

into both the Nizam's and the King of Oude's territories. Yet people do not, either in India or in Ireland, by preference shun comfort and well doing, or shuffle on in misery and hardship.

But—finally—it is not ill ruled Native States that we have commenced to subvert. The Sattara State was prosperous and well-doing; its princes were prudent and economical; they spent their revenues beneficently on roads, bridges, and other public works; nor did they ever spend themselves, for they had always large cash balances both in their public and private treasuries. Their administration drew down the applause of Residents, of the Bombay Government, of the Supreme Government, of the Court of Directors, of the Board of Control; it produced them laudatory and flattering epistles, and procured for them complimentary presents of jewelled swords and model field-pieces. Better still, their rule was blessed with the contentment and the prosperity of their subjects; and “unquestionably,” said Sir George Clerk, in 1848, “a Native Government conducted as that of Sattara has been a source of strength to the British Government.” Neither the happy and prosperous condition of the country and people, nor the just and praiseworthy government of its princes, could, however, save Sattara. “I take this fitting opportunity,” said Lord Dalhousie, in pronouncing his unworthy sentence against it, “of recording my strong and deliberate opinion, that in the exercise of a wise and sound policy, the British Government is bound not to put aside or to neglect such rightful opportunities of acquiring territory or revenue as may from time to time present themselves;”—and Sattara “fell, unwept, without a crime.” But though territory was acquired, revenue—fitting punishment for the greedy—has been lost. And, by the latest accounts, the new British functionaries there—disappointed of profit—are racking the Sattara ryots; are compelling the Sattara gentry to exhibit the titles of their estates, and are resuming lands in the proprietary archives of which they can discover, or imagine themselves to discover, any legal defects or insufficiencies.

It is not, therefore, to improve the condition of their people that Native States are to be overthrown. It is (in serious truth) to gratify a vaulting ambition that o'erleaps itself; and may, if not *now* restrained by Parliamentary interference, endanger everything in India.

# INDIA REFORM.

---

No. V.

---

EXTRACT FROM MILL'S HISTORY  
ON  
THE DOUBLE GOVERNMENT;  
AND  
OBSERVATIONS  
ON THE  
EVIDENCE GIVEN BEFORE THE PARLIAMENTARY  
COMMITTEES IN 1852.

By JOHN SULLIVAN, ESQ.

REPRINTED BY PERMISSION OF THE AUTHOR.

LONDON:  
SAUNDERS & STANFORD, 6, CHARING CROSS;  
MANCHESTER:  
SIMMS AND DINHAM.

---

*Price Threepence.*

# INDIA REFORM.

---

No. I.

## THE GOVERNMENT OF INDIA SINCE 1834.

*Price 3d. ; per post 5d.*

---

No. II.

## THE FINANCES OF INDIA.

*Price 3d. ; per post, 5d.*

---

No. III.

## NOTES ON INDIA,

By DR. BUIST, OF BOMBAY.

*Price 3d. ; per post, 5d.*

---

No. IV.

## THE NATIVE STATES OF INDIA.

---

*Preparing for publication.*

No. VI.

## THE GOVERNMENT OF INDIA

UNDER A BUREAUCRACY.



## EXTRACT FROM MILL'S HISTORY

ON

# THE DOUBLE GOVERNMENT.

---

"THE operation of Mr. Pitt's new law produced occasion for another legislative interference. In passing that law, two objects were very naturally pursued. To avoid the imputation of what was represented as the heinous guilt of Mr. Fox's bill, it was necessary, that the principal part of the power should *appear* to remain in the hands of the Directors. For ministerial advantage, it was necessary, that it should in *reality* be all taken away.

Minds drenched with terror are easily deceived. Mr. Fox's bill threatened the Directors with evils which to them, at any rate, were not imaginary. And with much art, and singular success, other men were generally made to believe, that it was fraught with mischief to the nation.

Mr. Pitt's bill professed to differ from that of his rival, chiefly in this very point, that while the one destroyed the power of the Directors, the other left it almost entire. The double purpose of the minister was obtained, by leaving them the forms, while the substance was taken away. In the temper into which the mind of the nation had been artfully brought, the deception was easily passed. And vague and ambiguous language was the instrument. The terms, in which the functions of the Board of Control were described, implied, in their most obvious import, no great deduction from the former powers of the Directors. They were susceptible of an interpretation which took away the whole.

In all arrangements between parties of which the one is to any considerable degree stronger than the other, all ambiguities in the terms are sooner or later forced into that interpretation which is most favourable to the strongest party, and least favourable to the weakest. The short-sighted Directors understood not this law of human nature; possibly saw not, in the terms of the statute, any meaning beyond what they desired to see; that which the authors of the terms appeared, at the time, to have as ardently at heart as themselves.



The Directors had not enjoyed their imaginary dignities long, when the Board of Control began operations which surprised them ; and a struggle which they were little able to maintain, immediately ensued. The reader is already acquainted with the disputes which arose on the payment of the debts of the Nabob of Arcot ; and on the appointment of a successor to Lord Macartney, as Governor of Fort St. George.

Lieutenant-Colonel Ross had been guilty of what the Directors considered an outrageous contempt of their authority. In July, 1785, they dictated a severe reprimand. The Board of Control altered the dispatch, by striking out the censure. The dignity of the Directors was now touched in a most sensible part. "The present occasion," they said, "appeared to them so momentous, and a submission on their part so destructive of all order and subordination in India, that they must take the liberty of informing the Right Honourable Board that no dispatch can be sent to India which does not contain the final decision of the Directors on Lieutenant-Colonel Ross." The Board of Control, it is probable, deemed the occasion rather too delicate for the scandal of a struggle. It could well afford a compromise: and crowned its compliance, in this instance, with the following comprehensive declaration, "We trust, however, that by this acquiescence, it will not be understood that we mean to recognise any power in you to transmit to India either censure or approbation of the conduct of any servant, civil or military, exclusive of the control of this Board:" that is to say, they were not to retain the slightest authority, in any other capacity than that of the blind and passive instruments of the superior power.

These cases are a few, out of a number, detached for the purpose of giving greater precision to the idea of the struggle which for a time the Court of Directors were incited to maintain with the Board of Control. At last an occasion arrived which carried affairs to a crisis. In 1787, the democratical party in Holland rose to the determination of throwing off the yoke of the aristocratical party. As usual, the English government interfered, and by the strong force of natural tendency, in favour of the aristocratical side. The French government, with equal zeal, espoused the cause of the opposite party ; and a war was threatened between England and France. The Directors took the alarm ; petitioned for an augmentation of military

force ; and four royal regiments, destined for that service, were immediately raised. Happily the peace with France was not interrupted. The Directors were of opinion that, now, the regiments were not required. The Board of Control, however, adhered to its original design. The expense of conveying the troops, and the expense of maintaining them in India, would be very great. The finances of the Company were in their usual state of extreme pressure and embarrassment. This addition to their burdens the Directors regarded as altogether gratuitous ; and tending to nothing but the gradual transfer of all military authority in India from the Company to the minister. Their ground appeared to be strong ; by an act which passed in 1781, they were exempted from the payment of any troops which were not sent to India upon their requisition. They resolved to make a stand, refusing to charge the Company with the expense of the ministerial regiments. The Board of Control maintained that, by the act of 1784, it received the power, upon the refusal of the Company to concur in any measure which it deemed expedient for the government of India, to order the expense of the measure to be defrayed out of the territorial revenues. The Directors, looking to the more obvious, and, at the time of its passing, the avowed meaning of the act, which professed to confirm, not to annihilate the "chartered rights of the Company," denied the construction which was now imposed upon the words. They took the opinion of several eminent lawyers, who, looking at the same points with themselves, rather than the unlimited extent to which the terms of the act were capable of stretching, declared that the pretensions of the ministers were not authorized by law.

The question of the full, or limited, transfer of the government of India, was to be determined. The minister, therefore, resolved to carry it before a tribunal on whose decision he could depend. On the 25th of February, 1788, he moved the House of Commons for leave to bring in a bill. When the meaning of an act is doubtful, or imperfect, the usual remedy is a bill to explain and amend. Beside the confession of error which that remedy appears to imply, a confession not grateful to ministerial sensibility, something is understood to be altered by that proceeding in the matter of the law. Now, the extraordinary powers, to which the claim was at this time advanced, might, it was probable, be more easily allowed, if they were

believed to be old powers, already granted, than new powers, on which deliberation, for the first time, was yet to be made. For this, or for some other reason, the ministers did not bring in a bill to explain and amend their former act, but a bill to declare its meaning. The business of a legislature is to *make* laws. To *declare the meaning of the laws*, is the business of a judicatory. What, in this case, the ministers therefore called upon the parliament to perform, was not an act of legislation, but an act of judicature. They called upon it successfully, of course, to supersede the courts of justice, and to usurp the decision of a question of law; to confound, in short, the two powers, of judicature and legislation.

In the speech, in which Mr. Pitt moved for leave to bring in the bill by means of which this act of judicature was to be performed, it was, he declared, incomprehensible to him, that respectable men of the law should have questioned that interpretation of the statute of 1784 for which he contended. "In his mind nothing could be more clear, than that there was no one step that could have been taken previous to passing the act of 1784, by the Court of Directors, touching the military and political concerns of India, and also the collection, management, and application of the revenues of the territorial possessions, that the Commissioners of the Board of Control had not now a right to take by virtue of the powers and authority vested in them by the act of 1784."

If every power which had belonged to the Directors, might be exerted by the Board of Control, against the consent of the Directors; but the Directors could not exercise the smallest political power against the consent of the Board of Control, it is evident that all political power was taken away from the Directors. The present declaration of Mr. Pitt, with regard to the interpretation of his act, was, therefore, directly contradictory to his declarations in 1783, when he professed to leave the power of the Directors regulated, rather than impaired.

Mr. Dundas, the President of the Board of Control, spoke a language still more precise. "It was the meaning, he affirmed, of the act of 1784, that the Board of Control, if it chose, might apply the whole revenue of India to the purposes of its defence, without leaving to the Company a single rupee."

The use to which the minister was, in this manner, about to con-

vert the parliament, the opponents of the bill described as full of alarm. To convert the makers of law into the interpreters of law, was, itself, a circumstance in the highest degree suspicious; involved in it the destruction of all certainty of law, and by necessary consequence of all legal government. To convert into a judicature the British parliament, in which influence made the will of the minister the governing spring, was merely to erect an all-powerful tribunal, by which every iniquitous purpose of the minister might receive its fulfilment. The serpentine path, which the minister had thus opened, was admirably calculated for the introduction of every fraudulent measure, and the accomplishment of every detestable design. He finds an object with a fair complexion; lulls suspicion asleep by liberal professions; frames a law in terms so indefinite as to be capable of stretching to the point in view; watches his opportunity; and, when that arrives, calls upon an obedient parliament, to give his interpretation to their words. By this management, may be gained, with little noise or observation, such acquisitions of power, as, if openly and directly pursued, would at least produce a clamour and alarm.

When, however, the opponents of the bill contended that the act did not warrant the interpretation which the Legislature was now called upon to affix; they assumed a weaker ground. They showed, indeed, that the act of 1784, was so contrived as to afford strong appearances of the restricted meaning from which the Minister wished to be relieved; such appearances as produced general deception at the time;\* but it was impossible to show, that the terms of the act were not so indefinite, as to be capable of an interpretation which involved every power of the Indian Government.

It was indeed true, that when a law admits of two interpretations, it is the maxim of the courts of law, to adopt that interpretation which is most in favour of the party against whom the law is supposed to operate. In Parliament, the certain maxim is, to adopt that interpretation which is most favourable to the minister.

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

The memory of the minister was well refreshed with descriptions of the dreadful effects which he said would flow from the powers transferred to the minister by the bill of Mr. Fox. As the same or still greater powers were transferred to the minister by his own, so they were held in a way more alarming and dangerous. Under the proposed act of Mr. Fox, they would have been avowedly held. Under the act of Mr. Pitt, they were held in secret, and by fraud. Beside the difference, between powers exercised avowedly, and powers exercised under a cover and by fraud, there was one other difference between the bill of Mr. Fox and that of Mr. Pitt. The bill of Mr. Fox transferred the power of the Company to commissioners appointed by Parliament. The bill of Mr. Pitt transferred them to commissioners appointed by the King. For Mr. Pitt to say that commissioners chosen by the Parliament were not better than commissioners chosen by the King, was to say that Parliament was so completely an instrument of bad government, that it was worse calculated to produce good results than the mere arbitrary will of a King. All those who asserted that the bill of Mr. Pitt was preferable to that of Mr. Fox, are convicted of holding, however they may disavow, that remarkable opinion.

The declaratory bill itself professed to leave the commercial powers of the Company entire. Here, too, profession was at variance with fact. The commercial funds of the Company were blended with the political. The power of appropriating the one, was the power of appropriating the whole. The military and political stores were purchased in England with the produce of the commercial sale. The Presidencies abroad had the power of drawing upon the domestic treasury to a vast amount. The bill, therefore, went to the confiscation of the whole of the Company's property. It was a bill for taking the trading capital of a Company of merchants, and placing it at the disposal of the ministers of the crown.

Besides these objections to the general powers assumed by the bill, the particular measure in contemplation was severely arraigned. To send out to India troops, called the King's, when troops raised by the Company in India could be so much more cheaply maintained was an act on which the mischievousness of all unnecessary expense stamped the marks of the greatest criminality. That criminality obtained a character of still deeper atrocity, when the end was considered, for which it was incurred. It was the increase of crown

patronage, by the increase of that army which belonged to the crown. And what was the use of that patronage? To increase that dependence upon the crown which unites the Members of the House of Commons, in a tacit confederacy for their own benefit, against all political improvement.

Another objection to the troops was drawn from what was called the doctrine of the constitution: that no troops should belong to the King, for which parliament did not annually vote the money.

Some of the Directors professed, that though the powers, darkly conveyed by the Act of 1784, were not altogether concealed from them at the time; they had given their consent to the bill, from the confidence they had in the good intentions of the ministry; whom they never believed to be capable of aiming at such extravagant powers as those which they now assumed.

This body of arguments was encountered by the minister, first with the position that no interpretation of a law was to be admitted, which defeated its end. But what was the end of this law of his, was a question, from the solution of which he pretty completely abstained. If it was the good government of India; he did not attempt the difficult task of proving that to *this* end the powers for which he contended were in any degree conducive. If it was the increase of ministerial influence; of their conduciveness to this end, no proof was required.

To the charge that he had introduced his act, under professions of not adding to the influence of the Crown, nor materially diminishing the powers of the Company; professions which his present proceedings completely belied: he made answer by asserting, broadly and confidently, that it was the grand intention of the act of 1784 to transfer the government of India from the Court of Directors to the Board of Control; and that he had never held a language which admitted a different construction.

Mr. Dundas denied, what was asserted on the part of the Company, that for some time after the passing of the Act, the Board of Control had admitted its want of title to the powers which now it assumed. The Company offered to produce proof of their assertion at the bar of the House. The ministers introduced a motion, and obtained a vote that they should not be allowed. No further proof of the Company's assertion, according to the rules of practical logic, could be rationally required.



To show that the Board of Control had exercised the powers which it was thus proved that they had disclaimed, Mr. Dundas was precipitated into the production of facts, which were better evidence of other points than that to which he applied them. He made the following statement: that in 1785, the resources of the Company were so completely exhausted, as to be hardly equal to payment of the arrears which were due to the army: that the troops were so exasperated by the length of those arrears, as to be ripe for mutiny: and that the Board of Control sent orders to apply the Company's money to the satisfaction of the troops, postponing payments of every other description. In this appropriation, however, was it not true, that the Directors, though reluctantly, did at last acquiesce?

Mr. Dundas further contended, that without the powers in question, namely, the whole powers of government, the Board of Control would be a nugatory institution.

If the whole powers of government, however, were necessary for the Board of Control, what use was there for another governing body, without power? This was to have two governing bodies; the one real, the other only in show. Of this species of duplication the effect is, to lessen the chances for good government, increase the chances for bad; to weaken all the motives for application, honesty, and zeal in the body vested with power; and to furnish it with an ample screen, behind which its love of ease, power, lucre, vengeance, may be gratified more safely at the expense of its trust.

To crown the ministerial argument, Mr. Dundas advanced, that the powers which were lodged with the Board of Control, how great soever they might be, were lodged without danger, because the Board was responsible to parliament. To all those who regard the parliament as substantially governed by ministerial influence, responsibility to parliament means responsibility to the minister. The responsibility of the Board of Control to parliament, meant, according to this view of the matter, the responsibility of the ministry to itself. And all those, among whom the authors of the present bill and their followers were to be ranked as the most forward and loud, who denounced parliament as so corrupt, that it would have been sure to employ, according to the most wicked purposes of the minister, the powers transferred to it by the bill of Mr. Fox, must have regarded as solemn mockery, the talk, whether from their own lips, or those of other people, about the responsibility of ministers to parliament.



Meeting the objections to the sending of King's troops, Mr. Pitt confessed his opinion, that the army in India ought all to be on one establishment; and should all belong to the King; nor did he scruple to declare, that it was in preparation for this reform that the troops were now about to be conveyed.

With regard to the doctrine, called constitutional, about the necessity of an annual vote of parliament for the maintenance of all troops kept on foot by the King, he remarked, that the Bill of Rights, and the Mutiny Act, the only positive laws upon the subject, were so vague and indefinite (which is very true) as to be almost nugatory; that one of the advantages attending the introduction of the present question would be, to excite attention and apply reform to that important but defective part of the constitutional law; and that he was ready to receive from any quarter the suggestion of checks upon any abuse to which the army, or the patronage of India, might appear to be exposed.

If any persons imagined, that this language, about the reform of the constitutional law, would lead to any measures for that desirable end; they were egregiously deceived. Besides, was it any reason, because the law which pretended to guard the people from the abuse of a military power was inadequate to its ends, that therefore a military force should now be created, more independent of Parliament than any which, under that law, had as yet been allowed to exist? That any danger, however, peculiar to itself, arose from this army, it was, unless for the purpose of the moment, weak to pretend.

Notwithstanding the immense influence of the Minister, so much suspicion was excited by the contrast between his former professions, and the unlimited power at which he now appeared to be grasping, that the bill was carried through the first stages of its progress, by very small majorities. With a view to mitigate this alarm, Mr. Pitt proposed that certain clauses should be added; the first, to limit the number of troops, beyond which the orders of the Board of Control should not be obligatory on the East India Company; the second, to prevent the Board from increasing the salary attached to any office under the Company, except with the concurrence of Directors and Parliament; the third, to prevent the Board, except with the same concurrence, from ordering any gratuity for services performed; the fourth, to oblige the Directors annually to lay before Parliament the account of the Company's receipts and disbursements.

The annexation of these clauses opened a new source of argument against the bill. A declaratory bill, with enacting clauses, involved, it was said, an absurdity which resembled a contradiction in terms. It declared that an act had a certain meaning : but a meaning limited by enactments yet remaining to be made. It declared that a law without limiting clauses, and a law with them, was one and the same thing. By the bill before them, if passed, the House would declare that certain powers had been vested in the Board of Control, and yet not vested, without certain conditions, which had not had existence. Besides, if such conditions were now seen to be necessary to prevent the powers claimed under the act from producing the worst of consequences, what was to be thought of the Legislature for granting such dangerous powers ? It was asked, whether this was not so disgraceful to the wisdom of parliament, if it saw not the danger ; so disgraceful to its virtue, if it saw it without providing the remedy, as to afford a proof, that no such powers in 1784 were meant by the Legislature to be conveyed ?

A protest in the upper house, signed Portland, Carlisle, Devonshire, Portchester, Derby, Sandwich, Cholmondeley, Powis, Cardiff, Craven, Bedford, Loughborough, Fitzwilliam, Scarborough, Buckinghamshire, — fifteen lords—exhibits, on the subject of the patronage, the following words : “The patronage of the Company—and this seems to be the most serious terror to the people of England—the Commissioners of Control enjoy in the worst mode, without that responsibility which is the natural security against malversation and abuse. They cannot immediately appoint ; but they have that weight of recommendation and influence, which must ever inseparably attend on substantial power, and which, in the present case, has not any where been attempted to be denied.—Nor is this disposal of patronage without responsibility the only evil that characterizes the system. All the high powers and prerogatives with which the commissioners are vested, they may exercise invisibly—and thus, for a period at least, evade, perhaps in a great measure finally baffle, all political responsibility ; for they have a power of administering to their clerks and other officers an oath of secrecy framed for the occasion by themselves ; and they possess in the India House the suspicious instrument of a Secret Committee, bound to them by an oath.”—*Mill and Wilson's History of India*, vol. 5. p. 81.

# OBSERVATIONS ON THE EVIDENCE

GIVEN BEFORE

## THE PARLIAMENTARY COMMITTEES.

---

THE Committee of the House of Lords, in reporting the Evidence taken before them, remark, "that the general tendency of that Evidence is favourable to the present system of administering the affairs of India." They seem to have been led to this conclusion mainly by the evidence of Mr. J. S. Mill. It is not without great diffidence that I venture to question opinions that come from such a high authority, and I should not do so, but from a conviction that the more this important subject is sifted the better for the public interests.

