

throwing the Government off its guard, that a conference should be held in London. The bait, of course, took, and Russian diplomatists over-reaching the sagacity of British statesmen, had it all their own way, and carried all disputed points.

The war with Germany was one of provocation on the part of France, and it was right and proper that she should have been left to meet the consequences. But when it became evident that the supposed demolition of her power had prompted an act of international outrage of so grave a character as the attempt to set aside the Paris Treaty, and thereby imperil British interests, and when too there were good grounds for believing that Germany was an accessory to such attempted violation, her conduct should at once have been subjected to the test of proof, by requesting her to join England, Austria, and Turkey, the other signatories to the Treaty, in the protest against the attempt to set aside that Treaty. If political integrity had not been quite dismissed from the state councils of Germany, that request, just and reasonable in itself, would have been assented to; but, if not, then was the moment, instead of assenting to a Conference, to have set aside the blandishment of diplomacy, and to have adopted stringent measures against Germany. The moral effect of this on France would have been great. Austria, pledged to join in the struggle for her own sake, would have come forward, while Italy, that owed France a debt of gratitude, would in

all probability have joined in the common cause, and Russia being at this time frozen up, the Government, by a stroke of policy, at once bold and determined, would have brought the war to a termination without firing a single shot, and have afforded a practical illustration of what England could do, and revived the recollection of Cromwell's cherished boast, that the name of an Englishman should be as much feared as had ever been that of a Roman. But witness the contrast Mr. Gladstone's Government remonstrated with that of Berlin, because of the enormity of the war indemnity demanded of France, and suggested a reduction. With what result? Mr. Gladstone made the acknowledgment in Parliament that no notice was taken of it. *It was treated with silent contempt!!!* Had a bold attitude been assumed at the proper moment, the after results of Sedan would have been obviated, and have rendered France the perpetual ally of England, and Russia would not then have dared to tamper with British interests.

I trust Sir Harry Verney will pardon my again alluding to our railway meeting and conversation. The subject touched upon was the political prospects in Europe. This was immediately after the meeting of the three emperors at Berlin, and I expressed my belief that the fate of Turkey had been sealed on that occasion. Prince Bismarck has been mainly instrumental in bringing about German unity. There is, however, the Austrian portion, the amalgamation of which as well, I had no doubt, was a matter of

deep concern to him, and I was of opinion that the arrangement come to at that meeting, in the prospect of a redistribution of territory, was that Austria should give up that portion to Germany, and recoup herself by joining Russia in the division of Turkey. This is still my belief. Austria, up to the present time, has made no hostile movement: her Hungarian population is doubtless keeping her in check, and she is waiting her opportunity; or what can be the meaning of the Russians being allowed, in their efforts to subjugate Turkey, to bridge over the Danube and cut off Austria's means of sea communication with the outside world? The wished-for opportunity will come so soon as Russia has vanquished Turkey, when the opposition of Hungary could easily be put down with Russian assistance, as was done on a previous occasion. These are the hypotheses by which Austria's prolonged passivity may be explained. Were these not the arrangements, Austria would, no doubt, have mobilised and held herself in readiness for action, as on the occasion of the Crimean War, when the danger to her was less formidable than at the present time. The discovery may yet be made that the understanding come to at the imperial meeting was, that Russia should go in and win, and that the cost should be mutually shared at the division of the spoil. If intervention should be eventually determined upon, it would be happy, in the interests of Europe, if it be not a hostile

intervention in furtherance of the objects of acquisition of the triple alliance. It is to be remembered, too, that in the drawing up of the Andrassy Note and the Berlin Memorandum, England was not requested to take part, and that the documents were only afterwards communicated to her.

It is to be hoped that those who were at one time disposed to view Russia as engaged only in a work of mercy, in a mission of humanity, are now beginning to penetrate her motives. The conquest and possession of Constantinople has been the long-cherished desire by which she has been tempted on. It was believed that any attempt on the part of Russia to gain a footing in Turkey would compromise German and Austrian interests, and at once evoke their hostility. Instead, however, of a compromise of interests, both, it will be found, would be greatly advantaged by the event. The supineness displayed by German and Austrian plenipotentiaries during the Conference, the peremptory interdiction conveyed on one occasion to the former by Prince Bismarck, to withhold assent to certain proposals discussed during the sittings, clearly evidence an understanding between those powers ; while, on the other hand, the vast mobilisation of Russian troops on the frontier, the enormous stores of corn and food laid up in Wallachi even while the Conference was sitting, the large extent to which the Russian arsenals have been taxed during the last three years for the manufacture of arms and.

munitions of war, and the large contracts entered into with America for the supply of arms, all indicate that war was the object that Russia had in view. Nor were the preparations in Asia less extensive, nor carried out with less forethought. And while Europe was being diverted with notes, memorandums, protocols, and solemn professions of peace, it was patent to every small chemist in London, from the enormous quantity of quinine that was purchased and stored away by Russia, that war was a foregone conclusion.

