

## A P P E N D I X, No. XXXII. A.

Extract of Revenue Consultations, Fort William, 17th January 1775.

Governor-General's information regarding a writ of Habeas Corpus being issued from the Supreme Court of Judicature.

THE Governor-General reports to the Board, that he had information yesterday given him, that a writ of Habeas Corpus had been directed to be issued from the Supreme Court of Judicature to the keeper of the gaol of the Dewanny Adawlut of the town of Calcutta, directing him to bring up before the court the body of Bancharam, committed to his custody by a warrant or order of the Dewanny Adawlut : that the writ is to be served this morning, and he understands, that either a regular return must be made to the writ by a Counsel appearing on behalf of the gaoler for that purpose, or he must produce the prisoner required, or he will himself be imprisoned, or otherwise punished, for contempt of the court. As this is a case likely to decide the rights of the Dewanny courts, he refers this matter to the Board for their determination upon it.

Memorandum concerning the matter delivered in.

In addition to the foregoing representation, the Governor-General lays before the Board the following Memorandum concerning the affair, which he received from Mr. Rous, the late Superintendent of the Dewanny Adawlut.

Bancharam, an inhabitant of Beerbhoom, was confined, when at Calcutta some months ago, by the Dewanny Adawlut of Calcutta, upon the suit of Mr. John Sumner ; and in his answer to Mr. Sumner's bill of complaint, Bancharam intimated a demand upon Mr. Sumner for a larger sum than Mr. Sumner had claimed from him. The Court of Adawlut have done no more than recorded the bill and answer of the parties.

Messieurs Farrer and Brix appointed Standing Counsel. Instructions to be given to them in the foregoing case.

AGREED, That Messieurs Farrer and Brix be appointed Standing Counsel for the Company until the pleasure of the Court of Directors be known : and,

AGREED, That they be instructed by the Secretary to appear in the Court on behalf of the gaoler, to explain the cause and circumstances of the imprisonment of Bancharam, and to plead to the jurisdiction of the Supreme Court \*.

† Extract of Revenue Consultations, Fort William, 18th January 1775.

Read the following Letter and Enclosures from the Calcutta Committee of Revenue.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Council of Revenue at Fort William.

Honorable Sir and Sirs,

Letter from the Calcutta Committee of Revenue.

A FRESH instance of interference with the authority you have been pleased to delegate to us having occurred, we beg leave to submit it to your consideration.

In January last, Jagamohun Shaw laid before the Superintendent of our Court of Adawlut a representation, that two persons, named Ramcanto Babooly and Ramkissoore Babooly, had been indebted to him the sum of Rupees 7,199,14, which had been decreed in the Judicial Court of Cutcherry. A copy of the proceedings and order of the Superintendent, in consequence of the application, are herein enclosed N<sup>o</sup> 1 and 2. It was not long after this that the Farmer of the Purgunnah Shawpore fell considerably in arrears, and that Ramcanto Babooly, the security, was confined in our Cutcherry on that account ; during which Monohor Babooly, one of the brothers, in person represented, that his effects had also been seized as well as his brother's, against whom the decree had been passed. The balance due to the Sircar had, by this time, made the sequestered articles objects of our attention, and from our enquiries we judged that the family was not separated in such a manner as to authorize our relinquishing any effects belonging to it, no general release, as is necessary to dissolve that natural partnership which exists in the family of the Hindoos, having been executed on any of

\* See proceedings relative to this writ of Habeas Corpus contained in the next page but one.

† See Narrative, page 104, paragraph 11.

their parts. The Committee were still more strongly induced to this resolution, from the practice that has universally prevailed in this country of looking on all near relations, from the above-mentioned natural and hereditary partnership, and the opportunities it affords the parties of screening each other's frauds, to be so inseparably connected, as to be mutually answerable for each other's engagements to Government. And further it was proposed to him, that if he could point out any of the effects to be his own, independent of the family partnership, and would take his oath to the same, that they should be delivered up to him; but this he refused to do. For these reasons the request of the brother was unattended to, and the Aumeen directed to proceed in the business he was appointed to, that the produce of the sale of the effects might be applied as directed in your Letter of the 28th June last; but the interruption he met with from the family, and the backwardness of the Beoparies in the Mof-fufful to purchase the goods, caused him to make a representation to the Committee on the subject, which, together with our answers to each article, we enclose for your inspection, No. 3. The execution of these orders on his part has produced the enclosed Letter, No. 4, from an attorney, concerning which, as we have already addressed you on a subject somewhat similar, we will not trouble you with any observations of our own.

We are, &c.

Fort William,  
15th January 1775.

(Signed) H<sup>r</sup>. COTTRELL,  
CHA<sup>r</sup>. GORING,  
J. HOLME,  
JOHN SHORE.

Extract of the Proceedings of the Adawlut for the Calcutta Division, in the Cause Jagamohan versus Ramkissore Babooly and Ramcanto Babooly; Mr. Henry Cottrell, Superintendant, February 17, 1774.

THE plaintiff produced the decree of the Court of Cutcherry, passed in consequence of an award of arbitration, which awarded to him the sum of 6091 9 Rupees principal of a bond, together with interest thereon, amounting altogether to Rupees 7199 14, against Ramkissore and Ramcanto Babooly, one of whom (Ramkissore) has since died in prison in consequence of this decree. Ordered therefore that a warrant of attachment be issued against the person and effects of Ramcanto Babooly, to compel obedience to the aforesaid decree, but not against the heirs or effects of Ramkissore Babooly, all possible satisfaction having been rendered to the plaintiff by retaining him at his suit in prison till he died.

(A true Extract.)

(Signed) BEN. GRINDALL, Assistant to the Superintendant.

Read the following Arzee of Ramjoy, Aumeen sent to sell the effects of Ramcanto Babooly and Ramkissore Babooly, with the Resolutions of the Committee.

The effects of Ramcanto Babooly and his brother Monohar Babooly, &c. laying in the same place, when I detained the former's the latter complained to Mr. Golding that his effects were taken also; on which Mr. Golding told him, that what he would prove on oath had been taken from him the same should be restored: unable to support his charge, his suit was dismissed.

1st. Am I to sell all or not?

2d. Bernis Baboo, and every one residing at the place where the effects of Ramcanto Babooly are deposited, decline purchasing them; I request a Perwannah to assure them of protection on this account.

3d. From the time that the rice, &c. belonging to Ramcanto Babooly at Chittergunge has been detained, Kissen Churn Gose

1st. All must be sold.

2d. Granted.

3d. Kissen Churn Gose to appeal to the Adawlut.



has claimed the half of them as his property. The effects, &c. in question not being yet disposed of, I beg to know whether I may promote the sale of them or not?

4th. In consequence of the seizure of the effects of Ramcanto Babooly, they have been hitherto deposited in some merchant's golahs; the merchants demand golah hire, may I allow it them or not?

5th. The rice of Ramcanto Babooly at Doolia in Moragotcha, deposited in the house of Kissen Churn Maulos Chuck, who refuses to deliver the same up to me; I request your pleasure?

6th. At Chittergunge, Ramcanto Babooly had 73 maunds of oil, his brother Monohar Babooly, &c. have sold the same; your commands on this point are also desired?

7th. The Bermutter, &c. of Ramcanto Babooly is dispersed in different Purgunnahs and detained; I request an order to the Farmers to continue his Bermutter in detention.

4th. Certainly; but the amount to be approved by the Committee before it be paid.

5th. To seize the effects wherever he finds them.

6th. If the merchants pay a proper price, he may deliver it, but even then not till the money be paid.

7th. A Perwannah to be issued to sequester it, and to send an account of it to the Committee.

A true Extract of the proceedings of the Committee of Revenue on the 30th December.

(Signed) P. MOORE, Secretary.

To Ramjoy, 11th January 1775.

Enclosure.

**M**ONOHAR Babooly informs me that you have seized and sold some rice, salt, and paddy, his property, to satisfy the debt of his brother Ramcanto Babooly; I am directed by him to acquaint you, that unless you immediately render him satisfaction for the injury done him, I shall commence an action against you.

A true Copy.

(Signed)

J. DRIVER, Attorney at Law.

(Signed) P. MOORE, Secretary.

Referred to  
the Compa-  
ny's Attorney  
at Law.

**RESOLVED**, That this matter be referred to the Company's Attorney at law by the Secretary, with orders to defend the cause of Ramjoy in the suit instituted against him by Monohar Babooly, and that the following Letter be written to the Calcutta Committee of Revenue.

To Mr. Henry Cottrell, President, &c. Committee of Revenue at Calcutta.

GENTLEMEN,

**W**E have received your Letter of the 16th instant, and having directed Mr. Hercules Durham, our attorney, to defend the cause of Ramjoy in the suit instituted against him by Monohar Babooly, we have desired him to apply to you for any materials he may require, and we direct that you immediately furnish him with any lights in your power.

We are, &c.

Fort William,  
18th January 1775.

Read the following Letters from Mr. Thomas Farrer.

To the Honorable the Board of Revenue.

Honorable Sirs,

Mr. Farrer's  
Letters.

**I** AM this moment honored with the directions of the Board, communicated through their Secretary, respecting a writ of Habeas Corpus which has been issued by the Supreme Court of Judicature, to produce before the said Court the body of one Bancharam. I apprehend the objection taken to the jurisdiction of the Court ought to be set forth by a proper

proper return to be indorsed on such writ; and as the substance of such return will, I conceive, be found to be of great importance, if the consequences which may attend it are duly weighed, I think it advisable, as the Habeas Corpus is returnable immediately, to move the Court to enlarge the return thereof, that the matter may be in the mean time duly considered, and the return, previous to its being made into Court, submitted to the inspection of this Honorable Board.

I have transmitted the Letter and directions of the Honorable Board to Mr. Brix, to whom with myself they are jointly addressed, who will, I presume, immediately give his sentiments on the occasion.

If there is any impropriety in this mode of address, I flatter myself the Honorable Board will excuse it, as the shortness of the time seems to me to require the most expeditious mode of communication.

I am, &c.

Fort William

17th Jan. 1775.

(Signed) THO<sup>s</sup>. FARRER.

To the Honorable the Board of Revenue.

**M**R. Farrer begs leave to represent to the Honorable Board the necessity of their giving directions to their Counsel to-night, or to-morrow morning before 9 o'clock, in the matter of the Habeas Corpus to produce the body of Bancharam; as, if a return is not made thereto, or time obtained for that purpose, to-morrow morning, at the sitting of the Court, an Attachment will, he apprehends, issue against the keeper of the prison: at the same time Mr. Farrer humbly begs leave to submit to the consideration of the Honorable Board the enclosed draught of a return, prepared in conformity to their directions.

The shortness of the time not affording an opportunity of a communication of sentiments between Mr. Farrer and Mr. Brix in consultation, Mr. Farrer judges it expedient to give his sentiments on the steps necessary to be taken separately.

18th January 1775.

Return proposed to be indorsed on the Writ of Habeas Corpus.

**H**UMBLY protesting against the jurisdiction and authority of the Supreme Court of Judicature within mentioned in the matter within contained. Enclosure.

I humbly certify to his Majesty's Justices of the said Supreme Court of Judicature, that the within-named Bancharam Roy, a Gentoo, is in my custody, as *keeper of the prison of the Court of Dewanny Adawlut of the town of Calcutta*, pursuant to and under a judgment or sentence of that Court, and is not detained in my custody on any other account or for any other cause whatever; and I humbly submit it to his Majesty's said Justices, that the said Bancharam Roy being confined by the authority of the said Court of Dewanny Adawlut, is not an object within the jurisdiction of the said Supreme Court of Judicature.

N. B. Care must be taken that the name and description of this Court be properly set forth.

To be signed by the keeper of the said prison.

Note. The writ of Habeas Corpus must be sent to Counsel before the return can be finally settled, that care may be taken to adopt the words of the return to the requisition of the writ.

18th January 1775.

(Signed) THO<sup>s</sup>. FARRER.

AGREED, That the Secretary do consult with Mr. Farrer, and endeavour to comply with the terms proposed in his Letter. Secretary to consult with Mr. Farrer.

Extract of Revenue Consultations, Fort William, 20th January 1775.

**T**HE Secretary reports to the Board, that in compliance with their directions of the 18th instant he waited on Mr. Farrer, and having consulted with him on the proper steps to be taken to procure the writ of Habeas Corpus, he carried it to Mr. Farrer that evening, and a return thereof, agreeably to the one proposed by Mr. Farrer, was offered to the Supreme Court yesterday morning, signed by the gaoler. Secretary reports his having waited on Mr. Farrer.

Read



Read the following Letter from Mr. Brix.

To Mr. Richard Sumner, Secretary of the Board of Revenue.

S I R,

Mr. Brix's  
Letters.

I AM favoured with your Letter of the 17th instant, informing me that the Honorable the Governor-General and Council have been pleased to appoint Mr. Farrer and me standing Counsel for the Honorable Company, until the pleasure of the Court of Directors be known. You will lay me under an essential obligation, by expressing to the Honorable Board my grateful sense of the honor done me, and my readiness to exert my utmost abilities on the Company's behalf; I only beg leave to observe, that as there would be some kind of indelicacy in my being concerned for the Company in causes in which I have lately acted as Attorney at law for the opposite party, I could wish the Honorable Board would dispense with my being of counsel for them in the following suits:

The Honorable Company  
versus  
George Williamson;  
Richard Dundas  
versus  
The Honorable Company;  
and  
The Honorable Company  
versus  
Harry Grant.

In regard to your favour of this date, directing Mr. Farrer and me to appear for the gaoler of the Dewanny Adawlut prison, and plead to the jurisdiction of the Supreme Court, in a matter of a writ of Habeas Corpus for bringing the body of Bancharam before the Court; I flatter myself that the Honorable Board will, with all expedition, by means of their Attorney at law, furnish us with every necessary information relative to the cause of Bancharam's commitment, the jurisdiction of the Dewanny Adawlut, and the authority on which it is grounded, without which it will be impossible for us to form a clear opinion on the subject, or determine on the steps necessary to be taken.

When you lay before the Honorable Board our answer to the note you wrote us in the morning, appointing a meeting for this evening, be please to observe, that we have in that particular been guided by the established rules of the profession of the Gentlemen at the bar in England, to which we could always wish to conform.

Calcutta,  
the 18th July 1775.

I am, &c.  
(Signed) C. F. BRIX.

Read the following Letter from Messrs. Farrer and Brix.

Letter from  
Messrs. Farrer  
and Brix.

WE humbly beg leave to represent to the Honorable Board, that the matter of the Habeas Corpus issued to the gaoler of the Dewanny Adawlut of the town of Calcutta, has been this forenoon argued before the Supreme Court of Judicature. Mr. Farrer moved, that the return to the writ might be accepted, allowed by the Court, and filed of record; or, if the Court should think the return defective, either in form or substance, that a reasonable time might be allowed to apply to the Honorable Board for the necessary instructions, and to consult and advise with them on the occasion. The Court refused to admit of the return on account of the objection taken to their jurisdiction, and they were some time in deliberating whether or no they should enlarge the return of the writ, without putting the party applying for such enlarged time under terms of releasing the prisoner in the interim, on his giving security to re-surrender himself in case he should not be ultimately discharged. The result of the deliberations and arguments however were, that they would in their own case take time to consider of the matter till Saturday next. In the course of the debate it was repeatedly hinted by the Judges, that they should admit of no return without the prisoner's being personally produced in Court; we therefore apprehend, that if the gaoler admits him to be in his custody, and does not produce his body in Court (from what we could collect from the present disposition of the Judges) that they will order him to stand committed for a contempt, without entering into the merits of the plea.

The alternative at present therefore seems to us to be, either for the gaoler to make a further return to the writ of Habeas Corpus, alledging that the prisoner stands committed to

his

his custody by virtue of a legal process of the Dewanny Adawlut, being a court duly authorized to hold jurisdiction over natives; in which case the gaoler must bring the body before the Court, with proviso that the same shall be without prejudice to our plea to their authority; or else for the Governor-General and Council immediately to discharge the present gaoler from his office, and appoint another in his room; in which case the late gaoler may return, that at the time of the service of the Habeas Corpus the prisoner was in his custody as gaoler or keeper of the prison of the Court of Dewanny Adawlut, but that since that time he has been discharged from that office, and has now no power over the person of the prisoner, and is therefore unable to comply with the command of the writ. In the former case we think that the Supreme Court may probably admit of the return, as the prisoner, if he thinks himself aggrieved, will have his remedy against the gaoler, which will bring the matter before the Court in a regular channel by an action of false imprisonment. In the latter case we are of opinion that such a return must be admitted as competent, and will be a good discharge of the present writ. Whether a new one will be applied for, or, if applied for, whether the Court, now that they are apprized of the consequences which would attend it, would grant such new writ, we cannot at present determine; at all events it would be the means of gaining further time to consider the matter, an object which we flatter ourselves the Honorable Board will join with us in thinking of no small importance in an affair circumstanced like the present.

We further beg leave to represent to the Honorable Board the necessity of their furnishing us with every necessary information relative to the subject, viz. The nature and constitution of the Court of Dewanny Adawlut; the original cause of the prisoner's commitment, the subsequent proceedings against him, and the present state thereof, with such other matters as may occur to them to be necessary for our instruction.

Should any inaccuracies appear in the present address, we must crave the indulgence of the Honorable Board, as the shortness of the time and the want of materials have put us under the necessity of thus hastily stating the matter.

For further particulars we beg leave to refer the Honorable Board to their Secretary, who was present in Court during the whole argument.

Fort William,  
the 19th January 1775.

(Signed) THO<sup>s</sup> FARRER,  
C. F. BRIX.

RESOLVED, That the Counsel be instructed by the Secretary to direct the gaoler to make a further return to the writ of Habeas Corpus, alledging that the prisoner stands committed to his custody by virtue of a legal process of the Dewanny Adawlut, being a court duly authorized to hold jurisdiction over natives; in which case the gaoler may bring the body before the Court, if required, with a reservation or proviso that the same shall be without prejudice to our plea to their authority.

Orders given them by the Secretary.

ORDERED, That copies of the original institution of the present establishment of the Dewanny Adawlut of Calcutta, as entered in the Council in December 1772; copy of such extracts of the establishment of the Provincial Councils as respects the Dewanny Adawlut; copy of the proceedings of the Dewanny Adawlut of Calcutta in the cause of Mr. John Sumner against Bancharam; copies of the Firmaun, of the treaties executed with the Nabob Surajah-ul-Dowlah, Meer Jaffier, and Meer Cossim, and of the Firmaun for the Dewanny from the King Shaw Allum, be immediately prepared and transmitted to the Counsel by the Secretary. As many of these papers are already in print, and published by order of the House of Commons, it will be sufficient to furnish them with printed copies of such parts as can be procured.

Orders for papers to be forwarded to Messrs. Farrer and Brix.

ORDERED, That the Secretary do apply to the Secretary to the public department for such as he cannot otherwise procure.

The Board will furnish the Counsel hereafter with further materials to prosecute this suit.

Secretary to the public department applied to for papers. Further materials to be hereafter furnished the Counsel.



Extract of Revenue Consultations, Fort William, 24th January 1775.

Read the following letter from Mr. Farrer.

To the Honorable the Board of Revenue.

In the matter of the Habeas Corpus issued by the Supreme Court of Judicature, to the Keeper of the Goal of the court of Dewanny Adawlut of the town of Calcutta, to produce the body of Bancharam Roy.

Mr. Farrer's  
Letter.

**M**R. Farrer presumes the Honorable Board have been informed by their Attorney at law, that on Mr. Farrer's Motion, on Saturday last, to quash the writ of Habeas Corpus, as not being extended to India either by the common or statute law of England; but supposing it was, as appearing upon the face of it to be issued in a matter between two Indian natives, one of whom the writ calls a Zemindar, and the other a Gentoo, to whom therefore, he contended, it did not extend under either of the above authorities; and for other objections taken to the writ, and the proceedings thereon, as being defective in several of the requisites of both such authorities; the Judges, after fully hearing such objections, and the arguments in support thereof, delivered their opinions separately; concurring therein, that the writ in the present case (both parties residing in Calcutta) was warranted by the common law of England; admitting though, at the same time, that the common law had not as such, any intrinsic operation or authority here, but adjudging that the same was extended to the present case by the King in his Charter of Justice, and that it would ill become them as the King's Justices, to question his authority in the premises. This point being thus settled, the Court were asked if they would admit of any return without producing the body; they answered in the negative. Mr. Farrer then moved for time to make a return, and obtained a week for that purpose. The object of the present address is to submit to the consideration of the Honorable Board, what it may be most advisable to do on that occasion.

The two alternatives seem to be these; either to make such return in substance as has already been laid before the Honorable Board, insisting in general terms on the legal power and authority of the court of Dewanny Adawlut to exercise judicial authority over natives, according to the principles of their own provincial laws; or else to set forth in the return the particulars in which such power and authority consist, so as to enable the Court to form an opinion thereon. The following reasons weigh strongly with Mr. Farrer in favour of the former expedient, viz.

1. That in a case circumstanced like the present, he thinks the Court may probably find it expedient to allow of such general return, and leave the party applying, in case he is dissatisfied therewith, to his remedy by an action for a false return; in which case it will be incumbent on us to support the authority of the provincial court, and so the real merits of the question may come to be fully determined upon. And,

2. That in case the Court should not admit of such return, they can but discharge the prisoner as for want of a more full one; so that the consequences cannot extend beyond the present case; but should any future application be made on behalf of any other person under similar circumstances, such further return may be made as the case may then be found to require, and in the mean time the powers and authorities of the Dewanny Adawlut (supposing they should be found insufficient) will not be laid open to the public, or authoritatively abolished; and before any bad consequences can result from the defect, expedients may be found out to guard against them; whereas, should the authorities upon which the jurisdiction contended for in the Dewanny Adawlut is founded, be particularly set forth, the discharge of the prisoner (supposing him to be discharged at all) would be upon the merits of the case; and the principle once fully established, every individual in a similar situation would be entitled to a similar redress. In short, Mr. Farrer does not think it advisable to make a particular return till the Court have first judicially determined not to admit of a general one; as, in a case of so much importance as the present, he thinks no single point ought to be voluntarily given up, or taken for granted.