Mr. Mill is questioned as to the relative advantage of a single and of a double Government, and he pronounces decidedly in favour of a "*double Government*." Now there is ground of complaint that this question is much clouded by the use of loose phraseology. Mr. Mill admits that the Court of Directors has no power to do of themselves any act whatever, and that the law compels them on all occasions to yield obedience to the mandates of the Board of Control, and yet he speaks as if the one body had co-ordinate authority with the other, and as if the power of government was divided between them. So Lord Ellenborough, while he proposed to strip the Court of Directors of the only vestige which the law has left them of independence,—*viz.* undivided control over the home Treasury—still spoke of the necessity of retaining a double government for India. But it is manifestly an abuse of language to call that a Government which has none of the attributes of government—which cannot command, but which must obey. A double agency for carrying on a Government is a very different thing from a double

Government. The Government of India is in that Board which the law empowers "to superintend, direct, and control all acts and operations and concerns" which relate to India, and the affairs of that Government are carried on by a double agency.

But not only does Mr. Mill insist that that body which is bound to obey, is co-ordinate with the body whose function it is to command, but he contends that the public should be taught to believe in the fiction. "It seems to me important," he says, "that the Court should not be led to consider themselves, or be considered by the public, and by the people of India as a subordinate, but as a co-ordinate body."\* What is this but saying it is expedient that the public—I beg to be forgiven for the coarseness of the expression—should be led to believe a lie? For if we were called upon for a strict definition of the word subordinate, should we not answer by saying that the individual, or the body, is subordinate which is bound by law under penalties to yield implicit obedience to the commands of another body; and this is precisely the relation in which the Court of Directors is placed by the Board of Control.

The subordinate Presidencies in India are, in strict propriety of speech, called Governments, because, though bound to obey the orders of the Supreme Government, yet in the absence of those orders, they exercise all the attributes of government within their respective circles; but the Court of Directors is shorn of all such attributes—its simple duty, as defined by law, is to suggest measures for the consideration of the Board of Control, and to promulgate to the Governments in India the measures which that Board may sanction. It is just conceivable that, under the present system, a benefit might arise from getting the public to believe that which is not, provided we could be sure that they would never know the truth; but when either from the publication of records, or from other sources, the public come to be informed that measures, which were to all appearance, measures of the Court of Directors, were so utterly repugnant to the judgment and feelings of that body, that they would rather have gone to prison than authenticate them, what possible advantage could arise from making the public and the people of India believe that they have, as a co-ordinate authority, originated

\* Lords' Evidence, pp. 317, 230—39.

or approved of such measures? For example:—not long ago the two authorities were at daggers drawn upon the subject of the titular king of Delhi, the Board of Control seeking to support the Government of India in an infringement upon the chartered rights of that pageant, the Court of Directors, almost by an unanimous vote, so stiffly resisting the encroachment, that “several of them were fully prepared to go to prison rather than sign an order which they thought to be grossly unjust.”\* Now, if the Board had persisted in this gross injustice, would not the only consolation to the Directors under such circumstances, have been a knowledge—common to them and to the public—that they were acting by compulsion as subordinates, and not willingly as principals? Legal fictions are found to be mischievous, and we are getting rid of them as fast as possible; and yet it is seriously proposed to maintain, as good in itself, a fiction of Government, under which a Minister of the Crown may at any time perpetrate “gross injustice” upon India, in the name of the Court of Directors; for be it remembered, that after having forced their measures upon the Court of Directors, the Board of Control gets behind a screen; the obnoxious orders are not stamped by the joint signatures of the two co-ordinate authorities, but only by the one which may have reprobated them. If the measures of the Board of Control are good, should it not have credit for them? if they are bad, should it be allowed scape-goats?

Mr. Mill is decidedly of opinion that there is a better security for the good government of India in a system which gives to one body the name, and to the other the reality of power, than in another system, which should vest the name and the reality in the same body.

“I think,” he says,† “the fact that all Indian proceedings are reviewed by two separate authorities, independent of one another, is a much greater security for good government than would exist under any system by which those two bodies are merged into one. The double revision by persons of a different class, in a different position, and probably with different prepossessions, tends greatly to promote a due and rigid examination.

“Any alteration which placed‡ the control of the Government in some one authority, instead of being between two, would, I think, be for the worse.

“I think \* \* \* \* that the advantages now derived§ from the division of the governing body into two parts—the one having

\* Lords' Evidence, p. 218.

† P. 307.

‡ P. 309.

§ P. 315.

the initiative, and the other the ultimate control - would not be obtained under the system of a Minister and Council. In the first place, there is now not only an examination by two authorities, but successive examinations by two sets of competent subordinates. If the body were but one, there would be only one set of subordinates; and that is not a trifling consideration, but in practice a very important one. In the next place, if the Minister of the Crown were President of the co-ordinate body, whether it were called Court of Directors or Council of India, he would have, not as at present, substantially a mere veto, but substantially the initiative, as the Chairman now has; and in that case the Council would not be under anything like responsibility, and would not exercise anything like the same power that the Court of Directors do."

When asked whether he would carry the same principle into effect in every case, Mr. Mill answers,\* "I am inclined to think that a double Government would be useful wherever it was necessary to have a body of a permanent character, specially conversant with a subject not generally studied by politicians in this country, while at the same time, the general Government of the country must have a voice. I should conceive that there might be a great advantage from having somebody analogous to the court of Directors, as a Council, to assist the Colonial Minister."

But a permanent Council to assist a Colonial Minister, does not involve the principle of a double government. Mr. Mill does not propose to create a Colonial Company for the purpose of ostensibly vesting the Government of the Colonies in that body, and then really vesting the Government in a Minister of the Crown, and giving that Minister the power of exercising despotic authority, whenever he pleases, over the Colonies, in disguise. That is what the law, as it now stands, enables the Minister for India to do. A permanent Council to assist the Minister for India in governing India, is precisely the scheme that has been propounded by every opponent of the double government. There is nothing in Mr. Mill's reasoning to controvert the position, that if a double Government be good for India, it is good for the whole empire.

It is good for India, Mr. Mill says,† because peculiar qualifications are required for the government of India. "The study of India must be as much a profession in itself, as law or medicine;" it is "essential that the administration of India should be carried on by men who have been trained in the subordinate offices, and have studied India as it were professionally." These necessary qualifications abound,

\* Lords' Evidence, p 309.

+ P. 313.



says Mr. Mill, in the Court of Directors; they are scanty in the Board of Control. What then is the legitimate conclusion from these premises? Surely, that the Government ought to be in the hands of the qualified body—but that body, Mr. Mill admits, has “in reality no substantial power, except what it derives from the force of its reasons.”\*

Now it is conceivable that good might arise if this qualified body was cut into two; one division of it being sent up to assist the Minister in reviewing the dispatches which would be prepared by the other half sitting at the India House; but what shall we say of a system, or of eulogies upon a system, which enables the uninstructed to mar at their pleasure, the work of the instructed? Surely this is reversing the usual order of things—it is, as it were, compelling the tutor to send his lessons to be corrected by the pupils? The advantages which are said to arise from a double revision of all Indian proceedings, presuppose the employment of two sets of equally competent minds upon the work; but in the Board of Control there is not at this moment a single individual who ever set his foot in India, and yet this Board has the power, and exercises that power at its discretion, of overruling “the opinions of persons who,” says Mr. Mill, “from their position and their previous life have made a study of Indian subjects, and acquired experience in them.”

The only weapon, says Mr. Mill, which the Directors can effectually use against the domination of the Board, is that of “reason.” “The initiative† being given to one body, and a veto to the other, and the body over which the veto can be exercised having in reality no substantial power, except that which it derives from the force of its reasons, it is under very strong inducements to put reason on its side if it can. If the despatches, which originate with the Court of Directors, are not well grounded in reason, they carry no weight with the Board. The Court of Directors does not, and cannot exercise any effective share in the Government, except in so far as it takes care to have reason on its side. Having this instrument of power, and no other, it has the strongest motive to use that instrument to the utmost; and in doing so, it is a most efficient check upon the body which has the ultimate power, because that power being sure to have all subjects brought before it, with the result of the full consideration and concentrated judgment of a body which, from its constitution, has commanded that special knowledge and information which the President of the Board of Control in general has not, the President is

\* Lords' Evidence, p. 320.

† Ibid. p. 315.



under great inducements not to set aside the judgment of this comparatively well-informed body, unless he can give as strong, or stronger, reasons on the contrary side."

Now we might, in the first place, be led to conclude from this language, that the power of the Board of Control was confined to a suspensive veto upon the proceedings of the Court of Directors; but that body has not only power to forbid that which the Directors think ought to be done, but it has the power of compelling them to do that against which their judgment and conscience revolt. Next, it assumes that the Board of Control may always be influenced by sound reasoning. But no one knows better than Mr. Mill, that what may be very good reasoning to that body, which he tells us "has special knowledge and information," is no reasoning at all to the other body, which is wanting in those requisites. For example, upon no subject has more cogent reasoning been employed than upon the dangers which will—sooner or later—spring out of our levelling system of government; but all the reasoning of Munro, of Elphinstone, of Metcalfe, of Malcolm, upon this subject, is so much waste paper at the Board of Control; the prevailing opinion there is, that all native sovereigns, and with them the native aristocracies, should be swept from the face of the earth, and that if one native's turban is seen peering over that of his fellows, it should be put down to the common level. This arises from the fact, that there is not in the Controlling Board, that personal knowledge of the wants, wishes, feelings, character, and habits of the people of India, which abounded in the great statesmen whose judgments are set aside; not because that Board can give as strong or stronger reasons on the contrary side, but simply because they want the information which could alone enable them to form an accurate judgment on the subject. Was it the "sound reasoning" of the Court of Directors that induced the Board of Control to draw in its horns in the matter of the King of Delhi? Not at all; it was not until public attention was in some measure drawn to the subject, by a vote carried in the Court of Proprietors to produce the papers,—not until it was known that some of the Directors were ready to brave the law rather than lend their names to what they considered to be "grossly unjust," that that Board gave way.

But Mr. Mill knows that upon one most important class of sub-

jects, viz., all that relates in any way to politics, there is no room for the "sound reasoning" of the Court of Directors; for the very law which professed to place the Government of India in that body, deprived it of all cognizance of matters relating to war and peace, to treaties and negotiations with native states and princes in India, and other states and princes. So that the Board of Control in all such matters acts so despotically, that the President may, as admitted by Sir John Hobhouse, order the Government of India to seize upon a neighbour's territory, declare war, or make peace. In all such matters, the Secret Committee of the Court of Directors acts only ministerially; it receives dispatches from India, and sends dispatches to India. But the dispatches received from India are forwarded unopened to the Board of Control, and the dispatches sent emanate from that Board.\* It is a grave mistake, therefore, to say that "all Indian proceedings are revised by two separate bodies." A most important branch of these proceedings is entirely withheld from the so-called Governing body; most important, for by this enactment the territories, rights, and interests of all the native princes, and chiefs of India, and their subjects, are, in fact, placed at the mercy of the Board of Control. It rests with that authority to declare what subjects are to come under the category of Secret. "This power," said Mr. Courtenay,† "in the period to which I can speak, was exercised very largely. I believe that certain very important discussions which took place in the Council of Fort William, in the year 1814, are still (viz. in 1832) kept secret from the Court of Directors." And is it not a fact, that all the proceedings regarding the conquest and administration of Scinde, proceedings involving manifest breaches of law, were recorded in the Secret Department; and that when the Court of Directors was, after a lapse of time, invited to take part in some discussion respecting that country, it declined, upon the ground, that all previous proceedings on that subject had been kept from it through the agency of the Secret Department?

Keeping, then, in mind this fact, that the Legislature has confided to *one* authority unchecked power over one of the most important branches of the General Government; that it rests entirely with that

\* Lords' Evidence, pp. 18, 19.

† Commons' Evidence, 1832, p. 45, public.

authority to determine what questions shall come under the category of political ; how are we to understand Mr. Mill when he says, that " any alteration which placed the control of the Government under some *one* authority, instead of leaving it divided between *two*, would be for the worse ? " If," he says,\* " you can have a body unconnected with the General Government of the country, and containing many persons who have made that department of public affairs the business of their lives, as is the case with the Court of Directors, there is much better discussion and much better sifting of the matters committed to their charge, by having such a body, in addition to the Minister of the Crown, than by having the Minister of the Crown without such a body, or the Minister of the Crown acting as Chairman of the body."

But there is no " sifting," no " discussion" when the Secret Department is brought into play. This competent body is then pushed off the stage. The question then is, whether it is better that *all* the proceedings of the Court of India should be sifted and discussed by *one* competent body, or whether *only a portion* of them should be reviewed by a competent body, to be re-reviewed by a comparatively incompetent body ; the incompetents having the power to ride over the competents on all occasions, leaving the other portion without any sifting at all. And this question Mr. Mill seems to answer when he says,† " It seems to me to be of the utmost importance to make provision in the constitution of the Government itself, for compelling those who have the governing power to listen to and to take into consideration the opinions of persons who, from their previous life, have made a study of Indian subjects."

Some compulsory enactment, then, is necessary, in order to insure attention to the opinions of those who are competent to give opinions ; and how can this object be better attained than by placing such persons in close contact with him who requires to be advised ; in other words, by framing the constitution of the Home Government upon the model of the Government abroad ? The Governor-General is obliged to read what his Council write, and to hear what they say ; and their opinions have weight, because they can be supported by a vote. Why, if the Government in India is entrusted to a single authority, should it be necessary to carry it on by a double agency in England ?

The pertinency of this question will be acknowledged, when we consider the functions which each of these authorities has to dis-

charge. From the stress which Mr. Mill lays upon the privilege of the "initiative," one might be led to think that it was the practice for the Court of Directors to originate measures for India—in other words, that India was governed from England; but he corrects that impression, for he tells us,\* that "there are very few acts of the Government of India which it is possible for the authorities here to set aside when they are once done. \* \* \* \* In most of the political measures of a general character, they have very little power of interfering with effect or advantage after the thing is done; they have, however, a great power of making useful comments, which may serve as instructions for subsequent cases of the same kind; and it seems to me the greatest good that the Home authorities can do, is to comment freely on the proceedings of the Local Authorities; to criticise them well, and lay down general principles for the guidance of the government on subsequent occasions;" but Mr. Mill admits,† "that there is less disposition now to lay down general principles than there was formerly."

This is quite in harmony with the admission made, when the India question was under discussion in 1832, by the Directors themselves,‡ "In the ordinary course of administration," they say, "much must be left to the discretion of the Local Governments; and unless upon questions of general policy and personal cases, it rarely occurs that instructions from Home can reach India before the time for acting upon them is gone by." The same language was held at the Board of Control: "After all the labour and thought that may have been bestowed upon Indian affairs by the authorities at Home, I am of opinion," said Mr. Jones, "that India must nevertheless be governed in India."§

It is the Government abroad, then, that has the real "initiative." Measures originate, and are carefully discussed, in the first instance, by the Civil and Military Provincial Authorities, or by diplomatic agents; they are then in a great many instances re-discussed by subordinate Boards; from the subordinate Board they come to the superior Board, where they are finally considered and disposed of. It is in this ripe state that measures come before the Home Authorities. Are two separate Boards, then, really required for the work of "commenting" upon measures, which have been already so thoroughly sifted by the Local Authorities. If two, why not three? What is the use of our elaborate apparatus of Government in India, if all their proceedings need to be put through two crucibles before they are finally stamped? "I cannot but believe," said an authority

\* P. 328.

† P. 329.

‡ Evidence, Public, 1832, p. 189.

§ Ib. p. 41.

to which Mr. Mill will be the first to defer,\* “that a control exercised on the spot, must be infinitely more efficient than any control that can possibly be established in England. The perception of any thing wrong would be much more immediate, as well as much more complete, and the remedy would be much more promptly and effectually applied.”

The legitimate inference from this opinion, the soundness of which no one, I am persuaded, will question, seems to be, that we should endeavour to throw as much of the work of control as possible upon the Superior Local Authority; and in proportion as we do this, we weaken the argument for maintaining duplicate controlling establishments at home.

But does this duplicate system give facilities for the redress of wrongs that may have been committed by the Superior Local Authority? The unfortunate Ameers of Scinde applied to one Governor-General to redress the wrongs which had been inflicted upon them by his predecessor. He referred them to the Home Authorities. They, in consequence, applied in the first instance, through accredited agents, to the Prime Minister; the Prime Minister referred the agents to the President of the Board of Control; the President of the Board of Control referred them to the Court of Directors; and the Directors, in whom the Government of India is said to be vested, with all the inclination, having no power to interfere in their behalf, referred them back to the Governor-General.† The poor supplicants returned home unheard, and filled with astonishment at the ingenious manner in which Indian rulers contrive to evade responsibility for their acts.

Have we not proof here—and the proof can be easily multiplied—of the truth of two things. Firstly: That the leading vice of the present system is, as Mr. Wynn remarked in 1833, the absence of all direct responsibility; and secondly, that the most careful recordation is not, as Mr. Mill supposes, one of the best securities that can be offered for good Government. Seeing, indeed, that all proceedings were as carefully recorded in the earlier periods of our rule, when we had, notoriously, an extremely bad Government in India, as they are now, one wonders to see such an opinion broached; the more particularly when we remember that this recordation is only a register of the opinions and deeds of the govern-

\* Evidence of J. S. Mill, Esq., 1832, Public, p. 61.

† Scinde Blue-Book.

† Evidences, p. 301.

ing class, that it contains, of necessity, no allusion to the wants and wishes of the class governed. In these records, we tell our own story; but the story of those who are affected by our Government is not told at all; or if it be told, it is told with our own gloss upon it.

It will be easy to shew that when the local authorities and the Home Authorities are bent upon a common object, the most complete system of record is no bar whatever to the perpetration of enormous injustice. For example, Mr. Mill,\* in answer to a question, enumerates the various channels through which the proceedings passed, in the case of the deposed Rajah of Sattara; and the inference which the Committee is left to draw from this statement is, that that case was so carefully sifted, and so impartially considered, as to make it in the highest degree improbable that any injustice could have been done in it. Nevertheless, it is indisputable that, whether from intention or negligence, *the fact upon which the whole case hinged was passed over by the authorities who had to decide upon it.*

After a reign of twenty years, in which the Rajah had won golden opinions from our Government, he was charged by that Government with having used certain language to certain persons, in a certain place, his accusers being the *only witnesses* against him. It is manifest that the *only* way in which he could defend himself from such a charge was by searching examination into the evidence of those his accusers; and in order to this it was necessary that he should be put in possession of their evidence, and have ample time to study it. Accordingly, when he, a Sovereign Prince by birth and by treaty with us, was dragged before a Commission of Company's servants to hear the charge, he demanded to be furnished with a copy of the evidence in his own language, parts only of which had been read to him in a language not his own; an order was passed to supply him with the evidence; but when, after an interval, he repeated his demand, he was informed that the evidence was of a *secret* nature, and could not therefore be communicated to him.

It was exclusively upon this evidence, thus withheld from him upon the ground of secrecy,—evidence which soon afterwards was published,—that this Prince was deposed, banished, and his private property confiscated. The most careful examination of the record by two sets of functionaries, failed to elicit the fact upon which the

\* Lords' Evidence, p. 301 & 2.



whole question of justice or injustice hinged; and a President of the Board of Control, or a Chairman of the Court of Directors, may at this moment, in the face of it, venture with perfect impunity to assert that the Rajah was fairly tried and properly convicted. It failed also to elicit the fact, that after having solemnly consented to give the Prince a liberal allowance, *and* to restore his private property, the local Government had fulfilled the engagement by giving him an *annuity* not equal to the amount which that property would have yielded if invested in the public funds; and that less than one-half of that annuity is all that is allowed to his surviving family, to be resumed at their death.

What, again, is the use of a complete recordation, if those who have the custody of the records may produce or withhold them at pleasure? The second Rajah of Sattara claimed a right to adopt a successor to his throne. This question was treated by all the authorities at home and abroad, as if it had been an entirely new question, and decided *against* the claim, whereas it appeared by records which were dragged forth *after* judgment was passed, that the question had been formally raised, and as formally decided in *favour* of the right, twenty years before, and that this decision had been acted upon in no less than fifteen instances in the interval. The most careful "sifting" on the part of the two authorities did not bring these facts to light, nor was any disposition evinced to reverse the judgment when they accidentally became known.

"The proper remedy for wrongs done in India," says Mr. Mill,\* "is that the Home Government should so act, as to convince the natives of India, that if their case is just, they will have full justice done to them on a review of the papers, without sending any one here to represent them; and that if their case is unjust, however many people they may send, it will do them no good. I should say, that the security of the good government of India, derived from discussions in Parliament, is far short of that derived from the habitual examination of all papers of importance by persons specially devoted to that object." Now one of two things:—either the authorities did carefully examine the papers in this case, and wilfully suppressed all reference to those which would have compelled them to decide the question of right to adoption in the affirmative; or there was no careful examination of these papers. It seems impossible to escape from either horn of this dilemma; and, in any event

\* Lords' Evidence, p. 303.



there is proof that something else is required for the redress of wrongs in India, besides the "habitual examination of papers."

What is going on at the present moment? We took a territory valued at a million sterling per annum from the Nizam, upon condition of protecting him by a Military force of our own from all enemies, internal and external, and he agreed to aid our troops with a limited contingent force only in time of *war*. But we have compelled him to keep up this contingent in numbers fixed by ourselves, in a season of profound *peace*. For upwards of thirty years he has borne this burden, and we are now holding out the threat of confiscation of his territory, because he is sinking under it, telling him at the same time that it is his duty to discharge his own "rabble" of an army, and keep ours; that is, that he is to take the bread out of the mouths of his own friends and relations, over whom he has control, in order that he may have the means of feeding our officers, who are independent of him.