Russia's object now is to press on towards Constantinople, and if successful in vanquishing the Turks, our tenure of India would become precarious. The charm of England's prestige, which has enabled a handful of Europeans to hold in subjection the hundreds of millions of the populations of India, would be dispelled, and the Oriental mind, divested of the influences of the spell, would learn to invest Russia's power and irresistibility with highly exaggerated notions of superiority, and British supremacy now standing on the pinnacle of their estimation, would then be precipitated to the very lowest depth. The Mahomedans especially, so deeply interested in the fate of Turkey, would view us with contempt. Russia's success, in fact, would *effectually demoralise India*.

It is to be regretted that Lord Salisbury's attitude at the Conference was not marked with more firmness and decision. The Russian Plenipotentiary, as a matter of course, presented himself with a catalogue

of demands which he and his Government must have been well aware that Europe would not countenance, and that Turkey would reject. Then, under pretence of large-hearted professions of benevolence on the part of His Imperial Majesty, and solemn repudiation of views of conquest, was played out that course of mock moderation by which, clause after clause, the Russian demands were allowed to be reduced to a minimised minimum, to which, eventually, the Plenipotentiaries assented. But there was nothing upon which to ground the hope that the Government of the Sultan would accept this final resolution, on the contrary, the opposition evinced by the Turkish Plenipotentiaries was stern and uncompromising. And it was easy to perceive that whilst General Ignatieff was indulging in specious declarations of his august Sovereign "having no other principles in view than those of humanity and moral duty," he was doing all in his power to pave the way for the invasion of Turkey, with the concurrence of the Plenipotentiaries. That Lord Salisbury was well aware of this is clear from his speech at the Conference of the 15th of January (VIII. Protocol). He there states, "The Porte should consider the injurious consequences that may result from such a change in the public opinion of Europe, and then," he adds, "*we can foresee dangers AT HAND which threaten THE VERY EXISTENCE of Turkey* if she allows herself to be entirely isolated." He further stated "that it was

his duty to free Her Majesty's Government of all responsibility *for what may happen*, and that he was instructed to declare formally that Great Britain is resolved not to give her sanction either to mal-administration or oppression." Great Britain certainly cannot accord her sanction to maladministration or oppression, but how does Lord Salisbury reconcile this announcement with his report to Lord Derby, of the 4th of January—only eleven days previously—that "it is probable the movements that had recently taken place in Bulgaria and had been so terribly repressed, were due in part to AGITATORS OF RUSSIAN NATIONALITY." He might very properly have said that it was owing *entirely* to Russian conspiracy and intrigue. A careful study of the part taken by Lord Salisbury at the Conference does not inspire one with the idea that the position he had taken up, as Her Majesty's special Plenipotentiary, was an independent one. The impression left is, that influenced by the superior force of will of the Russian General, the Secretary of State for India was led into a complete forgetfulness of British interests. From first to last there is not one word in the Blue Book on the subject. Having made up his mind to join the Plenipotentiaries in announcing their final resolution to the Sultan, and following it up with the intimation that, if not accepted, Turkey would be left alone to take the consequences, he should, at the same time, have taken his stand on the grounds of British interests, and have

given Russia and Turkey clearly to understand that England, though relying on the promises and pledges of the Emperor, that Constantinople is not an object with him, would, notwithstanding, in view to possible contingencies, hold herself at liberty, in the event of the Pruth being crossed by Russian troops, to despatch a British force into Turkey for the protection of British interests. Thus might have been shadowed forth the intentions of the British Government, and have placed the present movement of troops beyond the sneers of Russian ridicule, and the misrepresentations of the small party of her partisans in England. As it is, the Secretary of State for India has seriously imperilled British interests. Russian success, if such should be the result of the war, would reduce our tenure of India to a very short term. Our best Indian friends and feudatories, looking down with contempt upon British power, would deem it necessary to make their peace with Russia. The success of the Turks, on the other hand, would lead the Mahomedan world of India and of Asia to view British power with a *deeper* contempt for having abandoned Turkey in the hour of her need, and from Turkey — their co-religionists — having successfully accomplished, single-handed, what England, they would say, dared not have taken part in. All this might have been avoided, if Lord Salisbury, uninfluenced by the Russian Plenipotentiary, had, in the event of Russian troops crossing the Pruth, provided