If the Honorable Board, notwithstanding, should determine upon the latter expedient, they will be pleased, with all convenient dispatch, to signify such their determination to their Counsel, and give directions for their being furnished with every such further information (if any) as may be in their power, and as the subject may require, in order that the

same may be properly digested and set forth before the matter again comes before the Court, which will be on Saturday next.

Fort William,  
24th January 1775.

(Signed) THO<sup>s</sup> FARRER.

RESOLVED, That Mr. Farrer be desired to attend the Board.

Mr. Farrer  
called before  
the Board.

Mr. Farrer being called before the Board, and asked if he wanted other materials for the defence of the right of the provincial court, promised an answer in writing this evening, when he shall have read the materials already transmitted to him by the Secretary.

RESOLVED, That the Roy Royan be directed to lay before the Board a report, formed on the best authorities he can procure, of the manner and form in which the revenue was collected, and justice administered, during the time of the Nabob Mohabit Jung, and other Nazims his predecessors, and of the names and offices of the different Cutcherries established for those purposes in the provinces of Bengal, Bahar, and Orixá; and that the Naib Canongoes be also called upon for the same report, and of the laws on which those Cutcherries or courts were founded; and whether their jurisdiction extended within the town of Calcutta.

Questions put  
to the Roy  
Royan.

That the like report be made of the time succeeding the death of Mohabit Jung, and the treaty made between this Government and the Nabob Serajah-ul-Dowla.

That the Roy Royan be directed also to call before him such of the ancient inhabitants of Calcutta as are acquainted with the practice of this Government with respect to the courts of justice established by charter, and those under sanction of the country government within the town of Calcutta before the treaty with Serajah-ul-Dowla, at which time the British influence took its date, and to take from them severally, in the presence of the Canongoes, and other Mutsuddies of the Khalfá, their declarations concerning the same; and to deliver these reports to the Board as soon as he conveniently can; and further to take from the same persons, and any other creditable and intelligent inhabitants, their separate declarations concerning the practice since the treaty formed by Serajah-ul-Dowla to this time.

Extract of Revenue Consultations, Fort William, 25<sup>th</sup> January 1775.

The following Papers having been forwarded to Mr. Farrer for his inspection by order of the Board;

**F**IRMAUN granted by the King Furruckseer.

10. Treaty with the Nabob Serajah Dowla.
13. Perwannahs from the Nabob Serajah Dowla for erecting a Mint, &c.
15. Treaty with Meer Jaffier.
20. Sunnud for the Zemindary of Calcutta.
34. Treaty with the Nabob Meer Mahomed Coffim.
38. Second treaty with Meer Jaffier.
43. Treaty with Nudjum O'Dowla.
45. Firmaun for the Dewanny of Bengal, &c. the subsequent papers, N<sup>o</sup> 17, 18, 19, 20.

List of papers  
forwarded to  
Mr. Farrer.

The Secretary lays before the Board his answer.

To the Honorable the Board of Revenue.

In the matter of the Habeas Corpus to produce the body of Bancharam Roy.

**I** HAVE perused and considered the several treaties, and other materials laid before me; Mr. Farrer's as instructions wherefrom to prepare a proper return to the said writ of Habeas Corpus. The same seem to me sufficiently explanatory and competent for the purpose intended,



intended, except that in the following particulars further lights may perhaps be thrown on the subject, viz.

In the paper, which the Secretary's Letter calls—The original institution of the present establishment of the Dewanny Adawlut—the same appears only to be a deviation in the several particulars therein mentioned from the *forms* established for the other *Moffussul* or provincial courts, occasioned by the reasons of policy therein stated. It does not strike me that these alterations are of such a nature as to make it a new or original institution, (for was that the case, it would be very modern indeed) but only such an alteration in the former plan, as the circumstances therein mentioned made necessary; not in the principles, but only in the modes of practice. It may be expedient, therefore, to state the original institution of those *Moffussul*, or provincial courts, as we must from thence, I think, date the æra of the court in question, viz. whether they are claimed by prescription, and depend upon the immemorial usage or custom of the Mogul government, confirmed, or at least not abolished, by the general powers contained in the several firmans and treaties? or whether the right to hold the same depends upon any, and what particular grant or charter? and also to set forth the particular objects, which, according to such their institution, came within their jurisdiction, viz. whether they are courts exercising jurisdiction in all matters and suits of *meum* and *tuum* between natives, or against natives by British subjects, or in matters of revenue only, or how otherwise? this information may, I presume, be given me without loss of time; that done, I will prepare as full a return as the materials where-with I am furnished will admit, and submit the same to the perusal of the Honorable Board; endeavouring in the mean time to make myself as much master of the subject as the shortness of the time will allow.

Fort William,  
24th January 1775.

(Signed) THO<sup>s</sup> FARRER.

Further papers forwarded to Mr. Farrer.

ORDERED, That the original plan for the administration of justice, and the Letter from the Committee of Circuit, be immediately forwarded to Mr. Farrer.

Extract of Revenue Consultations, Fort William, 28th January 1775.

Read the following Letter and enclosure from Mr. Farrer.

To the Honorable the Board of Revenue.

In the matter of the Habeas Corpus to produce the body of Bancharam Roy, a prisoner in the Dewanny Adawlut.

Mr. Farrer's Letter.

**M**R. Farrer begs leave to acquaint the Honorable Board, that he has just got the prisoner's counsel and attorney to consent to the matter's standing over till Tuesday next; in the mean time he begs the attentive perusal of the Honorable Board of the return which he has prepared to the said writ, and now lays before them; so that if any thing therein appears either mis-stated, defective, or superfluous, the same may be rectified. The Honorable Board will be pleased particularly to inform him, whether the court in question, or any other of the provincial courts, are held under any, and what particular grant, or only as appendant (by the constitution and custom of the country, as stated in the return) to the office with which the Honorable Company are invested by the treaties, &c. some or one of them.

Mr. Farrer further begs leave to acquaint the Honorable Board, that just as he was sitting down to dinner to-day he received from Mr. Durham the enclosed writ of Habeas Corpus and Letter, which was the first and only intimation he had of the matter; tho' the writ appears to have been issued the 14th, and received by the Sheriff the 17th instant: touching this business also the Honorable Board will be pleased to give their directions forthwith.

Friday Evening,  
27th January 1775,  
Eight o'Clock.

(Signed) THO<sup>s</sup> FARRER.

## To be indorsed on the Writ of Habeas Corpus.

The return to the within writ is contained in a certain schedule hereunto annexed.

To be signed by the goaler.

The schedule above referred to.

Humbly averring, that within the town of Calcutta there is a court of judicature called *The Court of Dewanny Adawlut of the town of Calcutta*, and that such court has jurisdiction in civil suits over all Indian natives resident within the limits thereof, and is a court legally instituted and established according to the laws and customs of the province of Bengal, and the constitutional forms of judicature used and approved therein, with such alterations in the modes of proceeding and deciding as are necessary for or consistent with the more easy and impartial administration of justice, by virtue of and under the privileges and powers incident and appendant to the several grants, some or one of them, of the Taaluckdarree of Calcutta, Soota Lootee and Gobinpoor, of the Zemindary thereof, and of the Dewanny of the provinces of Bengal, Bahar, and Orixá, given and granted to the Honorable the United Company of Merchants of England trading to the East Indies, by whatsoever name or names they are therein described and called, in and by the several firmauns, treaties, funnuds, and grants following; that is to say, firmaun of the Emperor or King Furruckseer, bearing date in or about the Bengal month of Moherrum, in the fifth year of his reign, commonly called the Grand Firmaun; the treaty with the late Nabob Serajah-ul-Dowla, bearing date on or about the ninth day of February one thousand seven hundred and fifty-seven; the treaty with the late Nabob Meer Jaffier Ally Khan, bearing date on or about the fifteenth day of the month of Ramzan in the fourth year of the then reign; the funnud from the then Subah of Bengal for the Zemindary of the lands granted to the said United Company of Merchants by the said Meer Jaffier Ally Khan, bearing date on or about the month of December one thousand seven hundred and fifty-eight; the treaty with the said Meer Jaffier Ally Khan, bearing date on or about the tenth day of July one thousand seven hundred and sixty-three; the treaty with the late Nabob Nudjum-ul-Dowla, bearing date on or about the month of February one thousand seven hundred and sixty-five; and the five several firmauns of the King Shah Allum, bearing date respectively on or about the twelfth day of August one thousand seven hundred and sixty-five; all which several firmauns, treaties, funnuds, and grants are filed, and remaining among the records and muniments of the said United Company of Merchants of England, and copies whereof are now produced before the Supreme Court of Judicature in the writ hereunto annexed mentioned: I do, in obedience to the command of the said annexed writ, humbly certify to the said Supreme Court of Judicature, that Bancharam Roy therein named is detained in my custody as keeper of the prison of the said Court of the Dewanny Adawlut, pursuant to and under the process of that Court in a civil suit for debt, at the suit of John Sumner, Esquire, for want of bail for his personal appearance in the said Court of Dewanny Adawlut; humbly averring, that the said Bancharam Roy is a native inhabitant of India, and subject to the jurisdiction of the said Court of Dewanny Adawlut in the suit in which he is detained in my custody as aforesaid: and I do further humbly certify to the said Supreme Court of Judicature, that the said Bancharam Roy is not detained in my custody for any other cause, or on any other account whatsoever. The day and cause of taking and detaining the said Bancharam Roy, together with the nature and form of the process under which he is detained, are further set forth in two certain paper writings hereunto annexed; the one marked with the letter A, and the other with the letter B, and which I pray may be accepted and taken by the said Supreme Court of Judicature as a part of the return of the said annexed writ. I am ready further to comply with the command of the said writ, by having the body of the said Bancharam Roy before the said Supreme Court of Judicature, to do and receive what the said Court shall then and there consider of him; saving nevertheless, to all whom it may concern, their right of objecting to the jurisdiction of the said Supreme Court of Judicature in the premises, and in the matter in the said annexed writ contained, and humbly protesting against the same. Given under my hand the                      day of January in the year in the said annexed writ mentioned.

Mr. Durham's compliments to Mr. Farrer; not having received any instructions from the Council relative to the writs of Habeas Corpus, he sends this one to Mr. Farrer, presuming he is fully instructed on the subject. Enclosure.

Friday 10 o'Clock.



ORDERED, That the Secretary do inform Mr. Farrer, that the Board approve the return he proposes to make to the writ of Bancharam.

That the Dewanny Courts, commonly called the Dewanny Adawluts, are not held under any particular grant, but are appendant, by the constitution and custom of the Empire, to the office of the Dewanny. And that he do make the same return to the other writ enclosed in his Letter as to the former respecting Bancharam.

## A P P E N D I X, No. XXXII. B.

Extract of Secret Consultations, Fort William, 20th April 1775.

At a Council, present

Lieutenant-General John Clavering, President, the Honorable George Monson, and Philip Francis, Esquire.

General Clavering lays before the Board the following Letter, which he has received from the Governor-General, and in consequence takes the Chair.

S I R,

Governor-General cannot attend. General Clavering, President.

HAVING been required to give my attendance at a meeting of the Justices at the house of Sir Elijah Impey, I am afraid I shall be prevented from assisting at the Council Board, and am therefore under the necessity of requesting that you will be so good as to take my place, and direct the dispatch of such business as may require it.

I have the honor to be, &c.

(Signed) WARREN HASTINGS.

Extract of Secret Consultations, Fort William, 20th April 1775.

Mr. Joseph Fowke sends in the following Letter.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Superior Council of Fort William.

Honorable Sir and Sirs,

Mr. Joseph Fowke accused of a conspiracy. Desires Papers.

AS I have now a charge of a conspiracy against me and my son Francis, I am to intreat the favour of you to deliver to me, by a proper person for that purpose, the original and translation of a paper delivered into Consultation on the 13th December last by Cumal-ul-Dien Khan, with the original and translation of two other papers, accompanied by a letter from me dated 18th instant.

Calcutta,  
20th April 1775.  
Sir Elijah Impey's house.

I am, &c.

(Signed) JOSEPH FOWKE.

The Assistant Secretary acquaints the Board that a man has just brought him the following paper :

“ Paper delivered into Consultation, 13th December, by Cumal-ul-Dien Khan, with the translation, and my refutation.

“ Ditto Two papers delivered in by Mr. Fowke this day of Cumal-ul-Dien Khan, original and translation, and Mr. Fowke's letter accompanying them.”

We consent to the delivery of the above papers, which Mr. Fowke has desired may be produced before the Judges.

(Signed) WARREN HASTINGS,  
RICH<sup>d</sup>. BARWELL.

ORDERED, That the Secretary to the Board of Revenue do immediately take with him to Mr. Fowke, at the house of Sir Elijah Impey, the originals and translation of the papers delivered into the Council of Revenue in Consultation 13th December, together with those sent to the Revenue department this morning by order of the Board.

AGREED, That the following letter be sent to Mr. Fowke.

To Joseph Fowke, Esq.

SIR,

WE have just received your letter, dated this day, from Sir Elijah Impey's house, and, in compliance with your request, have ordered the papers mentioned therein to be delivered to you by our Secretary Mr. Sumner. As these papers are of very great importance to the Company's service, we have ordered the Secretary to attend you and receive them back again, as soon as they have been inspected by the Judges. If you think it necessary you shall be furnished with authentic copies. Reply.

We are, &c.

(Signed) J. CLAVERING,  
G. MONSON,  
P. FRANCIS.

Extract of Secret Consultations, Fort William, 20th April 1775.

ORDERED, That the Persian translator be called in from his office to attend immediately with the original Persian papers of Cumal-ul-Dien, which were sent to him this morning for translation. Persian Translator called.

The Assistant Secretary having been in the Persian office to call the translator, acquaints the Board that he did not meet with him there, but that he has dispatched an order to him to attend as soon as possible with the papers required.

RESOLVED, That the following letter be written to the Governor-General.

To the Honorable Warren Hastings, Esq; Governor-General, &c. &c.

SIR,

GENERAL Clavering having laid before the Board the Letter which you did him the honor to write to him, dated this morning, in which you inform him that you had been required to give your attendance at a meeting of the Justices at the house of Sir Elijah Impey, and understanding, from a Letter we have received from Mr. Fowke, that an enquiry is now carrying on before the Justices into a conspiracy, with which that gentleman and his son are charged, we think it proper to acquaint you, that we mean to continue in Council until we shall be apprized of the subject and issue of that enquiry, as we conceive that a conspiracy, at the investigation of which you and Mr. Barwell think fit to attend whilst this Council is sitting, must be of great moment, if not interesting to the safety of the State. We flatter ourselves that you will be pleased to inform us, as soon as possible, of the circumstances and result of the enquiry in which you and Mr. Barwell are now engaged. To the Governor-General.

We have the honor, &c.

(Signed) J. CLAVERING,  
G. MONSON,  
P. FRANCIS.

Council Chamber,  
20th April, 1775.

Received the following letter in reply from the Governor-General.

To General Clavering, the Honorable George Monson, and Philip Francis, Esquire.

GENTLEMEN,

I HAVE been honored by the receipt of your letter dated this day. Last night I received a letter, signed by the Chief Justice and the Judges of the Supreme Governor-General's reply.



preme Court, informing me, that a charge had been exhibited upon oath before them against Messrs. Joseph and Francis Fowke, Maha Rajah Nundcomar, and Radachurn, for a conspiracy against me and others; that they had summoned the parties to appear this morning at ten o'clock at the house of Sir Elijah Impey, and requested my attendance. The like notification was also made to Mr. Barwell.

In consequence of this intimation, we have both judged it indispensably incumbent upon us to give our attendance. I am sorry that you should have thought it necessary to continue in Council, until you shall be informed of the subject and issue of this enquiry, which I presume you will perceive to have no relation to the safety of the State, nor to any circumstance that requires your present attention.

Calcutta,  
20th April 1775.

I have the honor to be, &c.

(Signed) WARREN HASTINGS.

Perfian Trans-  
lator appears. Sir John D'Oyly, the acting Persian Translator to this Council, being now arrived, and called upon to account for his absence whilst the Board is sitting, he acquaints the Board that he was ordered by the Governor-General to attend elsewhere.

*Question.* Where were you ordered to attend?

*Answer.* I was desired to attend at Sir Elijah Impey's.

*Q.* For what purpose?

*A.* To make translations of some papers.

*Q.* What Papers?

*A.* An Arzee from Cumal-ul-Dien Khan to the Governor. Being asked the date, he replies, without any date that I know of.

*Q.* Did you receive any summons from the Judges to attend at Sir Elijah Impey's?

*A.* I did not.

*Q.* Did you translate any other paper besides the Arzee?

*A.* No.

*Q.* Did you translate the Arzee at Sir Elijah's house?

*A.* No.

*Q.* When did you translate that paper?

*A.* Yesterday.

*Q.* At what hour?

*A.* Between the hours of twelve and six in the afternoon.

Sir John D'Oyly being asked what address was upon the paper, he says, that there was no address upon it, but that he supposes it was directed to the Governor, by the Governor's delivering it to him.

*Q.* Was Cumal-ul-Dien's seal upon it?

Sir John D'Oyly begs leave to correct the answers which he has given to these questions; he acquaints the Board as follows:—It was not an Arzee from Cumal-ul-Dien Khan to the Governor, but Cumal-ul-Dien Khan first of all repeated his complaint to me, which I desired him to write down in Persian, and I then translated it.

*Q.* Was this done in the Governor's presence?

*A.* No.

*Q.* Where was it?

*A.* At my own apartments at this house.

*Q.* Have you been examined by the Judges at Sir Elijah's to-day?

*A.* No; I went there to day to ask more Questions of Cumal-ul-Dien Khan.

Sir John D'Oyly is now desired to withdraw.

Censured.

RESOLVED, That General Clavering be requested to signify to Sir John D'Oyly the high displeasure of the Board for neglecting to attend his duty in his office whilst the Board was sitting; that the orders of the Governor-General to him to attend elsewhere are no excuse for his neglecting to attend his business, and that this caution is given him, as the Board is determined, on the first instance of the like neglect of his duty in future, to dismiss him from his employment.

Sir John D'Oyly being again called in, the above censure is accordingly signified to him by General Clavering, and he afterwards retires.

Extract of Secret Consultations, Fort William, 24th April 1775.

Sir John D'Oyly having made the following application for an extract of the proceedings of Thursday last, by permission of the Members of the Board, it was accordingly supplied him.

To Mr. Auriol, Assistant Secretary to the Council.

SIR,

I BEG the favour of you to make a request in my name to the Board, that I may be allowed a copy of the proceedings relative to me yesterday; I mean the questions put to me, my answers, and the reprimand given me by the Board.

I am Sir, &c.

Fort William,  
21st April 1775.

(Signed) J. H. D'OYLY,  
Act. Pn. Tr.

Sir John D'Oyly now sends in the following Letter.

To the Honorable Warren Hastings, Esq. Governor-General, and to the other Members of the Council.

Honorable Sir and Sirs,

I HAVE been favoured through your secretary with an extract of your proceedings on the 20th instant relative to me.

When I came before the Board, the angry reception I met with, and the displeasure expressed against me on account of my abience, so much intimidated and confounded me, that I knew not what answers I made to the questions proposed to me. After some minutes, being in some measure recovered, and having recollected myself, I informed the Board, that by reason of the confusion into which their displeasure had thrown me, I had given erroneous answers, and that I therefore begged to be allowed to correct them.

I have taken the liberty of repeating this circumstance, as I observe it is not mentioned in your proceedings, and I hope it will clear me in your opinion from any intent of deceiving you.

It has hitherto been customary for the Persian Translator to obey whatever orders he received from the Governor, and I had never before been made acquainted that his orders would not be considered as an excuse for my absenting myself from the office.

My ignorance in this point will, I flatter myself, be deemed at least an apology for my absence, and acquit me of any intentional disrespect to your Board.

You may be assured, Gentlemen, that I shall be careful to attend in future on every Council day.

I am, with the greatest respect, &c.

Fort William,  
24th April 1775.

(Signed) J. H. D'OYLY,  
Act. Pn. Tr.

General Clavering moves, That Sir John D'Oyley be sent for and sworn to give true answers to the questions which may be put to him relating to his examination of Cumal-ul-Dien Khan, that in case a charge of conspiracy should be hereafter be brought by Messrs Joseph and Francis Fowke, Maha Rajah Nundcomar, and Radachurn, against various persons conspiring against their honor, they may have Sir John D'Oyly's deposition upon these records.

Mr. Francis agrees to the motion.

Mr. Barwell objects.



Colonel Monson agrees.

General Clavering agrees.

The Governor General. I object, as being a matter in which the Board have no concern.

ORDERED, That Sir John D'Oyly be sent for to attend the Board.

MR. FRANCIS. I beg leave to observe, that I understand a prosecution for a conspiracy is now instituted, or is intended to be instituted, against Maha Rajah Nundcomar and others, the tendency of which seems to me to be to prevent or deter him from proceeding in making good those discoveries which he has laid before this Board; I cannot but think that the East-India Company, and consequently this Board, have a very great concern in every step taken in that prosecution, whether it be actually begun or intended.

Sir John  
D'Oyly  
sworn and  
questioned.

Sir John D'Oyly attending, is called in and sworn in terms of the above motion of General Clavering.

### Questions by General Clavering.

*Question.* LAST Thursday you acquainted this Board, that you were attending at Sir Elijah Impey's on that day translating an Arzee from Cumal-ul-Dien Khan to the Governor; did you translate any other paper at Sir Elijah Impey's that day besides the Arzee?

*Answer.* Those answers I before declared to be erroneous, and desired to correct them; that it was not an Arzee from Cumal-ul-Dien Khan to the Governor that I translated, but that I desired him to put down his words upon paper, thinking it the readiest method for them to be translated.

Q. Where was this done?

A. It was at Sir Elijah Impey's that I heard his account, and he wrote it down there, but I translated it in my own room.

Q. On what day did you take down that examination of Cumal-ul-Dien Khan at Sir Elijah Impey's.

A. On Wednesday?

Q. At what time of the day did you take the examination?

A. I believe that it was about ten o'clock in the morning that I heard his story; when he had written it I think it was about half past eleven.

Q. Who was present at the examination?

A. Sir Elijah Impey.

Q. Any body else?

A. Not that I recollect; there might have been other people come into the room, but I don't remember that there were any, that is, whilst I heard the story of Cumal-ul-Dien Khan, which when I had desired him to write down, he retired into another room with his Moonshiee and wrote.

