter from Cairo, and, as it purported to have been received by way of Bombay, it was supposed to have been sent by Mr. Buckingham's friend, Lieutenant-Colonel Cooper, of the Company's Army; and in it he commends the English half-caste population, and speaks of the East India Company rather as an longer to the odious and oppressive party. Now, I may be allowed to suppose, if a paper at Madras, or anywhere else, should suggest, if a paper at Madras should suggest, what gas, these. But the Committee has heard the result from Mr. Pearson's own statement. It was the case of Dr. Wallace, Wallace, Pearson, you know, as he's described in the Abstract, was tried in the King's Court, was judged guilty of publishing a libel, and was condemned to pay a fine of 500 rupees, or about 50*l* sterling, to be imprisoned three months, and to find two sureties of good behaviour, in the sum of 250 rupees, or 25*l* sterling each.

I beg the Committee to observe, first, the monstrous inequality of the punishment inflicted upon me, who could not see his paper subsequent to such an occasion, as those, and myself, against whom no conviction or trial was ever tried, and whose paper was, according to the testimony of Mr. Lushington and Mr. Fergusson, entirely free from matter supposed, even at the remotest distance, to any thing like Mr. Buckingham's offence. I may ask them to observe next, how thoroughly fastened were all the predictions of those who justified the banishment of my person and destruction of my property, by assuming, themselves and of course all who had once got rid of my company and opposition, the Press in India was to become perfectly harmless and inoffensive; for Mr. Adam's language, in his letters to the India Directors, was this, that when they had "no more fear of the country, they should be enabled to exercise a decisive power over the system," and "finally to suppress themselves." See Parliamentary Papers and Accounts, second, p. 1.

All the reasonings, therefore, contained in Sir Thomas Munro's Memoir, as to the incompatibility of a Free Press and a conquered country, and all the predictions of himself and Sir John Malcolm, for which they are said to agree—that with the freedom of discussion become general in India, our empire must be destroyed—fall to the ground: for that freedom has now been to a much greater extent than Bengal, Bombay, and Madras, than any one had ever contemplated, and yet the stability of the empire is greater now than at any former period; as indeed every country must become more and more settled that punishes all offences by appeals only to the laws, and asks for no other powers than an independent Bench and Bar, and an honest Jury.

By the new Charter recently passed through Parliament for the future government of India, this state of the dominion of the law was contemplated and provided for, so that free trade, free settlement, and