for the occupation of Constantinople and a certain extent of territory inland, on the understanding that if Russian efforts should prove successful, we should remain in permanent possession; or if the Turks succeeded in repelling the invasion, we should give it back to them.

It would probably be stated that Turkey would not have assented to such a proposal. If such had been the case, British diplomacy at the Turkish capital must have been a mere sham, if an arrangement of such vital importance to both Governments could not have been carried.

Speaking a short time ago at Nottingham, Mr. Gladstone, expressing himself with the confidence of an oracle, declared, that if the Government had followed his advice "not one drop of human blood would have been shed" in Turkey, which, he said, was owing to the British fleet having been despatched to Besika Bay. Whatever might have been the measures of the Government, Lord Salisbury, there can be no doubt, effectually played the disciple to Mr. Gladstone's "policy of coercion"; but both Mr. Gladstone and Lord Salisbury very greatly misapprehended the characteristic of the Moslim. Left to himself, the slow process of national decay might eventually have brought about his disappearance from Europe; but his religious frenzy having been vivified by a sense of danger, the resolution became implanted in him of stern and unyielding resistance, and this was unmistakably

apparent, from the earliest stages of the Conference, from the *très bien* of the Turkish Plenipotentiaries to all efforts at persuasion.

The gathering at Delhi of the princes and nobles of India, the reception accorded to and the titles bestowed on them by the Governor-General on the occasion of the proclamation of Her Majesty as Empress of India, was a grand stroke of conciliatory policy, and would have ensured the most satisfactory results; but like the appeal to the better judgment of the native soldiery, the recognition of good services, and the distribution of crosses of honours and purses of money by Sir Henry Lawrence on the occasion of the Durbar held by him at Lucknow, *it was too late*, and, as was the case on that occasion, it was ascribed to fear.

Russia, calculating largely on European credulity, started with the plea of redressing the wrongs inflicted by Turkey on the Christian population of Europe; but what was it that led her into Asia? Would she have been satisfied with the province of Erzeroum alone, which it is urged was her object, if the fortune of war had placed it in her possession? The thirst for victory becomes more and more insatiable, especially when incited by sturdy resistance and feelings of revenge; and to expect that an army that is aggressive would limit the bounds of its aggression, is to expect that for which history accords no warrant.

That the policy of Russia has always been a

shifting policy, and that her promises are not to be depended upon, is evidenced by several instances of her own conduct. In 1828 she acted in alliance with the great powers, but so soon as the Turkish fleet was destroyed at Navarino, she suddenly separated herself from her allies, and in opposition to their views and wishes, invaded Turkey in prosecution of her own objects. The facts connected with the Treaty of Unkiar Skillessi, surreptitiously entered into with Turkey, and the protectorate pretensions afterwards put forward by Russia in respect to the Sultan's subjects of the Greek Church, which eventually led to the Crimean War, and her conduct in regard to the Treaty of Paris, need no repetition. But be all this as it may, Russia's success in Turkey, Constantinople in her possession, and the command she would acquire over the Black Sea, would deeply imperil British interests in Europe and in India. In Europe, especially in respect to England's universally acknowledged naval supremacy, which Russia would in a few years render a nullity, unless countervailed by the addition of millions to the taxes. In India it will shake our power to the very centre. And what are the means for averting such a calamity?

His Royal Highness the Prince of Wales came away from India very favourably impressed with the sepoy army. And there is a very large body of British officers of sepoy regiments who, I am aware, would stand up in defence of sepoy valour, of sepoy

allegiance, and of sepoy devotion ; but it is necessary only for a moment to call to mind certain incidents in connection with the Indian Mutiny. Could confidence in their men on the part of their officers have been more generous, more perfect ? The very idea of their fidelity being questioned led to scenes in which swords were unbuckled and flung away or snapped, and resignation of commissions tendered with the wildest sympathy and tenderness for their sepoy comrades. But what did it all result in. It resulted in the sepoys shooting down most of those officers, and in slaughtering their wives and children in cold blood. If confidence in sepoy valour and devotion should, in the future, be persisted in by their European officers, the mistake would again prove as egregious as it did during the period of the Indian Mutiny. At the present time reports are tolerably concurrent that the object of the Russians in Turkey is the extermination of the Turks. It might well have been then said, that the object of the sepoy army was the extermination of the white population.