Q. Did you write nothing down yourself?

A. I believe that I wrote about two lines when he first began to relate his story, but finding that it would be a clearer method, I desired him to put it down in writing.

Q. In what language did you write it?

A. In English.

Q. On what day were you sworn at Sir Elijah Impey's?

A. On Wednesday.

Q. In the morning or the evening?

A. I think I was sworn both in the morning and evening; in the morning before Sir Elijah Impey, and in the evening before the whole of the Judges; but I am not certain as to the former.

Q. Was the Moonshiee sworn in the morning?

A. He was.

Q. You acquainted us that you were in your own apartment from twelve to six that day; who was with you all that time?

A. I was not in my room all that time.

Q. Where were you?

A. Part of the time at Sir Elijah's; I dined at Sir Elijah's, and after dinner went into my room again.

Q. Had you a summons to attend Sir Elijah Impey?

A. I had not.

Q. Has

Q. Has Sir Elijah to the best of your knowledge an official translator?

A. There is a man whom I have heard called his translator, but I can't possibly tell whether he is or not.

Q. Why was not Sir Elijah's Persian translator called upon then?

A. I do not know.

### Questions by Colonel Monson.

Question. **I**N what manner did the Board express their anger to you when you first came before them on Thursday morning?

A. I can't recollect the particular expressions that were made use of, but I recollect one or two, that appeared to me to be signs of anger.

Q. What were they?

A. I cannot positively repeat the words, but I think one of the gentlemen said to me, I think it is very extraordinary that you were absent from your office; I think he added, this is not the first time; we have sent two or three times, and not been able to find you.

Q. Have you not been sent to at other times by the Board, and not found in your office?

A. I have, Sir; but I believe never till after the times which I had always before considered as office hours.

Q. Have you never been told that the Board expect that the gentlemen officiating in the different departments should remain in their offices during the sitting of the Board?

A. Never publickly till last Thursday.

Q. Have you been told so by the Secretary or his assistants?

A. I never received that order officially; I think I recollect that when Mr. Bruere came to me for some books some time ago, he told me that the gentlemen had been surprized at my absence when they sent for me the day before.

### Questions by General Clavering.

Question. **W**HERE did you see Cumal-ul-Dien Khan for the first time on Wednesday?

A. At Sir Elijah Impey's; I believe I had been at the Governor's before; there were a great many black people; he might have been there, but I don't know that I saw him.

Q. How came you to go to Sir Elijah Impey's?

A. By the Governor's request.

Q. What were the Governor's orders to you?

A. I don't recollect the terms in which they were expressed, but I understood that I was to go and to take down the story of Cumal-ul-Dien Khan.

Q. Did you make no objections to going there, by telling the Governor that Sir Elijah Impey had a Persian translator, on whose fidelity he might rather depend than on your's?

A. No.

Q. You were then a volunteer in this service?

A. I was desired to go by the Governor, and I considered myself as bound to obey his directions.

### Questions by Mr. Francis.

Question. **I**BEG to know by whose directions did you attend at Sir Elijah Impey's on Thursday?

A. I don't know that I had any new directions, but on Wednesday night Sir Elijah told me he must beg to see me the next morning, as the affair was not concluded.

Q. When you first waited on Sir Elijah Impey did you inform him for what purpose you were directed to attend him?

A. I did.

Q. For what purpose?

A. To take down the story of Cumal-ul-Dien Khan.

Q. Did you find Cumal-ul-Dien Khan at Sir Elijah Impey's?

A. I did.



Sir John D'Oyly is now ordered to withdraw.

Colonel MONSON. I move that the opinion of the Board may be taken, whether Sir John D'Oyly, from the evidence he has given, had cause to charge the Board sitting on Thursday last with having given him an angry reception.

Mr. FRANCIS. I know with certainty that he had no cause to charge the Board with giving him an angry reception.

Mr. BARWELL. I don't think that Sir John D'Oyly had from what appears. Being absent from his office, the manner in which the questions were put to him respecting such absence, I can easily conceive must have alarmed his apprehensions, and magnified it into a great offence. It is evident from what he has said now, and what he said on Thursday last, that the agitation of his spirits was very great while under examination on that day; it is plain his fears were alarmed, but I see no cause why they should be so: this I conceive a full and sufficient apology for Sir John D'Oyly's present address; and further, that the address naturally proceeds from such a cause, with a desire of rectifying the inconsistencies his fears had betrayed him into.

Colonel MONSON. I think, from the evidence which Sir John D'Oyly has just given, that he had no right to lay so heavy an imputation on the Members which composed the Board on Thursday last as he has done in his Letter of yesterday's date; I was one of the Members who composed that Board, and am certain, from the temper and moderation which was then shewn, that Sir John D'Oyly could not make good his charge.

General CLAVERING. If Sir John D'Oyly meant to excuse the inconsistency that he was guilty of on his examination on Thursday last, by the terror which he insinuates was imposed upon him by the angry reception he met with, he has certainly been guilty of a great act of injustice to the Members of this Board, who received him very kindly: it became the duty of the Members to make him account for his absence, and it was then that the Members expressed their displeasure, on finding that he thought it more his duty to attend an enquiry at Sir Elijah Impey's, by Sir Elijah's request, than at his office of Interpreter to this Board: I am therefore of opinion, that Sir John D'Oyly has been guilty of a great act of injustice to the Members of this Board in the accusation he has laid to their charge.

The GOVERNOR-GENERAL. I do not understand the words of Sir John D'Oyly as a charge against the Board, but as an explanation of his own situation under the suspicion that the Board was displeased with him.

Colonel MONSON. In answer to what the Governor-General says, that the Board was displeased with him is certain, for they passed a very severe censure upon him for neglect of duty in not attending at his office; but I cannot conceive how the Governor-General can put such a construction upon his Letter. The Governor is singular in his opinion; and therefore I shall not take upon me to confute his arguments, as I am supported in mine by the authority of the Board.

Mr. FRANCIS. I beg leave to observe, that the displeasure of the Board was not signified to Sir John D'Oyly till some time after his examination was finished.

Extract of Secret Consultations, Fort William, 8th May 1775.

Received the following letter from the Maha Rajah Nundcomar.

To the Honorable Warren Hastings, Esquire, Governor-General, &c.  
Superior Council.

Honourable Sir and Sirs,

Calcutta, 8th May 1775.

Rajah Nundcomar confined in goal.

AFTER having been honored with the confidence of the Nabob Jaffier Ally Khan, so peculiarly the friend of the English; after having discharged the first office in the Subah; after being now ten years retired from all publick employments, and having seen my son appointed to a distinguished post, with this testimony (as I have been credibly informed)

informed) of the Governor's approbation of his father, that he instated my son in the post, with a view to his profiting by my experience and wisdom. I might perhaps startle the Honorable Board with an address from the common gaol, had I not in a degree prepared them for some fatal change in my situation, by a representation I made in the month of March 1775 of the severe menaces that had been uttered against me by the Governor-General. Where the first magistrate declares his determined intention of hurting an individual to the utmost of his power, the enemies of the man so marked for destruction will eagerly grasp at an opportunity of gratifying their malice; the dissolute and abandoned will find a sufficient inducement to persecute him, from the hopes of gratifying the resentments of the man in power; and if the unhappy man so devoted have, by an upright conduct, made the wicked his enemies, malice and wickedness may unite their endeavours to compleat his ruin. To advance a step further, should the first man in the State countenance one publickly known to be destitute of all moral principle, and as publickly known to be the enemy of the person against whom he has denounced his resentment; should he treat a man of such principles with a degree of distinction far above his rank in life; should he admit him to private conferences with him, what is the wretched object of his resentment to expect? where shall he find an asylum when the whole body of the wicked and abandoned is let loose upon him? I mean not, however, now to deprecate the Governor-General's resentment; the reasons of the encouragement afforded to my enemies, and the motives to the Governor-General's resentment against me, will be sufficiently explained to the world by the representation I have already made in a former address to the Honorable Board. Should my life be taken away by the flagitious charge now laid against me, the facts before alluded to will remain upon record; the witnesses will be ready, and the proofs produceable, whenever the Governor-General has courage sufficient to hear them. A charge which has been now these three years depending in a Civil Court, without the witnesses, upon whose evidence I am committed, having been once produced or mentioned, has been laid against me by men who are marked by the publick as the most turbulent and abandoned. My only intention in setting forth the services I have done, and the character I have to an advanced age supported, is to introduce my request, that I might not suffer upon such a charge, from the base accusation, a punishment equal to that of death, the violation of the most sacred duties of my religion. The Honorable President I am well assured is fully sensible of the facts I allude to; it may be requisite to explain to the rest of the Honorable Members of the Board, that the institutions of our religion strictly enjoin a number of ablutions, prayers, and other ceremonies to be performed by the sect of Brahmins before they can take any kind of food: nothing of this can be performed in the place where I now am; and could even these obstacles be surmounted, the place itself, as being inhabited by men of a different religion, would prevent my receiving any sustenance without breaking those rules which I have hitherto religiously observed; I therefore humbly request that I may be permitted to reside, under as strict a guard as may be judged requisite, in some place where these objections may be obviated.

I am with respect, &c.

(Signed) NUNDCOMAR.

Colonel Monson moves, that the sheriff and his deputy be requested to attend the Board with the warrant of commitment for Nundcomar's imprisonment.

Mr. Francis and General Clavering agree to the Motion.

The GOVERNOR-GENERAL. I object to the Motion, as I shall do to every interference of this Board with the authority of the Judges of the Supreme Court.

Colonel MONSON. I do not conceive that this motion does in the smallest degree interfere with the authority of the Supreme Court of Judicature. I do not understand that he was committed to prison by the authority of the Judges, but by two of the Judges acting in their capacity as justices of the peace; that the warrant of the justices of the peace to the sheriff was for him to take custody of Nundcomar's person; that these Justices, after having signed the warrant, went to the house of the Chief Justice, from whence a note was wrote by Mr. Justice Le Maistre to Mr. Tolfrey, under sheriff, acquainting him that it was their opinion, meaning the opinion of the Chief Justice, Mr. Hyde, and Mr. Le Maistre, that Nundcomar should be sent to the common gaol, to which gaol Mr. Tolfrey immediately committed him, without waiting for the orders of the sheriff, to whom he had sent a messenger, and who arrived a few minutes after he was committed.



Mr. FRANCIS. I beg leave to inform the Board, that I understand the Rajah Nundcomar since his commitment to the common gaol (in consequence of the opinion of Mr. Justice Le Maître exceeding the terms of the warrant of commitment) has taken no sustenance whatsoever, and that he cannot do it in his present situation without losing cast, which, to a man of his high rank and sect, is deemed a punishment worse than death. I think the Motion made by Colonel Monson perfectly regular and necessary; we cannot take the prayer of the Rajah's petition into consideration, until we are regularly informed by what authority he is committed to the common gaol. If it should appear that the warrant does not express a commitment to the common gaol, but that such commitment has arisen solely from the extrajudicial opinion of Mr. Justice Le Maître, I then think it may legally be within the power of this Board to prevent the death of the Rajah, by relieving him from the vile confinement under which he has been placed in the same prison with all the felons of Calcutta, and securing him in some other manner under the safe custody of the sheriff. This, I conceive, may be done without any infringement of the authority of the Supreme Court of Judicature; at all events my endeavours shall not be wanting, as far as I shall think myself warranted by Law, to prevent a man of his high rank perishing in a common gaol for want of sustenance, which he cannot take without forfeiting a religious rank and purity, which I presume, from all that I have heard of the religious customs and prejudices of the Brahmins, to which sect he belongs, may be dearer to him than his life. The Rajah has now, I believe, been confined upwards of forty hours, exclusive of the time taken up in his examination.

The GOVERNOR-GENERAL. I beg leave to observe, that many things have been asserted which I presume Mr. Francis only gives from report. I have not heard myself that Nundcomar is confined among common felons; I do not believe that, by the principles of his religion, his cast can be affected by any habitation that may be allotted him: this is a point of which the heads of the religion are only capable of judging. I understand, by a note I received this morning from Mr. Durham, that the Judges are at this time assembled for the purpose of taking into consideration the plea of Nundcomar in this particular, and that he was desired by them to apply to me for proper persons to give them information concerning the effects which his confinement might produce on his cast, or some point of the like nature; and I in consequence directed the superintendant of the Khalsa records to apply to such of the Pundits as were in Calcutta, and to desire them to give their attendance on the Judges.

General CLAVERING. As I understand from the Letter received from Maha Raja Nundcomar, that the institutions of his religion enjoin to the Brahmins (of which cast he is a member) a number of ablutions and other ceremonies, without the performance of which they cannot take any kind of food, I move, that Cantoo Baboo, the Governor-General's Banyan, who I understand presides at a Cutcherry of casts, and passes judgment in this court on all points relative to their losing their casts, be called before the Board, and examined upon these particulars.

The GOVERNOR-GENERAL. Before the question is put, I beg leave to inform the Board, that I understand the Cutcherry, over which Cantoo Baboo my servant presides, has cognizance only of disputes between the lower kinds of the people; and that he presides in this Court in virtue of the immemorial usage of the settlement, in the same manner that every other chief Muttiuddy, or Banyan, of the Governors of Calcutta have formerly done. I know not that he is qualified to judge of the question proposed; at all events his opinion can be no authority, as he is neither versed in the laws of his religion, nor of that sect which could entitle him to give a juridical opinion upon any point respecting it. I myself am president of that court, but I conceive myself merely a name to authenticate the acts of others; and I very frankly acknowledge my own incompetency to judge of points relating to the Gentoo religion.

Mr. FRANCIS. I cannot conceive that a person who has for several years actually presided, whether in his own right or as a deputy, at a Court of Cast Cutcherry, should be ignorant of the laws of his religion. I agree to the Motion of General Clavering.

Colonel MONSON. It can't be supposed that the Governor-General should have such a sufficient knowledge of the Gentoo laws and customs, as to be a competent judge of all the rights and mysteries of their religion, but it might have been expected that the person whom he appointed to preside under him at the Cast Cutcherry should have been a sufficient judge

of the rights of his religion. Cantoo Baboo, who is the person that is said to preside over this court, I understand to be a Banyan, and a person of very low and inconsiderable family. I have understood, that when the Governor-General first came into this country, Cantoo Baboo served him for a salary of fifteen or twenty Rupees per month; that he rose in esteem and consideration with the people, as the Governor-General rose in his rank in the Company's service; that Cantoo Baboo afterwards served Mr. Sykes as Banyan, when Resident at the Durbar, in which office he obtained considerable riches. When the Governor-General returned to this country, he received the man again into his employ, and has since entrusted him, as it is said, with the most secret springs of Government, and now allows him to preside, although he declares him insufficient, in a court which gives the greatest consequence, and has the greatest influence on the minds of the people. I should be glad to hear his opinion on Nundcomar's case, although he may not be a competent judge of it, and therefore think he should attend the Board.

ORDERED, That the Sheriff and his Deputy be immediately sent for.

General CLAVERING. I am of opinion that no person can be so proper to inform us by what rules he decides upon conferring or losing Casts, as the person who presides in a Cutcherry where those matters are always determined. The dangerous use that may be made of such an engine of power in the hands of a man who immediately depends upon the Governor-General, and who is implicated in many of the charges which we are bringing in against the administration of the Governor-General, can only be conceived by those who know the force of the superstition which prevails in this country. I am informed that this same Banyan is the secret mover of the whole conspiracy against Nundcomar, jointly with Mr. Graham's Moonshee, and that infamous creature Cumal-ul-Dien Khan; I may venture to call him infamous, because his veracity has been disproved by the oaths of three positive witnesses; and I am sorry to find that the Judges should have been so far imposed upon as to trust to the oath of such a man, who is ready to give it when it can answer any particular purpose.

The Sheriff and his Deputy attending agreeably to the summons of the Board, are called in, and being asked for the original warrant for the commitment of Rajah Nundcomar, for the inspection of the Board, they deliver it as follows: The Sheriff and Deputy called in.

To the Sheriff of the Town of Calcutta and Factory of Fort William in Bengal, and to the Keeper of his Majesty's Prison at Calcutta.

RECEIVE into your custody the body of Maha Rajah Nundcomar, herewith sent you, charged before us, upon the oaths of Mohun Persaud, Cumal-ul-Dien Khan, and others, with feloniously uttering as true a false and counterfeit writing obligatory, knowing the same to be false and counterfeit, in order to defraud the Executors of Bollockee Dofs, deceased, and him safely keep until he shall be discharged by due course of law. Warrant. ✓

Given under our hands and seals this sixth day of May,  
in the year of our Lord 1775.

(Signed) S. C. LE MAISTRE. (LS)  
JOHN HYDE. (LS)

Copy taken at the Board by the Secretary.

Question by Colonel Monson to the Sheriff.

Question. Upon what warrant did you commit Rajah Nundcomar to prison?  
Answer. I was not in town, I did not execute the warrant.

Question by Colonel Monson to the Deputy-Sheriff.

Q. Did you on this warrant commit Maha Rajah Nundcomar to the gaol of Calcutta?  
A. I did.

Q. Did you not, subsequent to that warrant, receive a note from Mr. Justice Le Maistre, acquainting you that it was his opinion that Maha Rajah Nundcomar should be committed to the common gaol?

A. On



*A.* On receiving the warrant from Mr. Justice Le Maistre and Mr. Justice Hyde, which has now been read, I was going to order it to be put into execution; but Mr. Jarrett, Attorney for Nundcomar, expressing a desire that he might be sent to some other place than the common gaol, and delivering it as his opinion, that he might as properly be confined in any other place, the Judges took it under consideration, and in answer to Mr. Jarrett's request told him, that they were both of opinion he could be no where properly confined but in the common gaol, but that for his satisfaction they would ask the opinion of the Lord Chief Justice, to whose house they were then going; in consequence of this I detained Rajah Nundcomar till I knew the Lord Chief Justice's opinion, and soon after received a note signed by Mr. Justice Le Maistre, which I beg leave to produce.

(C O P Y.)

**U**PON consultation with the Lord Chief Justice we are all clearly of opinion, that the Sheriff ought to confine his prisoner in the common gaol upon this occasion.

Addressed to Mr. Tolfrey.

(Signed) S. C. LE MAISTRE.

*Q.* Did you not acquaint Mr. Jarrett that you would not send Rajah Nundcomar to gaol, till you heard from Mr. Mackrabie, or for the space of half an hour from the time that Mr. Jarrett spoke to you.

*A.* I did, Sir.

*Q.* Did you send him to gaol before you heard from Mr. Mackrabie?

*A.* After receiving the note, which has been before produced, and finding the Judges to be clearly of opinion that he ought to be sent to the common gaol, I did not imagine myself justified in keeping him from thence any longer.

*Q.* Do you do your duty from the opinion of the justices, or by their warrant?

*A.* I execute my duty agreeable to their orders, but am guided in the execution of it by their opinion.

*Q.* By orders verbal or written do you execute your duty?

*A.* I apprehend it to be my duty to execute both verbal and written orders from them.

*Q.* Have you any written order to send Nundcomar to the common gaol?

*A.* I apprehend the warrant authorized me to send him to the common gaol, as I was liable to be punished for sending him any where else.

*Q.* Does the warrant order you to send him to the common gaol?

*A.* I apprehend that by the warrant's expressing him to be charged with felony, he could be confined in no other place; the Sheriff, I imagine, not having the power of confining a felon in any other place than the common gaol, and the warrant itself being directed to the Keeper of his Majesty's prison as well as to the Sheriff.

*Q.* As you conceive from the warrant that you were to commit him to the common gaol, why did you ask the Justices their opinion where he should be confined?

*A.* I did not ask the Justices their opinion, but when Mr. Jarrett had, I waited till it was ascertained. Had Mr. Jarrett started no objection, I should of course have ordered him to be conveyed to the common gaol, there being no other public place of confinement belonging to the Sheriff.

#### Questions by Mr. Francis to the Deputy-Sheriff.

*Q.* What was the distance of time between the delivery of the warrant to you and your committing of Nundcomar to gaol?

*A.* I believe about an hour and an half, but I cannot speak precisely.

*Q.* How soon did you see the Sheriff after the commitment?

*A.* About half an hour.

#### Questions by Colonel Monson to the Deputy-Sheriff.

*Q.* Are there many prisoners in gaol, debtors and felons?

*A.* There are many.

*Q.* How many?

*A.* I cannot take upon me to ascertain the number without referring to the books.

Question by Mr. Francis to the Same.

Q. Is the gaol crowded?

A. I am informed by the gaoler that it is crowded.

To the Sheriff by Mr. Francis.

Q. Do you know what conveniencies or accommodations Rajah Nundcomar now has in the gaol?

A. He has a small room, in which the gaoler used to sleep, who removed his family on that account.

Mr. Tolfrey, the Deputy-Sheriff, adds, that it is without the prison gate, and has no communication with the other people in the gaol.

General Clavering to the Deputy-Sheriff.

Q. If it is without the gate it is not in the prison?

A. There are two gates to the prison. When I said it was detached from the place where felons and debtors were kept, I did not mean that it was not a part of the prison. The gaoler's house is always considered as a part of the gaol, and adjoins to it.

By the Governor-General.

Q. Is the gaoler's house within the outer gate?

A. It is.

By Mr. Francis to the Sheriff.

Q. Whether the Rajah has taken any sustenance since he has been in gaol?

A. I am just informed that he has refused to take any.

Q. Has he made any representation to you or to the gaoler of the cause of his refusing to take sustenance?

A. To me he has not; I do not know what he may have done to the gaoler.

The Board having nothing further to ask the Sheriff or his Deputy at present, they are desired to withdraw.

Mr. FRANCIS moves, that the Sheriff and his Deputy be directed to wait on the Chief Justice on the part of this Board, and to represent to him the situation of the Rajah Nundcomar, whose religion, as he hath informed this Board, obliges him to deny himself sustenance in the particular circumstances of his present confinement, and to desire that the Chief Justice will consider of granting the prisoner such relief, as may be consistent with the strict security of his person to answer to the charges brought against him; and Mr. Francis further moves, that a copy of the latter part of the Rajah's Petition to the Board may be delivered to the Sheriff.

To represent  
the Case to  
the Chief  
Justice.

Colonel MONSON agrees to the Motion.