"I conceive," says Mr. Mill,\* "that the present governing bodies in this country for the affairs of India have as little sinister interest of any kind as any government in the world." It will be readily admitted that this is strictly true in all questions that arise in their own territory, or in which their own subjects are parties, and in such questions "sinister interest," if they had it, would avail them nothing, because there are Courts of Law in which all native British subjects can obtain redress, even when wronged by their own Government; and this is the glory of that Government. But the case is altogether different with respect to questions which arise out of the British territory. Every augmentation of that territory gives a stimulus to promotion abroad, and to patronage at home; all the Indian Authorities, therefore, have an interest in increasing it. Having conquered all enemies and taken their territories, there is now no fund for increase, but in the possession of our friends—and we have in consequence proclaimed our right to seize upon the territory of all our allies and dependents, whom we may pronounce to have died without heirs—and that, without even hearing those who claim to be heirs. Now, in all these questions, we have a "sinister interest," and that interest has influenced our decisions of such questions from the

\* Lords' Evidence, p. 303.

time that we cheated the Emperor, Shah Aulum,\* out of the pension we had promised him in return for the title deeds which he gave us of our magnificent estate in Bengal, up to the present moment. We have an interest in not ceding to the King of Delhi the territory which we promised him in 1805. We have an interest in withholding from the family of the Nabob of Surat the proportion which we covenanted to pay him out of the revenues of his principality. It is our interest not to redress the wrongs of the Ameers of Scinde. We have an interest in denying to one Rajah of Sattara the inheritance which he claims from us, and to another, the private property which we confiscated. And not long ago, the interest which we have in deciding such questions in our own favour, was manifested in a manner that was anything but creditable. When a majority of Directors—seeing from the impression that the strong protests of some of their colleagues had made, that a vote was likely to pass in the Court of Proprietors, repudiating the annexation of Sattara—called for a ballot; and the question was accordingly decided, according to their wishes, by the votes of some hundreds of ladies and gentlemen, who knew no more of its merits, than they did of a “terra incognita.”

It is this very class of questions, be it remembered, that the law withdraws from the cognizance of the Directors, whenever the Board of Control brings the Secret Department into operation. There would, it is true, be no security against the perpetration of injustice in such cases, if the Government was vested only in one authority; but we should then be able to fix the responsibility for such acts, which now floats so equally between the two, that it is impossible to nail it to either. The real and effectual security against injustice, however, would be, that the giant British Government should not be at liberty to seize upon the possession of its pigmy allies, or to refuse to perform its obligations to them without having proved its right to do so before a disinterested tribunal.

Does this duplicate system then facilitate the decision of questions on which the authorities can exercise an unbiassed judgment?

Passing by the discussions between the two authorities which have thrown India behind all the civilized world in the matter of railroads,

\* For particulars, see the account of this transaction in the Company's own *Historian*, Mr. Thornton, vol. ii. p. 38.

let us take as an example a question which is now upon the tapis. A company was formed for working the rich iron mines in the south of India, which asked for the same privileges which had been accorded to a former company. The majority of the Directors, headed by the Chairman of the day, were against the concession, whilst the President of the Board of Control of the day was in favour of it. By one of those periodical revolutions, which are amongst the beauties of the present system, there was a change of authorities at both ends of the town—there was a new Chairman and a new President—but unfortunately, the new President had taken up the opinions of the old Chairman, whilst the new Chairman, with the opinions of his predecessor, was in a minority in his own Court. The unfortunate shareholders, therefore, after waiting for eighteen months in the hope that harmony of opinion might be established between the two Boards, with their capital paid up, and their money unemployed, are as far from their object as ever.

Now, if this question, affecting as it does vitally the interests of the Madras territory and people, could not be safely left to the decision of the Madras Government, what possible objection could there be to placing it in the hands of the Supreme Government? And if the Supreme Territorial Government is not competent to decide finally on such questions, for what purpose, may we ask, is it maintained? This is an attempt to govern India in England, and so long as more hands are maintained in England than there is legitimate work for, we must expect to see those bodies, whose proper duty it is to comment only upon the measures of the Local Governments, usurping the proper functions of those Governments.

Mr. Mill attaches importance, not only to the revision of proceedings by two sets of minds, but that those minds should have different prepossessions, and be assisted by two sets of subordinates.\* But these objects may be readily attained, without the agency of two conflicting Boards. There are twenty four Directors, some well acquainted with the affairs of India, some wanting that acquaintance.

Let the well-informed, with the subordinate officers of the India House, take the "initiative," and frame the dispatches, and let the

\* Lords' Evidence, p. 307—316.

less well-informed, with the subordinate officers now employed at the Board of Control, be employed in reviewing them. The ill-informed, that is, those of the Directors, who have never been in India, will look at the proceedings with different feelings and impressions from those who have spent their lives in that country. The objects which Mr. Mill has in view, would be accomplished, but as both bodies would work under one head, we should have a responsible organ of Government, and the initiating Board would never be driven to the painful alternative of adopting "unjust orders," or of going to prison.\*

"I think," says Mr. Mill, "that those who deliberately consider *all* subjects in the first instance recording their opinions, and who do this in such a manner, that in a great majority of cases their opinion is adopted by the controlling power, have a full share, and eventually the largest share, in the administration."

But this mutual share in the administration ceases, as we have already shewn, as a matter of course, whenever the Secret Department is brought into operation; it ceases too whenever the Board of Control puts forward the power which the law gives it, of compelling the promulgation of its own opinions in the name of the Court, upon all occasions and in all departments. Whether this power is exercised frequently or rarely depends mainly upon the temper and the judgment of the individual at the head of it; and surely that is a bad system which depends for its smooth working upon individual character. There are instances, as Mr. Mill admits, in which the friction is so violent as to threaten an entire stoppage of the machine.

"Does not your experience enable you to furnish us with a great variety of instances in which points of controversy have arisen—the result of which was, that the Court was under the necessity of forwarding dispatches to India in a sense directly opposed to that which they themselves had entertained?" "Most clearly," was the answer given, by a former Secretary of the Court of Directors, to this question in 1832.†

\* Mr. Mill says, that the reviewers should also be of a "different class," and in a "different position;" but surely the President of the Board of Control is not of a "different class" from the Chairman of the Court of Directors. They certainly are in a "different position," as different as master and servant.

† Minutes of Evidence, 1832, Public, p. 186.

In one case, says Mr. Mill, several of the Directors were fully prepared to go to prison rather than sign an order of the Board of Control which they thought "grossly unjust;" yet Mr. Mill would have the public believe that the Directors are not a subordinate, but a co-ordinate authority.

Is that then a system to be commended, which gives to the body, best qualified by Mr. Mill's admission, to govern India, only a precarious and a partial share in its government? Is that a system to be perpetuated which, while it gives in name supreme power to the Court of Directors, gives in reality such a strength of power to the Board as to enable it to enforce its decrees upon the former, under the threat of pains and penalties?

The single advantage of this system, as stated by its upholders in 1832 and in 1852 is, that two sets of minds are employed in revising all such proceedings of the Indian Government as are suffered to come within its cognizance. Rather the Directors review the proceedings of the Local Government in such cases, and the Board of Control reviews the proceedings of the Directors, and annuls or confirms them at their pleasure. Now advantage might perhaps arise to the public service if Lord Palmerston were to review the proceedings of Lord Malmesbury, or Lord Aberdeen those of Lord Palmerston; but what should we say of a system which should compel those Noble Lords to submit their dispatches, for amendment, to an authority as new to the policy and diplomacy of Europe, as the present President of the Board of Control is to the affairs of India?

When we consider the fluctuating nature of the Indian Government at home—that we have had three Presidents of the Board of Control within as many years, with a chance of a fourth before the year expires—that the Chairman and Deputy-Chairman of the Directors are changed every year—that they are chosen rather from seniority or popularity, than from any peculiar qualifications for the office—that amongst the many able and distinguished ministerial officers at the two Boards, there is but a single individual who has ever been in India—we shall see, that, whether the Government at home is carried on by a single or a double agency—the object of legislation for India should be to ensure that the authority which has to decide in the last resort, should be adequately qualified for that high func-

tion. By the present constitution of the Board of Control, the President is *primus inter pares*, with a casting vote. Make it imperative that a certain number of his colleagues should have peculiar qualifications, and you have at once either a good revising Board, or a good organ of Government. The members of such a Board would have as real a share in the Home government as the Members of the Council of India have in the Government abroad; nay, a larger share; for though it be advisable that the Governor-General, who is often called upon for prompt decision and prompt action, should be able to act upon his own responsibility in opposition to his Council, yet no such power can be required for one whose main duty it is to review acts already done.

If it be thought that the advantage of filtering some of these proceedings through two sets of minds, overbalances the enormous waste of time and money which such a practice involves, nothing can be easier than to have a certain number of Directors employed in initiating dispatches for the consideration of the Supreme Board.

Thirty Directors are now maintained, twenty-four in *esse* and six in *posse*, not because that number is necessary for conducting the public business, but as safe channels for the distribution of patronage. By selecting as many as might be required for the work of government, paying them well, and leaving the patronage with the remainder, subject to the strict supervision of the governing body, we should in the first place get rid of that which operates more banefully upon the prospects, character, and well-being of the natives of India than any other thing, viz. the payment of the executive body by patronage, which has therefore a direct interest, in maintaining patronage at its present level; and power, in a certain degree, of extending it beyond that level.

By depriving the Executive of patronage, we should extinguish the interest which it now has in extending territory; we should get rid of the startling anomaly, and the practical inconvenience of allowing the Court of Directors, which the law has stripped of all other power, the power of recalling at its pleasure the Governor-General, who is not only virtually named by the Crown, but is so named, because he stands high in the confidence of the Crown; a power only vindicated because the Government of India is in name vested in the East India Company; we should get rid of those



awkward collisions which reduce conscientious men to the necessity of preferring a jail to the enforcement of what they consider unjust orders. We should greatly facilitate public business. We should fix responsibility. We should save time and money. A saving of twenty or thirty thousand pounds a year is thought to be a trifling matter, but as twenty or thirty thousand pounds would purchase five times the labour or food in India that the same sum would command in England, that amount represents many miles of railroad made every year.

Those who advocate the continuance of the present system, do in effect declare it to be fitting, that a Minister of the Crown should be enabled, at his discretion, to exercise despotic authority over the great empire of India, and that he should exercise that power in a mask. Would not the India Committees be in a much better position to form a judgment upon this question, and to discharge the duty devolved upon them by Parliament, if, instead of gathering vague opinions from those who cannot be considered as altogether without bias, they were to establish facts, by consulting records. The publication of the proceedings of the Court of Directors, and of the Court of Proprietors, in all cases of controversy with the Board of Control, would afford much better evidence of the working of the whole system, than mere opinions of individuals on one side or the other. And surely it is right that the public should know exactly the respective parts which the two actors play in the great Indian drama: that they should know, for instance, who was the mover, and who the seconder of a measure which was considered by the Directors so "grossly unjust," that they were ready rather to go to jail than participate in it.

It is the more necessary that the public should have this information, as the case here referred to must have been a singular one indeed, to have driven the Directors into this attitude of sturdy resistance; for when the affairs of India were before Parliament some twenty years ago, they were in the act of yielding to a mandamus from the Court of King's Bench, which compelled them to promulgate as their own, the orders of the Board of Control in the matter of the creditors of the State of Hyderabad, which they considered as "grossly unjust;" and they were prepared to yield to



the same compulsion in the matter of the creditors of the King of Oude, if the Board of Control had not seen fit to withdraw its orders.\*

It is the Directors only who see merits in a system which may at any time, and which actually does sometimes compel them to violate their consciences by signing orders which they consider to be "grossly unjust," or to go to jail for disobedience. It is exclusively upon the testimony of the principal officers of the India House that the system is favourably reported of. A laboured attempt has, indeed, lately been made to enlist Lord Hardinge's evidence in its favour,† and to shew that his Lordship's opinion is in collision with that of his predecessor; but if such were really the case, it would not aid the cause; because as Governors-General—*quasi* Governors-General—know nothing of the working of the Home Government, we should have on one side an ex-Governor-General speaking without experience in advocacy of the system of double agency; on the other, an ex-Governor-General, of more experience than any other living individual, in condemnation of it. But while Lord Hardinge gives a naked opinion in favour of the system, his Lordship incidentally mentions a fact which emphatically condemns it. "At present," says Lord Hardinge,‡ "it is a mystery not understood by the public, why the Board of Control should give an order to the Secret Committee"—and he adduces as an instance of this an "officer of very high position and ability in India" having written a

\* The glaring evils of the present system are most ably exposed by the Directors themselves in their correspondence with the Board of Control on these cases. Their remedy for these evils was a legislative provision, by which the Board should be compelled to give publicity to all the proceedings in such cases. The Board of course scouted such a notion, observing, that the Court had, like all other subjects, the privilege of petitioning Parliament against those proceedings whenever they chose; and that the Court were already, for all "practical purposes," invested with "*sufficient powers*." These "*sufficient powers*" being an obligation to promulgate, as their own, all the "views and opinions" of the Board, however contrary they might consider them to be "to good government or wholesome rule." See letter from the Court of Directors to the Rt. Hon. Charles Grant, 1st March, 1833. Letter of Rt. Hon. Charles Grant to Court of Directors, 4th of June, 1833. Papers respecting pecuniary claims on Native Princes, and "Negociation Papers."

† See Morning Chronicle of 22nd October. ‡ Commons' Evidence, p. 255.

letter, couched "in somewhat indignant terms,"\* to the President of the Board of Control, complaining of the conduct of the Secret Committee; and it was not until warned by Lord Hardinge that the President was, in fact, the Secret Committee, and that the obnoxious letter had in consequence emanated from him, that the writer was made aware of the scrape into which he was about to plunge himself. "This officer," says his Lordship, "did not understand the mystery of the President of the Board of Control being in fact the Secret Committee. It is, however, a convenient arrangement, and a much wiser system, than bringing the Crown more prominently forward."

Convenient, no doubt, that a minister of the Crown should be able to rebuke an "officer of very high position in India," by a letter couched in such terms as to call forth an indignant remonstrance—in the names of other parties! We have been taught, that the less mystery there is in a Government the better; and it is a constitutional maxim, that every public officer in this country, should be made to authenticate his own acts, in order that he may be made responsible for them. We have yet to learn why mysteries and irresponsibilities, which are reprobated in the Government of England, should be wholesome in the Government of India. The convenience to the parties who work this mystery is quite another question.

When we find Lord Ellenborough avowing that when he was at the head of the Board of Control, he governed India absolutely, without even consulting the Prime Minister. When we find Mr. Wynn, another ex-president, warning the House of Commons, that Parliament had vested the Government of India, not in the East India Company, but in the Board of Control; and that, in that body, the real effective Government of India had for the last half century resided. When we hear a third ex-president, Sir John Hobhouse, using the same language; when we hear Mr. Courtenay, an ex-secretary of the Board of Control, avowing that, in his opinion, the oath taken by that body makes it imperative for them to govern India, just as if no subordinate body existed; with these proofs of the existing "prominence" of the Crown in the Government of

\* Commons' Evidence, p. 253.

India; can we hesitate to say, that the sooner the mask is removed, and the real regulator of the Indian Empire is made its ostensible ruler, the better?

And if we had not the avowal from those who have worn the mask, that this is the real position of the President of the Board of Control, we should find abundant proof of it in the evidence of a Director—Colonel Sykes,\* who, while he considers a “Board of Control essentially necessary,” as part of the machinery for the good government of India, doubts whether “his formidable power in political matters is in accordance with the free institutions of this country.” For in the exercise of it, he may “dip into the Home Treasury” for political objects, unknown to the Court of Directors. He and the Governor-General, by combining together may enable that officer completely to control the Court, by acting in direct opposition to the known sentiments of the Court. If the Court had been allowed a voice in the matter, the Afghan war, in Colonel Sykes’ opinion, would perhaps not have taken place;† but the Court knew nothing officially of Afghan affairs, until about three years after the war had commenced.‡

They have no knowledge whatever of the origin, progress, or present state of the Burmese war. “I have twice asked for the papers, and I have been given to understand, that it was not thought desirable to communicate them to the Court. When the President of the Board of Control sends any order, he does not ask the Secret Committee upon it, but merely sends the order;” and this order upon being carried out, “might disorder the finances of India,” or it “might affect a native sovereign,” or “might touch a chord of sympathy in a whole people, and be exceedingly dangerous in its results.” And yet it is this Court, which is thus kept in utter ignorance of matters of vital importance to India, that is said to govern India; this is the system which is upheld upon the single plea, that it ensures a thorough sifting of all proceedings of the Indian Government by a double set of minds. The Secret Committee—which is, in fact, a mere post-office for transmitting the dispatches of the President—

\* Commons’ Evidence, p. 173.

† Page 171.

‡ Mr. Melville says, “There has not been a single instance in which the Directors, as a body, have protested against the orders of the Board,” p. 27. The reason is plain; officially they know nothing of such orders, whenever the Board chooses to bring the Secret Department into play.

and two or three confidential clerks, are the only persons privy to the contents of those dispatches, which relate to war, peace, treaties, the rights and properties of native princes, and other questions in which the interests and feelings of the people of India may be deeply involved, and yet with this proof of the existence of a power on the part of the President, to exclude the Directors from all knowledge of most important branches of the affairs of India—a power, which we see, has been in frequent exercise, and which is at this moment in exercise; it is gravely pretended that they have as large a share in the government of India as they would have if they were to sit at the same Council Board with the President, having cognizance of, and a vote upon all his proceedings. Any change indeed that would place them in this position, is deprecated by Mr. Mill. With far more truth might it be asserted, that the secretaries in India, have a substantial share in the government, because they have, in fact, the same initiating power as the Court of Directors, dispatches in all departments being prepared by them, and passed in a vast majority of instances without alteration by the Government Board.

The two remedies for these flagrant evils, as suggested by Colonel Sykes,\* are, that the Secret Committee should have the power of recording their opinions upon secret dispatches—that they should have the power of consulting their colleagues upon the subject of such dispatches, a knowledge, that the majority of the Court consisting of men well versed in the affairs of India, was hostile to a proposed measure, might, Colonel Sykes thinks, have an influence upon the President's mind, at all events, “if he did carry out his measure against the adverse opinion of the Chair, and of competent members of the Court, it would necessarily enhance his responsibility, instead of diminishing it.”

Now, as upon all questions, not recorded in the Secret Department, the President has before him the opinions of the Court, this recommendation, that he should have their opinions in the matters excepted, seems, to be saying in almost so many words, that it is desirable the President should, on all occasions, have a Council of competent persons to advise him.

The President of the Board now “thinks his own opinion, and the opinion of his political officers as good as the Chairman and the

\* Page 170.

members of the Secret Committee, but he would not think so, probably, if the Chairman and Deputy had the power of asking their colleagues in the Court, more experienced in the affairs of India, and acquainted with the feelings of the people, what their opinion was, and the Chairman and Deputy Chairman went back and told the President, and said to him, such and such are the opinions of our colleagues."

But this surely is going a roundabout way to procure an imperfect remedy, when you may obtain a radical cure by a short cut. Place the Government in a President in Council, under a Commission from the Crown, restricting the choice of the Council, as proposed by Lord Ellenborough, and the object is effectually accomplished. Or link on the Government of India to the general Government of the country, by giving the Crown the nomination of the Chairman and Deputy of the Court of Directors, leaving the Chairman to choose, by recommendation to the Crown, a Cabinet from the twenty-four Directors, cutting off the remaining Directors from the Executive Government, and erecting them into a "Court of Patronage,"—the object would be less perfectly attained, but it would be attained without any disturbance of vested interest.

Or if it be thought advisable to maintain the Directors—not of the Cabinet, as Committees,—to assist in the preparation of business for the Cabinet, we should still be able to dispense with the duplicate system, with its anomalies, irresponsibilities, and expense. When we see, from the detail given by Colonel Sykes,\* "that in no Government upon earth, are all questions that may arise more thoroughly sifted than Indian questions are by the Committee of Directors at the India House;" that the strongest guarantees are afforded by the system followed there; that all subjects that come before it are "thoroughly sifted and investigated;" that the same subjects undergo a second examination in the aggregate Court; we shall be driven to our wits end to assign, even a plausible reason, for a rewinnowing of all these matters at the West End. But if such a reason can be found, surely the most effectual way of attaining the object would be by bringing the two establishments under the same roof, and working them under one head.

When we find that the business of India has enormously increased

since its affairs were last before Parliament—that the dispatches from India had increased from 602 in 1830, to 2445 in 1849;\* the “previous communications” between the Court and the Board from 173 to 404; and the collections of papers belonging thereto from 103,710 to 212,075; we shall see how vastly the public business would be facilitated by substituting a system of free oral communication for one of voluminous writing. By amalgamating the two Boards we should at once get rid of the 200,000 pages of “collections.”

By this arrangement we should secure what is said to be the main advantage of the present system, viz. the thorough sifting by two sets of minds—with two sets of subordinates, of all proceedings of the Indian Government, that are not recorded in the Secret Department; with this marked improvement in it, that the two sets of minds would be equally competent to the work. One set of subordinates under Committees composed of Directors, would prepare dispatches for the consideration of the President and Council, who would decide upon them. One set of records would serve, where two are now necessary, free oral communication would be substituted for voluminous writing; we should at once get rid of the two hundred thousand pages, which are now periodically sent out from the India House to the Board of Control; we should be rid of all “convenient mysteries;” public officers in India would no longer, in their bewilderment, complain to the President of the Board of Control against the President of the Board of Control, thinking all the time, that they were complaining to the principal against his subordinates; and lastly, we should have a really responsible organ of government. The East India Company, with a Cabinet Minister at its head, would be really trustees for the Crown in the Government of India; their voice in the affairs of India would be dominant and exclusive; for what sort of trust is that, which not only denies the trustees all liberty of action, but which compels them to act in the matters committed to their trust, occasionally in direct opposition to their own judgment and consciences? Lastly, this arrangement might be made without any other disturbance of the present system, than the placing of the two departments in India Government under one roof.