This reminds me of a remark made by Mr. Gladstone in the House of Commons, during a debate on the Bulgarian atrocities. When the conduct of the Russians in Poland and elsewhere was alluded to, his reply was, "Produce the papers in regard to the conduct of the British in India during the Mutiny, and you will see what had been there done." This, again, is another instance of the extent to which a great mind

is liable to suffer perversion. In India the slaughter of European men, women, and children, had been appalling. Can human nature contemplate with subdued feelings, cruelties and horrors the most revolting, and not feel stirred up to revenge? Under the wildest excitement of the moment, some outrages may have been committed; but is that to be compared to the cold-blooded atrocities perpetrated by the Russians in subjecting men and women to the punishment of the knout, and in many instances beating them to death, because of a conscientious adherence to their own religious belief? Or to houses being set on fire, in which were the sick and wounded, and, on their attempting to escape, shooting and bayoneting them?

To proceed with my subject. I have no hesitation in stating that in the event of an emergency, such as being brought into the presence of a European foe, the sepoy army would prove itself worthless. I shall leave my own experience of and association with the sepoy's elements out of the question, and will found my statement on historical and official record. In the early days of the British career in India, when their military measures were in a state of inception, and British fighting-power was held in very low estimation, the French, more powerful, more advanced in their organisations, landed at Madras, "compelled the town and fort to capitulate," displayed the French flag on Fort St. George, seized the

contents of the warehouses as prizes of war, carried off the Governor and several of the first gentlemen as prisoners, to Pondicherry, and marched them in a triumphal procession through the town (Macaulay's "Essays," page 451). This inspired the native princes of that part of the continent of India with contempt for the British, and one of those princes, with reference to the incident I shall now refer to, stated that "he never before believed that Englishmen could fight" Soon after, Clive, with a handful of European and sepoy soldiers, suddenly appeared before and captured Arcot, was himself besieged by the forces of the Nabob and the French, and, notwithstanding the presence of a hundred and fifty French European soldiers—in those days by no means a contemptible number—he vanquished them all, and inspired his enemies with the belief that he was *the stronger*, as compared with the French. And what was the result? Six hundred sepoys who had served in the enemy's army came "over to Clive's quarters, and were taken into British service." Instances of this kind were by no means uncommon.

In the Sepoy War, "with reference to the small disaster in Ramoo in Burnmah, it is stated (page 266) nothing tries the fidelity of the sepoy army so fatally as disaster. When news came that the war had opened with a great failure, strange stories relating to the difficulty of the country to be traversed, the deadliness of the climate to be endured, and the

prowess of the enemy, forced their way into circulation, and the willingness which the sepoy had once shown to take part in the operations beyond the frontier began to subside, and they were eager to find a pretext for refusing to march." With reference to the Afghan disaster (page 174), "The sepoy learnt then, for the first time, that a British army is not invincible in the field, that the great fortune of the Company which had carried us on gloriously through so many great enterprises, might sometimes disastrously fail us." "The charm of a century of conquests was then broken" "The crisis was a perilous one, and the most experienced Indian statesmen regarded it with dismay, not knowing what a day might produce. They had no faith in our allies (the Sikhs), no faith in our soldiery. An army of retribution, under a wise and trusted leader, went forth to restore the tarnished lustre of the British name, but ominous whispers soon came from his camp that that army was tainted—that the sepoy regiments, no longer *assured and fortified by the sight of that ascendant star of fortune which once had shone with so bright and steady a light, shrunk from entering the passes.*"

The occurrence at Purwun-Durrah, in the Kohistan of Cabool, is thus mentioned in general orders by the Governor-General of India, under date 2nd November, 1841:—"Two squadrons of the 2nd Regiment of Bengal Light Cavalry, comprising two-thirds of the whole regiment, while confronting a body of Afghan

horse, were ordered to charge, but could not be induced to follow their European officers ; and, further, when their manifest cowardice emboldened the enemy to become the assailants, so far from defending themselves, they turned their horses and fled in panic and inextricable confusion, and only staid their flight when they had gained the rear of the column from which they had been detached in pursuit. The noble example set them by their European officers, whom they basely allowed to charge unsupported, and of whom Captains Fraser and Ponsonby were severely wounded, and Lieutenant and Adjutant Crispen killed on the spot, rendered their dastardly conduct the more inexcusable, and imposes on the Government the necessity of removing them from the army."