General CLAVERING also agrees to it.

The GOVERNOR-GENERAL. I object to the Motion, because the same representation may be made by the prisoner himself to the Chief Justice, and I think therefore it would be improper that it should be conveyed to him through the authority of Government.

The Motion of Mr. Francis being agreed to;

The Sheriff is again called in, and a written direction from the Secretary to the above effect delivered to him, with a copy of the last paragraph of Rajah Nundcomar's Petition; on which he retired for the purpose of waiting on the Chief Justice according to his instructions.

General CLAVERING. In reply to what the Governor-General has just said, I conceive that the protection of the Inhabitants of Bengal is immediately trusted to our care, and that it properly belongs to us to represent to the Judges such matters as may appear to us, wherein they have acted improperly either wilfully or ignorantly : in the present instance they probably are ignorant how much a close confinement may endanger the life of this man, which is of so much importance to the public, for proving an accusation which he has made of venality in the Governor-General.

The GOVERNOR-GENERAL. The severe personal attacks which have been made upon me by every Member present at the Board were expected by me ; to answer minutely to each would take up more time than I think it proper, at this late hour of the day, to occupy at this Board ; I mean fully to reply to the whole at my leisure.

Mr. FRANCIS. I am not conscious of having attacked the Governor-General personally either directly or indirectly in any shape whatsoever.

Colonel MONSON. I do not know what the Governor-General alludes to, when he charges me with a personal attack upon him. When the Governor-General delivers in his observations on this Consultation, I shall then reply to the charge he may exhibit against me.

General CLAVERING. I have before in this day's Consultation replied to a similar complaint which the Governor-General has made against me.

Cantoo Baboo  
called in.

Cantoo Baboo attending agreeable to the order of the Board, he is called, and the following questions are put to him by General Clavering.

Q. Where do you hold your Cast Cutcherry ?

A. Opposite to the west front of this house.

Q. What kind of cases do you take cognizance of ?

A. All causes which respect the cast ; such as of persons having lost their cast ; or any disputes relating to marriages.

Q. Have you any body to assist you in the judgments which you give on those causes ?

A. There are a Darogah and Moherir to settle small causes, and such as they cannot determine on are represented to me. Any causes of Mussulmen, which cannot be decided there, are referred to the Molovies of the other court.

Q. Is your sentence final ?

A. I never knew an instance of an appeal to any other court ; if the persons are not satisfied with my decision, they complain to the Governor.

#### Questions by the Governor-General.

Q. Are not your decrees all brought to me for signature ?

A. I take them to the Governor to report them to him ; he signs them, and also signs whatever Sunnuds are granted.

#### Questions by General Clavering.

Q. What are the punishments usually inflicted upon those who have committed any great offence ?

A. It is generally customary for them to give an entertainment to their friends, and to pay the expense of the Peons who are placed over them ; and this is levied in proportion to their faults.

Q. Do you ever punish by fine or imprisonment ?

A. Never by fines ; but sometimes, if the person against whom a decree is past is obstinate, he is confined for one or two days.

Q. By whose orders do you put Peons over the people ?

A. By the Governor's orders ; he has directed me to acquaint him whenever a Peon is placed over a delinquent.

Q. How long have you presided at this Cutcherry ?

A. From the time the Governor came to the chair. It is usual for it to be under the direction of the Governor.

Q. Did Mr. Verelst's and Mr. Cartier's Banyans preside in that office before you ?

A. They did, and those that preceded them also ; I know it from the time of Mr. Vansittart's government, which was the time when I came to Calcutta.



Q. Is ablution a necessary part of the Hindoo religion?

A. If a person is in health it is proper, but when a man is sick he cannot perform it.

Questions by the Governor-General.

Q. Is it held criminal, if a man when in health does not perform his ablutions regularly?

A. Whether it be a crime, or not a crime, is written in the books of the religion; I do not profess to be conversant in them.

Q. Are you a Brahmin?

A. No.

Q. Are not the Brahmins enjoined to be more particularly observant in the ceremonies of their religion than the other casts?

A. The injunction is equal upon all casts, but the Brahmins have particular orders in their books, which I am not conversant in.

Q. Are not ablutions necessary before you take your sustenance?

A. It is customary to bathe and to pray before we take any sustenance; but in case we cannot bathe, it is necessary for us to pray before we eat: persons of a low cast eat without bathing.

Q. If you yourself had the misfortune to be confined in a prison, would you think yourself in danger of losing your cast?

A. Merely to be confined, I should be under no apprehension for my cast; but a person confined for robbery or murder loses his cast.

Cantoo Baboo is now acquainted, that the Board having no further questions to put to him, he may withdraw.

WARREN HASTINGS,  
GEO. MONSON,  
R. BARWELL,  
P. FRANCIS.

Fort William, 9th May 1775.

Tuesday.

At a Council, present;

The Honorable Warren Hastings, Governor-General, President,

Lieutenant-General John Clavering, the Honorable George Monson, Philip Francis, Esq. Mr. Barwell (indisposed):

Read and approved the proceedings of yesterday.

The Secretary lays before the Board the following report from the Sheriff and his Deputy.

To John Stewart, Esq.

S I R,

**I**N obedience to the commands of the Honorable the Governor-General and Council, signified to us in your Letter, we have waited on the Chief Justice, and represented to him the situation of the Rajah Nundcomar, as set forth in the extract of a Letter from him, enclosed in your's. We at the same time signified to the Chief Justice the request of the Honorable the Governor-General and Council, that he would be pleased to consider of granting the prisoner such relief, as may be consistent with the strict security of his person to answer to the charges brought against him. In answer to which, the Chief Justice desires us to inform the Honorable Board, that Rajah Nundcomar was not committed by him, and that he has no authority to interfere in the affair, there being felony expressly charged in the warrant.

We are, &c.

Calcutta,  
8th May 1775.

(Signed) ALEXR. MACKRABIE, Sheriff,  
SL. TOLFREY, Under-Sheriff.

General

General CLAVERING. I acquaint the Board, that I received a Letter from Mr. Joseph Fowke, who is just come from visiting Maha Rajah Nundcomar, acquainting me, that it is the opinion of the people who are about him, that they do not think he can live another day without drink. He says his tongue is much parched, but that his spirit is firm. In the conversation that he had with the Rajah, the Rajah told him, “Don’t trouble yourself about me, the will of heaven must be complied with ;—I am innocent.”

Mr. FRANCIS. I move that the gaoler may be sent for to inform the Board, whether Rajah Nundcomar has really taken no sustenance since his confinement, and in what situation the Rajah now is.

Colonel MONSON. I agree to the motion.

General CLAVERING. I agree to it.

A || GOVERNOR-GENERAL. Although I have doubts respecting the authority of the Governor and Council to summon the gaoler to attend them, I will not oppose the question.

General CLAVERING. I think, that if the Governor-General has doubts whether we have power to send for the gaoler, he must conceive that the authority of this Government must be entirely dissolved by the act of parliament which has instituted the Supreme Court of Judicature, because I apprehend the power of Government over the gaoler and the sheriff was never doubted before, till this moment, by any Member of the Council.

RESOLVED, That the Secretary do require his attendance on the Board immediately. The gaoler being arrived, is called before the Board, and asked his name ; he answers, Matthew Yandel.

#### Questions by Mr. Francis.

Q. Whether Rajah Nundcomar has refused to take any sustenance since his commitment, and whether you believe it to be true that he has received none ?

A. I do believe it to be true that he has received none ; I am sometimes out upon business, but I don’t know of his having received any.

Q. What situation is the Rajah now in with respect to his health, and his personal appearance ?

A. He appears to me very well, only a little daunted with the situation he is now in ;—low in spirits.

Q. How many hours has the Rajah been in your custody ?

A. He came in on Saturday night, a little after ten ; it is now past one ; so that he must have been at this time in confinement sixty-three hours.

GOVERNOR-GENERAL. Have you any other prisoners of the Brahmin cast in the gaol ?

A. I dare say I have, but I have not enquired ; we have generally of all casts in the gaol.

Mr. FRANCIS. How many persons have you in the gaol, debtors and felons ?

A. Between sixty and seventy persons.

Q. Is it crowded ?

A. Yes, fuller than in general ; we have not had it so full before : we have about twenty-two or twenty-three felons ; five or six used to be a great many.

He is ordered to withdraw.

Mr. Francis moves, that the information laid before the Board by General Clavering, and the further account given by the gaoler, be communicated to the Chief Justice by the Secretary on the part of this Board, and that the Secretary do wait upon him accordingly as soon as this Board is broke up.

AGREED to, and ordered accordingly.

Read the following Letter and Enclosures from Sir Elijah Impey.

Honorable Sir and Sirs,

**B**EFORE your message of yesterday was delivered to me by the Sheriff, I had been informed that the Maha Rajah Nundcomar had, on account of his religion, refused to take sustenance: I immediately sent my Monhee to him, to acquaint him that I had given strict orders to the keeper of the prison, that his confinement should in every respect be made as easy as possible to him, and to know from him from whence his scruples arose: the answer returned to me was, *That he could not eat or drink in a room where Christians or Mussulmen had been.* I thought it not proper to refer his case to the Judges who committed him merely on his suggestion; and to ascertain the fact, I sent for the Pundits, who are the keepers of the consciences and oracles of the Gentoo: I examined them in the presence of Mr. Justice Chambers and Mr. Justice Le Maistre, who happened to be with me when I sent for the Pundits. A copy of their answers in the Bengal language, and a literal translation of the same into English, marked A, I have the honor to enclose. The original, signed by four Pundits (one of whom I am informed is the Chief of that order of men in this country) I have preserved. They added, "it is no easy matter to lose cast; a Brahmin must eat eight times of the meat of a Mussulman before he can lose his cast." Mr. Justice Chambers and Mr. Justice Le Maistre declare themselves perfectly satisfied with the answers of the Pundits, and that there were no grounds for altering the mode of confinement of the Maha Rajah. A.

The Maha Rajah has two rooms to himself; Mr. Yeandle, the keeper of the gaol, having given up to him the apartments which were occupied by himself and wife. But lest I might be mistaken in the description given to me of the situation of the rooms, I prevailed on the Pundits to go to the prison and examine the apartments in which the Maha Rajah is confined, and from thence to certify to me, whether any and what prejudice would accrue to him on account of his religion from his confinement there. A copy of their answers from thence, and a literal translation into English, marked B, accompany this. The originals signed by the four Pundits are in my possession.

The Prauchit, or penance, alluded to, if the confinement should last for forty-one days, will, as I understand, consist of an obligation to fast two days, and to dispose of a sum of money less than the sum of one thousand Rupees in charity. This they did not chuse to reduce into writing, desiring to refer themselves for more accuracy as to the sum to the Shastah. They are to send me an extract of that book, a copy of which, when I receive it, I shall do myself the honor of transmitting to your Board.

As the message brought to me by the Sheriff was verbal, my answer, which was verbal likewise, could only be short. But I thought it proper to lay before you the information I had collected, that I might not appear wanting in that attention I shall always give to any message from your Board, and likewise to prevent your Board from being further deceived by improper suggestions.

The Judges will, as far as by law they may, remit the rigour of the English law in all cases where its effects may be prejudicial to the natives on account of their religion, and perhaps, in some cases, would yield even to prejudices, if national and deep rooted; but they must not suffer the pretence of religion to be set up for the purposes of eluding the ordinary course of the law. Should the claim made by the Maha Rajah be allowed, it would go far towards abrogating great part of the late act of parliament, by the difficulties which would thereby be created in the execution of the laws against a large body of people, intended by the act and by his Majesty's charter to be subject to the jurisdiction of his court. The Maha Rajah is of the cast of Brahmins; they are very numerous in Calcutta, over which there is an express jurisdiction: many of the Company's servants, and most of the Banyans and Gomastans of his Majesty's British subjects, are of that cast.

It would be a very heavy burthen to the Sheriff should he be obliged to provide separate houses for each Brahmin whom it might be necessary to confine; and much more so, to provide a sufficient number of officers to surround those houses to prevent escapes. Many Brahmins are now in the common gaol; men of higher cast than the Maha Rajah have been confined there, none of them have lost their cast, and this is the first complaint of the kind.

Notwithstanding these inconveniences, had the facts turned out as represented by the Maha Rajah, I have little doubt but that the Judges would have found out some means of giving him relief.

I am happy in this instance, that the Board has given me an opportunity of vindicating the Judges from any surmise of rigour, or of want of humanity; but must make it my request,



quest, that the Maha Rajah may be acquainted by the Board, that if he has any further applications to make for relief, that he must address himself immediately to the Judges, who will give all due attention to his representations; for should he continue to address himself to the Board, that which will and can only be obtained from principles of justice, may have the appearance of being obtained by the means of influence and authority; the peculiar turn of mind of the natives being to expect every thing from power and little from justice. I know I shall be pardoned the observation, being clearly convinced that the Board would be as cautious in furnishing ground for, as the Judges can be jealous of incurring the imputation.

Calcutta,  
9th May 1775.

I am, with great respect, &c.

(Signed) E. IMPEY.

The Pundits have just informed by message that they are unanimously of opinion, that if a straw shed was built in the inside of the prison yard, separate from any house, the Maha Rajah, after a month's confinement, would be obliged to pay twelve Rupees, or thereabouts, only for the purpose of feasting the Pundits and Brahmins.

A.

Translation of the Question put to the Pundits by Sir Elijah Impey, Mr. Justice Chambers, and Mr. Justice Le Maistre, at Sir Elijah Impey's house.

**I**F a Brahmin be confined in a prison, and a Mussulman or Englishman likewise is confined in the same prison, and eats and drinks there; but the Brahmin who is confined under the roof of the prison, is in a room separate from them, and eats and drinks in his own room, does the Brahmin lose his cast or not?

Answer under the Signatures of Kissen Jewan Surmah, Bannisser Surmah, Kissen Gopal Surmah, and Gowree Caunt Surmah, Pundits.

In the case above stated the Brahmin does not lose his cast; but if, in consequence of the orders of the Government, he remains in confinement, and eats and drinks, Prauschit, or penance, is necessary. If he is confined in a place not under the same roof, and eats and drinks, his cast shall not be lost, but a trifling Prauschit will be necessary.

B.

**A** Translation of the Question put to the Pundits at the goal, after they had been shewn every part of the place in which Rajah Nundcomar is confined.

**I**F a Brahmin, being in the place where you have seen Rajah Nundcomar, eats and drinks or sleeps, does he lose his cast or not?

*Answer.* Mussulmans and others live under the same roof in a separate room, and a Brahmin cannot perform his ablutions, or eat and drink in the room; but if he does perform his ablutions, and eat and drink, he will not lose his cast, but Prauschit must be performed.

*Question.* Can Maha Rajah Nundcomar perform his ablutions, &c. in the room in which he is confined or not; if he does perform those ceremonies, will he lose his cast?

*Answer.* It is not proper for Rajah Nundcomar to eat in the room in which he is confined; if he does eat, his cast will not be lost, but he will be obliged to perform Prauschit.

AGREED, in consequence of the above, That it is necessary to send to Sir Elijah Impey the message proposed this morning.

AGREED, That Sir Elijah Impey's Letter be replied to as follows:

To Sir Elijah Impey, Chief Justice of the Supreme Court of Judicature,

S I R,

**W**E have been favoured with your Letter of this date.

As the government of the country is vested in us, we consider the natives of it as the immediate objects of our care and protection. Having received that petition from Maha Rajah Nundcomar, of which we had the honor to send you an extract, we thought ourselves bound not only by our official duty, but by the obvious dictates of humanity, to communicate it as soon as possible to you; but in order to prevent that deception which you conceive we lay under, we examined the Sheriff, and the Deputy Sheriff, with respect to the circumstances of the Rajah's confinement, and afterwards put questions to the person who acts as President of the Cast Cutcherry in this city, by all which we were confirmed in thinking that the facts represented by Rajah Nundcomar were true, and that his refusal to take sustenance was founded on a sincere religious prejudice. We cannot refuse to receive any petitions presented to us, and if they relate to the administration of justice, we conceive we are bound by our duty to communicate them to the Judges.

Fort William, 9th May 1775.

We are, &c.

Extract of Secret Consultations, Fort William, 16th May 1775.

Received the following Letter and Enclosures from the Chief Justice of the Supreme Court of Judicature.

Honorable Sir and Sirs,

**L**AST night I received the enclosed Extracts of the Shastah from the Pundits; the Sir Elijah translations which accompany them I have this moment procured; by these it will Impey appear how little foundation there was for the scruples of the Maha Rajah.

As by your's, with which I am favoured, you informed me, that from the examination of the Sheriff, Under-Sheriff, and the person who acts as President of the Cast Cutcherry, you were confirmed in thinking that the facts represented by the Maha Rajah were true, and that his refusal to take sustenance was founded in a sincere religious prejudice; I was desirous to have all the lights I could possibly receive on the subject, and therefore examined the Under-Sheriff, who was present when the Sheriff was questioned at the Board, and learnt from him, that their examination related only to the fact and legality of the commitment, the place of confinement, the propriety of his yielding obedience to the Judges, and the conduct of the Judges who made out the warrant; the whole of which I had been before acquainted.

I have also examined Cantoo Baboo, who acts as President of the Cast Cutcherry, as to his opinion what effect the Maha Rajah's confinement would have on his cast, and likewise as to what he had deposed at your Board.

I must observe, that he says, in case of confinement for crimes *proved* on the prisoner, the cast will certainly be hurt; he does not say it will be lost: this is not the case of the Maha Rajah; no crime is proved upon him; but he is positively charged with an offence, which it will be incumbent on the prosecutor to prove at his trial.

Was it to be understood that cast was lost by confinement on a criminal charge, it would go to a claim of exemption from all crimes.

As this examination, as far as it goes, appears to me to lead to a conclusion contrary to that drawn by the Board, I cannot but apprehend he must have given information to your Board very different from that which he has thought fit to communicate to me; and as I am solicitous to be thoroughly informed in this matter, which, from the number of Brahmins in this country, is of the utmost consequence, I should esteem it as a favour from the Board, if they would communicate to me a copy of the original examination. I have been diligent in my enquiries, and have not yet been able to hear of one black man whose opinion is not that the Maha Rajah's scruples are mere pretence.

It gives me infinite concern that any thing in my former Letter could by any strained construction be interpreted to question the authority of the Board. I went no farther than the case before me. The bounds between the authority of the Supreme Court and the Council are of too delicate a nature to be discussed, without there should be, which I trust



trust there never will be, an absolute necessity to determine them. I did not, nor do not question the authority of the Board in receiving petitions; I carefully restricted what I said to this individual prisoner; I did not desire his petitions should not be received, but when received, if they were to require any thing from the Judges, or the Court, that the answer given to those petitions should be, that he must apply himself directly to the Judges; and this I did to avoid the imputation I then alluded to, and which would be equally derogatory to the character of the Council as that of the Judges.

The particular reason which called upon me in this case to make that requisition, was the reports publicly circulated in this town, that if the Judges could not be prevailed upon to release the Maha Rajah, he would be delivered by force.

These reports I know to be groundless, but was apprehensive of the effects of their gaining credit, especially in the infant state of the Court, before its authority is sufficiently understood and established. It is not sufficient that courts of justice act independently; it is necessary for the good government of a country, that they should be believed and known to be above all influence; a maxim in which I am sure to have the concurrence of the Board.

I am, with the greatest respect, &c.

Calcutta, 15th May 1775.

(Signed) E. IMPEY.

#### Translation of the Opinions of the Pundits, under the Signatures of Kissen Jewan and five others.

Opinions of  
the Pundits.

**I**F a Brahmin is confined, washes, eats and drinks in a house where a Mussulman or others live, he must do the penance known by the name of Chundraneen; but as that species of penance lasts for one month, and as the men of this age have not strength for so long a penance\*, it has been altered, and, instead of performing Chundraneen, the Brahmin must forfeit eight milch cows and their calves; but if it should so happen that the Brahmin is poor and unable to do this, he must pay thirty-eight Cawns and seven puns of Cowries†: having paid the Brahmins for the trouble they will have in his affair‡, and having paid for the Serraud, or cleansing cake||, and fed a cow, the Brahmin is purified. The above penance is for one day, and the same penance must be performed for every day he remains in confinement.

#### Opinions of the Pundits under the Signatures of Kissen Jewan and the other Pundits.

**A** Brahmin who is confined within four walls of a prison in which Mussulmen and others live, and is permitted to inhabit a house not under the same roof with them, though within the walls, to perform his ablutions with the water of the Ganges, and to eat and drink of things mixed with the water of that river, and who washes with and drinks of the water of the Ganges, when he is set at liberty will not lose his cast. A Brahmin is purified, after having committed very great crimes, by washing in the Ganges; but in such a little fault as the above, it is not proper to do any severe penance: instead of washing in the river Ganges, it is only necessary for the Brahmin above described to perform the penance known by the name of Perjaubut Bert, which is to do some acts of devotion for twelve days running; or if the Brahmin cannot do this, he should give one milch cow in charity; but if he has no cow to give, and is rich, he ought to pay five Cawns of Cowries (equal to one Rupee and three Annas) which charity must be repeated for every day he remains in such situation.

#### The Examination of the President of the Cast Cutcherry.

**T**HAT the Darogah settled all trifling matters, but that when any thing of great consequence came before the Cutcherry, he settled it himself; that if the parties were

#### Explanations of the Pundits.

\* In ancient times, when men lived to the age of one thousand years, their strength was proportionably greater, and they could fast a month or more without endangering their lives, or without considering it a very severe punishment.

† The price of a milch cow, with its calf, is from three to four Rupees, and the value of the Cowries is about eight Rupees.

‡ Seldom amounts to above two Rupees.

|| The cake is not valued at more than six Annas.

not satisfied with his decision, they complained to the Governor, and that he enquired into it; that the Governor looked over the decrees and signed them; that he took no fines, but received fees upon the Sunnuds, and for the expenses of the Peons, &c. that he sometimes confined people for a day or two; that he first got the sanction of the Governor's order before he put any person in confinement; that Hindoos first washed, and then eat; that the lower cast of people sometimes eat without washing, but that the higher will never eat without performing their ablutions, but if they are sick they cannot help themselves; that if a man was confined for a business transaction, he suffered nothing in his cast; but that if a man is confined for stealing, robbery, or murder, being proved upon him, his cast will certainly be hurt, but not lost; that he had been engaged in the Cutcherry from the time that Mr. Hastings came to the Government; that the Cutcherry had been upon the same footing in the time of Messrs. Vansittart, Verelst, and Cartier to his knowledge; that he could not say any thing as to the circumstances of eating and washing, which could only be known from books, which were understood by the Brahmins and Pundits alone.