\* Commons' Evidence, page 41.



This proposal is based upon the assumption, that it is either proved, or proveable, that a more elaborate, and a more costly apparatus is necessary, for commenting upon, and criticising the proceedings of the India Government, than is required for originating those proceedings. We entrust the whole Government in India to a Commission, consisting of a President in Council. What that authority does seldom admits of being undone; a pretty heavy burden of proof therefore seems to rest upon those who maintain that we want more than a similar agency for reviewing its acts.

"The great security for the good government of any country," says Mr. Mill,\* "is an enlightened public opinion." But public opinion in India is altogether stifled, not only is the Government itself in the hands of foreigners, but all the principal instruments of that Government are foreigners. It is with these foreign instruments that the foreign Government hold exclusive communication. The voice of the people of India is never heard in the Councils of India. The wide gulf which separates the European from the native, prevents any intimate relations between them. "The civil servants of the Company," says the highest of Indian authorities,† "mix but little with the native community; they have no common interest with it. In other countries Government and its officers are a part of the community, and are of course, acquainted with the effect of every public measure, and the opinion of the country regarding it; but here Government is deprived of this advantage; it makes laws for a people who have no voice in the matter, and of whom it knows very little, and it is therefore evident that it cannot adapt its laws to the circumstances of the people unless it receives accurate information upon this subject from active and intelligent local officers."

Austria and Russia, who have no representative institutions, derive their acquaintance of public opinion from the public officers employed in the administration; and we have only to give the natives a fair share in the government of their own country, to ensure the same result. "But," says Mr. Mill,‡ "although the natives are legally eligible, they are practically disqualified for such a trust, and so they must be until they are very much improved in character." "If," says Mr. Melville,§ "the natives were competent from their moral qualities and from education to fill offices under the Government, their exclusion would be a practical wrong." How strangely

\* Page 301.

† Sir T. Munro.

‡ Page 324.

§ Page 353

does this language of Messrs. Mill and Melville contrast with that of Munro and Malcolm and Metcalfe? With those who have spent their lives amongst the natives, the language is that of appreciation and confidence; with those who speak of them from hearsay, it is that of depreciation and distrust. How strongly does it contrast with that of the illustrious man whom we have just lost. His Indian Dispatches abound in eulogiums upon the natives who were employed under him in the public service; he speaks with the highest admiration of the civil administration of Poorneah, the Regent of Mysore, of the diplomatic talents and services of Govind Rao; of the military qualifications and strict integrity of Bisnapunt, and the names of these individuals, will go down to posterity in his pages, and yet Poorneah who had been the principal minister of Hyder and Tippoo, and who ruled Mysore for eleven years, in a manner that called forth the admiration of the Duke of Wellington, would, for want of "moral qualities," be debarred from holding a higher office under our Government than that of Judge of a County Court, and Bisnapunt, who had commanded armies under those princes, and who commanded 3000 horse, in such a way as to call forth the highest praise of the great Captain, would be placed under the youngest European ensign, and be ineligible to a higher command than that of a company of Sepoys; and this is thought to be a system good for the natives and good for us, calculated to improve their character, and to consolidate our power.

"Our first and chief duty," says Mr. Melville,\* "is to provide the natives of India with a good Government, but they are incapable from their moral qualities and education, from taking a prominent part in that Government." How then was India governed before we appeared upon the scene? Was India then like New Zealand? Was there no Civil Government under the Moghul Emperors, no revenue settlements—no dispensation of justice—no administration of police—no system of finance under Acbar and Shah Jehan; were all who wore turbans deficient in qualifications for government? "Neither we nor our subjects," says a very competent judge,† "would have any reason to complain if we could govern India as well as it was governed by Acbar." India, under its native rulers was fertile in warriors and statesmen, we take care that it shall produce none in our days, for

\* P. 53.

† The late Sir Henry Russell.

we shut them out from all high employment, upon the pretext that they want "integrity and trustworthiness." This is stereotyped language at the India House, and more than thirty years ago it was thus indignantly rebuked by Sir Thomas Munro: "Those who speak," said he, "of the natives, as men utterly unworthy of trust, who are not influenced by ambition, or by the love of honourable distinction, and who have no other passion than that of gain, describe a race of men that nowhere exists, and which if it did exist would scarcely deserve to be protected. But if we are sincere in our wishes to protect and render them justice, we ought to believe that they deserve it. We cannot easily bring ourselves to take much interest in what we despise, and regard as unworthy. The higher the opinion we have of the natives, the more likely we shall be to govern them well, because we shall then think them worthy of our attention. With what grace can we speak of our paternal Government, if we exclude them from every important office. \* \* \* Such an interdiction is to pass a sentence of degradation on a whole people, for which no benefit can compensate." Those who pass this sentence seem to forget that European integrity and trustworthiness was purchased. The main reason assigned by Lord Cornwallis, for placing the salaries of Europeans upon their present munificent scale, was to put a stop to the practice of illicit gains.

Both Mr. Melville and Mr. Mill admit, that the natives are already employed in offices which require the highest integrity and trustworthiness, viz. the administration of justice to an extent, that throws considerably more than 90 per cent of the whole business of that department into the hands of native judges. The question then is, not whether they have "integrity" enough to be entrusted with such duties, but whether they are to be adequately remunerated in money and rank. But, say they, they act under strict European supervision. Now, as such an assertion is calculated to mislead public opinion, and to leave an impression that a native judge is strictly watched by an European judge, and that without this vigilant check he would go astray, it is necessary to correct it.\* The native judge then, is under the surveillance of the European judge, just in the same degree that the judge of the County Court in this country is under the eye of the Court of Queen's Bench, that is to

\* Mr. Melville, indeed, corrects himself, and destroys his own argument, when he says—"There are some judicial offices in Bengal in which a native Judge acts and decides, without reference to an European, even in cases of appeal." It is not true, then, by his own shewing, that "natives, however employed, still require the check of vigilant European superintendence."—p. 53—56.

say, in certain cases, an appeal lies to the European judge against his decisions. In the original adjudication of such suits, he is free from all control. Their original jurisdiction extends to all suits, and the value of suits actually settled in the years 1848-9, by native judges, in Bengal alone, considerably exceeded seven millions sterling, and it is very remarkable that one of the reasons assigned by Sir Thomas Munro for instituting the office of native judge was, that we might have a native judicial officer exercising his judgment independent of European control.\* The first native judge ever appointed was accordingly located where no other European functionary resided. "At present," he said, "the highest native officers in the judicial department, act immediately under the eye of the European judge," their "office, though no doubt respectable, is still very subordinate. Every time that a native is raised to a higher office than had before been filled by any of his countrymen, a new impulse will be given to the whole establishment, the hope of attaining the higher office will excite emulation among those who hold the inferior ones, and improve the whole. But this improvement will take place in a much higher degree, when the new office is one of a high and *independent* nature like that of a judge. The person who is appointed to it will be conscious, that he enjoys some share in the administration of the affairs of his country—he will feel that his own rank and character have been elevated by his having been selected for the high office which he holds, and his feelings will pervade every class of the department to which he belongs." "We ought to look forward to a time when natives may be employed in almost every office, however high, and we ought to prepare them gradually for such a change, by entrusting them with higher duties from time to time, in proportion as experience may prove their being qualified to discharge them."

We have had the experience of a quarter of a century, since these words were written; an experience most favourable to the native character, but in the eyes of those with whom their destiny rests, they are still without those "moral qualities," which would fit them for offices of dignity and emolument. May we not say, without offence, that they never will have those qualities, so long as the executive Government in India is paid by patronage?

The patronage, Mr. Melville tells us,† "is indispensable to the Court of Directors, in order to enable it to maintain its position in the eyes of the public, and the exercise of that patronage, moreover, keeps up a sympathy between the persons entrusted with a share in the Government of India; and the persons in India who are dis-

\* Life, vol. 2, p. 423.

† Lords' Evidence, p. 25.

charging important duties there, and that sympathy and communication seems to me to be calculated to be of great service to the Court of Directors."

But the object is, not that there should be sympathy between the European patrons and their clients, but that there should be a community of interest between the Governors and the governed. That the Governors should have no interests which are antagonistic to the rightful claims of their subjects. The question then is, not what appearance the patronage may enable the Directors to make in the eyes of the British public, or of what service it may be to them, but how the exercise of it operates upon the character and prospects of their subjects, and this question Mr. Melville seems to answer, when he says,\* If you were once to open the "covenanted" service to natives, that is, if you open offices to natives which are now exclusively held by Europeans, there would be no stopping them in their career. There would be no "harm in a native of India filling the situation of assistant magistrate, collector, or judge; in fact, they do now discharge the duties of such offices, though in a separate grade; but if they were in the covenanted service, filling those situations, when vacancies occurred they must be promoted to the higher situations." "This," he says, "would be to infringe upon a principle† which has been established, viz. 'native agency, and European supervision and control,' the breaking in upon this principle would destroy that 'deference' which natives ought to entertain for Europeans, and the result of such a measure might be the throwing the whole government of India into the hands of natives." But Mr. Melville has told us that to exclude natives from any office which they are competent to fill, would be a "practical wrong," that the only bar to their admission to higher offices is want of education and moral qualities. Here then he raises fresh barriers against them,—whatever their competence may be,—you are not to push them up one step, for fear they should get to the top. They may have the "moral qualities" that are required, but to admit a native into the lowest office now held by Europeans, would be to infringe upon a "principle." By giving the natives a share of that which is now exclusively held by Europeans, "the salutary deference now paid to Europeans would be weakened, if not annihilated."‡ The natives, therefore, are in a sad plight. They may get over

\* Lords' Evidence, p. 55.

† Ibid. p. 53.

‡ P. 53.

those defects in character and education which is said to be the sole cause of their exclusion ; but they cannot break down a "principle."

Mr. Melville, however, consoles them by saying that the question is "only one of time,"\* and that "to accelerate it might be prejudicial to the natives themselves, and injurious to the Government." But how so ? The "principle" which keeps them out of high office will be as inflexible fifty years hence as it is now ; it will be as necessary then as it is now to maintain a "salutary deference" to Europeans ; we shall be as little prepared at a distant period to surrender the whole Government to the natives as we are at this moment. And the truth is, that the language which Mr. Melville, and others who think with him, now hold, is just the language that has been held on the subject from time immemorial. There has always been an exuberant profession of a desire of doing a great deal for the natives at a fitting season, but a very scanty performance. For example,

\* Mr. Melville is asked what he means, when he says, that the time is "approaching" when natives may be freely admitted into office, and answers, "when the natives shall have greatly advanced in civilization and intelligence, and their moral qualities shall have improved ; all which could not fail to be the case, if it should ever happily occur that *Christianity were universally diffused throughout India*," p. 58. The "approaching time," therefore, turns out to be, humanly speaking, the time of the Greek Kalends. Do we want further proof, that so long as "patronage is indispensable" to the Executive, the native will always be wanting in those "moral qualities," which can alone make them fit recipients of it ? Was Mr. Melville thinking of the natives of "New Guinea" or of the "New Hebrides," when he gave this answer ? It is akin to an opinion of the Company's historian, that the "inaptitude of the natives for the subordinate offices which they fill, is one serious impediment to the good government of India." *Thornton's History*, vol. v. p. 187. What would become of the poor natives if we were to legislate upon these opinions ? Disqualified, according to Mr. Melville, for the superior offices ; unfit, according to Mr. Thornton, for the subordinate ones. The following opinion of Hiudoo "civilization and intelligence," not derived at second hand, like that of Mr. Melville, is worth quoting here.

"I do not exactly understand what is meant by the civilization of the Hindoos. In the higher branches of science ; in the knowledge of the theory and practice of good government, and in an education which, by banishing prejudice and superstition, open the mind to receive instruction of every kind from every quarter, they are much inferior to Europeans : but if a good system of agriculture, unrivalled manufacturing skill, a capacity to produce whatever can contribute to convenience or luxury ; schools established in every village, for teaching reading, writing, and arithmetic ; the general practice of hospitality and charity among each other ; and above all, a treatment of the female sex, full of confidence, respect, and delicacy, are among the signs which denote a civilized people, then the Hindoos are not inferior to the nations of Europe, and if civilization is to become an article of trade between the two countries, I am convinced, that this country will gain by the import cargo."—*Evidence of Colonel, afterwards Sir Thomas Munro, before the House of Commons in 1813.*



the highest office that a native can now hold, as Mr. Melville tells us, is that of Principal Sudr Aumeen; but this very grade was opened to them by Sir Thomas Munro as long ago as 1827, and in Bengal by Lord W. Bentinck a year or two afterwards, and though many natives have been appointed to that grade since that time, none of them have been elevated beyond it; and at this moment, in the Madras Presidency, whilst there are from 200 to 250 European officers, holding offices with salaries of from £300 to £6000 a year, there are about 20 natives, whose salaries range from £5 to £800.

The "principle," indeed, which prevents the native from encroaching upon the European manor is neither more or less than an ingenious contrivance for perpetually monopolizing all the best offices in European hands upon the plea that whilst "moral qualities" are always to be found under a hat, you may look for them in vain under a turban.\* It is easy for us to say this, and alas! but too easy for us to act upon it; for the hundred millions who are thus branded have no voice in the question. Sir Thomas Munro knew nothing of this principle of exclusion, when he proposed, thirty years ago, to admit natives to all offices for which they should prove themselves to be qualified. Neither did Sir Charles Metcalfe, when he proposed to supply the proved deficiencies of European officers by calling in natives. Neither of these great and experienced statesmen saw any danger to our ascendancy from breaking down the barrier which separates the European from the native; neither did they think that we should exalt the European in the eyes of the native by a system which, whether he is competent or not, secures to the one all the high offices, and leaves only the low ones to the other.

Whether competent or not, for we have in 1852 the very same language, on this branch of the subject that was held in 1832. "Is not it extremely difficult to find Europeans qualified to hold the higher offices in India?" is a question put to Mr. Bird.\* The answer is, Yes—there is "a greater paucity of men of distinction in the services of India than there was."

\* Natives might point to the high "moral qualities" which were manifested by the former Directors of the "Union Bank" of Calcutta, and ask us to point to a similar example of turpitude amongst natives.

† See Lords' Evidence, p. 118.

Greater, we must suppose than there was twenty years ago, when Sir Charles Metcalfe complained of it; and when one of the reasons assigned for the abolition of a high office,\* was the difficulty of finding Europeans who were qualified to fill it. Whence arises the difficulty?—because we have only Europeans to choose from, when we might make a selection from a hundred millions of natives. “If unqualified Europeans are sent out,” says Mr. Bird, “they do more harm than good.”† More harm, because when once there, they must be promoted to high office, whether qualified or not, and as the very last on the Haileybury College list, are sent out as well as the prizemen and medallists, the chances are, that whilst all may be honourable and upright, many will not be competent to fill the higher offices. Not competent, because it will be easy to shew, that in the administration of India, more mischief may be done by an alliance between honesty and ignorance, than by a union of cupidity with intelligence. Take a case, which as regards the native, must by all parties, be regarded as an extreme one.

Suppose a European, with unswerving probity, and with but a scanty knowledge of the language, manners and feelings of the native character, administering justice amongst a people, who in matters of religion, or caste, or brotherhood, think it as meritorious to serve their “Church” by perjury, as any disciple of “Loyola.” Suppose, what is constantly the case, that to discriminate between truth and falsehood, a knowledge of their peculiar customs and prejudices, by which their evidence is likely to be biassed, is absolutely necessary, that the value of a native’s evidence, constantly depends upon niceties of language, upon his voice, his manner and mode of expressing himself. The upright but imperfectly informed European Judge, with the best intentions, will be more in danger of doing injustice amongst such a people, than the venal native Judge, because when in difficulties, which he constantly is, the European must turn for help to his native officials, and they are just as open to corruption, as the native Judge who does all his business without such aid. For no truth can be more glaring than this, though it may be an unpalatable one, that the European officer in India, when left to himself, is the most helpless of animals, that though the natives

\* Commissioner of Revenue and Circuit.

† P. 118.

may govern India as they did for ages, without the aid of Europeans, Europeans could not govern India a day without the aid of natives. Hence arises the fact, which Sir Charles Metcalfe states to be notorious, that the whole business is sometimes done by natives, whilst Europeans have the credit of it.

But if a return to a call for a statement of the number of European and native Judges who have been charged with official delinquencies within a given period, should be *nil* in both instances, what inference should we be warranted in drawing from such a fact but that the grant of liberal salaries has had precisely the same effect upon native officials as it has had upon European? \* And with this testimony before us, that they have been eminently trustworthy in all that has been committed to them, are we not bound, upon our own principles, to trust them more? That we are driven to our wits' end for a reason for not following this course, is manifest from the opinion of one who, whilst he speaks of the native Judges, into whose hands almost the whole of the judicial administration of the lower Courts has fallen, in the highest terms as trustworthy and valuable servants, without whose aid we could not govern the country, yet deprecates their admission into the higher grades of office upon the plea that such promotion would render them discontented with their present condition, and that in attempting to elevate we should really humiliate them.† We have been taught to think that one of the surest incentives to good conduct is the hope of reward—that the sure way to break a subaltern's heart is to say, that he shall be a subaltern for ever. That if there should be a wide gulf, social and political, between two races,—the social gulf being absolutely impassable,—the only way by which you can alleviate the evil, is by raising the depressed race, in the political scale; and that, applying the principle to the case before us, “every time a native is raised to

\* “Q. Was it not one of Lord Cornwallis' reasons for considerably augmenting the salaries of the civil servants, that by so doing you would render them more honest than they had been at any former period?—A. Yes.” *Lords' Evidence*, p. 119.

† “Q. 1187. The question is this, do you conceive that the exclusion of the natives in India, by reason of this distinction between the covenanted and uncovenanted service, is expedient to be preserved to the present extent and degree?”

a higher office than has been filled by any of his countrymen, a new impulse is given to the whole body." But here we have very different teaching: the best way of making a native satisfied with his subordinate lot, is, it appears, to assure him that it shall never be improved. The native whom Mr. Melville tells us\* has been appointed a Judge of the Small Cause Court at Calcutta, has been humiliated by his elevation: he is at a greater distance from his brother European Judges now that he sits with them, than he was when he sat under them; and the native officer who has taken his place, will do his subordinate duties with less satisfaction now that the prospect of reward is before him than he would have done if he had been excluded from all hope of obtaining such reward.

"Yes, I think it is; the proper object of the uncovenanted service is to act in subordination to the covenanted. \* \* \* \* \*

To explain what I mean, there is a Medical College at Calcutta, which I hope will furnish a sufficient body of medical men in time to supply the wants of India, and those young men have exhibited such attainments that many people have thought it advisable to have them sent out as surgeons on the Establishment. I have always opposed that idea, for this reason, that the object of educating medical men in India is for the purpose of acting in subordination to the medical men acting at home, who are sent out by the Court of Directors; whereas if the hope is held out to them of being placed upon the covenanted establishment, *they would not perform the duties with the same satisfaction.* \* \* \* \*

Whether it would be expedient or advisable to destroy their utility as a subordinate race of medical practitioners for such a country as India, by giving them the *hope and expectation of still higher promotion I very much doubt.*

"Q. 1200. Do you think that there are any sound political objections to the employment of natives in the highest offices of the state in India; that is to say, appointing them originally as writers, and letting them rise with Europeans to the highest offices in India?

"I do not know whether you would call it a political objection, but I suppose it is understood here that the Europeans mix very little with the natives; consequently the natives *so appointed would be exposed to a great deal of personal humiliation*; but otherwise, on other grounds, I cannot say that I am prepared yet to admit them in the highest situations in India; I think they require to be kept in a certain degree of subordination. They are very much given to think themselves qualified for any situation. Most of the men who have been educated in the colleges fancy themselves capable of much more than they really are."—*Lords' Evidence*, p. 116-117.

\* *Lords' Evidence*, p. 49.

Is it presumptuous to say, that a cause which requires to be proped by such reasoning as this, is essentially a rotten cause? To say that you exclude the natives from high office, in consequence of defects in their moral character, is one thing, to say, that you exclude them because it would be inconvenient, and might be dangerous to elevate them, is another; and would it not be more manly to tell them at once, that the distinction between "covenanted and uncovenanted"—that is, their perpetual exclusion from the higher classes of office must be maintained, because Europeans have need of those offices, than to cast a slur upon a whole people, by pretending that we have the will to surrender such offices, but that they must be a better race than they now are, before we can venture to make the sacrifice?

But Mr. Melville tells us that the natives must be "educated" before we should be warranted in making such a sacrifice. Mr. Bird, however, assures us that education has had no other effect upon those natives than to make them conceited: "They are very much given to think themselves qualified for any situation. Most of the men who have been educated in the colleges fancy themselves capable of much more than they really are." The poor natives are again in a cleft stick. Uneducated, they are ineligible; educated, they are as far from their object as ever. But if the education which they now receive fails to qualify them for the public service, is the fault theirs? If we insist upon it that a knowledge of Shakspeare and Bacon is necessary for those who have to administer justice amongst a simple, agricultural community, to catch thieves, to settle and collect the revenue, can we wonder that natives who may have spent years in getting even a smattering of English literature, should at their exit from the Calcutta College, be as unfit for those duties as when they entered it? The qualifications that are required for the discharge of the duties of a Provincial Officer in India are a familiar acquaintance with two or three of the native languages, great expertness in arithmetic, an intimate knowledge of the tenures upon which the land is held, and an acquaintance as familiar, with the history, religion, habits, customs, and prejudices of the people. These are indispensable qualifications which the native uneducated, in our sense of the word, possesses in

an eminent degree, and of which the European knows but little. Who is conceited then? he who in the partial possession of such qualifications thinks himself fit for any trust in India; or he who possessing an abundance of them, presumes to think that he at least has equal pretensions? Poorneah, to whom the Duke of Wellington gave his picture as a testimony of his sense of the benefits which the public had derived from his administration of a kingdom, though a highly accomplished native, would, in our sense of the word, have been considered "uneducated," and conceited too, if he had aspired, under British rule to the management of a province.