Such was the cowardice displayed in the presence of an Oriental enemy by a crack, high caste cavalry regiment. What, then, will be the effect upon the native army if brought face to face with a European foe—the Russians for instance, a name which for years past has been associated in the Oriental mind with what is by no means weak or pusillanimous? If the efforts of the Turks in repelling the tide of invasion should prove unsuccessful, and Russia plants herself in Constantinople, and is successful in Asia, our hold on India would be at her mercy. Her success, while elevating her irresistibility to the highest pinnacle of importance, would reduce British estimation to the lowest depth, and place Persia and Afghanistan at her

feet. In such a case a native army would be more an element of danger than of safety, and our only dependence will be in our European forces, but they are merely a handful, and would require to be largely reinforced.

The Sikhs and Napalese may be very good soldiers. Led on from victory to victory, they may prove good warriors; but a single check would undermine their loyalty, and lead them to side with the party which, for the time, may appear to be the stronger.

If Russia's present efforts should prove temporarily unsuccessful, we should have time which ought to be utilised to the fullest possible extent in maturing arrangements for the protection of India. An Oriental foe is out of the question. Russia is the only European power with whom India—whatever may be the opinion of the Secretary of State—is an object. To effect our purpose the services of British officers will be available in abundance for training the Turkoman tribes, the Afghans, and the Persians, in the system of European warfare. This should be taken advantage of under arrangements for officering their army with British officers. This could be easily effected by sending them to enter their service, and any little difficulty that might present itself may be smoothed down by means of a little judicious diplomacy. Hobart Pasha and Colonel Valentine Baker, and others, have already set the example; and the earliest opportunity might then be taken to dislodge the Russians from Khiva, and bar Russia's progress in the direction of India.

The Turks, fighting for existence, have been doing admirably; but if their efforts should fail, matters in regard to India will be rendered urgent. There are some reports in Bombay of the despatch of troops to Egypt, which is hardly to be credited. In the event of war, Russia will not find Egypt within easy access nor is she likely to run the gauntlet of attempting an ingress by the way of Afghanistan, unless the Ameer, seduced by the promises of Russia, proves perfidious. In such case, Quetta will of course be at once occupied; but Persia, from the Caspian, there can be no doubt, would be selected by preference, as the ground best suited for concentration and studied arrangements, and this ought to be guarded against at all cost and at all risk.

With railways traversing India, with our European forces gradually augmented to about 120,000 under a permanent residence arrangement, with a society in England for the promotion of female emigration to provide our soldiers with wives, so that, in time, the forces might be recruited on the spot, the present enormously large sepoy army might, in my very humble opinion, be allowed to die out. The general tranquillity of the country has not been by any means dependent on the sepoy army. The police has always, with some very rare exceptions, been found equal to maintaining order, and, under the possible contingency of disaffection or conspiracy among the people, a superintendent of police

of ordinary judgment, with an efficiently organised police force, ought to be able either to nip it in the bud or obtain military aid in time to prevent mischief.

The proposal for doing away with the native army will, no doubt, be deemed outrageous, and as involving an arrangement for the exclusion of the natives of India from the honourable profession of arms. It may be at the same time looked upon as foreshadowing the wish to perpetuate British rule, without reference to the rapidly growing intelligence and capacity of India to govern itself. I should be the last man in the world to entertain any such views. In suggesting that the native army should be left to die away, I have the regeneration of India more at heart than at first sight may appear to be the case. India is split up into an innumerable number of castes. The native army itself is an agglomeration of castes, and is, of all castes, the most haughty and overbearing. So long as these internal social divisions continue, so long will India be deprived of the power to govern herself. If by any chance England should lose her hold on India, India left to herself would soon exhibit a moral chaos, an anarchy, all the more embittered by the restraints in which the bold, the daring, and the licentious among her populations have been held. If the efforts of the sepoy army during the period of the Mutiny had been successful in bringing about our extermination, they would soon afterwards have