General CLAVERING. I request the favour of the Governor-General, that he, as one of his Majesty's Justices of the Peace, will be pleased to receive my affidavit, that either in my corporal capacity as a Member of the Board, or as an individual, I never conceived any intention, nor never heard of such an intention suggested to me by any body, that the Maha Rajah Nundcomar was to be delivered by force from the confinement he is in. I think it necessary to make this affidavit, because I find, in a Letter addressed to the Governor-General and Council by Sir Elijah Impey, the Chief Justice of the Supreme Court of Judicature, a paragraph, in which he mentions, that he, the Chief Justice, was induced, contrary to his belief, to make the application to the Board upon the 9th instant, that the Governor-General and Council should acquaint the Maha Rajah Nundcomar to apply directly to the Judges, instead of his applying to them, as there were reports publicly circulated in the town, that if the Judges could not be prevailed upon to release the Maha Rajah, he would be delivered by force; and further I desire to declare, that I never heard of such a report till I read it in Sir Elijah Impey's Letter.

GOVERNOR-GENERAL. I beg leave to submit it to the consideration of the General, whether, on a revival of the words made use of by the Chief Justice in his Letter, there is a necessity for his giving a mere rumour so much consequence, as to take and enter upon the public records a solemn oath for the refutation of it. I am morally certain that neither the Chief Justice, nor any other reasonable person, could entertain the most distant suspicion of an intention in the General, or any other Member of this Board, to commit so flagrant an outrage on the laws of their country, as to attempt to rescue by force a man committed to gaol under a legal authority.

I do not understand the words of the Chief Justice's Letter as expressing more than a mere popular opinion, which is often known to prevail without foundation, and, however improbable, to operate to the production of the worst consequences. I have heard of many reports said to be circulated by Nundcomar, or his dependants, but I have paid so little attention to them, that I really cannot recollect any of the purport here alluded to; but do not think it necessary myself to follow the General in the affidavit proposed to be taken by him, if he shall still adhere to his first declaration, for the refutation of a charge, which I think can neither light upon myself, nor any other Member of the Council.

General CLAVERING. I conceive that a declaration, similar to that which I have made, absolutely necessary for the justification of each Member of this Government; because the report of an attempt to deliver by force the Maha Rajah is made the ground which Sir Elijah Impey acquaints the Board he had for his application to us, to direct Maha Rajah Nundcomar to apply for relief henceforward to the Judges, and not the Council. By making this proposition, I don't conceive myself more implicated in the charge brought (as it seems to me) against the Government than any other Member of it; but in times when people make a trade of informations, I think no man can be safe from the danger attending upon them, especially when reports which are credited by a Chief Justice (notwithstanding his declaration to the contrary) might, in such suspicious times, be easily converted into a criminal accusation. It is for these reasons that I desired that my own affidavit may be taken, and I could wish that the same solemnity might be observed by every Member of the Board.



Colonel MONSON. From the Letter of Sir Elijah Impey now before the Board, in which there are insinuations which may possibly be interpreted to my prejudice and disadvantage, I request that my affidavit may be taken, that I never had an intention, either in my public or private character, to use any force to release Maha Rajah Nundcomar from his confinement by the Justices of the Peace; nor did I ever hear that such a rumour prevailed in the town of Calcutta, until I was informed of it by the Chief Justice's Letter.

Mr. FRANCIS. I beg leave to declare upon oath, that until I saw the Letter from Sir Elijah Impey, I never heard of the report mentioned therein; and that I do not believe that an intention to deliver the Maha Rajah Nundcomar by force from his confinement was ever thought of by any Member of this Board.

Fort William, the 16th May 1775.

WHEREAS it has been asserted by Sir Elijah Impey, in a Letter written by him to the Governor-General and Council, on the 15th instant, that reports had been publicly circulated in this town, that if the Judges could not be prevailed upon to release the Maha Rajah Nundcomar, he would be delivered by force; we hereby most solemnly declare, that we never ourselves conceived such an intention, nor never heard of such a design in any Member of the Government, or by any body else; nor did we never hear any mention of such a report till we read it in Sir Elijah Impey's Letter above-mentioned.

Sworn before me,

(Signed)

J. CLAVERING,  
GEO. MONSON,  
P. FRANCIS.

(Signed) WARREN HASTINGS.

The Governor-General has declined giving in the affidavit, as deeming it unnecessary, but declares his entire conviction and assurance, that no Member of this Board ever conceived an intention of using force for the release of Maha Rajah Nundcomar from his imprisonment.

GOVERNOR-GENERAL. Having already declared that I thought it unnecessary to take the affidavit which has been proposed, I shall content myself with the declaration contained in the preceding Minute, at the same time deeming myself under the like obligation to adhere to the strict line of truth, in every declaration made by me upon record, as if I was under the tie of an oath.

Question put;—Whether the request of the Chief Justice, for being furnished with a copy of the examination of Cantoo Baboo before the Board on the 8th instant, respecting casts, shall be complied with?

Mr. FRANCIS. I think not.

Colonel MONSON. As I have allowed all persons who have been examined before the Council copies of their examination, I have no objection for Cantoo Baboo having a copy of his, if he requires it; but I think the Chief Justice has no right to require from us any information that may be given to us, therefore do not think proper to comply with Sir Elijah Impey's request.

General CLAVERING. The only cause for which the examination required by Sir Elijah Impey could be of use to him is now past. Sir Elijah Impey appears to be convinced, that the opinions of the Pundits, whom he has consulted, are sufficient to authorize the strict confinement in which the Maha Rajah Nundcomar was first confined; though I understand that those restrictions are now taken off, and not by the authority of this Government; it appears therefore to me plainly, that Sir Elijah Impey's intention in requiring this information is not for the relief of the prisoner, but to see whether our application to him for that relief was founded upon sufficient authority. The reasons urged in the Rajah's petition were sufficient motives to us to make an application to the Chief Justice, not that he should be released, as Sir Elijah Impey has misconstrued our intention, but that the nature of his confinement should be altered, so as to enable him to perform the functions of his religion. It is for this reason that I am of opinion, that Sir Elijah Impey's request should not be complied with.

GOVERNOR-



GOVERNOR-GENERAL. I think it should be complied with.

RESOLVED, That Sir Elijah Impey's request for being furnished with a copy of the examination of Cantoo Baboo before the Board on the 8th instant, respecting casts, be not complied with, and that the following Letter be written in reply to the foregoing from Sir Elijah Impey.

To Sir Elijah Impey, Chief Justice of the Supreme Court of Judicature.

S I R, .

WE have received the favour of your Letter of the 15th instant, with the accompanying papers.

We must decline communicating to you a copy of Cantoo Baboo's examination at our Board, as such examinations are taken for our information only.

We are concerned to hear from you, that a report had been "publicly circulated in this town, that if the Judges could not be prevailed upon to release the Maha Rajah, he would be delivered by force."

Considering the notice taken of this report in your Letter, and that it had influenced you to make a requisition to us, we are apprehensive it may have had some weight in your mind; though we are persuaded you could not believe it possible that any Member of this Government could entertain so criminal a design, as that of releasing by force a prisoner committed by due course of law.

General Clavering, Colonel Monson, and Mr. Francis, in order to clear themselves from any possible suspicion or imputation on this head, have thought proper to make the affidavits, of which we enclose you a copy; and the Governor-General, though he has declined joining in the affidavits, as deeming it unnecessary, yet declares his entire conviction and assurance, that no Member of this Board ever conceived an intention of using force for the release of Maha Rajah Nundcomar from his imprisonment.

Additional paragraph to the Letter to Sir Elijah Impey.

After having taken this step to prevent the effects which otherwise might attend the publication of such reports by a person in your station, since your Letter must appear in the public records of the Council, we think ourselves entitled to express to you our desire, that reports, affecting the character and personal safety of the Members of this Government, may not be in future adopted by you without some specific evidence.

You cannot but be sensible that the character of every man in office, even your own, is liable to suffer by the current discourses of the town; and that if such reports are introduced into Letters in public business, without any collateral proof to support them, they must remain upon record, and attract a degree of attention which would otherwise never be given to them.

We do not agree with you in opinion, that the bounds between the authority of the Supreme Court and the Council are of too delicate a nature to be discussed, without there should be an absolute necessity to determine them. We think that the lawful powers of every branch of Government should be fixed and declared, and particularly that the limits of the jurisdiction of the Supreme Court should be ascertained, that it may be known to the people and to the Government what persons are and what persons are not within their jurisdiction. We feel the inconveniences arising from the want of such a precise limitation of the powers of your Court, and are convinced that the country and the revenues cannot fail to suffer by the arrests of so many natives of high rank, as have already been seized by warrants from the Judges, and obliged to answer to civil suits in the Supreme Court.

I object to the above addition to the draft of the Letter intended to be written to the Chief Justice.

(Signed) W. H.

Extract of Secret Consultations, Fort William, 22d May 1775.

Read a Letter from the Supreme Court of Judicature as follows.

Honorable Sir and Sirs,

SIR Elijah Impey having communicated to the other Judges the last paragraph of your Letter to him, dated on the 16th of this month, respecting the limits and exercise of the jurisdiction of the Court, a subject which equally concerns us all, and which we all concur in thinking

Court of  
dicature.

thinking of a very delicate and important nature; we deem it incumbent on us to inform you, that we have no authority to make extrajudicially a more particular declaration or description of the powers of the Court, than that which is contained in the late act of parliament and in his Majesty's charter.

We shall always be desirous to obviate, as far as we legally may, any inconveniences that might ensue from the exercise of our juridical powers, and to prevent as much as possible every abuse of our process; and therefore, by the authority which we have to form rules of practice, we have required of every plaintiff, who applies for the King's writ to arrest a defendant, that he shall swear to some fact, by virtue of which the defendant is subject to our jurisdiction. This rule, which renders the plaintiff, if he swears falsely, liable to the penalties of perjury, will, we flatter ourselves, preclude those inconveniences which you seem to apprehend.

We are, &c.

(Signed) E. IMPEY,  
ROBERT CHAMBERS,  
S. C. LEMAISTRE,  
J. HYDE.

20th May 1775.

Extract of Secret Consultations, Fort William, 19th June 1775.

A Letter having been received from the Chief Justice in reply to the Board's last Letter to him, it is now read, with its enclosures, in the following terms.

Honorable Sir and Sirs,

Chief Justice  
Sir Elijah Im-  
pey's Answer.

I HAVE been favoured with your's of the 16th instant, and cannot help testifying my surprise and concern, that by means of my inaccuracy of expression, or the multiplicity of more material business, which must engage your attention, my meaning has been so much misunderstood, as to produce Answers which I am sure I should not otherwise have received, and which are not applicable to what I had the honor of writing to the Board.

I must likewise lament that you find yourselves under the necessity of rejecting my application for a copy of the examination of the President of the Cast Cutcherry, which I thought my station, my conduct to the Board, and the nature of the transaction, would have induced you to have complied with. You inform me, that you made it one of the grounds for referring the matter to me. I had reason to think, that having honored me with the reference, you would have been desirous of furnishing me with all the evidence taken by you, and of assisting me by every means in your power to investigate the subject submitted to me; more especially as I entered into it in compliment to the Board, and not from any official obligation. The investigation was necessary; the Board thought the evidence material, and could not expect me to take it up simply on an extract of the prisoner's representation, and a verbal message from the Board. It is not the case of Nundcomar only, it is that of every Brahmin, and perhaps of every Hindoo in the country. That I might give attention and full satisfaction to you, I transmitted to you the whole of the evidence taken before me, and all the information I have been able to procure.

I impute this refusal to some standing order, and to the secrecy you have imposed upon yourselves, and not to the want of that candour and comity of behaviour which is necessary to be maintained between every branch of the Administration.

When I state what has passed, it will appear how unfortunate I am in being perpetually misunderstood.

I request that a prisoner, whose case is very particularly circumstanced, may be acquainted from the Board, that if he had any further applications to make for relief, he must address himself immediately to the Judges; I assigned a general reason which I hoped would be satisfactory; I am thereby understood to deny your right of receiving petitions, and am answered with an assertion of that right, and a claim to communicate petitions to the Judges; yet I must observe, that the Maha Rajah's petition has not been (as it should have been) communicated to me: I have said nothing directly or indirectly to which this was an answer.

The Board declining to give the answer to the prisoner which I had taken the liberty to suggest, and seeming to think it more proper that applications should come through them than immediately to the Judges, and my general reason not proving satisfactory, I thought myself obliged to assign that which was more particular; I founded it on a report, which I did



did not simply say I did not believe, but that I knew to be totally groundless. This, I cannot help thinking, has been taken up with rather too much warmth. You expressly impute to me, that I have both published and adopted the report, and three Members of your Board think fit to make an affidavit to clear themselves of a charge never made, or intended to be made against them, and which they themselves say is impossible to be believed; but if they have thought that a proper measure, they are keepers of their own honor, and I have no reason to complain.

By the last clause of that affidavit I feel myself much affected; it seems by implication to deny that such a report existed, and thereby to fling the further imputation on me of creating as well as adopting it. The affidavit, I am confident, was not made with that view, for I am thoroughly persuaded they would not insinuate obliquely what they have not asserted directly. That it existed, is too notoriously known in Calcutta to be capable of being controverted; yet, as those to whom the affidavit is expressly addressed can take their impression only from the affidavit itself, I have, for my own satisfaction and justification (if I hereafter shall think it necessary) caused the existence, universality, and prevalence of the report to be verified by affidavits of gentlemen of the most undoubted credit and honor, and much conversant with the black inhabitants of all ranks.

I again and again disclaim ever having given any credit, and detest the thought of adding weight to so scandalous a report. The existence of the report, not the truth of it, made what I desired necessary. I had reason to think the report had not reached their ears; they were the persons likely to hear it last, and, if they had heard it, would probably have been more backward in interfering between the Judge and the prisoners. I am conscious to myself that my conduct hath not called for the requisition in your's, nor merited the implied censure conveyed by it. I fear nothing for myself from reports that may be prejudicial to my character, my actions shall be such as shall give no colour to them; by that means I have no doubt I shall avoid them; if I do not, they shall be false, and I will despise them, by whomsoever or wheresoever they may be propagated.

You assert, that the Government being vested in you, the natives are the immediate objects of your care and protection, and claim a right to communicate petitions to the Judges. To these two passages only can my declining to discuss the bounds of authority between the Council and the Court be applied; I am answered as if I was understood to say, it was improper that it should be defined and known over whom the Court hath or hath not jurisdiction; I have unfortunately drawn down a most severe animadversion on the whole Court, and a prediction of the most fatal consequences to the revenue and country.

I declined it, because, understanding what you say in the sense I do, and in that sense only which is at all applicable to the subject matter, I must have differed from you in both points.

The claim of protection is made in consequence of a petition from a prisoner confined (as you allow) by due course of law, under the warrant of two of the Judges, praying to be released from that confinement, and therefore must be a claim to examine into and relieve against the acts of the Judges, should you think any party injured.

Though the natives, without question, are under your general protection, they are more immediately so under that of the laws. One great end of the institution of our court is their protection, particularly against British subjects vested with real or pretended authority; and I have no doubt but the laws will be found to be in practice, what they are universally esteemed to be in theory, a better security to the people than the discretionary power of any council of state. And to prevent the mischiefs and confusion which must inevitably follow from such a claim, if it is meant to be avowed and persisted in, I think it my duty on the part of the Judges to assert, "That there doth not reside in the Governor-General and Council any legal authority whatsoever to revise and control any judicial acts of the Judges, done either in or out of Court, be those acts ever so erroneous."

If this claim is restricted to such acts as may be done by Justices of the Peace, it is equally unwarrantable, and the consequences as to criminal justice, by interfering in steps preparatory to a trial, will be the same.

To prevent the Members of the Council being troubled with complaints, which their duty as Justices would otherwise oblige them to attend to, the Judges have taken the whole labour upon themselves; they sit from day to day, and act as inferior magistrates, which can hardly be expected, if, instead of receiving approbation, their acts will be subjected to control, and their personal conduct to censure.

As to communicating petitions to the Judges, I apprehend that no Board, even of the highest authority in England, can refer any matter either to a Court of Justice, or any Judge thereof, otherwise than by suit legally instituted. As to matters within the province of a Justice of Peace, as you are Justices, that is at least unnecessary and must be improper, as you do not transmit the evidence; and every Judge who is to determine ought to have before him all the evidence which the nature of the case can afford.



I did not understand this last clause, though in a Letter to me, as addressed to myself only. Every Judge must bear me testimony how peculiarly rigid I have been to prevent the jurisdiction of the Court from being exceeded. I framed all the rules for that purpose; in my charge to the Grand Jury I publicly defined (I trust not unintelligibly) the jurisdiction of the Court; to give permanency, and to prevent mistakes, I desired, as I do on all occasions, that notes might be taken of what I said; to give sanction to it, I desired that the Judges would remain in Court; I asked them publicly whether they concurred with me, and had the satisfaction of their full concurrence. I have at all times been clear and explicit when any Member of the Council has done me the honor to converse on the subject; I have gone so far as to give Answers in writing, but always with this reserve, that my judgment should not be considered bound by any extrajudicial opinion: and you must have known I singly could not authoritatively ascertain what your Letter requires; I therefore understood it to be a demand made upon the Court, and communicated that clause to the other Judges; you have received such an Answer as the Court could give.

Struck with the peremptoriness of an assertion, calculated to alarm and prejudice the East-India Company, and the English Nation, against the institution of a Court, whose protection is every day more and more felt, and, I have the happiness to find, most gratefully acknowledged by all ranks and orders of men; I have thoroughly examined the facts, and am able to give the most ample and conclusive satisfaction both to yourselves and (by means of your records) to your Honorable Employers.

I find that no person whatsoever hath been seized by warrants from the Judges, and obliged to answer to civil suits in the Supreme Court; the Judges have not usurped such an authority. All arrests that have been made have been by writ (as the charter directs) issued in consequence of affidavits required by the rules of Court, marked letter A. These affidavits have two effects; they prevent the jurisdiction of the Court from being exceeded by the sanction of an oath, and the penalties incurred by wilful and corrupt perjury; and they likewise again obviate your complaint, for they expressly ascertain the claim of jurisdiction which the Court makes over persons; for in every instance where there can be an arrest, the Judge, by directing the process, gives his opinion, that if the facts contained in the affidavits are true, the Court hath jurisdiction.

I have ordered the public offices to be searched, and send you an authentic list of all the causes in which any plea to the jurisdiction of the Court hath been entered since its commencement, together with an account of the process and certificates of the proper officers; (B) You find thereby that six persons only have appealed against the jurisdiction, that two of them appeared on the summons, and consequently that four only have been arrested. None of these pleas have been determined, and it does not appear that any process hath issued improperly.

The number is so small that I expected the connexion of the defendants with the revenue and their rank must be considerable.

Coja Kaworke is an Armenian, who is an under-farmer of salt at Dacca; on a former occasion this man, though pressed to it by your servants, would not plead to the jurisdiction of this Court, and insisted that he was amenable to it.

Rajah Choiton Sing is the joint Zemindar of a small district, called Patchett, of which he is the joint farmer, that is, Collector of the Revenue, which he pays over to the Company, except a part which he is allowed to retain. The first process against him was a summons, to which a common appearance might have been entered without personal attendance; he neglected to obey it, and applied to your Council at Burdwan, who wrote to the Sheriff that they would be answerable for his appearance; but that not being made in time required by the rules of the Court, a Capias issued; on which a Member of your Board undertook to the Sheriff for his appearance, which was afterwards withdrawn. If on this occasion any detriment hath been incurred by the revenue, it must be charged to those who prevented his being bailed, and not to the Court.

I have made the most diligent enquiry, and cannot find that any of the other defendants are of any high rank, or have any connexion with the Revenues, except they may chance to hold (which almost all, except the meanest of the inhabitants, do) some Talook.

The facts thus turning out, the conclusion must fail, and when (which cannot be till after a great length of time) the answer is known as publicly as the charge, the alarm will subside.

But I must conjure the Board not to admit in future on their public correspondence general assertions of so alarming a nature without naming the parties, their rank, and connexion with the Revenues, having first previously well ascertained the facts from records, which are always open to their inspection; and that they will not trust to the accounts of angry defendants, or persons who find their influence diminished by the erection of the Court.

I have been drawn into a correspondence with you on very unequal terms; my Letters contain the weak arguments of an individual, yours convey the weight of the whole Board, vested with the Government of the Country.

You complain that what I write must be put on your Records, and be transmitted to England; what you write is inserted there likewise. What I write you may answer with such additions and observations in your Minutes as you please to make; and as your Minutes are religiously guarded from my inspection, and become public when transmitted to England, if, by misinformation or inadvertency, any thing contrary to your intention should find its way into them, which may affect me in my character or office, I may be arraigned before the public in a distant country on a charge or imputation, which I can never know till it has had its effect.

I cannot again be misunderstood; for I declare I speak only of what might be, not what is. I know I have given no cause, and therefore do not believe any thing of that nature stands on your Minutes. Men who are tenacious of their own honor will not secretly wound that of others; yet I hope I shall stand excused when I desire that all Letters and messages which do not particularly relate to me, may in future be directed to the other Judges as well as myself.

Answers from them will (as they ought) have more weight than from me singly, and it will prevent my being drawn into any altercation with the Board, which may have the most distant appearance of disturbing that harmony which the public has a right to expect, and which cannot but be maintained on my part, entertaining as I do the highest esteem for every Member of the Board, whose authority, as by law established, it has ever been my principle, and shall be my study, to support to the utmost of my power.

I should not have neglected to have acknowledged the favour of your's earlier, if I had not been desirous to ascertain the facts with accuracy and certainty, and had not the departure of the last packet of the year, before I received your Letter, made the delay of less consequence.

I am, with the greatest respect,

(Signed) E. IMPEY.

Calcutta,  
30th May 1775.

A.