Mr. Bird, indeed, admits,\* that he has known some natives whom he thinks might have been promoted "to the upper class of the judicial establishments;—that many natives have attained to such skill and ability in the medical profession, and are in such request amongst their countrymen, as to make it worth their while to decline employment in the public service, in order that they may engage in private practice." Sir Herbert Maddock† again tells us, "that there are numbers of highly educated and well-informed persons (natives) of rank and influence, who are admirably calculated to be selected to perform the functions of a consultative legislative Committee."

The ground, then, upon which we pretend to exclude the natives from higher offices, viz. their want of education and moral qualities, is thus cut from under us. Is there any real warrant for the apprehension which Mr. Melville expresses, that if we once open the door to them, we shall be unable to shut it? What is this but to say, that if we try the natives in high office, they will prove themselves to be able to work the whole machine of Government so efficiently and so economically, that we should be constrained to surrender the whole civil administration to them? No such result is to be apprehended or to be desired. Would the appointment of one or two natives to that Council which makes laws, and imposes taxes upon a hundred millions of their countrymen, have that tendency? Would the advancement of those natives whom Mr. Bird pronounces to be competent to the higher judicial offices bring out such a result? or would it be seriously forwarded if we were to appoint those natives

\* Lords' Evidence, p. 117.

† Ibid. p. 230.



whose medical skill commands the confidence of their countrymen, to the medical charge of the native regiments? If we answer these questions in the negative — if we say that we cannot afford to give to the natives of India — Hindoo, Mahommedan, Parsee — the same share, or something like the same share that the Hindoos had in the government of their country when the Mussulman was master of it, then we deliberately violate what Mr. Melville affirms to be our first duty, viz. to govern India “for the benefit of the people of that country.” We shall do them what he admits to be a “practical wrong;” we shall exclude them from offices for which they are competent.

But Mr. Melville frightens us again by saying, that, if we admit natives to civil offices, in violation of the principle of separation which now obtains, we must violate it in the military department, and that this “might ultimately involve the placing of regiments under the command of natives.” But because you make one native a Judge, does it follow that you must make another a Commanding officer? No, you oblige the military native by elevating his civil fellow countryman in the scale, although you may be obliged to leave him where he is; and is it not clear, that just in proportion as there may be reasons for confining the one within a narrow sphere, are the reasons for enlarging the sphere of the other? Recollecting that in our early struggles for dominion, under Lawrence and Clive, when our native troops were constantly in the habit of coming into collision with the French, our Sepoys were commanded in a succession of campaigns exclusively by a native,\* who was equally honoured as a soldier and a statesman. Recollecting that at this moment those regiments with very few European officers are as distinguished as those who have many, can any adequate reason be given, why a distinguished native officer should not be allowed to command a native pensioned regiment or a hill fortress, a trust that was confided to him by the late Sir John Malcolm, and disallowed by the authorities at home?

But, if these things cannot be, the greater the necessity for what evidently can be, if we will it; and the first step towards that object would be, to compensate those who have now the dispensation of their patronage by adequate salaries, in order that we might, without injury to any one, curtail the initiatory civil and medical patronage.

\* Mohamed Issoof.

The next would be a scheme of compensation to the Civil and Medical Services abroad, for the loss they would sustain if natives were freely admitted into those services. To blast, or in any way damage the prospects of those services, without such compensation, would be the height of injustice, but it would be no injustice to attempt to thin those services, by offering to such as might be willing to retire adequate pensions upon a graduated scale. Many who are only young in the service, many whose health is infirm, and many who are anxious, at almost any price, to get out of the country, would readily embrace the offer. By filling up vacancies thus made with natives, we should have, what is the great desideratum, a mixed administration, natives assisting Europeans, and Europeans infusing English blood into the natives; we should break down that pernicious "principle" which enacts, that Europeans shall always be at the top, and natives at the bottom, whatever may be the merits of either; above all we should cordially attach the natives to our rule, and in a few years we might hope that the natives of British India would be no longer, what they were pronounced some years ago to be, by one of the most sagacious of observers, "the most abject race in India;" and when we consider that a native officer is well paid when he gets a third, or even a fourth of what we are obliged to pay the European, we shall see that there would be great economy in this arrangement.

It would be a great mistake, however, to suppose that the elevation of the native, who has already attained to some rank, to higher rank is the only, or even the most important object of such an arrangement; one of equal, if not of superior importance is, that we should have the means of adequately paying the native, who whether trustworthy or not, we are compelled to employ in most important offices, offices in which he is constantly tempted to malversation by the inadequacy of his allowances.

Mr. Melville states that there are 2,813 natives employed, who receive salaries from £24 "upwards," but the salaries of by far the greater number of these stand at the lowest figure. Police Darogahs, entrusted with most important duties of police; Cash Keepers, having the custody of large sums of public money; Tahsildars, or native collectors, who realize the public revenue; Moonsiff, who ad-

judicate causes in the first instance up to a certain amount, receive from £30 to £100 a year, a sum totally insufficient for their respectable maintenance; and from some of these officers, Cash Keepers for example, we exact security to such an amount that the interest nearly equals their pay. Corruption, malversation, abuse of authority, are the natural consequences of such a system. This has been a theme of complaint with all Governments, but our financial necessities have never permitted us to redress it, and it never can be redressed until we resolve, by the extended use of native agency, to cheapen our civil administration. It is the European element in our administration that makes it extravagantly costly, when we compare our expenditure with that of a native Government, not only in the scale of allowances which we pay to European agents, but in the dead weight which it brings upon our finances under the head of pensions, furloughs, and absentee allowances. The native is always at his post, and works hard with cheerfulness, when an European is groaning under the same burden in a climate which is unfriendly to his constitution.

Can we wonder that under such a system of exclusion from high office, and paltry remuneration for services of the highest importance, the native character should have degenerated? Mr. Melville, speaking from hearsay, says that it has improved. There was need of improvement, indeed, seeing that in the opinion of Sir Thomas Munro the native subjects of the British Government had become the "most abject race in India," but no one fact is more patent or melancholy than this, that that class of natives who won the esteem and called forth the warm applause of the Duke of Wellington—men who had been trained as statesmen under native Governments, have altogether disappeared, and we have taken care that they should have no successors.

The admission that the native character has improved under a system which gives them a larger share in the government of their own country than they had before, is conclusive evidence that we ought to break down any principle that impedes their further advancement. But we are not to take credit to ourselves for this improvement, for it stands upon record against us, that we had at one time deliberately resolved to dispense with native agency as much as

possible in every department, and it was not till the whole machine of Government got so thoroughly clogged in our arrogant attempt to carry on the public business of a great empire with a handful of foreigners, that we relaxed from the rule. The same records will testify to the stubborn resistance that was made both in India and in England to the plan which was suggested by the late Sir Thomas Munro, in 1814, to admit natives largely into the judicial administration; and it was not our benevolence, but the complete success of that first attempt, that led to their subsequent elevation.

By so elevating them, we shall take an important step towards a favourable solution of the all-important question so emphatically put by the late Sir Thomas Munro. "There is one great question to which we should look in all our arrangements, what is to be their final result," (not upon the interests, the hopes, the prospects of our countrymen in India or in England) "but on the character of the people of India;—is it to be raised—is it to be lowered?"

But will the upper and middle classes of England, who now press so heavily upon the Directors with demands\* for patronage, as to make it next to impossible for them voluntarily to relinquish any of it—assist in furthering these great objects? The decision is entirely in their hands; on one side are those classes all-powerful, on the other, a hundred millions of people powerless and misrepresented. Already we have taken preliminary steps towards legislating for this mass of human beings, whose ancestors were in a state of high civilisation when ours were barbarians, without the slightest attempt being made by us to ascertain their opinions, or to consult their wishes—to legislate upon one-sided evidence of what is good for them and for us. We have already got as far as to hint a favourable opinion of a system of government, which Lord Hardinge tells us is a "puzzle." This favourable opinion, formed exclusively upon the evidence of those who cannot be otherwise than partial to it, is founded, as we have endeavoured to shew, upon misapprehension; and will not a further inquisition into that evidence strengthen that impression?

In conclusion, shall India be henceforth governed in the name of the Crown? Shall the Queen continue to be screened from a

\* A return of all applications made to Directors for appointments to India would give astounding results.

hundred millions of her subjects with whom her name would be a tower of strength?

By what authority has she been so concealed for the last twenty years? Up to the passing of the act of 1834, the Government of India was absolutely in the East India Company. The Sovereign's right to the Indian territory was in abeyance. By that Act it was directly asserted, and a great revolution was effected in the status of the Company. The Company was selected by the Crown as its Trustees, but no authority was given to the Trustees to administer the trust in their own name. They had authority to appoint officers to carry on the business of the trust; but they had no warrant for issuing commissions to those officers in their own names, as if they were still Principals, and not Trustees.

Great practical inconvenience has arisen at all times from authorities in India having derived their powers from different sources. In the early parts of our history, we had Admirals riding over the Governments of India, and thwarting their Councils, solely on the ground that they held a Royal Commission. We had then, and have frequently had since, instances of Royal Judges placing themselves in conflict with the Company's Government, solely on the same ground. A few years ago a Queen's officer in Bombay insisted upon placing his infantry regiment to the right of the artillery, contrary to all military usage, upon the ground that all Queen's regiments had the right of precedence over the Company's. Instances might be adduced of the greatest confusion having arisen, and the greatest injustice having been done, in endeavours to keep the two services upon an equal footing with respect to promotion; and at this moment there are heartburnings, and loud complaints at the undue preference given by the Admiral in command at Burmah, of officers of her Majesty's navy over officers of the Company's navy. This evil arises entirely from the name of the Crown not being used in the Government of India. The practice of giving a double commission to military officers—one in the name of the Crown, and the other in the name of the Company—was necessary so long as the Company was the nominal sovereign, in order to uphold that sovereignty; but as the Queen is now ostensibly the Sovereign of India, the distinction is no longer intelligible, and a multitude of inconveniences would be obviated by its disuse. Amongst the advantages that would accrue

from the open use of the Sovereign's name, would be that honours and rewards to the natives of India, coming directly from the Queen, would have a value, that they are now without; and when we recollect that there is no people upon earth who value such distinctions more than the people of India, we shall see the importance of making her Majesty the fountain of honour to her Indian subjects, as she is to all others.

### POSTSCRIPT.

AFTER the preceding pages had been sent to press, an article in the June number of the Quarterly Review, on "Kaye's War in Afghanistan" came under my notice. That article contains extracts from dispatches of the Court of Directors to the Government of India, dated in 1840 and 1841, hinting condemnation in pretty strong terms of our Affghan policy, and yet Sir John Hobhouse, who was then President of the India Board, was, by his own avowal, the author of that policy. We must suppose, then, that on these occasions, the dispatches which emanated from the Court spoke a different language from those which emanated from the Board, although they must have passed the ordeal of that Board.

The dispatches of the Court appear to have been founded upon a very able minute, that had been recorded upon the subject by the late Mr. Tucker, when he was chairman of the Court. If this was the case, Mr. Tucker must have been approving upon one sheet of paper, what he was strongly condemning on another; at all events, we have here fresh proof of the impossibility of founding a sound opinion upon the working of the double system, without reference to records. A small budget of facts, would be of more value in guiding the judgment, than a host of opinions, come from whence they may. Such a reference would undoubtedly warrant us in agreeing with the reviewer on two points.

First, as to "the mischief which may flow from the secret and irresistible sway exercised by the Board of Control over the deliberations of the Court of Directors."

Secondly, that the system often operates "to stifle or to render of no effect much sound and sensible counsel, which the Directors are anxious and competent to impart."

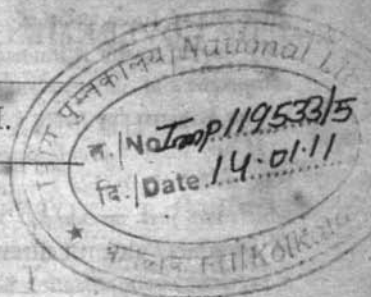


The reviewer also remarks, "upon the mischievous consequences to India, of its affairs being in any way linked with the oscillations of party struggles in England." But as European questions may grow out of India politics; the "oscillation" is unavoidable. The only way to render it innocuous, is to place a permanent Council, of competent and independent men, in close contact with whoever may be the Minister for India.

If any further proof were wanting of the mischievous working of this, so called, double government, we should find it, in an instance which has just occurred. A dispatch was submitted to the Court of Directors by the Chairman on the affairs of Baroda, the result of a previous communication between himself and the President of the Board of Control. The Court objected to the opinions expressed in that dispatch, and amended it, so as to convey their own opinions, it was returned to them speaking the opinions of the Board of Control, and in this shape the Court was obliged to adopt, and to promulgate it to the Government abroad as conveying their own opinions of the case. This was not a question concerning war or peace, belonging to the jurisdiction of the Secret Committee, but an every day case, which came before the full Court of Directors. Have we not in this instance another proof of the fact, that under the present system a Minister of the Crown has the power of ruling India despotically in every department of its government whenever he pleases? "If," said Mr. Macaulay, when eulogizing the system in 1833, "the Court of Directors should be desirous, for example, of converting the present foot post of India into a horse post, they could not do so without the consent of my Right Honourable Friend the President of the Board of Control, but if my Right Honourable Friend was to desire me, his secretary, to send an order to the Court of Directors directing the change—the change must be made whether they like it or no, such is the state of the law." Is not then this system unconstitutional in principle, and highly inconvenient in practice? It is confidently said by its admirers, that the Court of Directors originates all measures, but with what truth, when we have an example before us, and many more may be behind, of a despatch being concocted between the Chairman and the President which spoke a totally different language from what the Court would have pronounced had the initiative been really with them. Upon what ground can such a system be defended or upheld?

# INDIA REFORM.

No. VI.



THE

## GOVERNMENT OF INDIA

UNDER A BUREAUCRACY.

BY

JOHN DICKINSON, JUN., M.R.A.S. F.R.G.S.

"HOMO SUM, HUMANI NIHIL A ME ALIENUM PUTO."—Ter.

LONDON:

SAUNDERS & STANFORD, 6, CHARING CROSS.

MANCHESTER: SIMMS & DINHAM.

1853.

*Price Threepence.*

# INDIA REFORM.

---

1.—THE GOVERNMENT OF INDIA SINCE 1834.

---

2.—THE FINANCES OF INDIA.

---

3.—NOTES ON INDIA.

BY DR. BUIST, OF BOMBAY.

---

4.—THE NATIVE STATES OF INDIA.

---

5.—AN EXTRACT FROM MILL'S HISTORY ON  
THE DOUBLE GOVERNMENT ;

AND OBSERVATIONS ON THE EVIDENCE GIVEN BEFORE THE  
PARLIAMENTARY COMMITTEE, BY J. SULLIVAN, ESQ.

---

*Preparing for Publication.*

7.—INDIAN WRONGS WITHOUT A REMEDY ;

ILLUSTRATED BY

THE CARNATIC, SATTARAH, PARSEE, AND COORG CASES.

---

8.—PUBLIC WORKS.

---

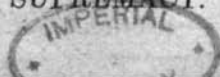
9.—MISCELLANEOUS PAPERS.

---

10.—NATURE OF THE INDIA QUESTION,  
AND OF THE EVIDENCE UPON IT.

---

11.—CONDITION OF THE SUBJECTS OF THE  
NATIVE PRINCES BEFORE THE PERIOD  
OF BRITISH SUPREMACY.



## PREFACE TO THE SECOND EDITION.

---

IN complying with the request of my friends at home and in India that I should reprint this pamphlet in its present form, I must express my regret that incessant occupation has prevented me from attempting any material alteration in, or addition to, its contents; although it is satisfactory to observe that the allegations of the Native Petitions, received after this pamphlet was published, fully confirm its statements. As, however, in the absence of such authorities as these petitions, I had quoted the evidence of a young member of the Bengal Service, Mr. Campbell, with regard to the judicial and ryotwar systems, I must explain that the value of this author's work on "Modern India" appears to me to consist chiefly in the results of his personal observation and experience. For his "opinions" frequently remind me of some remarks made by Lord Teignmouth,\* and repeated in substance only the other day, by a distinguished member of the Bombay Native Association, to the following effect: "the fluctuations and limited period of residence of members of the British Administration in India contract their experience; while the large portion of time taken up by official forms, and the constant pressure of business, leave them little leisure for the study and reflection necessary to obtain a scientific knowledge of Indian subjects;—true information is procured with difficulty, because too often derived from mere practice, instead of being deduced from fixed principles; and the experience of others is only to be obtained by reference to an immense mass of records, which requires much time and labour;—finally, personal experience is the knowledge of obvious facts, with ignorance perhaps of more remote ones, and the connection between, and inferences

\* Mill's History, vol. v., p. 471.

from, the whole series of facts, so that experience may be not political wisdom, nor even a foundation for it."

These remarks should be borne in mind by those who are disposed to defer to Mr. Campbell's authority; as some of his opinions, though delivered in a tone of great confidence, appear to me to contain little political wisdom. For instance, in his "Scheme for the Government of India," page 101, he thus expresses himself:—

"It may be well here, once for all, to notice the question, whether it is possible to give the natives any share in the government of India, or to prepare them in any way for freedom. I might have commenced by stating what I have all along assumed and hold as beyond all question, that the idea of giving them any actual power is altogether chimerical and impossible. Our government must be the purest despotism."

I beg the reader to contrast with this rather strong opinion of Mr. Campbell's the following opinion from a much higher authority:—

"The best policy which Great Britain can pursue in order to retain her possessions in India, is to raise the moral and political character of the natives, to give them a share in every department of the state, to introduce amongst them the arts, sciences, and literature of Europe, and to secure to them, by a legislative act, a free constitution of government adapted to the situation of the country and the manners of the people. With this view I propose,—

"1st. That a general system of education founded upon this policy be established for the benefit of the natives in every part of the British territories in India.

"2nd. That the natives be declared eligible to all judicial, revenue, and civil offices whatever.

"3rd. That all laws by which the natives are to be governed be, before they are adopted as law, publicly discussed and sanctioned by local assemblies or councils, in which the interests of every class of natives shall be adequately represented by natives of their own class."  
—*Evidence of the late Right Honourable Sir Alexander Johnston before the Indian Committee of the House of Commons in 1832.*

It suggests matter for deep reflection, to consider that although the above recommendation has been adopted with complete success in the island of Ceylon, the Company's Government refuse to adopt it in the neighbouring territories of India.

## PREFACE TO THE FIRST EDITION.

---

FREQUENT intercourse with men possessing great experience in the administration of Indian affairs induced me to give my earnest attention to the investigation of the subject, and has eventually led me to lay the result of my inquiries before the public. My principal authorities have been :—

Report of Select Committee of the House of Commons, in 1848, on the Growth of Cotton in India.

Report of Expenditure on Public Works for 10 years, printed by order of the House of Commons, in 1851.

Report of Select Committee of the House of Commons on Indian Territories in June, 1852.

Report of the Bombay Cotton Committee, in 1847.

Letters on the Cotton and Commerce of Western India, reprinted from the "Times."

Files of the "Friend of India," for 1850-51-52.

Files of the "Bombay Times."

Reports, Books, and Pamphlets on Scinde.

Mill and Wilson's History of India.

Briggs' Land-Tax in India.

Kaye's Afghanistan.

Campbell's Modern India.

Chapman's Cotton and Commerce of India.

Royle's Culture of Cotton in India.

Shore's Indian Notes.

Grant's Bombay Cotton and Indian Railways.

Lecture on Cotton, delivered at the Society of Arts, before H.R.H. Prince Albert, by the President of the Chamber of Commerce at Manchester.



Letters on the Renewal of the East India Company's Charter, by  
Lieut.-General Briggs, published in the "Indian News."

Remarks on the Affairs of India, by J. Sullivan, Esq.

Debates in the Court of Proprietors in 1848-49.

Sundry Pamphlets : and various authorities referred to in the text.

Besides the above, I have been indebted to Indian friends for an immense deal of information, advice, and active assistance, without which I could not have composed this work.

I am prepared to see a portion of the English press contrast my warmth of expression in the following pages, with the cooler tone of certain petitioners from a particular Presidency. However, any one, who attentively considers the grievances I have pointed out, will see that a body of merchants residing in the capital of a Presidency, were not the men who suffered most from them, and did not even feel some of them at all. Moreover, during nearly three years that I have been occupied with the subject, I have seen no prospect of support until quite lately, but on the contrary, a very clear prospect of great political parties uniting to oppose any reform in our Indian administration. Under such circumstances, although it might have shown more philosophy to describe the abuses of the present system and its national danger with indifference, it was perhaps natural for a man who loved his country, to feel and speak more warmly.