commenced the work of oppression and bloodshed among themselves, and that would have continued to be the normal condition in which India would have remained. Education, however, is advancing, and caste prejudices are fast crumbling away. I was myself on one occasion, in Bombay, surprised by the request of a high caste Hindoo gentleman, now in a high social and official position, who called to see me. He said he was thirsty, and asked for a glass of water. I rose to get it for him. He would not have me do so, but desired that I should call my servant to fetch it. I said my servant was a low caste man. He smiled, and said that he had quite got over prejudices of that kind. Between Christian converts intermarriages of high caste Bhramins to Mharatta and Dher women have taken place, and marriages between different castes are by no means uncommon. Education and enlightenment, in combination with their own common sense, are effacing the demarcations of caste and the exclusiveness of religious prejudices, and the permanent settlement of European soldiers in India, with the permission to intermarry when any should wish to do so, will largely promote the blending of the races. The places vacated in the army by the fathers should, as a rule, be made available to the sons, if physically eligible. The Indian sun will, of course, tan their skins, but it will not impede the development of the higher virtues of courage and intellect. Time was when England too was split up and divided

by caste, when the animosities existing amongst them exceeded the animosity of "countries at war with each other," when the ordinary imprecation of a Norman was, "May I become an Englishman!" and his ordinary form of indignant denial, "Do you take me for an Englishman?" It is a matter of universal acknowledgment, too, that Englishmen owe what they are to the amalgamation of the different races which in bygone days inhabited England. India, there can be no doubt, would in time be as largely benefited by the same process. The germs being set, their growth will naturally follow, and the doing away with the native army will, in my humble opinion, hasten on the wished-for consummation. In its course religious prejudices would be blotted out, and religious barriers broken up, and love of country, taking place of these, will hold forth the hope of India being able to govern herself, and so becoming a source of strength to England.

The Government, it is to be hoped, will be despatching forty or fifty thousand troops to Turkey for the protection of British interests, if circumstances should render necessary such a measure; but the advantage to be derived from such a step can be only temporary. The Balkans and other approaches to Constantinople present configurations which it may be easy to defend, but no nation can now pretend to exclusive superiority in arms, and the word "impregnable" must be expunged from the military vocabulary. By the sharp firing of the present system of warfare

the process of mowing down is effected with a rapidity that almost bars the use of the bayonet. The memories, therefore, of the great deeds accomplished by British pluck at Cressy, at Waterloo, and other battle-fields, may be obliterated as well. The only elements which at the present time constitute invincibility are the superior masses that one nation has the power of hurling against another. In this respect our power is exceptionally limited, and Continental nations are well aware of it. So long as mankind freely indulge in the pastime of slaughtering each other, the numerical inferiority of Great Britain in combative strength would be regarded with injurious disparagement. A Bismarck has already treated the nation with contempt, and if Englishmen, notwithstanding the portentous political exigencies now evolving around them, by a childish estimation of the privileges of personal liberty, by a sentimentalism which does not stand above the level of morbid puerility, will still hold themselves restrained from following the example of Continental nations—of every man enrolling himself a soldier, which, after all, imposes but a limited restraint, he must make up his mind to resign his legitimate sphere of elevation in the scale of the Nationalities of the World, and, availing himself of the “peace at any price policy,” descend to a depth which after generations will contemplate with feelings that will not be unmingled with contempt for the legacy of dishonour that we will have bequeathed to them.

APPENDIX A

THE CASE OF RAMCHUNDER KHISTEE.

DECISION REGARDING THE PARENTAL RIGHTS OF HINDOOS AND
CONVERSION FROM HINDOOISM

Suit No 471 of 1847 —The Plaintiff sues the Defendants, Luxmee Baee and Gunesh Balkrishna, in order to gain possession from them of the person of his son Ramchundra, a child now about seven years of age.

The Defendant, Gunesh Balkrishna, in his answer No 12, pleads that he has been unnecessarily made a Defendant in this case, and as he asserts no right to keep possession of the child, the Court considers the case is only between the Plaintiff and the other Defendant, Luxmee Baee.