IT IS ORDERED, That no summons to any defendant to appear in any plaint levied in this Court, if such defendant do not reside within the town of Calcutta, or ten miles thereof, do issue from the Prothonotary's Office, unless affidavit be made to the satisfaction of the Court, or a Judge thereof, that the defendant is subject to the jurisdiction of the Court, and that the affidavit do particularly specify in what manner the defendant is subject to the jurisdiction of the Court.

IT IS ORDERED, That every affidavit sworn before this Court, or a Judge thereof, for the purpose of a Capias issuing in any cause, do particularly specify in what manner the defendant is subject to the jurisdiction of the Court.

B. Prothonotary's Office, 20th May 1775.

I DO hereby humbly certify, that there are not any issues delivered into this Office wherein the defendants have pleaded to the jurisdiction of the Supreme Court.

THO<sup>s</sup>. BOWKER, Prothonotary.

B.

Samfoonder Chuckerbutty and Govind Roy.	}	Plea to the jurisdiction.
Gholam Hyder against Gholam Raza.	}	Plea to the jurisdiction.
Monohur Metre against Govindee.	}	Plea to the jurisdiction.

Petrure



Petruse Arratoon against Govindee Persaud.	}	Plea to the jurisdiction.
Grew Persaud Gose against Raja Choiton Sing.	}	Plea to the jurisdiction.
Lucknerain Dutt against Coja Kaworke Simon.	}	Plea to the jurisdiction.
Ramchurn Gose against Coja Kaworke Simon.	}	Plea to the jurisdiction.
Praunkisno Dofs against Coja Kaworke Simon.	}	Plea to the jurisdiction.
Ramsunker Roy against Coja Kaworke Simon.	}	Plea to the jurisdiction.
Praunkisno Dofs against Coja Kaworke Simon.	}	Plea to the jurisdiction.
Rammersar Sing Dutt against Coja Kaworke Simon.	}	Plea to the jurisdiction.

In the Supreme Court of Judicature at Fort William in Bengal.

Clerk of the Papers' Office.

**I** DO hereby certify, that this is a true list of all the causes in which any plea to the jurisdiction of the Court hath been filed, and that no other pleas to the jurisdiction have been filed since the commencement of the Court.

RT. LITCHFIELD, Clerk of the Papers.

May 22d, 1775.

The Secretary lays before the Board the following Note which he received from General Clavering, Colonel Monson, and Mr. Francis, with the Draft of the Answer therein mentioned.

To John Stewart, Esq.

S I R,

Gen. Claver-  
ing, Col.  
Monson, and  
Mr. Francis.

**H**AVING attentively perused Sir Elijah Impey's Letter of the 30th past, we beg leave to recommend the enclosed draft of an Answer to it to the consideration of the Board, and desire that you will send it in circulation.

We desire you will signify our request to the Governor-General, that an order may be given to the Secretaries in the General and Revenue departments, to make an extract from the Letters addressed to either Boards by the Provincial Councils of any passages contained therein respecting Writs, Warrants, or other Processes issued by the Supreme Court of Judicature for



for the apprehension of any natives in their respective districts, in order that the Court of Directors may see in one view the several representations which have been made to us on this subject.

We are, Sir, &c.

J. CLAVERING,  
GEO. MONSON,  
P. FRANCIS.

ORDERED, That the Secretary prepare the list required in the above Minute.

Read the answer proposed to be written to Sir Elijah Impey's Letter as follows.

To Sir Elijah Impey.

S I R,

WE are to acknowledge the favour of your Letter dated 30th May. Our wish to avoid any appearance of dispute or difference with yourself or any of his Majesty's Judges makes us unwilling to enter into a discussion of every part of your Letter; we shall therefore confine our reply to such observations only as we deem necessary for the explanation or defence of our own conduct. Reply to the Chief Justice.

Before we directed the Sheriff and Deputy-Sheriff to wait on you in the first instance with an extract of Maha Rajah Nundcomar's petition to us, we made such enquiries as satisfied us that he had really refused to take sustenance from the time of his commitment, and that his refusal might probably be founded on a sincere religious prejudice; your answer to us was, that "Rajah Nundcomar was not committed by you, and that you had no authority to interfere in the affair, there being felony expressly charged in the warrant."

The next day we were favoured with your Letter of the 9th of May, by which we understood, that before our message by the Sheriff was delivered to you, you had taken some pains to inform yourself of the Rajah's confinement, and whether or no there was any hazard of losing his cast by eating or drinking in the place where he was confined. Your enquiries satisfied you that his scruples on this head were false and affected, and that no relief could or ought to be given him; among other reasons for this determination you observed, that "if his claim should be allowed, it would go far towards abrogating great part of the late Act of Parliament, by the difficulties which would thereby be created in the execution of the laws against a large body of people, intended by the Act and by his Majesty's Charter to be subject to the jurisdiction of this Court." The Rajah however persevering in his resolution to the manifest hazard of his life, we understand that the Judges have receded from the severity of their first opinion, and that he has been permitted to perform his ablutions in a tent out of the limits of the prison. As for ourselves, we shall only observe, that having communicated the Rajah's Petition to you, which we still think we were bound to do by our official duty, as well as by the obvious dictates of humanity, we took no further part in the affair; particularly as it appeared to us, from the scrutiny you had made into our examination of the Deputy-Sheriff, that your desire to see that of the President of the Cast Cutcherry was not meant to much for your information as to criticise our conduct therein. We must however acquaint you, that the Governor-General himself is the President of that Court, though the duties of the office are performed by his Banyan Cantoo Baboo. After taking, and being determined by the opinions of the Fundits, who, as you inform us, "are the keepers of the consciences and oracles of the Gentoos," it did not seem probable that any information obtained from Cantoo Baboo would weigh in your mind against the above-mentioned opinions.

The Members of this Board, who thought fit to make the affidavit transmitted to you in our Letter of the 16th instant, conceived that step to be necessary for their own reputation and safety. Though they had never heard the report in question, they did not mean by implication to deny the existence of it, much less to cast an imputation upon you of creating it. They are sensible of the malignity of the world, and saw how dangerous it might prove to them to have a report of this nature authenticated on our Records under the sanction of your name, notwithstanding your declared disbelief of it.

You say the "existence of the report, not the truth of it, made what you desired necessary." We believe that in this country it is equally easy to create reports, and to procure evidence to prove the existence of them. If they are calculated to injure the character of Magistrates, or men in high office, we conceive that they ought either to be strictly examined, and the authors of them brought to light, or that they should be totally disregarded. You "again



“ and again disclaim ever having given any credit, [and detest the thought of adding weight to so scandalous a report ;” yet it had sufficient influence with you to induce you to make formal requisition to this Board. If at any time reports injurious to your honor should reach us, as they probably may before you hear them, we shall either take no notice of them whatsoever, or it shall be direct and avowed.

We know of no act or declaration of this Board, by which we have asserted a claim to examine into and relieve against the acts of the Judges ; much less to an authority superior to that of the laws, as we think you insinuate. We appeal to you to name an instance of our interfering with the jurisdiction of the Supreme Court, however prejudicial we may deem it to the prosperity of this country, in the extent in which we see it exercised.

The declaration therefore which you are pleased to make on the part of the Judges, that “ there doth not reside in the Governor-General and Council any legal authority whatsoever to revise and control any judicial acts of the Judges, done either in or out of Court, be those acts ever so erroneous,” was unnecessary, if you meant to apply it to any act or resolution of ours. If we are to understand, that our examining the Deputy-Sheriff or gaoler (with respect to the cause or circumstances of Maha Raja Nundcomar’s confinement, or whether his close confinement might be attended with the effects represented to us in his Petition) amounts to a claim of authority superior to the laws ; or if, in consequence of those enquiries, our submitting his Petition to you, and recommending it to your consideration, was an interference with your jurisdiction, we shall expect to be told so in plain and direct terms ; at present we are not conscious of having assumed an unwarrantable authority in any of these instances.

We are not sufficiently conversant with the practice in England to deny what you assert, that no Board, even of the highest authority, can refer any matter either to a court of justice, or to any judge thereof, otherwise than by a suit legally instituted ; and therefore must suppose we are under a mistake, when we recollect an instance of the King’s servants referring a case to the Judges, whether an Officer, who was no longer in the Army, was liable to be tried for a crime committed whilst he was in it. We have always understood that the Judges delivered their opinion upon this question. You are pleased to say that “ you are struck with the peremptoriness of our assertion, calculated to prejudice the East-India Company and the English Nation against an institution of a Court, whose protection is every day more and more felt.” In order that the Court of Directors may know that we do not assert any thing without sufficient grounds, we shall extract from our Records the different representations which have been made to us on this subject, to satisfy both the Court of Directors and the English Nation, that we are fully authorised in our assertions, and that the alarm produced by the writs of the Court of Judicature has been universal ; and that we may omit no material information on this head, we shall endeavour to obtain and transmit to them lists of the Zemindars and other Natives, Inhabitants of these Provinces, against whom writs have been issued.

You are pleased to inform us, that all arrests that have been made have been by writs, as the Charter directs, and not by warrants : perhaps we have mistaken the technical distinction between warrants and writs ; this objection affects the form of our complaint only ; the substance and object of it is, that the writs of the Supreme Court, for the arrest of Natives of all ranks in civil suits, are dispersed all over the country, and that the parties are obliged to find bail, or to come in person to Calcutta from the most distant parts of the Provinces.

These writs, we understand, have been served indiscriminately upon Rajahs, Zemindars, Talookdars, Farmers of the Revenue, Dewans of Provinces, and other native officers employed in the collection of the revenue. If the parties, by not pleading to the jurisdiction of the Court, are thereby understood to acknowledge it, and if their acknowledgment, whether direct or implied, subjects them to such jurisdiction, we foresee that it must soon, in fact, be extended to all the inhabitants of the provinces, or with very few exceptions. The few who may be instructed to plead to the jurisdiction, will be put to great trouble and expense, whether the plea be ultimately allowed or not. They must find bail upon the first process ; they must employ attorneys and fee counsel to plead for them in a court, to which at last they may be found not amenable. If, from not being able to find bail, they should be arrested and brought from a distant province to Calcutta, they are thereby disgraced in the eyes of their province, supposing them to be men of rank, and probably ruined, by being torn from the care of their family and affairs. On the other hand, it may in some cases be the interest of the defendant to acknowledge the jurisdiction of the Supreme Court, when, in fact, he is not subject to it. The farmers of the revenue, whose rents are in arrear, will easily find means to shelter themselves from the coercion of the country government, by declaring themselves subject to the Supreme Court of Judicature, and refusing to submit to any other authority.

We beg leave in this place to rectify a mistake you are in respecting the Rajah Choiton Sing ; “ You say, he is the joint Zemindar of a small district called Patchet, of which



“ he is the joint farmer, that is, collector of the revenue, which he pays over to the Company.” The Rajah Choiton Sing is the Zemindar of Bissenpoor, which pays, or ought to pay, four Lacks of Rupees annually to Government, and is neither a farmer or collector of the revenue; nor does he retain a part, but has an allowance made to him by Government of forty-eight thousand Rupees, which he shares with his cousin.

In reply to what you say, that the first process against the Rajah was a summons; that he neglected to obey it, and applied to the Council of Burdwan, who offered to answer for his appearance; but that their offer not being made in time, a *capias* issued, on which a Member of our Board undertook to the Sheriff for his appearance, which was afterwards withdrawn; we must conjecture, that the Rajah had not had your charge to the Grand Jury explained to him; in which you had publicly defined (you say, you trust not unintelligibly) the jurisdiction of the Court, or he would not have waited till a *capias* had been issued against him.

We think it is clear, that he either imagined he was not within the jurisdiction of the Court, or that he had mistaken your charge; but we do not so easily comprehend how those, who you say prevented his being bailed, are answerable for the consequences. We do not understand that this Council, or the Members of it, are obliged to bail every Zemindar or farmer of the Revenue, who may be sued or arrested by the authority of the Supreme Court of Judicature; or that their declining to do so will make them chargeable with any detriment incurred by the Revenue, in consequence of the parties not finding bail. In future, it is not our intention to take such a risk upon ourselves, or to load the Company with the expense attending successive pleas to your jurisdiction, on the part of any natives to whom you may think proper to address your writs. We can the more readily conceive, that a Zemindar, who lives two or three hundred miles from Calcutta, may yet be ignorant of the exact limits of the jurisdiction of the Supreme Court, when we, who are on the spot, and who from the government of the country, are obliged to confess, that we are still unacquainted with them, though we have constantly expressed our desire to see them ascertained. The rules of your Court, which you now send us for the first time, and, which you say, expressly ascertain the claim of jurisdiction which the Court makes over persons, by no means corresponds with that clear and precise idea which you declare you have given of it.

It still belongs to one of the Judges to direct the process, and his opinion is to decide, whether a Zemindar, who has a pension from the Company, a farmer, or a collector (for by your interpretation they are synonymous terms) be within the jurisdiction of the Court. Thus one Judge giving an extra-judicial opinion has it in his power to oblige every Rajah, Zemindar, or farmer in Bengal, to put in appearance in the Court; and if he neglects to do so within the time required by the rules of the Court; a *capias* issues to bring him to Calcutta.

As this Letter particularly relates to yours, and is an answer to it, we have, as you desired, addressed it to yourself: hereafter our Letters and messages, which may have no such particular relation to you, shall be directed to the other Judges as well as yourself.

We are, &c.

Fort William,  
16th June 1775.

(Signed) J. CLAVERING,  
GEO. MONSON,  
P. FRANCIS.

The Governor-General and Mr. Barwell disapproving of this reply, decline affixing their names to it, for which they will assign their reasons in a Minute.

The Letter is therefore written fair in the above words, and signed by General Clavering, Colonel Monson, and Mr. Francis.

Not signed by  
the Governor-General  
and Mr. Barwell.

The following Extracts having been obtained by the Secretary, according to the directions in the above note from General Clavering, Colonel Monson, and Mr. Francis, are laid before the Board.

Extracts from the Provincial Councils on the subject of Writs issued against the Natives.

Writs issued  
by the Court.

No. 1. COPY of a Letter from the Provincial Council of Revenue at Dacca, dated 7th December 1774, and recorded in Consultation, 18th January 1775.

Contained in  
Appendix  
No. 61,  
Ditto,

2. Enclosures in ditto.

3. Extract



Contained in  
Appendix,  
No. 61.

3. Extract of a Letter from the Provincial Council of Revenue at Dacca, dated 24th January, recorded in Consultation, 1st February 1775.

4. Copy of a Letter from the Provincial Council of Revenue at Dacca, dated 6th February, recorded in Consultation, 15th February 1775.

5. Enclosure in ditto.

Contained in  
Appendix,  
No. 61.

6. Extract of a Letter from the Provincial Council of Revenue at Dacca, dated 6th February, recorded in Consultation, 31st March 1775.

7. Copy of a Letter from the Provincial Council of Revenue at Burdwan, dated 13th April, recorded in Consultation, 21st April 1775.

8. Copy of a Letter from the Provincial Council of Revenue at Burdwan, dated 17th April, recorded in Consultation, 21st April 1775.

9. Copy of a Letter from the Provincial Council of Revenue at Moorshedabad, dated 16th March, recorded in Consultation, 7th April 1775.

10. Copy of a Letter from the Provincial Council of Revenue at Moorshedabad, dated 23d March, recorded in Consultation, 13th June 1775.

11. Enclosure in ditto.

12. Copy of a Letter from the Provincial Council of Revenue at Calcutta, dated 9th January, recorded in Consultation, 14th January 1775.

13. Enclosure in ditto.

14. Enclosure in ditto.

15. Enclosure in ditto.

Contained in  
Appendix,  
No. 32. A.

16. Copy of a Letter from the Provincial Council of Revenue at Calcutta, dated 16th January, recorded in Consultation, 18th January 1775.

Ditto.

17. Enclosure in ditto.

Ditto.

18. Enclosure in ditto.

Ditto.

19. Enclosure in ditto.

20. Copy of a Letter from the Provincial Council of Revenue at Calcutta, dated 6th February, recorded in Consultation, 11th February 1775.

21. Copy of a Letter from ditto, dated 10th February, recorded in Consultation, 15th February 1775.

22. Enclosure in ditto.

Revenue Department,  
5th July 1775.

(Signed) J. BAUGH, Sub-Secretary.

WARREN HASTINGS,  
J. CLAVERING,  
GEO. MONSON,  
RICH<sup>d</sup>. BARWELL,  
P. FRANCIS.

Extract of Revenue Consultations, Fort William, 15th February 1775.

Read the following Letter and Enclosure from the Provincial Council of Dacca.

To the Honorable Warren Hastings, Esq. Governor-General, and Council of Revenue —

Honorable Sir and Sirs,

Fort William.

**W**E beg leave to transmit for your perusal a petition this day presented to us by Becum Tagoor, a principal merchant of Dacca, and surety for a Purgunnah which yields a very considerable revenue to the Government.

We judge it our duty to inform you, that great alarms have been expressed upon this occasion by many of the substantial inhabitants of this city, who attended Becum Tagoor at the time he delivered the petition to our Board. We feel the greatest concern also in remarking to you, that hindrances and losses of a very serious importance may be apprehended in the collection of the Government's revenue, if circumstances of this nature should become frequent. The natives employed in public offices of the Administration are fearful of exercising that degree of authority, which the genius of the people, and the immemorial customs of the country, have rendered expedient and unavoidable, lest their proceedings may at any future time be scrutinized by laws with which they are unacquainted, and which are adapted to a land of liberty and freedom.

Dacca,  
6th February 1775

We have the honor to be with respect, &c.

(Signed) C. W. BOUGHTON ROUS,  
C. PURLING,  
W<sup>m</sup> HOLLOND.

To Charles William Boughton Rous, Esq. Chief, and the Council of Revenue at Dacca.

The humble Petition of Becum Tagoor.

SHEWETH,

**T**HAT your petitioner having this day received a summons from the Court of Justice in Calcutta, brought by three Peons, ordering him to repair thither, to answer the complaint of one Connooram, and being entirely unacquainted with the nature of the proceedings of an English Court of Justice, is greatly alarmed; and begs, that if the Gentlemen in Council can afford him any redress, they will. Never having been in Calcutta in his life, though now fifty years of age, being in a very bad state of health, which would be greatly increased by a journey of near two hundred miles, and never having quitted Dacca since the day of his birth, he has sent a Vackeel to answer to the complaint of Connooram; but is still informed by the Peons, that he is liable to be called to a very severe account if the English Court of Justice do not approve of this proceeding. This information, and the report that was heard, that all suits in that Court are attended with very grievous and heavy charges to both plaintiff and defendant, as well as great delays, and that there are heavy fines and penalties incurred by the non-observance of the form of an English Court, with which he is totally unacquainted; the Peons to whom he applied can give him no particular and satisfactory answer; he has no resource but to make his application to you; not only himself being much disturbed and distressed, that he should be brought to so much trouble by the frivolous and litigious complaint of a man, with whom his Gomastah only ever had dealings; but he may say, that the whole of the inhabitants of this country will be alarmed and terrified thereat, as they are all, in some measure or other, concerned with the Company or the English Gentlemen.

The respect however your petitioner entertains for an English Court, has induced him to send the Vackeel with the Peons, with directions to consult an attorney and follow his directions: this your petitioner has done the very day of receiving the summons, which re-



quires his appearance on the 20th of January, but through the neglect of the Peons was not served on him till this day the 6th of February.

A true Translation.

(Signed) WILLIAM CATOR, Persian Translator.

Agreed that we reply thereto as follows:

To Mr. Charles William Boughton Rous, Chief, &c. Provincial Council at  
Dacca.

GENTLEMEN,

**W**E have received your Letter of the 10th instant, with the enclosed petition from  
Becum Tagoor.

We desire you will instruct all persons dependent on your authority, that the jurisdiction of the Supreme Court, as it is expressed by the Act of Parliament, extends only to the persons of the subjects of the King of Great Britain in Bengal, Bahar, and Orixia, who shall at the time when the complaint or cause of action against them shall have arisen, have been employed by, or shall then have been, directly or indirectly, in the service of the Company, or of any of His Majesty's subjects; and that such persons as shall be summoned by a writ of the Supreme Court, and do not answer to the above description, may make a return to the writ, declaring that they are neither subjects of the King of Great Britain, nor were ever in the service of the Company, nor subjects of Great Britain.

Fort William,  
the 15th February 1775.

We are, &c.

Extract of Revenue Consultations, Fort William, 21st April 1775.

The Secretary lays before the Board the following Letter from the Provincial Council of Burdwan, the Governor-General's Proposition, and the Minutes of the several Members on the arrest of the Zemindar of Bissenpore.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Council  
Fort William.

Honorable Sir and Gentlemen,

**A** FEW days ago we received a representation from Choiton Sing, one of the Zemindars of Bissenpore, setting forth, that a Peon from the Adawlut at Calcutta had brought a summons to him, requiring his attendance before the Court; on which we directed our Naib at Bissenpore to desire the Peon to repair to Burdwan with the summons, that we might know by what authority it was issued. The Rajah and the Peon are in consequence arrived here to-day, and upon an examination of the summons we find it is sent from the Supreme Court of Judicature.

As the Rajah is not only a person of some rank, but also one of the joint renters of the Bissenpore province, and is likewise in arrears to Government to the amount of 36,000 Rupees, we thought that a compliance with the warrant would in a great degree hurt his credit; and as he is much involved in debt, the evident consequence of his going to Calcutta would be a number of claims on him from different quarters; we have therefore in our private capacities satisfied for the present the Sheriff's officer, in granting him bail for the Rajah's appearance in the space of twenty days. We hope this step will meet with your approbation, and in the mean time we have to request your orders how to proceed on the expiration of the term limited, that we may regulate ourselves accordingly, not only in the present instance, but also in future cases of the like nature.

Burdwan,  
13th April 1775.

We are with respect, &c.

(Signed) E. STEPHENSON,  
JOHN BATHOE,  
ALEX<sup>r</sup> HIGGINSON.

Honorable



Honorable Sir and Gentlemen,

SINCE our address to you of the 13th instant, on the subject of a copy of a writ issued from the Supreme Court of Judicature against Rajah Choiton Sing, a bailiff has arrived here, invested with power to seize his person and convey him to the Presidency for contempt of Court, in not answering to the summons; and as the officer is positively directed not to accept bail, it did not appear advisable to interfere further in so absolute a mandate: we have therefore recommended the Rajah's immediate compliance, and he accordingly proceeded from hence in charge of the bailiff. As this measure seemed unavoidable, we hope it will prove an exculpation on our parts.