8, ST. ALBAN'S PLACE,

*January 31, 1853.*

## CONTENTS.

INTRODUCTORY CHAPTER.		Page
REASONS FOR WRITING—EFFECT PRODUCED ON THE PUBLIC BY OFFICIAL SECRESY AND MISREPRESENTATION . . . . .		1
CHAPTER II.		
THE THEORY IN CANNON ROW . . . . .		7
CHAPTER III.		
THE PRACTICE IN LEADENHALL STREET . . . . .		12
CHAPTER IV.		
THE RYOTWAR SYSTEM . . . . .		21
CHAPTER V.		
THE JUDICIAL SYSTEM . . . . .		36✓
CHAPTER VI.		
FINANCE AND PUBLIC WORKS . . . . .		49✓
CHAPTER VII.		
THE POLITICAL SYSTEM . . . . .		102✓
CHAPTER VIII.		
THE SYSTEM OF PARLIAMENTARY LEGISLATION FOR INDIA . . . .		123
APPENDIX . . . . .		139

# INDIA.

---

## INTRODUCTORY CHAPTER.

### REASONS FOR WRITING.—EFFECTS PRODUCED BY OFFICIAL SECRECY AND MISREPRESENTATION.

DID the public ever hear of an absentee landlord neglecting his estate, and consigning it to middle-men, which ensured rack-renting, poverty, crime, and disaffection, among his tenantry, and ended by ruining himself? Does the public know that its neglect of India has had the same distressing effects, and is likely to have the same fatal end?

I am sure few people are aware of the real nature of our Indian Administration: and it is high time that somebody should let the country know the truth about it; although I should never have ventured to attempt such a task, if my entreaties could have prevailed on men of ability and experience to tell the public as much as they told me. This is the reason, and the only one, for my writing; that I could not oblige other men to speak out with that uncompromising plainness of tone which this crisis of the Charter requires; and though the case will lose much from my manner of telling it, I hope the public will recollect that a man may be a stupid witness, whose evidence is nevertheless material to the trial of a cause; and I hope that to the readers of this pamphlet, the importance of its facts will compensate for its defects of style.

I have omitted many details, and some entire subjects; for a

mere abstract of the reforms needed in India, from a single Indian journal, for the last two years, would alone fill one or two volumes; and the journals do not contain everything; therefore I have been forced to limit my choice of materials, and confine myself to illustrating one single point, viz.: the necessity of making the Home Government of India trustworthy and responsible.

It is the fashion with those who criticise this Home Government, to add, in the very same breath with which they point out its abuses, a set of routine compliments to its motives. As I have not complied with this fashion,—as I have, on the contrary, expressed, without reserve, my unfavourable opinion of the Home Government,—I must explain to the reader that it is no want of charity which impelled me to do this. Charity is a discriminating virtue: not one which treats the good and the bad alike: the charity that allowed a robber and murderer to escape, would be a denial of charity to the honest portion of society who suffered from his crimes: and it is not charity that allows a body of public men to wear a mask which enables them to perpetuate the misgovernment of millions of our fellow-creatures; it is a pusillanimous want of charity for the masses who are suffering because we allow these men to wear a mask. Therefore, I have done what I could to strip off the drapery of “good intentions” that shrouds the rotten system of the Home Government; and to show how “private suits do putrefy the public good.” I have done this from pity for the natives of India, and from alarm for the safety of England.

And why is it that the public have known so little, and been deceived so much, about the Home Government? There are two reasons for it, which are, a system of secrecy, and a system of mystification. The first of these, the system of secrecy, is alone sufficient to account for what Lord William Bentinck characterised as “the shameful apathy and indifference of Great Britain to the concerns of India.” It did not occur to his Lordship that it was hardly fair to accuse the public of “shameful apathy and indifference,” when the truth could not reach them. Yet how stands the case? I am one of the public; I was indifferent while I knew little of the subject; but now let the

reader look at my seventh or eighth chapters, and say whether they betoken "shameful apathy and indifference?" And my case is that of every one of the public; they cannot, without the accident of private information, get at the truth; without knowing it, how can they be otherwise than indifferent? and while those who can, will not speak out, is it the indifference of the public which is "shameful," or the system of secrecy which keeps the truth from them?

The state of British opinion on Indian affairs was admirably described by an article in the "Times" of Dec. 4, 1851, as being one of listless "security," *confounding the absence of anxiety with freedom from danger*, and this is entirely due to the suppression of information by the authorities. Now as the system of secrecy has been denied it is worth remarking that it has been affirmed by a late member of the Bombay Government, in the evidence of last session; by a late high functionary of the Madras Government, in an article of the "Calcutta Review," quoted in my chapter on Public Works; by a member of the Bengal Government in a Report quoted in the same chapter; by other official men, by the native petitioners of Madras and Bombay, and by "the Friend of India;" which praises the Company's Government whenever it can, and is often said to be a Government paper, for which reason I will give some extracts from it on this point.

May 21, 1851, the "Friend" answered the above-mentioned denial that information was withheld from the public; by printing a letter, refusing such information, even for a period anterior to the year 1820, signed by the very same functionary, who assured the House of Commons a few days afterwards, that the system of secrecy was quite a mistake;—and the "Friend" added, "the Government of India is a government of secrecy in a stronger sense than any other Government now in existence. The first principle at the India House is to conceal everything—everything past, present, or future—from the public, that it has the power of withholding."

July 17, 1851, the "Friend" says, "it is the perpetual aim of the Court of Directors to throw a veil of profound secrecy around

all their counsels and measures;" adding, that any disclosure by any of the functionaries of the State is "severely resented and condemned in no measured terms," and giving a description of the consequences for which my own experience has furnished an exact parallel: "the whole public service in India trembles at the idea of being detected in conveying any intelligence to the press, however interesting to the public, and however beneficial to the public service. We have scores of letters from officers of high official distinction, who have given us valuable and important facts, but always with the strictest injunction that their names might in no case be permitted to transpire."

Sept. 30, 1852, the "Friend" says, that "the great principle of mystery which pervades all the thoughts, feelings, and actions of public men in India, has its origin in Leadenhall Street." It adds, "Everything of which a public servant may become cognisant through his official position, however trivial or insignificant, is a *secret*;" and again: "The extraordinary anxiety which the Court manifests to keep every public transaction, and every official document as under a seal of confession, and its determination to visit with condign punishment any allusion which may be made to them, indicates no desire to promote the interests of the community, and is simply an exhibition of that morbid fondness for secrecy which belongs to all corporations."

And this is the real state of the case; "those whose deeds are evil shun the light;" the Government of India is a government of secrecy in a stronger sense than any other Government now in existence: the footprint on the sand was not more alarming to Robinson Crusoe than a trace of inquiry into the mysteries of their administration is to the Authorities of India; and of course while a despotic Government maintains this "system of secrecy," its servants who can, will not speak out, and as an inevitable consequence, the public, who cannot get at the truth, become "apathetic and indifferent to the concerns of India."

And this is not all: besides the system of secrecy, there is a system of mystification, of eternally deceiving the public, by flattering pictures of the condition of the natives; which is of as old a date as that irresponsible government which I denounce



as the bane of India. The historian Mill continually adverts to this practice. He remarks, that it is always the interest of the Minister of the day "to prevent inspection; to lull suspicion asleep; to ward off inquiry; to inspire a blind confidence; to praise incessantly the management of affairs in India; and by the irresistible force of his influence, make other men praise it:" and he adds, that by the interest of the minister, "complaint is extinguished and the voice of praise raised in its stead"—and all parties in turn get committed to this system by the changes of ministry. On one occasion, after noticing a rebuke administered to the Indian Authorities by the House of Commons for this system of deception, the historian says they only followed the beaten common track of misrepresentation which the instruments of Government are seldom without a motive to tread; and farther on, "nothing is more remarkable than the propensity of all sorts of persons connected with the Indian Government, to infer from anything and everything, the *flourishing state of the country*." On another occasion, he notices "the unintermitting concert of praises, sung from year to year, upon the Indian Government, and upon the increasing happiness of the Indian people, while they were all the while sinking into deeper poverty and wretchedness." Elsewhere he points out the ease with which the results of Indian administration can be misrepresented in this country, and warns the public that they are by no means sufficiently on their guard against the deception.

Now I have endeavoured to show in my eighth chapter, what were the effects of this deception, in the passing of the last three Charters; and in my sixth and seventh chapters, to show the way in which it is going on now; and when I consider that it is employed to resist the strongest conceivable claims on our justice; to say nothing of our humanity; and to perpetuate the "nightmare oppression lying heavy on many million hearts" in India; this system of mystification appears to me perfectly shocking!—it seems to call for a judgment on the nation that employs it. It is written:

"The Lord shall root out all deceitful lips: and the tongue that speaketh proud things;

"Which have said, With our tongue will we prevail: we are they that ought to speak, who is lord over us?"

"Now for the comfortless trouble's sake of the needy; and because of the deep sighing of the poor;

"I will up, saith the Lord, and will help every one from him that swelleth against him . . ."

Aye, reader! there are many signs and warnings in India at this moment, and if the present system is allowed to go on, it will soon expose our empire to a greater peril than it has ever yet encountered.

## CHAPTER II.

### THE THEORY IN CANNON ROW.

ON the 2nd of April, in the year 1852, the Prime Minister told the House of Lords, that "in the Board of Control, practically speaking, the whole administration of the affairs of India rests." This was the truth; and a truth whose incalculably important consequences are not appreciated by the people of this country. However, those who have an interest in keeping things as they are, and preventing any change in the actual system of Government, were exceedingly disconcerted by Lord Derby's plain speaking, and have been labouring ever since to persuade the public not to believe the truths disclosed by him. For this purpose the old fable of a double Government and a balance of power, has been repeated to the world by every channel of publicity which official influence could command; and it has been asserted with the utmost confidence, that the control of the finances and the management of administrative details is in the hands of the Court of Directors. Let us see then whether there is anything to corroborate Lord Derby's statement?

The Chairman of the Court of Directors stated in his place in Parliament, on the 19th of April, 1852, that all letters and despatches come to the Directors, and that when they have come to a resolution on the business in hand, they send their despatch to the Board of Control, "who either approve or disapprove of it;" but that the Directors have a right to call upon the Board to give their reasons for their alterations of it, if the Board think it their duty to insist upon them. We learn from this, that the Board of Control can "disapprove and alter" the government of the Court of Directors: but it appears to me, that if the Board has the

power to alter the spirit and letter of the Directors' despatches, and uses such a power, the Directors are no more independent of the President of the Board of Control, than the Clerks of the Foreign, Colonial, and War Offices, are independent of the Secretaries for those departments; and that the Directors must perform much the same functions as the head clerks of Government offices. Moreover, the statement of the Chairman, that all letters and despatches come to the Directors, is inconsistent with the following evidence from still better authority. In the Committee on Official Salaries, which sat last year, the President of the Board of Control was asked—"Do you correspond with the Governor-general of India, and other high functionaries, the Governors of Madras and Bombay, directly, without the intervention of the Chairman of the India House?" Answer—"Of course I do, privately." Here then I submit are strong grounds for presuming that Lord Derby told the simple truth when he informed the House of Lords, that "in the Board of Control, practically speaking, the whole administration of the affairs of India rests."

But, besides this presumptive evidence, the letter of the law clearly gives the Board the power of conducting the whole administration, by investing it with "full power and authority to superintend, direct, and control all acts, operations, and concerns of the said Company, which in any wise relate to or concern the Government, or revenues, of the said territories;" again, by prohibiting the Directors "from issuing any orders, instructions, despatches, official letters, or communications whatever, relating to India, or to the Government thereof, until the same shall have been sanctioned by the Board;" and further, by compelling the Directors either to prepare instructions and orders, upon any subject whatever, at fourteen days' notice from the Board, or else to transmit the orders of the Board on the subject to India; which gives the power of initiative to the Board whenever it likes to use it. Moreover, it was distinctly admitted by the creators of the Board, that they had transferred to it the whole power of administration. Mr. Pitt said: "There was no one step that could have been taken previous to the passing of the

Act of 1784, by the Court of Directors, that the Board of Control had not now a right to take by virtue of the power and authority vested in it by that Act." Mr. Dundas said: "Without *the whole powers of Government* the Board of Control would be a nugatory institution." Lord Grenville, one of its first members, said: "The whole authority of the Government was actually committed to the Board; and the carrying on the Government in the name of the Company was only what the Company had done themselves, in the case of Indian princes whose rule they had superseded." Finally, a former President of the Board of Control said, in 1833, "In that Board for the last fifty years has the real effective Government of India resided." I think this is sufficient evidence that Lord Derby's statement in the House of Lords was not a misrepresentation, and that the real state of the case was correctly defined by the historian Mill, who says:—"The real, sole governing power in India is the Board of Control; and it only makes use of the Court of Directors as an instrument, as a subordinate office for the management of details, and the preparation of business for the cognizance of the superior power."

If this definition be correct, it is evident that the power of the Directors must depend entirely upon the degree to which the Board allows them to manage the business of detail, and such a power manifestly corresponds to that of the head clerks in Government offices. In fact, the only distinction I can perceive between the functions of Directors and those of Government clerks, is in the privilege of the former to protest in writing against the measures of the Board; but if it be true, as I have heard and believe, that the Directors' protests are treated with very little ceremony, and habitually disregarded by the Board; and because these protests cannot exercise the slightest influence on the Parliament or the public, from whom they are concealed, I do not see that such a distinction makes any real difference between the power of the Directors and that of the head clerks of the Treasury, or Colonial Office. But the reader may say, supposing that the Directors are no more than clerks of the Board of Control, what is the harm of it? The harm is this: it may happen, as it does at this moment, that a President and two

Secretaries who are new to the affairs of India, and have none of them ever set foot in the country, are invested with the secret, irresponsible despotism over an empire as large as the whole of Europe, comprised of different nations who are frequently high-spirited and warlike races, and containing within it such an abundance of inflammable materials as to have induced the writers and statesmen who have had most experience, and are the highest authorities on the subject, to declare unanimously, that without a knowledge of the institutions, habits, feelings, and prejudices of the natives of India, their European masters are always liable to make mistakes which may produce a conflagration, and place the empire in peril. For instance, let it be supposed that an ignorant President of the Board of Control decides on some measure which is a climax of iniquity and impolicy; a Director, saturated with information on the subject, writes a protest against it, clearly exposing by the light of his experience the characteristic bearings of the question, and exhibiting the series of evils which must ensue from the adoption of the Board's measure; of course, if the President were responsible to Parliament, he would be forced to think twice before he acted in defiance of such a protest as this; but as it is, considering the Director as no better than a clerk, he tosses the protest into a wilderness of records, and pursues his plan without modification;—let it be supposed that an Affghan war is the consequence, the conclusions of the Director are verified to the letter, until, after the sacrifice of a British army and a frightful waste of human life and treasure, it turns out that the Board's measure has been as impolitic as it was iniquitous, and has converted a host of neighbouring nations who were previously disposed to be friends into implacable enemies, while it has robbed one or more generations of our native fellow-subjects of the local expenditure and attention to their social progress which was due to them from British justice, and has saddled themselves and their posterity with a crushing burthen of debt.

When all this is the natural consequence of investing an ignorant Minister with the secret irresponsible despotism over a vast empire, can the reader ask what is the harm of a system which exposes us every day to a recurrence of dangers, similar in



kind to the above, while they may be next time infinitely greater in degree? Surely, if Lord Derby's statement was correct that "in the Board of Control, practically speaking, the whole administration of the affairs of India rests," and if the Board must exercise "*the whole powers of government*," it will be prudent to provide for the responsibility of this depository of supreme power, especially when it is remembered that this important post of the Presidency of the Board of Control is always looked upon as a subordinate place in the Ministry, because its salary is rather less than that of the other members of the Cabinet. But besides the proofs already furnished of the truth of Lord Derby's description, it has been entirely confirmed since by the evidence of Lord Ellenborough. His Lordship said that, "the President of the Board of Control can now overrule the Directors;" that, "they can do no more than express an opinion;" and that "they have in fact, no authority." He said that, with a Court of Directors at one end of the system, and a President of the Board of Control, with a large body of intelligent clerks, at the other, he could not say how the government was conducted; but added, "I know that when I was at the Board of Control, I conducted the government; there is no doubt about that." So then the power is in the hands of the President of the Board of Control; and if he does not know how to use it, he may ask his ignorant secretaries and intelligent clerks; and we shall see presently what these gentlemen make of the irresponsible despotism of India.

them to prove to demonstration that the Government is going wrong, when once the irresponsible bureaucracy has decided its course!

‘Ask if this is not an intolerable abuse? Is it not evident that this “previous communication” system is reversing the first intention, and the whole scope and purpose of the Directors’ official existence? Is it not plain that if the opinion of the Directors is to be of any use to the Minister at all, it should go to him, not *after* his mind is made up by the opinion of “intelligent clerks,” not *after* he has decided on the matter in hand, but *before*? Does it not stand to reason that if it be worth while for Indian business to go through a Committee and an aggregate Court of Directors, who are presumed to sift it thoroughly, and express a deliberate opinion upon it, all this should be done *before* the first communication goes to the Minister, and not after “intelligent clerks” on both sides have superficially examined and decided the question? It is not that the Council Board should govern: the Indian Minister must of course govern; *as he does now*; and as every Minister ought to do in his department; but he should receive his advisers’ deliberate counsel *before* he makes up his mind, and not *after*; he should be bound, *as he is now*, to state his reasons in writing, if he disapproved of the policy recommended by them, to make his personal responsibility apparent in case of his ultimately adhering to his own views. Coadjutors of this sort would be some check upon the Indian Minister, particularly if they were the efficient and experienced body that they ought to be; at least they would be an invaluable Council to him, for the only real check that can be imposed upon him is parliamentary responsibility, for which I have proposed a very simple plan in my eighth chapter. As it is now, the Court of Directors are a mere cloak for the “irresponsible despotism” of the Minister; and they are a source of injury to India and danger to England, by the grasping spirit of the majority of their members for patronage.

Before I touch on this point I must remark, that there is on the face of it something wrong in a system by which, as it is said, ‘the Directors are paid in patronage’—that their salaries are

only 300*l.* a-year, because they are paid in patronage." We ought to cut down a mischievous bureaucracy, and save enough by the reduction to give the Directors competent salaries, like all other public servants, and so get rid of the very improper phrase now employed, that "the Directors are paid in patronage!" Why, in this matter-of-fact country, such language naturally puts it into the heads of Directors that their patronage may be used in a way that will pay them—pay well too!—and it is notorious that the managers of banks and companies who take so much trouble to get into the Direction, are "wise in their generation." Under the present system there are two fatal consequences of the Directors being "paid in patronage:"—1st, it enslaves the Directors to the Indian Minister, by their fear that if they oppose him he may use his parliamentary omnipotence to strip them of their patronage; 2ndly, it gives the majority of the court an insatiable spirit of grasping, of grasping territory, and grasping all the valuable Indian appointments for their European nominees, in spite of the emphatic condemnation of this system by our greatest Indian statesmen, which passion of the Directors is doing incalculable mischief in India, and makes our Government hated by the educated classes of the natives.

And after all, when we consider the whole system of a Board of Control and a Court of Directors,—when we remember that our only ostensible reason for keeping up this cumbrous and costly pretence of a double government is to provide a Council for the minister and a vent for the patronage, surely we may attain both these objects in a simpler and better way, by allowing all England to compete for patronage which all England is entitled to share, and by providing a real working Council for the Minister.

I will conclude this part of my subject by a notice of the present value and mode of distributing the patronage. When the number of appointments for the year is ascertained, the whole are divided into twenty-eight equal parts, of which two are allotted to the Chairman and Deputy Chairman, two to the President of the Board of Control, and one to each of the Directors. Taking the average of seventeen years since the Charter of 1833, there have been sent out about 28 writers, and as many assistant surgeons,

and chaplains or other officers, independent of from 250 to 300 cadets annually, affording to each Director a patronage which, if sold at the rate of a cadetship actually proved to be purchased in 1849 at 1050*l.*, and a writership at 3000*l.*, the annual value of a single share of patronage would not fall short of 14,000*l.* or 15,000*l.*, and that of the Chairs and the Indian Minister from 23,000*l.* to 30,000*l.* per annum. Besides his patronage as above, the President of the Board of Control directs the expenditure to any extent of "secret service" money, which as such is not accounted for on the books, and has on some occasions exceeded 100,000*l.* in one year. How differently do we deal with the poor ryot's money and our own! The Secretary for Foreign Affairs is only permitted to disburse as much as 10,000*l.* in one year, and is obliged at the end of it to swear that whatever has been expended was absolutely necessary for the public service.

Here then is the great bribe of patronage! appointments of the value of nearly 400,000*l.* per annum, distributed every year, and year after year, among the upper classes of this country, and in which hardly any respectable English family is not directly or indirectly interested! This is indeed heavy odds thrown into the scale against justice to India; for it would be shutting my eyes to the light of day to pretend not to see the proofs all round me of the influence of this patronage in recruiting adherents to the present system of Government, and suppressing evidence against its abuses.

However, though I will not attempt to deny that to reform the abuses of the present Government, especially of the Court of Directors, would gradually and greatly reduce this patronage; for, as a rule, all the men of ripe Indian experience, who have lived in the interior, and known the natives well, and seen the foundations on which our empire rests, all these are as strongly opposed to the grasping system as I am, and as much convinced of its iniquity and impolicy, and to give them a preponderance in the Indian Ministers' Council, would at once begin to cut down the patronage; still, I shall endeavour to show that the abuses which best serve our private interests are directly contrary to the national interest—"that private suits do putrefy the public

good"—and that the present system is not only ruining and degrading the natives of India, but is bringing our empire into a more critical situation every day.