The Plaintiff states that the Defendant, Luxmee Baee, is his wife by marriage, and the boy Ramchundra his child begotten of her, that the boy is now about seven years of age, that from the time of his birth to the present period he remained with his mother at Poona, that he (Plaintiff) became a Christian shortly after the birth of the child, and has since then resided at Nuggur, that after his conversion he endeavoured to persuade his wife to join him, and petitioned the Magistrate to commit his child to his guardianship, but without effect, that recently the Defendant Luxmee Baee having come to Nuggur with the boy, he took him away to his house, that she then complained to the Magistrate, who ordered Plaintiff to give him up to his mother, but that being the child's father he sues to be placed in possession of his child.

In answer No 32, the Defendant Luxmee Baee states that she became pregnant with the child now claimed by Plaintiff while the latter was a member of his caste, but that he, having afterwards become an outcaste by embracing Christianity, has, according to the Hindoo law, forfeited all his rights; that she has brought up the child, whose "Moonz"

(ceremony of investiture with the thread as a Brahmin), &c., she has performed.

Regulation IV. of 1847, Section XXVI., prescribes—The law to be observed in the trial of suits shall be Acts of Parliament and Regulations of Government applicable to the case. In the absence of such Acts and Regulations, the usage of the country in which the suit arose. If none such appears, the law of the Defendant; and in the absence of specific law and usage, justice, equity, and good conscience alone.

Acts of Parliament and Regulations of Government bearing on the point at issue there are none; and no question of the kind having before arisen, there is no usage of the country to which the Court can look for guidance in the case. It follows, then, that the Court must consider whether and how the Hindoo law—the law of the Defendant—bears on the question.

Plaintiff is a converted Brahmin; and it would appear from the evidence of witnesses Nos. 43 and 44 that he became a Christian from a conviction of Christianity being the only true religion.

The Shastree of the Adawlut, in his exposition of the Hindoo law on this matter (Exhibit No. 45), states that Plaintiff has by repudiating Hindooism committed "Mahapatak" (sin in the highest degree), and become an outcaste, grounding his opinion on the following texts:—

Yadnyawalkya, chapter III. verse 22—"By omitting to do that which the Shaster enjoins, and doing that which it forbids, the person becomes an outcaste."

Manu, chapter IX. verse 235.—"A slayer of a Brahmin, a drinker of spirituous or vinous liquors, one who steals the gold of a priest, or who violates the bed of his father, are respectively 'Mahapatkis.'"

Yadnyawalkya, chapter III. verse 230.—"Eating that which is forbidden, reviling (his own or another's) religion, speaking untruth to enhance his own importance, and kissing a woman in a state of menstruation, are tantamount to drinking spirituous liquor, and constitute 'Mahapatak.'"

It is not alleged by the opposite party that Plaintiff became an outcaste by committing any of the acts enumerated as offences in the 2nd and 3rd of these texts, and they are not to be presumed from either his having renounced Hindooism or adopted Christianity.

The first text declares the penalty (whatever that may be

shall be hereafter considered) incurred by one who omits to do what the Shaster enjoins, or does what it forbids. This can apply only to a Hindoo, for none but a Hindoo can do what it enjoins. A person not a Hindoo cannot therefore be subjected to a penalty for doing what is forbidden, or omitting to do what is enjoined in the Shasters. The question then arises, is the penalty incurred by a renunciation of Hindooism *ispo facto*?

The Court deemed it necessary therefore to question the Law Officer whether the Shaster contained any specific law bearing on this point.

His answer, grounded on Manu, chapter X. verse 97, and Bhugwut Geeta, chapter III. verse 35, is as follows:—

“If one believes his own religion to be inferior, yet it is the best and causes happiness: should the religion of another be rightly practised even, still he will not attain to happiness; for he who obtains a livelihood by taking upon himself the religion of another immediately becomes an outcaste.”

The Court observes that the Law Officer has here given the text an entirely religious construction. Taken, however, with the context, viz., the five verses immediately preceding it, the passage quoted by him would appear to have reference solely to secular matters, relating to the special means of livelihood to which the several classes of Hindoos are required by the Hindoo law strictly and exclusively to confine themselves. To give the true sense of the text, therefore, it should, according to its literal construction, be rendered as follows:—

“One’s own (prescribed) office, though inferior, is the best; the office of another, though rightly (or completely) performed, is not the best; for he who obtains a livelihood by performing the office of another class, immediately becomes an outcaste.”

The following is a translation of the Bhugwut Geeta:—

“One’s own religion, though inferior, is better than the religion of another, however well followed. One’s own religion is profitable to death, while that of another inspires fear.”