We are with respect, &c.

Burdwan,  
the 17th April 1775.

(Signed)

E. STEPHENSON,  
JOHN BATHOE,  
ALEX<sup>R</sup> HIGGINSON,  
JOHN ROSEWELL,  
MATT<sup>W</sup> DAWSON.

To Mr. Richard Sumner, Secretary.

S I R,

BE pleased to send round the two Letters from the Chief and Council of Burdwan to the other Members of the Board. I apprehend that it is not in the power of the Board to effect the Rajah's release; but I am of opinion, that copies of these Letters should be immediately put into the hands of the Company's Standing Counsel, for their advice respecting the measures which it will be necessary for the Rajah to take on his arrival for obtaining his discharge, and for the Rajah and the Board to take for obtaining reparation of the injury which he may have sustained in his own person, and the Company in their revenue, by this apprehension.

I am, Sir,

Fort William,  
the 21st April 1775.

Your most obedient Servant,

(Signed) WARREN HASTINGS.

Proposition agreed to:

Mr. FRANCIS. I do not object to the Governor-General's proposal to take the opinion of Counsel on this particular case of the arrest of the Rajah of Bissenpore, in hopes that the Supreme Court of Judicature will make a severe example of the person or persons who have sworn that the Rajah is subject to their jurisdiction. In future I shall object to our putting the Company to the expense of seeing Counsel in behalf of natives attacked by order of the Court; for as it has been repeatedly represented to us by several of the Provincial Councils that such attachments have an immediate tendency to stop and embarrass the collections, and as no measures to be taken by us in consequence of the advice of Counsel can prevent the Court of Judicature from exercising a jurisdiction over every inhabitant of these provinces, we may involve the Company in unlimited expenses in supporting successive pleas to their jurisdiction on one side, while on the other the very institution of such suits, whether they be afterwards dismissed or not, tends to the prejudice of the collections and diminution of the revenues.

Mr. Francis  
remark.

I think that the Governor and Council should either resolve to deny the jurisdiction of the Supreme Court of Judicature in the extent and manner in which it is now claimed and exercised, or that we should send home a full state of the facts as they appear before us, and of the dangerous consequences which we apprehend must follow from them to the Revenues and Government of this country.

(Signed) P. FRANCIS.

General

General CLAVERING. I entirely agree with Mr. Francis.

The Secretary reports his having issued the necessary instructions.

The Governor-General's Proposition having been agreed to, the Secretary reports to the Board that he has accordingly issued the necessary instructions to the Company's Attorney.

Extract of Revenue Consultations, Fort William, 3d May 1775.

Read the following Letter from the Attorney to the Honorable Company.

To Richard Sumner, Esq. Secretary to the Revenue Department.

S I R,

Letter from the Attorney to the Company.

**Y**OUR Letter of the 19th instant came regularly to hand respecting the Rajah Choiton Sing, in the suit against whom I acted as attorney for the Plaintiff. The action was commenced in the beginning of January last, which was near three months before I had the honor of the Board's appointment. As soon as I was informed of the resolution the Honorable Board had taken of defending the suit of the Rajah, I sent for the plaintiff, and requested him to employ another attorney, telling him I could no longer act for him; he accordingly did so, and I laid before Mr. Farrer the case in the manner I was then directed. This day, on hearing the Rajah was arrived, and in custody at the Sheriff's office, I immediately applied to Mr. Farrer to consult on the necessary steps to be taken for effecting his discharge, and in consequence waited on the Judge then sitting at the Court-House; and on my undertaking that appearance to the suit should be entered for him, he was forthwith discharged: I then acquainted him that he was at liberty, and that in what I had done to effect it, I had acted under the authority of the Board; that I was Attorney for the Honorable Company, and, if he chose it, would enter appearance and defend the suit for him; but he refused to suffer me so to do, saying, he had then present an attorney of his own, and did not want my services; but then directed his attorney to appear for him, which he accordingly did: but as I apprehended the Board were desirous of making this a matter on which to try the jurisdiction of the Court, I requested the Rajah's attorney not to file his plea to the action until I should have the honor to receive the directions of the Board, whether they would wish it to be a plea to the jurisdiction or not; and he promised me he would not until he heard from me.

(Signed) ROBERT JARRETT,  
Attorney to the Honorable Company.

24th April 1775.

Extract of Revenue Consultations, Fort William, 7th April 1775.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Gentlemen  
of the Council of Revenue —

GENTLEMEN,

Fort William.

**W**E think it our duty to give you immediate information of a circumstance that happened yesterday. Two officers of the Supreme Court of Judicature came up here (and were to proceed to Patna) with several warrants, one of which was to seize the body of Rajah Dula Roy, the Dewan of this division, and produce him in Court by the 21st March, unless he should give bail for his appearance. The complaint is made by one Fukire Mahmud, who supplied the Government with materials for banking the rivers, whilst the Khalsa was at Moorshedabad, and the Rajah was superintendant of it. The Rajah informs us, that he never had any connexions with this man, but that he remembers a complaint to have been made by him to Mr. Middleton some time ago for a sum that he said the officers of the Pushtabundy withheld from him; the Rajah therefore imagines that he has renewed this complaint to the Supreme Court, and that in consequence this warrant has been issued.

We shall not presume to point out to you, Gentlemen, the consequence of the Supreme Court of Justice exercising their authority over the officers of the collections on complaints



plaints of this kind, nor the effect it has on the minds of the people to see a person of the Rajah's rank ordered to be seized and sent to Calcutta.

We are &c.

Moorshedabad,  
the 16th March 1775.

(Signed) EDW<sup>D</sup> BABER,  
W. MAXWELL,  
D. ANDERSON.

Extract of Revenue Consultations, Fort William, 13th June 1775.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Gentlemen  
of the Council of Revenue—

GENTLEMEN,

Fort William.

AS we deem it our duty to give you every information that relates to the revenues under our management, or that in anywise interferes with them, we hope that the present circumstance we take the liberty of acquainting you with will not be deemed foreign to the duty of our stations. A warrant has been issued from the Supreme Court of Judicature to summons Bissimber, the farmer of a part of these districts called the Khas Talooks, on a trespass complained of by one Birg Kiffure. We have enquired of the farmer whether he had ever been guilty of any violence towards this man, and he assures us he never had any connexion with him but in regard to the revenues: that he farmed of him a Gunge last year, the rents of which amounted to ten thousand Rupees; that he owed him a balance of rents of upwards of two thousand Rupees; that he repeatedly demanded this money of him, and not being able to obtain it, he put Peons on him, as is usual in cases of this kind; that the man went down to Calcutta some time ago, and that as he knows of no other cause of complaint, he supposes this is the reason of the present summons. This is the substance of his reply; but for your more particular information, Gentlemen, we send you enclosed his representation, as it has been delivered to us; how true it is we cannot pretend to say, nor how far he has offended against the law in the present instance; but we take the liberty to make this general remark, that the disposition of the natives is such, that they will avail themselves of any plea, when they are pressed for their rents, to avoid paying them: that even when they have dissipated what they ought to have paid to Government, an artful story, at the expense of those principles European nations are taught to regard, to elude the demands they cannot answer, is not looked upon by them in an opprobrious light, and they make no scruple of sacrificing truth on any occasion of this kind. Such also is their disposition, and such is the custom of the country, derived no doubt from this cause, that coercive measures must be used on many occasions to obtain what is due from them. If therefore, on every occasion, wherein the measures so taken may differ from the wise and mild laws of our legislature, a farmer is to be called on to answer for a trespass against them, there is great fear many of the natives will fly to this resource as to a sanction from the demands of Government, and abuse that authority which is meant to protect the injured.

We have the honor to be with great respect, &c.

Moorshedabad,  
the 23d March 1775.

(Signed) EDW<sup>D</sup> BABER,  
W. MAXWELL,  
J. HOGARTH,  
D. ANDERSON.

Circumstances of the affair of Manickram, under-farmer, and Birg Kiffure, Sircar, Malzamin of Azeem Gunge, Hurry Parah, Khas Talook, viz.

IN the Bengal year 1179, during the time of the Izara being possessed by Rajah Huzzoorimull, &c. the aforesaid persons coming to Ramniddy Bunejah, Gomastah of the aforesaid Rajah, preferred a Derkaush for the office of under-farmer of the said Gunge for Manickram Dutt, and of the office of Malzamin for Birg Kiffure, Sircar. Having taken the Mehal into their possession, they paid the revenue to the end of the said year to the Gomastahs of the Rajah. In the year 1180 I took the said Purgunnahs from the Rajah into my possession, and the above-mentioned persons, as well as the other farmers of the said Purgunnahs,



gunnahs, applied themselves to me, who confirmed the former Bundabust, and took the revenue of the Sircar from all the farmers. Birg Kiffure went about the month of Bhadun or Assun from Moorshedabad to Calcutta, and Gohur Mahun, Daroga, and Bancharam, Peshcar of the said Gunge, being upon the spot, the care of paying up the revenues agreeably to the Kistbundy devolved upon them. They fell into considerable arrears, and gave as a reason for this deficiency, that they had been allowed no deduction whatever from their Jumma on account Coot Ghulla and the rest of the resumed articles. I allowed them such remission with respect to these articles as it was in my power, consistently with the orders of the Sudar, to do; still there was a balance, which I insisted upon their discharging: the Daroga and Peshcar answered, that they were only servants; that they had paid the revenue to the utmost of their power; that I should not take the remainder from them, but apply for it to the farmer and Malzamin. This was the state of the case when the Mehals were taken from me, and some remained under the collection of the Khalsa Shereefa, and some of the Gunges became dependent on Mr. Martin; on which account the balance of the aforesaid Gunge remained undecided. After some time I put a Peon over Manickram on account of this remainder; but he escaping from the Peon, complained to the Chief of the Zilla of Moorshedabad. This affair being as yet undetermined, the cause is still subsisting between us. Birg Kiffure having complained in the Adawlut at Calcutta, has caused me to be summoned.

A true translation.

(Signed) EDW<sup>d</sup> OTTO IVES, Persian Translator.

Agreed that we reply thereto as follows:

To Mr. Edward Baber, Chief, &c. Provincial Council of Revenue at Moorshedabad.

GENTLEMEN,

WE are sensible of the inconvenience that may arise to the revenues from the issuing of writs or warrants for the apprehension of the farmers, in consequence of suits instituted against them in the Supreme Court of Judicature, but it does not belong to us to define the limits of the jurisdiction of the Supreme Court. In the case of Bissimber, or any similar instance, it depends upon the party either to submit to or plead against the jurisdiction of the Court; in either case he may put in an appearance to the first process by his attorney in Calcutta. As the instances of such writs issued by the Supreme Court may be numerous and increase every day, we do not think it advisable to load the Company with the expense either of defending the suit or pleading to the jurisdiction.

Extract of Revenue Consultations, Fort William, 14th January 1775.

Read the following Letter and Enclosures from the Calcutta Committee of Revenue.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Council of Revenue at Fort William.

Honorable Sir and Sirs,

ENCLOSED we do ourselves the honor to lay before you copies of some papers now entered on our proceedings, respecting the authority exercised by the Supreme Court of Judicature in a matter of dispute between two natives of Indostan, one of whom had obtained a decree in his behalf from the Adawlut of this Committee, and which, by the regulations we are guided by, came regularly under our cognizance.

It is not for us to offer an opinion with respect to the extent of the jurisdiction of the Supreme Court; we cannot however avoid remarking, that if the decrees and orders of the Superintendant of our Court are thus to be overset, there can be little occasion for its existence, as they will soon become disregarded, and it will be unsafe to exercise the duty of the station; as the same power which confined the Peon for the execution of the decree, could in like manner have committed the Superintendant to prison who directed him to require obedience to it. But this is not the only evil attending on the exercise of this power;

its tendency is of the most alarming nature with respect to the revenue ; for should the Supreme Court once release from confinement, or call us to an account for the punishment of a defaulting renter, each Zemindar and farmer will directly withhold his payments, in hopes of benefiting himself by the delay the tedious process of our Courts will give him an opportunity of making, and we cannot take upon ourselves to be answerable to you for the deficiencies which may happen.

We are, &c.

Fort William,  
the 9th January 1775.

(Signed) H<sup>y</sup> COTTRELL,  
CHAS<sup>s</sup> GORING,  
JOHN HOLME.

Extract of the Proceedings of the Calcutta Committee Adawlut, in the Cause Enclosure.  
Dedaroo versus Cochla Bibbi ; Mr. Edward Stephenson, Superintendent.

COMPLAINT.

**T**HAT the defendant has forcibly taken and kept in his possession the effects of Paunch Cowrie, deceased.

ORDERED, He be summoned.

The parties appear in Court according to the summons. The plaintiff produces an attested paper in support of his complaint.

ORDERED, The witnesses be summoned.

The plaintiff proving his right to the whole of the effects of the deceased by witnesses, whose depositions are taken on oath ; DECREED, That the plaintiff be put in possession of the whole of the late Paunch Cowrie's effects.

Cal. Com. Ad<sup>t</sup>  
the 6th January 1775.

A true Extract.  
BEN<sup>n</sup> GRINDALL,  
Assistant to the Superintendent.

To Mr. Charles Goring.

S I R,

**B**Y the direction of the Governor-General I return you the enclosed paper, who requests Enclosure.  
you will send it back to him with a translation of it.

The Governor further directs me to acquaint you, that for your present guidance you are not to controvert the authority which the Supreme Court of Judicature may think fit to exercise.

I am, &c.

5th January 1775.

(Signed) JOHN BELLI.

Deposition of Dedaroo of Calcutta, dated 4th January, or 24th Poos.

**A**HIRCARRAH, called Baukare, came to me and said that I was summoned before Mr. Justice Le Maistre, took me away about four Gurries before the day expired, and made me sit down at his house. In the evening he carried me before Mr. Le Maistre, who enquired through his Sircar why I had confined the widow's father, and broke down his house : I replied, that I had no occasion to confine him ; that I had complained to the Adawlut of the Committee of Revenue, and that the Superintendent of the Adawlut had decreed the cause, and had confined the widow's father for not obeying the decree. Mr. Le Maistre then said, don't you know that I am in the Administration of the Country ? complain to me, and release the defendant ; to-morrow I will fine you twenty rupees and send you to gaol. I said, who am I that I can release him ? neither will the Superintendent of the Adawlut release him at my request without a note from you ; at which he was angry, and said, for the present release him ; and ordered his Peons to go and put the widow in possession of the ground. I appealed from this order, and requested the decree might be inspected and justice done ; but no attention was paid, and the Peon was sent to put the



Supreme Court of Judicature. Appendix, N<sup>o</sup> XXXII. B.

widow in possession, who immediately did so, ordering me to attend in the morning. I waited till two o'clock, when I was again ordered to attend at eight o'clock the next morning.

Sworn before me  
H<sup>y</sup> COTTRELL,  
Pres. Cal. Com. Rev. 14th Jan. 1775.

A true Translation.  
(Signed) P. MOORE.  
A true Copy.  
(Signed) P. MOORE, Secretary.

Mr. Cottrell  
sent for,

ORDERED, That Mr. Cottrell be sent for, and directed to bring the complainant with him.

called in.

Mr. Cottrell being in waiting is called in, and requested to procure the deposition of the complainant to the petition he presented to the Cutcherry of the Calcutta Committee of Revenue.

Mr Justice  
Le Maitre  
wrote to in  
consequence  
by the Secre-  
tary.

ORDERED, That the Secretary do write to Mr. Justice Le Maitre, informing him that the Board have received a representation from the Committee of Revenue established in Calcutta, the substance of which he will understand by the enclosed translation of the original deposition of Dedaroo the complainant. This person alleges, that he has been dispossessed of a house, which had been formerly decreed to him by the Adawlut of that Committee, and his adversary put in possession by a servant of Mr. Le Maitre's, in consequence of his orders to that effect, by which act the decree of the Calcutta Adawlut has been eventually reversed; that unwilling to take any steps in this affair until the Board are better informed of the part which he has acted in it, and with the circumstances which have guided his conduct, they have therefore thought proper to suspend any further proceedings in this matter, until they have duly advised him of it; and request to be informed, whether it was by any authority exercised by him, and on what grounds, that the complainant was ejected from the house which he claims as his property?

To Mr. Justice Le Maitre.

S I R,

I AM directed by the Honorable the Governor-General and Council, in their Revenue Department, to inform you, that they have received a representation from the Committee of Revenue established in Calcutta, the substance of which you will understand by the enclosed translation of the original deposition of Dedaroo the complainant. This person alleges, that he has been dispossessed of a house which had been formally decreed to him by the Adawlut of that Committee, and his adversary put in possession by a servant of your's, in consequence of your orders for that effect, by which act the decree of the Adawlut of the Calcutta Committee has been eventually reversed.

The Board, unwilling to take any steps in this affair until they are better informed of the part which you have acted in it, and with the circumstances which have guided your conduct in it, have thought proper to suspend any further proceeding in this matter until they have duly advised you of it.

The Board have therefore directed me to request you will inform them, whether it was by any authority exercised by you, and on what ground, the complainant was ejected from the house which he claims as his property.

14th Jan. 1775.

I am, Sir,  
Your most obedient servant,

RICH<sup>d</sup> SUMNER, Secretary.

Deposition  
attested sent  
in.

Mr. Cottrell sends in the deposition, attested by the complainant.

## Extract of Revenue Consultations, Fort William, 20th January 1775.

THE Governor General reports to the Board, that Mr. Le Maître informed him in person, that he thought himself obliged by his duty to decline answering the letter addressed to him by our Secretary, upon the subject of the deposition transmitted to him by order of the Board, conceiving that it was irregular to apply to him in any manner for the grounds of his conduct in the discharge of his duty as a magistrate; but willing to afford the Board all the satisfaction which they required on the subject of the deposition, he related to the Governor-General all the circumstances of the transaction which had any relation to himself; and to assist his memory, delivered to him the following paper, containing the same facts stated in writing, and attested by a man who was present.

Governor-General's report relative to Mr. Justice Le Maître.

"Sometime ago a woman applied to Mr. Justice Le Maître, complaining of a forcibly entry into her house, and detaining the possession from her. Mr. Justice Le Maître's Sircar interpreted upon that occasion. The complaint was made against a young lad, and as it was said to be done very near Mr. Justice Le Maître's house, he sent one of his Hircarrahs to desire to speak to the lad; the lad came, and denied that the woman was turned out of possession by him, or by any other person to his knowledge.

Paper from Mr. Le Maître.

"Mr. Justice Le Maître then sent the Hircarrah to enquire into the truth of that fact, who brought him back word, that he had seen the woman peaceably enter her own doors.

"The Court of Adawlut was never mentioned either by the woman or the man concerning the house, no pretence of title of any kind whatsoever having been made by the man thereto; the woman indeed did say, that some person belonging to her was in confinement in one of the prisons of the Adawluts; but that not being the original ground of complaint, Mr. Justice Le Maître did not think proper to interfere in it."

"I Hyderam, Sircar, do certify, that the above state of facts has been read to me, and contains the full substance of what passed before the Honorable Mr. Justice Le Maître, concerning a complaint made by a woman of her being dispossessed of her house, according to the interpretation which I gave him thereof, and which interpretation I declare to be a just and true one."

January 17th 1775.

(Signed)

The Governor-General moves, that a Letter be written to the Calcutta Committee of Revenue in answer to their's of the 9th instant, informing them, that it appears to us upon enquiry that the deponent Dedaroo was not dispossessed of the house decreed to him by the Dewanny Adawlut, in consequence of any judicial act or authority exercised by Mr. Justice Le Maître, and directing them therefore to enforce the decree of the Dewanny Adawlut; and that it be recommended to them, that in all future representations which they shall make to us respecting the exercise of the powers of the Judges of the Supreme Court, they be very careful in ascertaining facts by the fullest and most authentic testimonies, that we may not be liable to err in the measures which it may be necessary to take immediately in consequence of their reports. We are induced to give them this general caution, not only because the delicacy of the subject requires it, but because we think they were not sufficiently attentive to it in the information which they transmitted to us with their Letter of the 9th on the affair in question; as nothing appears to support the charge against Mr. Le Maître, but the declaration of the complainant, a youth of 13 or 14 years of age; and we desire that they will cause strict enquiry to be made whether the decree of the Dewanny Adawlut was at any time carried into execution, and whether the defendant Cochla Bibbe was ever actually dispossessed of the house in question.

Governor-General's Motion for a Letter to the Committee of Revenue.

Mr. FRANCIS.



Mr. Francis's opinion. Mr. FRANCIS. I have no objection to the Letter in general; I observe only, that the declaration of the complainant has been since confirmed by his oath, and that I am not satisfied that the proceeding of the Calcutta Committee of Revenue in this business has been so hasty or inconsiderate, as to deserve the indirect censure implied in this Letter.

Governor-General's remark. GOVERNOR-GENERAL. I mean not to cast a censure on the Committee, but I think the caution a proper one, and properly and necessarily introduced upon the present occasion.

Mr. Barwell's opinion. Mr. BARWELL. I assent to the Letter; I think it a proper one.

Mr. Monson's opinion. The Honorable Mr. MONSON. I have no objection to the Letter in general, but think the proceedings of the Committee of Revenue do not deserve the smallest censure.

General's opinion. General CLAVERING. I cannot agree to the Motion of the Governor-General, because it seems to cast a reflection on the conduct of Mr. Justice Le Maistre, by supposing that he acted in this business not as a Justice of the Peace, but as an individual without any authority; and further, I cannot approve of the censure implied in the Letter proposed to be written to the Calcutta Committee, because it is founded on a supposition that the information given by them to this Council in their Letter of the 9th instant had not been properly authenticated.

Governor-General's question. GOVERNOR-GENERAL. I must beg that the General will please to inform the Board in what manner it has been authenticated.

General's answer. GENERAL. It was authenticated by the deposition of Dedaroo the complainant; further I cannot be supposed to know what other reasons the Calcutta Committee had for writing that Letter to this Board.

Governor-General's remark. GOVERNOR-GENERAL. Upon this I must beg leave briefly to remark, that the deposition of Dedaroo was no authentication, but a mere complaint, neither sworn to nor attested.