And besides the dangers I shall point out hereafter, there are one or two which I will briefly notice here. The "free press" is beginning to do its work in India—the Parsee merchants, the Zemindars, the native heads of castes, are beginning to feel their power, to combine, and to ask for redress of grievances; some of them are violent, ~~and these~~ do not alarm me; but some are remarkably temperate, and I confess that, knowing the strength of their case, of which I will endeavour to give the reader an idea in the following chapters, I fear the men who begin so temperately, and have reason entirely on their side. So the Americans began, and we all know how it ended. Let not these moderate claims be neglected, when, as I will show, there is matter enough to swell them into an avalanche. Let not the incipient opposition of the natives be despised because it is feeble now. No doubt we can now accept or reject the opportunity of doing justice to India; but it may be doubted whether, if we reject it, we shall ever have the opportunity again. When Julian marched against Persia, he remarked of the Goths, "*Hostes quærebant se meliores*;" in less than fifteen years, says Gibbon, these Goths had overthrown the Roman Empire.

*Imp 119533/5 of 14. 01. 11.*

## CHAPTER IV.

### THE RYOTWAR SYSTEM.

THE reader must not suppose, as we too practical Englishmen are apt to do, that the theory, on which men act is of little consequence, provided they mean to do their duty. While our neighbours the French, have shown too little attention to facts in forming theories, we frequently run into the other extreme, and pay too little attention to theory; which is sometimes as fatal an error. We shall see the importance of acting on a correct theory if we reflect that, crime is the act itself, and not the intention; and to make the crime consist in the intention is that pestilent heresy of the Jesuits denounced in the "Lettres Provinciales;" and of which I can say from personal observation, that the same doctrines of making the crime consist in the intention are still demoralising large portions of continental society; utterly confounding their notions of right and wrong; and leaving them no fixed moral principles. To show the importance of an error in theory, it has been admitted by one of the historians who sympathised most deeply with the afflictions of his fellow-creatures, that the crusaders who followed Simon de Montfort, were probably not worse than other men; only they had a mistaken idea of their duties; and the massacre of the Albigenses was the consequence. I have said this much about the duty of forming correct theories; because while the conclusions of this and my sixth chapter will be that we have for many years allowed a bureaucratic Government to act on vicious principles of taxation in India, principles which our common sense at once repudiates when we think of applying them to ourselves, and which have caused extreme pain and injury to our native fellow-subjects, it really seems to me a very



weak set-off against all the people of India have suffered, to say that our intentions were good.

I have now to show the consequences to Bengal, Madras, and Bombay, of the Government's adopting a wrong theory with regard to its proprietary right to the land in India; and to examine whether there is any justification for the assertion of this theory to the present day.

As the true theory has long since been proved and acted upon successfully in the North-west Provinces, and has been entirely confirmed since by our experience of the Punjab, and our observation of the practice in native states, I shall refer the reader to a work on "Modern India," by Mr. Campbell, giving a very clear and graphic description of his experience of the working of this theory in the above province.

I will now state the wrong theory of the land-tax, quoting one or two modern authorities for it, and point out the mischief it has done in Madras and Bombay, reserving a notice of Bengal for another chapter. The first great authority who asserted that the rent of land in India belonged to the Government, was, I am sorry to say, that amiable man Lord Cornwallis. Forty years afterwards Mr. Mill repeated this doctrine to the Commons' Committee of 1831, adding that "a country, wherein the whole rent is paid to the state, is in a most happy condition, seeing that such rent would suffice for all the wants of the Government, and the people would then be untaxed." When pressed as to the means of collecting the Indian land revenue, so that no more than the "rent" should be taken, he admitted that this would be a difficulty for any European collector; with an imperfect knowledge of the natives, their language, and circumstances; with a swarm of ill-paid and corrupt servants; with perhaps 10,000 square miles of country to look after, and 150,000 tenants to settle with individually; but he had no doubt means would be found of limiting the demand to the rent, "and then the prosperity of the country will be as fully secured as it can be," (poor country!)—He continued: "if the land-tax were limited to the rent only, then the revenue system of India is the best in the world."—Finally, "as soon as that point is attained when the rent of land

will be adequate to all the exigencies of the Government, then all the other taxes may be abolished, and India will be a country *wholly untaxed*." Mr. Mangles, a Director, and also a Director of that New Zealand Company of which we have heard a good deal lately, reiterated the above doctrine to the Commons' Committee of 1848, assuring them that the claim of the Government in India to that which constitutes "rent" in other parts of the world, was perfectly legitimate, and therefore this was the very best system of taxation in the world, because, so far the rent sufficed, the people were *wholly untaxed*. So another witness told this Committee that the land revenue system was "an excellent system and of great advantage to the country, inasmuch as what goes into the pockets of individuals in this country, goes there into the coffers of the State, and the country is *pro tanto exempt from taxation*."

Now, as I will show that the Government never had any more right to touch the "rent" in India, than they have in England, I should like to know how gentlemen in the House of Commons would like it themselves, if a Government, backed by an overwhelming army, undertook to *wholly untax* the people of this country, by simply taking the rent of land?

It might be urged, as in the case of the massacre of the Albigenses, that men were no worse perhaps than their contemporaries, if their error was one of mere theory; but when I can show that the fatal consequences of applying the ryotwar theory were distinctly proved *before* it was definitely adopted by the Indian Government; that after the long practice of this theory in one Presidency had shown its dreadful effects in confiscating the capital of the people, it was deliberately applied to another Presidency; that to this day its evils are not redressed, although the true theory has long been established by historians, and adopted with success in some of our own provinces, then I do say that the Bureaucracy have been guilty of a degree of oppression towards the natives of India which would make it a national sin for us to prorogue their irresponsible despotism for another twenty years.

However, the theory having once been adopted that the rent of

land belonged to the Government; the great bait of the ryotwar system, or annual settlement with individual cultivators, was what was called its "discovery of concealed cultivation;" and, consequent increase of revenue, for of course it began with raising the revenue by confiscating the property of the landlords, though as such a system was "cutting open the hen that laid the golden eggs," by destroying the capitalists of the country, the ryotwar system always ended, as a rule, by swamping the whole population in one dead level of pauperism. There was another mistake made by the originators of the ryotwar settlements, which was to assume that all who were designated "ryots" belonged to the same class; the fact is, that the word in its primitive sense only means subject, and it is applicable alike to a landlord or a tenant — as well to the proprietor of five thousand acres, as to the tenant-at-will of one. In the districts of Madras, where this system was first applied, the Government officers adopted the rates of assessment of preceding native Governments, which were from forty-five to fifty per cent of the gross produce; but these rates had been paid under the native or village system, and it did not occur to the English collectors that the people *could not possibly have paid such rates*, at least not without being ruined as we ruined them, unless there had been something more than met the eye in the system, which made the real very different from the seeming burthen, and made the *nominal* taxation often more than double its actual amount!

The truth was that under the native system the land was held by a very peculiar tenure, not then understood by the English; which has certainly prevailed all over India, and is at this day in full operation in the native States, as well as in our north-west provinces and our Punjab, and in short wherever we have not ignorantly destroyed it. It was this: the whole landed property of the village was divided into a certain number of shares, which might be again subdivided in families, but were always kept distinct for municipal purposes, and the owners of these shares were the only real landed proprietors in the village; the only ones responsible for the Government tax, the rest of the inhabitants being lease-holders, tenants-at-will, &c., under them. And these

landholders had been able to bear the high assessments of the Moguls, by bringing more and more of the waste lands under tillage, and actually cultivating so much more land than that which paid the tax, that it frequently left the nominal assessment of fifty per cent less than one-half that amount on the whole of the cultivated land."

"Now, although the introducers of ryotwar settlements were ignorant of the above facts, they ought to have known, that the native Governments which immediately preceded us, that such men as Hyder Ali, had taken all the revenue the people could pay, short of paying their capital; therefore, when they found that, after measuring and classing every field, and assessing the individual cultivators of it at forty-five or fifty per cent of the gross produce, it produced a great increase of revenue, they ought to have felt that there must be some mistake in their principles. Instead of this, the great triumph of ryotwar collectors for many years was, to find out what they called "concealed cultivation."

"Nevertheless, when this system was established, its operation in ruining the cultivators was so rapid, that years before it was definitely adopted by the Home Government, its most famous advocates had discovered its evils, not from theory, but from practice. Colonel Read, its originator, had declared that "it involved the necessity of ousting all between the Government and the cultivator." Colonel Munro had declared that, unless the assessment were reduced from twenty-five to thirty-three per cent, the land would go out of cultivation. Finally, the Madras Board of Revenue had recorded the following strong opinion against ryotwar settlements:—"Ignorant of the true resources of the newly-acquired countries, as of the precise nature of their landed tenures, we find a small band of foreign conquerors no sooner obtaining possession of a vast extent of territory, peopled by various nations differing from each other in language, customs, and habits, than they attempt what would be termed an Herculean task, or rather a visionary project, even in the most civilised countries of Europe, of which every statistical information is possessed, and of which the Government and people are one, viz.,

to fix a land-tax—not on each province, district, or country, nor on each estate or farm, but on every separate field in their definitions. In pursuit of this supposed improvement, we find them unintentionally dissolving the ancient tie which united the republic of each Hindoo village, and, by a kind of agrarian law, newly assessing and parcelling out the lands which from time immemorial had belonged to the village community collectively, not only among the individual members of the privileged order, but even among the inferior tenantry; we observe them ignorantly denying, and by their denial abolishing private property in the land; professing to limit their demand on each field, and, in fact, by establishing for such limit an unattainable maximum, assessing the ryot at discretion; and, like the Mussulman Government which preceded them [Hyder Ali,] binding the cultivator by force to the pknagh; compelling him to till land acknowledged to be over assessed; dragging him back if he absconded; deferring their demand upon him until his crop came to maturity; then taking from him all that could be obtained, and leaving to him nothing but his bullocks and seed-grain; nay, perhaps, obliged to supply him even with these, in order to enable him to resume his melancholy task of toiling for others.”

Such was a literally true description of the practice of this ryotwar theory; and it was after having officially received all the above representations, that, in 1812, the Home Government definitely adopted this system of assessing “every separate field” in the Madras Presidency “at an unattainable maximum,” and settling annually with the individual cultivators. The ruinous effects of such a system may be conceived, and one of them was, that the revenue began at length to decrease till it fell to considerably below what it was when Colonel Monro proposed his reductions; and this, I believe, more than anything else at length convinced the Home Government of the absolute necessity of making some change in such a system—and, accordingly, Sir Thomas Monro was allowed to carry out, as Governor of Madras, in 1827, the reductions of from twenty-five to thirty-three per cent. in the assessment which he had recommended so many years before. I say the reader may

conceive what the people of Madras must have suffered during this interval! and he will perhaps remember "the unintermitting concert of praises sung from year to year upon the Indian Government; and the increasing happiness of the Indian people, all the while they were sinking into deeper poverty and wretchedness."

As the same mystification goes on at this day, I should think with greater intensity than ever, and it will go on as long as the existing system of Home Government is tolerated, I will now quote some extracts from Mr. Campbell's book, to show the present operation of the ryotwar system in Madras:—"I must therefore describe a ryotwar settlement, or rather absence of settlement, as it exists at Madras. For the distinguishing feature of the ryotwar system is simply that no settlement is concluded at all, but the revenue is made the most of from year to year, without settlement . . ." "The assessment is rather fieldwar than ryotwar. The Government deals directly, not only with each ryot, but with each field. Instead of assessing each village, it assesses each plot of ground. A field is not, in India, a large piece of land fenced and hedged, but a minute portion, suited to the minute tenantry, divided from the rest by a little gathering together of the earth about six inches high. Fencing is not common, and in a dry flat plain containing thousands of such fields side by side, it may be supposed that boundaries are only permanent when the fields belong to different owners on the spot, with different interests. Moreover instead of assessing at a fixed sum for a series of years, there is fixed on each *field* a maximum rent to be paid for good seasons and good crops: and it is undertaken, not as an incidental indulgence, but as an essential part of the system," that this rent shall be annually reduced when necessary. "To effect then the commutation of the share of grain into money rates, all the land was surveyed according to the native mode of measurement . . . there were no maps."

"No! and it has been recently stated publicly, by a former member of the Madras Government, that not a single district in the Presidency possesses a scientific or accurate survey; and in most, either no survey has ever been made, or it was known to

have been hastily and carelessly done! and to have been *extensively tampered with afterwards.*

But to return to Mr. Campbell, "for the management of the village, the headman and accountant are made altogether Government servants, paid by Government;" and "for the prevention of fraud on the part of these functionaries, reliance is placed on *informers*. Fifty per cent. of the assessment is allowed as a reward to any informer of concealed cultivation, &c., and it is stated that there are in almost every village dismissed accountants desirous of being re-employed, and unemployed servants who wish to bring themselves to notice, whose services as *informers* can be relied on." Before the rains the native collector makes "a ~~statement~~ preparatory to settlement. But this is by no means *the settlement*. When the crops are nearly ripe, the collector goes out into the district to look at them, and make his annual settlement. The village accountant makes out a statement, showing the cultivation of each ryot, his crops and circumstances, the number of his cattle, sheep, and children. . . . At this time, all who think they should not pay full rent, apply for reduction. All these cases are settled, and *then only* does the collector make up his annual settlement, grant formal leases, and take formal engagements for the crop, which by this time is *past*, and generally *paid for*. The settlement is not made up till *after* the crop is ripe, in fact generally does not reach the collector's office till *after* most of the money has already got there, and after making all the remissions and reductions of the season from the standard assessment." Yet this settlement is appealed to by the Bureaucracy at home as a proof of the regularity with which the assessment is collected in ryotwar districts!—Mr. Campbell goes on: "That the result of the ryotwar system in Madras is most unfavourable all parties seem to admit. The Madras men to whom I have talked candidly admit that at the present moment the state of things is most unsatisfactory—that the people are wretchedly poor, the land of little value—that the difficulty is to get people to cultivate it on any terms—and that the cultivation is kept up by forcing, by Government advances, &c. &c. And, indeed, no one who has any experience of these matters can wonder that it should



be so. The idea of the British Government undertaking to perform the duties of immediate landlord throughout a great country, discarding all the assistance of the system which we found, the self-contained communities, and dealing singly with each wretched cultivator, is, to one who knows the trouble and difficulty of managing in this way but two or three villages, quite absurd. All experience, as well as all reason, is against it. Any indigo planter who has a village or two could tell the weary work, the coaxing and bargaining, and the management, the favourable leases given to some cultivators, the bad debts left by others, the thousand and one details of managing a village on this system; and the idea of one man so managing a couple of thousand villages is perfectly monstrous . . . Only imagine one collector dealing directly with 150,000 tenants, not one of whom has a lease, but each pays according as he cultivates and gets a crop, and with reference to his cattle, sheep, and children, and each of whom gets a reduction if he can make out a sufficiently good case. . . . it is generally agreed that the abuses of the whole system, and especially that of remission, is something frightful; and that the opportunities of extortion, speculation, chicanery, and intrigue of all kinds are unbounded; while the reliance of the Madras collector on informers by no means mends the matter."

This, reader, is the "excellent revenue system" of great advantage to India, inasmuch as what goes into the pockets of individuals in this country goes there into the coffers of the State, and the country is pro tanto exempt from taxation!" Now from such excellent revenue systems, may the Lord deliver us! I have said that the true theory was established at last; but it was not a new theory—correct views had been held by individuals even before Lord Cornwallis's "Perpetual Settlement," and had been proclaimed by authority before the adoption of the ryotwar system in Madras. But it was reserved for one eminent man to collect into a focus all the scattered proofs which existed of the real nature of the Indian land-tax, and to establish the true theory on a basis which has never since been shaken, by a book published in 1830. This author, Lieut. General Briggs, after having been the confidential assistant of Mr. Elphinstone, in all the difficulties of the second

Mahratta war, was employed at its close to settle large districts of the Peishwa's country, which gave him an unusual insight into the details of native administration; he afterwards enjoyed opportunities of extending and maturing his observations as resident at various native courts, and during a mission to Persia, and he brought to his task not merely the resources of a first-rate Oriental scholar, but the experience of a practised administrator and the caution of a diplomatist. The method pursued in his work was to travel bit by bit, over the whole surface of India, illustrating the true theory by an immense mass of historical testimony, native and European; which no writer has ever attempted to answer. I have not space to go into the details of this work, but the sum of its proofs was as follows:—1st. That the integrity of private property in land had been recognised in every village in India. 2nd. That Government had no right whatever to the land, but only to a share in its produce, that is to a tax, which did not affect the proprietary rights any more than the land-tax affects our rights in England. 3rd. That the Government share or tax was so *defined and limited* both by Hindoo and Mahomedan law, that Government had no title or precedent (except revolutionary ones) for taxing the people at discretion, and no more right to claim the property of the land and take its "rent," than a tithe-owner has to claim another man's estate because it pays him tithe. 4th. That the native institutions themselves, afforded a broad basis for our administration, and the only one on which we could establish a durable empire. A series of articles by the same author, adding new proofs of the correctness of the above views, have recently been published in the "Indian News" journal, Nos. 227 to 233.

The above work produced a strong impression on the mind of one of the most illustrious politicians of that day, Lord Wellesley, who at length saw, happily for some of the natives, that the land in India was held on exactly the same conditions as those in which a man possesses a house, or a house, or a dog, or land, or any other property in England, namely, that the Government might assess it to pay a settled tax, and attach and sell it if the tax was not paid; but that this tax was no more

"rent," in India than it is in England. The fact is, that *tax* and *rent* are two things different in their nature, and acted upon inversely by given circumstances; for instance, *rent*, or the annual premium paid for the use of land, increases per head with the increase of population—*tax*, or the annual contribution to the expenses of the State, as a rule diminishes per head with the increase of population; and in this way the taxes of England have been very much lightened per head in the last half century.

But to return to Lord Wm. Bentinck; this enlightened and sincere friend of the natives, when Governor-General of India, took the first opportunity of embodying the recommendations of the above work in a series of regulations, which he sent to General Briggs, then Resident at Nagpore, for correction, and which were the foundation of the North-Western Settlements. I must refer the reader to Mr. Campbell's book for the details, but the principle of these settlements was to ascertain and define first, the extent, nature, and value of the lands, and the rights of their owners, and then, securing the rights of these owners, to settle the tax on a moderate assessment for a term of thirty years, liable to a fixed decennial increase if a certain quantity of fresh land is brought into cultivation, at the same time carefully preserving the native institutions, that is to say *the village system, working through that*, and collecting the tax from the representatives of the different villages.

And now, what does the reader think of the Government forcing its Madras system upon Bombay, not only in spite of Mr. Elphinstone's strong opposition, but in spite of his strongly expressed opinion in favour of the village system (for he anticipated long before the conclusions of Lord Wm. Bentinck), and let the reader think of the Government doing this about the time when it was compelled to avow the ruinous consequences of the "excellent revenue system," in Madras! However, such was the case; and although Mr. Elphinstone's great name enabled him to resist ryotwar settlements as long as he was Governor, the doom of the ryots was sealed when he went home, and the "excellent revenue system" was soon after introduced in Bombay. Of course this method of "wholly untaxing" the

people by taking their rent, soon reduced them to a state of pauperism in Bombay, as it had done in Madras, and not until they were so reduced, did the Government agree to any reduction in the assessment.

A revision, meaning a reduction, of the assessment is now going on in Bombay, but has only yet gone over the southern portion of the Presidency, and it is stated in the "Friend of India," of October 21, 1852, that before this revision, "no ryot ever knew one year what he might have to pay the next, and whatever he paid, or whatever exertions he might be induced to make, he still found an unaccountable amount of arrears hanging over his head. There was no rich landowner to stand between him and the Government, no capitalist to bear the first pressure of a bad season, but he just scrambled on from year to year, and took to flight when the grievance became too great to bear. The collection was, in fact, based upon the same principle as that which to this day governs taxation in Egypt, viz. to take from the peasant everything that can be squeezed out of him and then to make a merit of remitting the remainder."

With regard to "rich landholders" and "capitalists," I have alluded to the progressive destruction of the native aristocracy in my sixth chapter; and the ruin of the country gentlemen and principal farmers by our over assessment is noticed in Mr. Giberne's evidence before the Commons' Committee of 1848; also in a letter dated 1849, from a gentleman high in the Company's service, quoted by Mr. Bright, in the House of Commons, saying, "*many of the best families in the province who were rich and well to do when we came into Guzerat, in 1807, have now scarcely clothes to their back,*" &c. &c.

I will conclude this chapter by exposing the stupid fallacy, worthy of a bureaucratic Government, which assumes that a land-tax is the best of all taxes, and the Indian revenue must depend upon it. In the first place it cannot depend upon it, for it is notorious that the Government cannot tax the land any more, and the Indian finances are now in a state of the most dangerous embarrassment from the insufficiency of the revenue. In the second place, a land-tax is not the best of all

taxes, not only because Adam Smith and others have shown that a money tax on land must soon become unequal, but because it is a direct tax on produce, which is always the form of taxation least productive to the Government and most oppressive to the people. To say that it is "best" to raise three-fourths of the revenue by a direct tax on produce in India, while we only raise one-fifth of the revenue by direct taxation in England, is a gross and glaring contradiction. Yet, conceive our adopting the "best" principle and attempting to raise three-fourths of our own revenue by a direct tax on the land? Why, the Customs alone pay above twenty-two millions of our net revenue! so that the system is evidently absurd in our own case, or that of any other civilised nation, which a Bureaucracy calls best in India; though it is really quite as absurd there as anywhere else—and it has led to the cruel over-assessment of the people, and the perpetual grasping of the Government for more direct revenue, by confiscating Native States and the landed properties of the Native aristocracy, without saving the Indian finances after all from falling into a situation of extreme peril.