General's reply. The General in reply. I beg leave to add, that the deposition of Dedaroo has been sworn to since; and further, that Mr. Cottrell, when he was before this Board, acquainted us, that he understood that the above complainant had been dispossessed of the house of which he had been put in possession by the decision of the Court of Adawlut, and that the defendant was then actually in possession.

Governor-General's observation. GOVERNOR-GENERAL. I object to quotations of verbal declarations, and recur only to what I have before said, that admitting the General's reasoning, the fact came to us without any authentication.

General's answer. GENERAL. If there is any doubt of what Mr. Cottrell said upon his examination, I desire he may be sent for.

Governor-General's remark. GOVERNOR-GENERAL. As I am certainly the best judge of the meaning of my own expressions, I have a right to declare, that the draught which I have proposed of the Letter to be written to the Committee of Revenue does not convey any censure of Mr. Le Maistre either direct or implied. I think my words cannot admit of a doubtful construction, and are justified by the following passage in the note of Mr. Le Maistre's now before the Board: "Mr. Justice Le Maistre then sent the Hircarrah to enquire into the truth of that fact, who brought him back word that he had seen the woman peaceably enter her own doors."

This certainly implies that Mr. Le Maistre gave no orders for putting the woman in possession, because she was already found to be in possession.

GENERAL. I must observe, that when words are upon paper, every body may be supposed to judge of their meaning, or their intention, as the person who used them; and as it appears evidently from Mr. Le Maistre's note that he did act in this affair in quality of a Justice of Peace, I must still be of my first opinion, that the words in the Governor-General's Motion do cast a reflection upon him for having used an authority, that he could not exercise but as a Justice of Peace.

General's  
reply.

The Majority of the Board are of opinion, that the second part of the Governor-General's Motion should be omitted; and resolve, that the first and last parts be conveyed to the Calcutta Committee of Revenue in the following Letter :

Part of the  
Letter pro-  
posed to be  
wrote to the  
Calcutta  
Committee  
omitted.

To Mr. Henry Cottrell, President, &c. Committee of Revenue—Calcutta.

GENTLEMEN,

WE have received your Letter of the 9th instant with its several enclosures. It appears to us upon enquiry that the deponent Dedaroo was not dispossessed of the house decreed to him by the Dewanny Adawlut, in consequence of any judicial act or authority exercised by Mr. Justice Le Maistre; we desire therefore you will enforce the decree of the Dewanny Adawlut.

We desire also that you will cause strict enquiry to be made whether the decree of the Dewanny Adawlut was at any time carried into execution, and whether the defendant Cochla Bibbe was ever actually dispossessed of the house in question.

We are, &c.

Fort William,  
20th Jan. 1775.

Extract of Revenue Consultations, Fort William, 11th February 1775.

Read the following Letter from the Committee of Revenue.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Council of Revenue —

Honorable Sir and Sirs,

Fort William.

WE have been honored with your orders of the 20th ultimo. The complaint of Dedaroo against Cochla Bibbe was decreed the 16th November last in favour of the plaintiff, but the defendant refusing to obey the decree, was confined. The defendant has been dispossessed the house and land, and it has been regularly made over to the plaintiff, but not till after the receipt of your Letter of the above-mentioned date.

We are with respect, &c.

Fort William,  
6th February 1775.

(Signed) H. COTTRELL,  
C. GORING,  
J. HOLME.

Extract of Letter from the Governor-General and Council, in their Revenue Department, to the Court of Directors, dated 25th February 1775. Received in London, 18th September 1775.

WE had a representation forwarded to us by the Provincial Council of Calcutta, setting forth that Mr. Justice Le Maistre had interfered in his judicial capacity to overset the decree of Adawlut of that Council, but we are glad to find by his answer that this was not his intention, as the authority of the Dewanny Court is not in this instance called in question, and its decree has since been enforced.



Extract of Revenue Consultations, Fort William, 15th February 1775.

Read the following Letter and Enclosure from the Calcutta Committee of Revenue, together with a Letter from Mr. Cottrell to the Governor-General.

To the Honorable Warren Hastings, Esq. Governor-General, &c. Council of Revenue—

Honorable Sir and Sirs,

Fort William.

**W**E beg leave to submit to you copy of a petition which has been presented to us by the Vackeel of the Zemindars of Myhuttty. Having called on Monohur Metre to know the truth of the circumstances therein, his Vackeel informed us that his principal had entered a suit against Govind Deo and Kisser Chund, Zemindars, in the Supreme Court, but that he did not know what steps had been taken in it.

We are, &c.

Fort William,  
the 10th February 1775.

(Signed) H. COTTRELL,  
C. GORING,  
J. HOLME.

Vackeel of Myhuttty.

Enclosure.

**I**N the the year 1177, Bengal stile, my master received the sum of two thousand Rupees from one Monohur Metre, inhabitant of Calcutta, on a contract for Paddy, and gave his Gomastah a draught on the Naib of the Purgunnah of Jumrah for the quantity, who accepted it, and offered the Paddy; but as the price of grain was at that time very high, the Gomastah would not take it, but went away and left it there. About this time Ram Chund Sein offering an increase of rent on my master's Zemindary, took possession of the whole Mossufful, and sold the Golah of grain that had thus been kept as a depolite along with many other Golahs.

From the oppressions of this Ram Chund, the younger brother of my master went off to Connagur, and from thence Monohur Metre brought him to Calcutta, and forced from him a bond for 2800 Arcot Rupees, and 200 Arcot Rupees in ready money.

From the ill conduct of Ram Chund Sein my master was at length ruined, and his province burthened with an heavy increase; besides which the people of Mr. Loch robbed him of all his household goods, by which means he has been prevented from paying his debts contracted with merchants. Monohur Metre has now, by his Attorney Mr. Inge, complained to the Supreme Court of Justice, and hath carried a Sheriff's officer, a Portuguese, and four Peons against my master. They arrived at the Cutcherry of Daky on the 27th of Maug. My master being at that time absent in the Purgunnah Jumrah on the business of the revenue, and his Dewan hearing of their arrival, sent a Vackeel, and asked the cause of their coming, but they gave him no answer. The next day, upon their going to the Chowdry's house, the Dewan, &c. being ignorant of their intentions, went away, when the Sheriff's officers went and looked over the whole house and returned again to the Cutcherry.

From these proceedings the people are all run away, and the revenue is in a state of ruin; for which reason we hope the Sheriff's officers may be recalled, that we may go about our business with confidence.

Cal. Com. Rev.  
the 10th February 1775.

(Signed) A true Copy.  
P. MOORE, Secretary.

Honorable Sir,

**T**HE Zemindars of Myhuttty having been apprehended in consequence of the warrant issued by the Supreme Court of Justice at the complaint preferred by Monohur Metre, are now upon the point of being carried to gaol.

I beg

I beg leave to represent the circumstance to you as it has been reported to me by the Vackeels.

Fort William,  
the 15th February 1775.

I am, &c.  
(Signed) H. COTTRELL.

AGREED, That we reply thereto in the terms of the foregoing Letter to the Provincial Council of Dacca\*.

Extract of Secret Consultations, Fort William, 21st June 1775.

**T**HE Secretary acquaints the Board, that he has received back from the Chief Justice the Letter addressed to him, with the following note :

Sir Elijah Impey returns the Letter to him.

Sir Elijah Impey presents his compliments to Mr. Stewart, and having received a Letter addressed to him alone from the Governor-General and Council, is obliged to desire Mr. Stewart to transmit it again to the Council, with his request that it may be directed to the rest of the Judges as well as Sir Elijah; and to acquaint the Board, that in consequence of an application formerly made to him by the Governor-General and Council, he had been drawn into a correspondence which might have the appearance of a dispute with the Board, which has given very great concern; that to avoid the like in future he had desired that the Letters from the Board should be directed to all the Judges, and that therefore desires they will excuse his declining to carry on any further separate correspondence.

Wednesday, the 21st June 1775.

The Board observe, that the Letter which they wrote to Sir Elijah Impey was in reply to one he had individually addressed to the Board, and is recorded on the proceedings of the 19th instant.

Extract of Secret Consultations, Fort William, 27th June 1775.

The Secretary lays before the Board the following Letter addressed to them, which was delivered to him by Roy Rada Churn.

From the Nabob Mobareck ul Dowlah, addressed to the Governor-General and Council. Received 27th June 1775.

**I**F several transactions of former times are to be tried by the Act lately transmitted from the King of Great Britain, it will occasion trouble and ruin to the inhabitants of this country. The affair of Maha Rajah Nundcomar, which is now before the Court, is really hard and rigorous; for should the crime of which he is accused be proved against him in the said Court, the custom of this country does not make it deserving of capital punishment: nor, as I am informed, was life formerly forfeited for it in your own country; that has only been common for a few years past. The Maha Rajah has transacted affairs of the greatest importance. When Meer Cossim Ally Khan had taken the resolution to ruin and expel the English, the Maha Rajah in particular exerted himself to the utmost with my father in supplying them with grain and money for the use of their troops. The services of the Maha Rajah on this occasion are well known to the King of Indostan; certainly he never could have committed so contemptible a crime. People employed in important affairs will undoubtedly have many enemies, and those who have been active in the affair of Nundcomar have long been his declared foes. Taking therefore into consideration the welfare of the people, I beg in particular with respect to this affair, that the Rajah's execution may be suspended till the pleasure of His Majesty the King of England shall be known.

RESOLVED, That a copy of this translation be transmitted with the following Letter to the Chief Justice and Judges of the Supreme Court of Judicature.

\* Vide Letter to Dacca,—Page 578.



To Sir Elijah Impey, Chief Justice, Robert Chambers, S. C. Le Maistre, and  
J. Hyde, Judges of the Supreme Court of Judicature.

GENTLEMEN,

**W**E have this instant received a Letter from his Excellency the Nabob Mobareck ul Dowla Muttuwanun ul Mulk Feroze Jung Bahader, through the hands of Roy Rada Churn, his public Vackeel, containing an intercession in behalf of Maha Rajah Nundcomar; we conceive it to be regular in this Board to transmit it to you, and of which we shall inform the Nabob.

We are, &c.

Fort William,  
27th June 1775.

WARREN HASTINGS,  
J. CLAVERING,  
GEO. MONSON,  
RICH<sup>d</sup>. BARWELL,  
P. FRANCIS.

Extract of Secret Consultations, Fort William, 14th August 1775.

General CLAVERING.

A paper delivered by the servant of Nundcomar to the General.

Question. If it shall be produced.

**I** BEG leave to inform the Board, that on the 4th of this month a person came to my house, who called himself a servant of Nundcomar, who sent in an open paper to me. As I imagined that the paper might contain some request that I should take some steps to intercede for him, and being resolved not to make any application whatever in his favour, I left the paper on my table until the 6th, which was the day after his execution, when I ordered it to be translated by my Interpreter. As it appears to me that this paper contains several circumstances, which it may be proper for the Court of Directors and His Majesty's Ministers to be acquainted with, I have brought it with me here, and desire that the Board will instruct me what I am to do with it. The title of it is—A representation from Maha Rajah Nundcomar to the General and Gentlemen of Council.

**Mr. FRANCIS.** As the General informs the Board that the paper contains several circumstances, which he thinks it may be proper for the Court of Directors and His Majesty's Ministers to be acquainted with, I would request that he lay it before the Board.

**Mr. BARWELL.** I really do not understand the tendency of this question, or by what authority the General thinks he may keep back or bring before the Board a paper addressed to them, or how this Address came to be translated for the particular information of the General before it was presented here. If the General thinks himself authorized to suppress a paper addressed to the Gentlemen of Council, he is the only judge of that authority; for my part I confess myself to be equally astonished at the mysterious air with which this paper is brought before us, and the manner in which it came to the General's possession, as likewise at the particular explanation of every part of it before it was brought to the Board. If the General has a particular commission to retain this paper from the knowledge of those to whom it is addressed, he alone is the proper judge how he ought to act. When the paper comes before me I shall judge of it.

**General CLAVERING.** If Mr. Barwell will be pleased to recur to the introduction of my Minute, he will observe that I mentioned having put the paper into the hands of my Persian Translator, consequently could not know the contents of it, or to whom it was addressed, till it was translated. I brought it with me to the Council the first day which they met after I knew its contents, but the Board not having gone that day into the Secret Department, I did not think it proper at that time to introduce it. Nobody can be answerable for the papers they

they may receive. All I can say is, that this paper has the seal and signature of Rajah Nundcomar to it, and I bring it to the Board just in the form I received it, that is to say, open.

Colonel MONSON. As this paper is said to contain circumstances with which the Court of Directors and his Majesty's Ministers should be acquainted, I think the General should lay it before the Board.

The GOVERNOR-GENERAL. I do not understand this mystery. If there can be a doubt whether the paper be not already before the Board by the terms of the General's first Minute upon it, I do myself insist that it be produced, if it be only to give me an opportunity of knowing the contents of an Address to the Superior Council of India, excluding the first Member in the title of it, and conferring that title on General Clavering, and I give it as my opinion that it ought to be produced.

General CLAVERING. I am sorry to observe that the Governor-General should have mistaken the title of this Address to the Board, by calling it an Address to me as Governor-General, when the title of it had been so recently mentioned, by my saying it was addressed to the General and the Gentlemen of Council, which in my opinion does not express, either by words or by inference, that even that title is such as the Governor-General has mentioned; at all events, I am no more answerable for the title of the paper than I am for its contents.

The GOVERNOR-GENERAL. I did not say that the Address gave the General the title of Governor-General, but meant only to imply, that it conferred that title on him by mentioning him particularly, and the rest of the Council collectively.

RESOLVED, That the paper delivered by the servant of Nundcomar to General Clavering be produced and read. Paper produced.

The General is accordingly requested to produce it, and it is read.

Extract of Secret Consultations, Fort William, 16th August 1775.

THE Persian Translator sends in a corrected translation of the Petition of the late Maha Rajah Nundcomar, delivered in by General Clavering, and entered in Consultation the 14th instant, in which the Board remark, that the Address is made in the usual form to the Governor-General and Council, and not as was understood from the first translation of it laid before the Board. Translation of Nundcomar's Letter.

The Governor-General moves, that as this Petition contains expressions reflecting upon the characters of the Chief Justice and Judges of the Supreme Court, a copy of it may be sent to them.

Mr. FRANCIS. I think that our sending a copy of the Rajah Nundcomar's Address to this Board to the Chief Justice and the Judges would be giving it much more weight than it deserves. I consider the insinuations contained in it against them as wholly unsupported, and of a libellous nature; and if I am not irregular in this place, I would move, that orders should be given to the Sheriff to cause the original to be burned publicly by the hands of the common hangman.

Mr. BARWELL. I have no objection to the paper being burned by the hands of the common hangman, but I would deliver it to the Judges, agreeable to the Governor's proposition.

Colonel MONSON. I differ with Mr. Barwell in opinion. I think this Board cannot communicate the Letter to the Judges; if they did, I think they might be liable to a prosecution for a libel. The paper I deem to have a libellous tendency, and the assertions contained in it are unsupported. I agree with Mr. Francis in opinion, that the paper should be burned, under the inspection of the Sheriff, by the hands of the common hangman.

General CLAVERING. I totally disapprove of sending to the Judges the paper, agreeably to the Governor-General's proposition, because I think it might make the Members of the Board who sent it liable to a prosecution; and therefore agree with Mr. Francis, that it should be delivered to the Sheriff to be burned by the hands of the common hangman.



The GOVERNOR-GENERAL. I should have no objection to any act which should publish to the world the sense which this Board entertain of the paper in question; but it does not appear to me that such an effect will be produced by Mr. Francis's Motion. The inhabitants of this Settlement form but a very small part of that collective body, commonly understood by that expression of — the world. The Petition itself stands upon our records, through which it will find its way to the Court of Directors, to his Majesty's Ministers, and in all probability will become public to the whole people of Britain; I do not however object to the motion for its being burnt.

Nundcomar's  
Letter con-  
demned to be  
burnt as a  
libel.

The Board do not agree to the Governor-General's motion for sending a copy of the Address of Maha Rajah Nundcomar to the Judges, but resolve, that orders be sent to the Sheriff, with the original Letter, to cause it to be burned publicly by the hands of the common hangman, in a proper place for that purpose, on Monday next, declaring it to be a libel.

Mr. FRANCIS. I beg leave to observe, that by the same channel through which the Court of Directors and his Majesty's Ministers, or the nation, might be informed of the contents of the paper in question, they must also be informed of the reception it had met with, and the sentence passed upon it by this Board; I therefore hope that its being destroyed in the manner proposed will be sufficient to clear the characters of the Judges, so far as they appear to be attacked in that paper, and to prevent any possibility of the imputations indirectly thrown on the Judges from extending beyond this Board. I move that the entry of the Address from Rajah Nundcomar, entered on our proceedings of Monday last, be expunged.

Expunged  
from the Con-  
sultations.

AGREED, That it be expunged accordingly, and that the translations be destroyed.

#### Extract of Secret Consultations, Fort William, 30th August 1775.

The Sheriff reports having burnt the Persian paper sent him by the Board's orders of the 16th instant, as follows:

To John Stewart, Esq.

S I R,

The Sheriff.

I BEG leave to inform you, that in obedience to the commands of the Honorable the Governor-General and Council, signified to me by your Letter dated the 16th instant; I have this day caused the Persian paper, enclosed to me in your Letter, to be destroyed in the manner therein directed.

I am, &c. &c.

Calcutta, 21st August 1775.

(Signed) ALEXANDER MACKRABIE, Sheriff.

#### Extract of Secret Consultations, Fort William, 4th September 1775.

The Supreme Court of Judicature send in the following Letter.

To the Honorable Warren Hastings, Esq. Governor-General, and the Gentlemen of the Council.

Honorable Sir and Sirs,

Supreme  
Court of Ju-  
dicature.

A PAPER, containing a false, scandalous, and malicious charge against the Judges of the Supreme Court, produced at your Board, having been by you declared a libel, and ordered to be burnt by the hands of the common hangman, we return you our thanks for having shewn so due a sense of this outrage to public justice; but as we must be interested as well in the Minutes introducing and condemning the paper, as in the paper itself, we find ourselves obliged to desire that you will furnish us with a copy of the libel, and of such Minutes which relate to it as stand on your Consultations, and must therefore be conveyed to England, that we may judge whether they contain any matters necessary for us to take notice of.

Knowing the satisfaction his Majesty and his Ministers, as well as the Honorable the East-India Company, who are deeply interested in the due administration of justice, must receive from the high reputation which the Supreme Court has acquired in this country, we thought we owed it to ourselves and the state to transmit to you the ENCLOSED PAPERS\*, that they may stand recorded on your consultations; which we think peculiarly proper at this time, as, by promulging the universal sense of this Settlement in relation to our conduct, they are a direct

\* Addressed from the Grand Jury and Inhabitants of Calcutta to the Judges.

and public refutation of the libel, and corroborate such of your Minutes as tend to vindicate our reputations.

28th August 1775.

We are, &c.

(Signed) E. IMPEY,  
ROBT CHAMBERS,  
S. C. LE MAISTRE,  
JOHN HYDE.

The Governor-General.

**O**BJECTIONS having been started to the entry of the enclosures in the above Letter, I move that the opinion of the Board may be taken, whether the said enclosures shall be entered.

Mr. FRANCIS. I object to the entry of the papers enclosed in the Letter of the Judges on our records, because the libel, to which these papers are said to contain a direct and public refutation, has been expunged, the original burnt, and I do not believe that any copy of it now exists. If the Judges think it necessary that his Majesty, his Ministers, and the Honorable East-India Company, should be informed of the high reputation which the Supreme Court has acquired in this country, they are at liberty to communicate such information directly from themselves; they have already addressed the Court of Directors upon points in which they thought themselves interested, and may continue to do so; but I see no reason that we should load our Consultations with copies of papers which do not come authenticated to us, and which appear to refer to facts of which we have no direct knowledge.

Mr. BARWELL. I am of opinion that the request made by the Judges should be complied with, and the papers they think it necessary to communicate to the Company through this Board be entered upon the records.

The Honorable GEORGE MONSON. I think it unnecessary to introduce on our proceedings the papers enclosed in the Judges Letter, as it is said to be for the purpose of refuting a libel which does not appear on our proceedings; and as the papers are not properly authenticated, and as a Member of this Board I am unacquainted by what means these Addresses were procured; and as I think they contain circumstances, the facts of which I very much doubt, for I, as a Justice of the Peace, have never issued a blank warrant, nor have ever heard of any Justice having done it. The Supreme Court of Judicature have commenced a correspondence with the Court of Directors; if they think it necessary, for establishing their reputation, that these Addresses should be known to the Court of Directors, they have the option of transmitting them; but it is unnecessary to swell our proceedings with extraneous subjects that in no manner relate to the Company's concerns.

General CLAVERING. I think it would be very improper to introduce upon our proceedings the enclosed papers in the Letter just received from the Judges, because they mention, that their reason for having sent them to us was to refute a libel which does not exist, I have besides many other objections to their standing upon our records. 1st. Because one of the papers seems to authorize an imputation upon the manner in which justice has been exercised, I mean the declaration that blank warrants had been issued, which I believe to be both false and malicious, and only intended to impose upon the Court of Directors and the English Nation, as if those warrants had been issued either by the Judges themselves, or by some of the Members of this Board acting as Justices of the Peace. 2dly. Because the papers themselves are not authenticated, and if they were, I see some names affixed to them which I think would discredit any testimony of approbation, which the Judges have supposed has been given to their conduct in the administration of justice: I see the names of people who have been dismissed from the Company's service; I see the names of several delinquents amongst the Banyans, who have been particularly stigmatized by this Government for being the instruments of that corruption and venality, of the particulars of which we have transmitted to the Court of Directors so circumstantial an account.

The GOVERNOR-GENERAL. I am of opinion that the enclosure in the Letter from the Chief Justice and Judges of the Supreme Court cannot be rejected without disrespect to the Court. With respect to the blank warrant, which expression has been objected to, as being contrary to fact, I conceive that its meaning is very evident, and very different from the sense in which it has been understood in two of the preceding Minutes. In the Address from the Free Merchants, they are called blank subpoenas for the attendance of witnesses; in the Address from the Armenians they are filed blank warrants for summoning any persons from