How different is this result from that obtained by a Native Government which encouraged the commerce of its subjects. General Briggs has shown that one of the wealthiest Native States, before our time, that of Malabar, had no land-tax at all, and had a very large revenue without one. Yet the Bureaucracy, as I will endeavour to show in my sixth chapter, have done everything to destroy, and nothing to help the commerce of the natives. I am reminded by the subject of this chapter, of one of the effects which would ensue, if commerce was possible, to the natives of India. It is notorious that they have a passion for wearing gold ornaments, and to such a degree, that these used to be a sort of criterion of their family wealth; and it is stated in a pamphlet, by a late member of the Bombay Government, and has been confirmed to me by several old Indians, that under the operation of the "excellent revenue system," which ground them down, till it was reported by a Revenue Commissioner before the late revision of the assessment, that "the straits to

which the cultivators were reduced, were not merely those of the most coarse and homely fare, but he believed the far greater proportion could not afford for themselves one daily plentiful meal, of any sort of grain, throughout the year:—"under this process, of course, their gold ornaments and every atom of gold has disappeared from among them. Now, the consequence of a considerable reduction of the assessment in the South of Bombay has been to cause a vast increase of cultivation and a glut of produce, which absolutely rots in the interior for want of a market, and brings back the old difficulty of finding money to meet the assessment. Yet if commerce was possible to these people, and I will endeavour to show in my sixth chapter that it is impossible, not only could they sell their produce, but they would get back all their family treasures, and share with other civilised nations in the benefits arising from the sudden and enormous increase of the precious metals.

However, it is hopeless to ask the Home Government to encourage the commerce of the natives. It is impossible for any man to judge of the unfitness of a Bureaucracy to comprehend the interests or conduct the affairs of a great empire, without having had to deal with the Home Government of India. Burke's description of the statesmanship of a Bureaucracy is not in the least exaggerated. "there is no trade so vile and mechanical as Government in their hands. A large, liberal, and prospective view of the interests of states, passes with them for romance; and the principles that recommend it, for the wanderings of a disordered imagination. Littleness in object and in means to them appears soundness and sobriety." It is in vain to ask such a class as this for any enlightened measures of Government. It is in vain to prove to them, year after year, that such a return of part of the taxes in public works, as is the undoubted right of the people who have been "wholly untaxed" by taking their "rent," that this would produce an increase in the Indian revenues, of which no man could foresee the end—that it would re-establish the finances, relieve the cultivators; restore the capital we have exhausted; and replace the trade we have destroyed. All such appeals, either in private or in the

Court of Proprietors, are rejected as a romance, and resented as an intrusion :

"I'll have my bond ; I will not hear thee speak ;  
I'll not be made a soft and dull-eyed fool,  
To shake the head, relent, and sigh, and yield  
To Christian intercessors. Follow not ;  
I'll have no speaking ; I will have my bond."

So they will indeed ! they are now goading on the Bombay Government to seize the Enams in that Presidency ; they have taken away many of these estates which had been in the same families for centuries ; and as I show in my sixth chapter, they are in a course of confiscating the territories of Native Princes, whose dynasties date in some of the Rajpoot States from 2000 years back, and whose ancestors resisted Alexander the Great.

To bring these things home to the reader, let me suggest a parallel case in England, to what we do in India. Our "great Duke," and our only one, has just passed away from amongst us. I leave his services to the record of history and the praises of posterity ; my business is only with a certain estate given to the Duke and his heirs by the nation, to reward those services. Now let me propose to my countrymen, to show our national gratitude, by pauperising the present Duke and Duchess of Wellington ; and to show our honour and good faith by confiscating Strathfieldsaye. Is the reader shocked at such an idea ? but it does not shock our Indian Government in the least. Does the reader think the present Duke's title to his property is something sacred ? but so is a native gentleman's title to his Enam. Does the reader think the confiscation of Strathfieldsaye would be a very meagre addition to our revenue, after all ? but we see in India that a number of estates taken in this way, do something. Can the reader still hesitate ? has he yet another scruple ? will he say that no empire can be durable which is not just ? why then, in God's name, let him help to stop the injustice of our Indian Government.



## CHAPTER V.

### THE JUDICIAL SYSTEM.

It was one of the greatest evils of the Ryotwar settlements, that they subverted the indigenous municipal institutions of the country. These institutions had formed the basis of every successive empire in India for ages; and they were so rooted in the hearts of the people, that when allowed to retain their cherished privilege of local self-government, they were comparatively indifferent to the title, or creed, or nationality of their rulers, and indisposed to political combination, because they enjoyed a simple and satisfactory administration of civil and criminal law. However, the English, who first acquired territory in the most disorganised part of India, and were then entirely ignorant of the systematic structure of native society—the English rashly assumed that an ancient, long-civilised people, possessing the elaborate mechanism of old governments, suited to their manners and domestic circumstances, grown into a second nature by custom, and to this day working admirably under good rulers—that such a people were a race of barbarians who had never known what justice was until we came among them, and that the best thing we could do for them was to upset all their institutions as fast as we could, and among others their judicial system, and give them instead a copy of our legal models at home. Models, be it remembered, against which we have been inveighing for at least a century and a half, and which have at length become so odious that we have radically changed a great part of them, and may possibly condemn still more. But even if the technical system of English law had worked well at home, it would have been the grossest political empiricism to force it on a people so

different from ourselves as every Oriental people are; and considering that it did not work well, even at home, the reader may conceive the irreparable mischief it has done in India. It is lamentable to contemplate the pictures given us of its demoralisation of the natives; and the more so, because this demoralisation is progressive, so that the worst results are found in our oldest possessions.

There was some excuse for the Government which introduced this system of "artificial technicalities," in its profound ignorance of every native institution, including those rational methods of dispensing justice peculiar to the country. But nothing can excuse the Government of the present day for maintaining such an abuse; nothing can even account for such mal-administration, except the fact, that the Home Government is an irresponsible Bureaucracy. What makes this disregard of the rights of the natives (their right to be well governed) more flagrant in the present instance, is the fact that ample information has long since been supplied to the Government of the evils of its own judicial system and the merits of the native one. Indeed this last has been retained, and is working with complete success in the latest of our territorial acquisitions; for somehow or other we always know how to give the native good government, when we have strong motives for doing so: as in the Punjab, where it is our interest to conciliate a martial people, newly brought under our sway; and in Mysore, where it is our interest to reconcile them to the prospect of absorption. But, says Mr. Campbell, the Punjaub "having had the benefit of our previous experience, the best systems have been introduced." This is no excuse for the Government, but an aggravation of its injustice. Equity would require that the unfortunate people at whose expense our experience has been gained, should be among the first to benefit by it. For it has cost our old provinces dear, this experience! We have experimented upon their population, as if in *corpora vili*, while we were finding out what were "the best systems;" and now we have found them out, we do not give these unfortunate people the benefit of them.

However, I object to the word introduced in the above

sentence. Mr. Campbell's partiality for the Civil Service leads him to speak of our successful administration of the Punjab, as if the Civil Service had invented a revenue and judicial system which we have only adopted, and which is some centuries older than our empire in India. Long before we knew anything of India, the fabric of native society had been characterised by some peculiar and excellent institutions, viz., by a municipal organisation, providing a most efficient police for the administration of criminal law, while the civil law was worked by a simple process of arbitration, which either prevented litigation, or else ensured prompt and substantial justice to the litigants. It may be worth while to add some details on the subject of these institutions.

The village was the germ of the whole political system of native States. The constitution of a village was the model of that of a town consisting of more than one parish; and so on, till the village became a city; each branch of the municipality increasing as the community enlarged, until the single smith or carpenter of the village was represented by the guild of his trade in the city; and in every case the freeholders forming a corporation which managed the municipal revenues and police, and was the organ through which the Government transacted its business with the people. As a rule, all over India, there were three classes of ryots or cultivators in every village. 1st, the freeholders or proprietors of the soil; 2nd, a class like copyholders, who rented of the first, but could not sell nor be turned out of their holdings while they performed their engagements; 3rd, a class of tenants-at-will; the mechanics, police, &c., were paid partly by tax-free lands, and partly by a fixed portion of the produce of each field. Of the above, the landlord class alone was responsible to the Government for the taxes, which were assessed on each member of this body by its elective council, and the surplus rent, after paying Government dues and municipal expenses, was divided among the freeholders, in proportion to their share, large or small, of the property: but there was nothing like "communism" in this division, except the sort of communism we have in many parishes in England, viz., a freeholder's right of pasturage on the village common, where there

happened to be such a thing. The two most useful functionaries in this municipality were the head-man and the record-keeper; both generally hereditary officers, but requiring the confirmation of Government. The head-man was the village magistrate, tax-gatherer, coroner, &c., and had a limited civil and criminal jurisdiction, though in the village council, he was simply "*primus inter pares*." The record-keeper was quite as important an officer as the first, for nowhere in the world were the records kept with more accuracy and statistical detail than in India. The village books contained a register of every field, with dimensions, names of owners, crops sown, &c., with every particular of the possession or alienation of real property by sale, heritage, or transfer, and as the sale of land was one of the most formal processes in all the native institutions, and every circumstance of the transaction was recorded, it was comparatively easy to ascertain the truth in cases of disputed right. Finally, the village chief and record-keeper were represented by corresponding functionaries at the head of each native district or county, who thus connected the local with the general administration, and were the organs of communication between the Government and the people. For instance, in the imposition of any new tax, the native Governments always took care to obtain first the assent of the local authorities; stimulating their self-interest on such occasions, and profiting by their influence over the people. Whereas, our Government has sometimes goaded the natives into open resistance, by making them feel that they were neither represented nor consulted in its arbitrary imposition of new taxes. It was the county chiefs spoken of above, whom Lord Cornwallis mistook for great land-owners; though they were really only great tax-gatherers; and to whom he transferred the landed property of their districts by his Perpetual Settlement.

But certain conditions were exacted from these municipalities under the native system in return for the privilege of self-government. Each community was responsible for a due performance of its police duties, under heavy penalties; as were formerly the "*hundreds*," in England. They were bound to produce or trace the perpetrators of robberies or outrages committed within their

limits, or else to make good the amount lost, or submit to a fine imposed by the Government; and partly owing to this responsibility, partly to the peculiar fitness for their employment of the Aborigines who fulfilled the police duties, there was no part of the municipal institutions of an Indian village more perfect than its police system. Marvellous stories are related of the sagacity of this native police, who have been known to trace criminals from one county to another, sometimes for weeks together, until they succeeded in apprehending them, and wherever we have destroyed the native institutions and disorganised this force, a great increase of crime has been the consequence. Bengal is a melancholy case in point; and I must continually direct the reader's attention to the fact that wherever we have upset the native institutions, and put inventions of our own in their place, it has produced a great and progressive increase of crime. But it was in the administration of civil law that the merits of the native system were most conspicuous. The Judges were appointed by the King, and sat as his representatives, and the central courts in the capital, and local courts in the districts, corresponded to the old European model: with this difference, that as there was no set of functionaries in the Native Courts, as attorneys and special pleaders, whose livelihood depended on their practice, the Indian judges had a motive for suppressing litigation, and they maintained a system of arbitration, comparatively inexpensive to the litigants, greatly facilitated by the exact and minute record of real property, and scarcely ever leading to appeals to a higher Court.

It is worth while to add a sketch of the forms in Native Civil Courts; as they are still existing and working to admiration, wherever we have not destroyed the native institutions and introduced our system of "artificial technicalities." After the plaintiff's petition is received by the judge, he must attend when it is read in court, to answer any interrogatories the judge chooses to put to him. The defendant is then summoned and required to answer in writing, and it is the duty of the judge, at this stage of the proceedings, to endeavour to effect an arrangement or compromise, and obtain from the parties mutual releases, in which case, this first process is final. Failing in this, the judge proposes

to them an arbitration of friends, generally accepted when the parties are dealing fairly with one another—and then the forms of a regular trial are enforced by an officer of the court, who has power to compel the attendance of witnesses, the production of papers, &c.; the award is made a rule of Court, and this second process is final too. When one or both parties refuse this method, they are required to give securities, the one to prosecute, the other to defend the case. The Court then summons a number of individuals of the same profession or rank as the parties, out of whom a certain number are selected, any of whom the plaintiff or defendant has a right to challenge; the Court deciding on the validity of objection. The parties are then required to sign an instrument agreeing to submit their cause to this jury, and pay a certain fine to Government if they appeal against the decision (this meaning appeal costs), and after the hearing of the cause, before the decree is passed, they are required to sign an affirmation of the fairness of the proceedings. An officer of the Court attends to regulate the forms, as in the Arbitration Courts, and in this way several suits may be conducted simultaneously in the same Court. When the decree is given, the judge awards their costs to jurors, witnesses, &c., and decides who is to pay them. In the event of an appeal, the appellant must enter into recognizances to pay the expenses, but an appeal beyond the district seems to be unheard of, and this simple mode of dispensing justice, minus English law and attorneys and special pleaders, is to this day completely successful. It is not that lawyers do not exist in Native States, but that the Court alone can summon them, if it requires their advice or assistance; the parties cannot hire them under the native system, as they do under our system, to defeat the ends of justice.

Such then is the native judicial administration as it still exists in many parts of India, and did exist everywhere; and so well did it work, that Mr. Elphinstone can only account for "the flourishing state of the Mahratta country," in spite of the obvious defects in its government, by attributing it to the judicial part of the native institutions. And now, in lieu of this simple and rational mode of dispensing justice, we have given the natives an obscure,

complicated, pedantic system of English law, full of "artificial technicalities," which disable the candidates for justice from any longer pleading their own cause, and force them to have recourse to a swarm of attorneys and special pleaders, that is of *professional rogues*, according to Mr. Campbell, to conduct their cases, by which means we have taught an ingenious people to refine upon the quibbles and fictions of English lawyers, and become such adepts in the science, that the course of justice, civil as well as criminal, is utterly confounded in a maze of artifice and fraud, and the natives, both high and low, are becoming more and more demoralised, as they become more dexterous in applying all the "sharp practice" of English law.

The author of "Modern India" has given a very graphic description of our system, but I can only find room for an outline of his revelations. He says that some men go out from Haileybury, who are not, and never can be, fit for the duties of the Civil Service; that in the course of promotion, men are changed from one department to another with a totally different set of duties at every step—frequently posted to different parts of the country where they do not understand the language of the people; and that they only hold the same office on an average for two or three years without interruption, which gives little opportunity for acquiring the local knowledge necessary for administrative duties. As the rule, promotion goes by seniority, and so the most indifferent officers attain a certain rank in time, and the higher appointments are sometimes long blocked up by elderly men, never brilliant and now inefficient, worn out in body, mind, or temper, yet who cannot, or will not retire.

When a collector is old enough, he is made a judge—and to this step there is almost no exception if it is wished for. "It seems to be considered, that if at this time of life a man is fit for anything at all, he is fit for a judge; and if he is fit for nothing, better make him a judge and get rid of him; for once in that office he has no claim to farther promotion by mere seniority alone." Altogether, it happens that few above mediocrity remain to be judges, and of those who do, many are disappointed men; and in both divisions of the Bengal Presidency they are promoted



to be judges late in life, with no previous experience whatever of the principal portion of their duties, civil justice.

These judges are nervous, captious, and timid; disposed to overstrain forms and exaggerate technicalities, and to rush into the extreme of legal niceties and quibbles; they are unwilling to convict on reasonable evidence—some, unable to make up their minds, and thinking acquittal the safest course—some, considering themselves charged with the interests of the prisoner as opposed to the magistrate, and seeking for every argument for acquittal, substantial or technical, and finally they are prone to feel that their consequence depends upon actively interfering with and checking the magistrates, and to give prisoners the benefit of every doubt on their minds, reasonable or unreasonable, rather than face the responsibility of convicting them. “Transferred to the superintendence of a large judicial machinery, after having spent the best of their years and energies in other employments, it is hardly to be expected that they would well perform so difficult a task.” Such being the judges, let us see what are the laws.

The criminal law is a patchwork, made up of pieces engrafted at all times and seasons on a groundwork of native codes, nearly covered and obliterated; in fact, by practice and continual emendations, there has grown up a system of our own, and the Sudder Court, composed of the judges described above, are in the habit of issuing authoritative “constructions” of regulations and points of practice: but successive judges pretty often vary their constructions. In the civil law the Government has scarcely interfered at all in the laws regulating property; but precedents and “constructions” have swelled out into a large and complicated legal system, quite undigested and unarranged, and the judges of one day are constantly altering the constructions of their predecessors. Such, then, being the judges, and such the laws, and the police being inefficient, except in the Punjab, where “the wholesome ancient system is more exactly adhered to,” let us see how the system works, and first in criminal law. It appears that the magistrate has greater facilities for eliciting the truth than the judge; by questioning the witnesses, whose

evidence is all taken down in writing, and ascertaining that they understand what is recorded; and the author hardly ever knew evidence to be at all perverted where the parties, the magistrate, and the witnesses all spoke and understood the same language. Moreover, in the new territories there is a habit of confessing among the people; though this is exchanged for a habit of denial in the clearest cases when they find out the many judicial chances of escape under our system. Altogether in new territories, an efficient and experienced official can very well get at the truth in most cases; but there is a great deterioration in the course of time, from which Mr. Campbell infers that lying and perjury are quite as much due to our judicial institutions as to the people. It appears that the judge prefers deliberate statements as the best legal evidence; while the magistrate can to some extent ascertain the character and history of the witnesses, and does a good deal towards weighing them properly. But still experienced criminals, and especially the professional attorneys about the Courts, do much to baffle him; witnesses are sent up well crammed and cautioned to tell a connected story, and not to tell too much; and when the case after a long interval goes to the judge, the evidence is worth literally nothing. All the witnesses are thoroughly well up in a thrice-told tale. Nothing is to be made of strings of such witnesses directly contradicting one another. The judge can get little more out of them. To him a witness is a witness, and he knows nothing else about him. "The civil courts are the great schools for perjury, and in our older possessions false witnesses for criminal trials can easily be procured from thence." At the trial one of the magistrate's clerks does the mechanical duties of a prosecutor, and nothing more. The prisoner may produce any number of fresh witnesses he pleases, and has a right to counsel; although there is none for the prosecution, and "the professional advocates are the most unscrupulous of men." Finally, though the form of a jury is preserved, the judge generally puts into the box some of the pleaders, and such people about the Court—intimates to them very broadly his opinion—they always agree with him—and there is no more trouble. Under this system there is a great increase of crime; most marked in our

oldest possessions; and "the Dacoits have now got the better of the laws!" It would be very odd if it were otherwise!

Now let us see what is the system in civil law. When the plaint is lodged, which is generally long, rambling, circumstantial, exceedingly exaggerated, and full of irrelevant matter, a notice is served on the defendant, or stuck up in the village where he is supposed to reside, requiring him to file an answer in a certain number of days. If he does so, the plaintiff is called upon for a replication, the defendant for a rejoinder, and so on, each paper containing all kinds of assertions, accusations, and technical objections, and refusing to admit the plainest facts. This being completed, issue is supposed to be joined, that is to say, the judge has before him a mass of the most prodigious contradictions which unscrupulous subtlety can deliberately prepare in writing, and great quantities of irrelevant matter, and then he appoints a day for trial. Issues of law and fact are all joined at the same time. In the trial the judge is not permitted himself to make any effort towards the discovery of the truth. Everything is left entirely to the management of the parties and their professional advisers, who avail themselves of every weapon, fair and unfair. Perjury, forgery, and fraud, are altogether rampant in the civil courts; in fact, the whole system is one of highly perfected fencing with such weapons. The parties marshal up their own prepared witnesses, produce their own documents, and apply for reference to particular records. The judge would not on any account refer to the records of his own or the collector's office, except on special application from one of the parties. He scrupulously restricts himself to the *worst* evidence, and having heard that he decides as he best may. If either party commit any error of form, it is fatal to his cause. If the defendant does not appear in the manner required, the decree goes against him by default, and the first he hears of it is in the seizure of his lands and goods, after which he has no legal remedy. In execution of decrees personal property is distrained, &c. Against the possessor of landed rights the process is exceedingly simple. They are at once sold by auction without reserve to the highest bidder in satisfaction of the decrees; or, if certain rights are decreed, they are at once made over by present

addressed to the collector, who must implicitly obey, however inequitable he may know the decision to be, and however inconsistent with the rights of others. Such then is the system of civil law, and the worst of it is, we have succeeded in giving the natives a taste for this system of "artificial technicalities," which thrives amazingly; and as most people are frequently involved in litigation in some shape or other, the whole country is demoralised by it, and the lowest villagers are becoming up to many "dodges" of the law. Finally, our author says, "the judicial oath as it is used, does not in the very least affect the evidence. And yet this is not because the religious sanction of an oath is unknown to the people. On the contrary it was nowhere stronger, and this is another of the changes caused by our system. In a new country I found that a solemn oath was astonishingly binding, not gabbled out lightly as an everyday matter in the courts of justice, but taken on rare occasions, after the fashion of the people themselves. But such binding oaths do not exist in our older provinces. The judicial oath is much too common-place an affair to carry weight, and the people seeing perjury practised with impunity, become used to it. The longer we possess any province the more common and grave does perjury become."

Such then are our judges, and laws, and administration of what is called civil and criminal justice in India. And the maintenance of this demoralising system is the more iniquitous that Government is aware of the evil, and conscious of the remedy. That remedy has been applied in the Punjab, and the reason for adopting it is thus stated by Mr. Campbell:—"After a long trial of the working of the old courts, it may be supposed that the Government was little inclined to extend their operation, and the system was so radically vicious that there was no amending it except by altogether sweeping it away and commencing *de novo*." He then gives the details of the Punjab administration which the reader will find is the same native system described in the beginning of this chapter. The remedy then, and the only one, is to return to that local self-government, and simple mode of administering justice, indigenous to the country, and congenial to the manners of its inhabitants. A remarkable instance of the