In extending the meaning of this text which concerns secular employments so as to make it include religious creeds, the Court conceives that the Law Officer has put upon it a construction which it does not bear.

On the authority of Manu, chapter IX. verse 268, the Shastree states that the right of both father and mother over a son is co-ordinate.

The text merely prescribes that when that (particular) rite is performed, "the father and mother, or both (if present), shall give their son in adoption." It does not establish equality of authority. The Court concludes that the exposition rests only on the text cited from no other being quoted in support of it; while on the other hand, the interdiction of female independence by the Hindoo law, and the servile submission which the Shaster imposes* on a wife towards her husband, is opposed to and incompatible with such equality of authority.

In chapter IX. verse 241, Manu states that "for crimes by a Brahmin (who had a good character before his offence) the middle fine should be imposed, or (if his crime was premeditated) he shall be banished from the realm, taking with him his effects and his family."

The words in brackets are not in the original, but are added because they are implied from the context of the succeeding verse, as well as the wording of the above; and from it, it would appear that the Plaintiff, be his offences what they may, has a right to have his family with him.

The Shastree urges that the word परिच्छेद in the original implied property, and not family; but Professor H. H. Wilson in his Lexicon, gives family as being one of the meanings of this word; and Sir William Jones translates it as "family."

The text however, the Shastree says, nullified by chapter III. of the Nimecosindoo, which states, "that in the 'Kritayug' there shall be no intercommunion with the people of the 'Desh' (country) of the outcaste: in the 'Tretayug' with the people of the village of which he is an inhabitant: in the 'Dwaparyug' with him and his family: in the present 'Kallyug' with the outcaste himself:—and therefore the Shastree concludes that Plaintiff has no right to the guardianship of her son.

* Manu, chapter V. verse 148—"In childhood must a female be dependent on her father in youth on her husband; her lord being dead, on her sons: a woman must never seek independence."

Skund Poorana, chapter IV. verses 35, 49, 82—"Let the wife who wishes to perform sacred ablution wash the feet of her lord, and drink the water, for a husband is to a wife greater than Shankur or Vishnoo. The husband is her god and gooroo and religion and its services; wherefore, abandoning everything else, she ought chiefly to worship her husband. If (after the death of the husband) the wife wishes to worship Vishnoo, let her abstain, or worship him in the character of her husband, and let her always remember her husband as assuming the form of Vishnoo, and denominated Hurri."

Without dwelling on the fabulousness of the "yugs," and the monstrosity of basing on them any judicial decision, the Court deems it necessary only to remark, that this text does not apply to Plaintiff's case, inasmuch as it has not been shown that he has committed any offence which the Hindoo law specifically denounces as a crime.

A Brahmin is a Brahmin so long only as he continues to wear the "Janve" or sacred thread. The investiture of the "Janve" and the communication of the Gayatri are the rites by which "the son of a Brahmin becomes a twice-born or regenerate man."

Suppose, by the divesting him of the former characteristic emblem, previous to receiving baptism, Plaintiff ceased to be a Brahmin,* and by this act incurred the penalty of becoming an outcaste, this may involve the loss of privileges pertaining to caste membership, and of civil rights based on Hindooism; but does it entail forfeiture of natural rights? Guardianship of a child, the Court conceives, must be regarded as a natural right of the parents, and the mere renunciation of one's religious creed, or adoption of another (where the demoralisation of a child, which is opposed to the interests of society and the State, does not necessarily follow), is not shown by any of the text quoted by the Shastree to be an act involving, under any "Specific Law" of the Hindoos, the forfeiture of such a right, and this appears the more remarkable from the Hindoo law containing specific provisions for the forfeiture of every civil right, even that of the loss of control over his wife by the outcaste, while it preserves a complete silence as regards his loss of authority over his offspring.

After a careful consideration of the Hindoo law quoted by the Shastree, the Court arrives at the conclusion that the law itself contains nothing in defeasance of the right of Plaintiff to the guardianship of his son.

The Section of the Regulation which, in the absence of Acts of Parliament and Regulations of Government and usage of the country applicable to the case, provides for the adoption of the law of the Defendants in the trial of cases, prescribes that that law shall be a "Specific Law." In the absence of such law therefore the Court must, in the decision of this case, be guided by justice, equity, and good conscience alone.

The circumstance of the Plaintiff having taken another wife

* Regarding this Act too the Shastree admits that there is no specific text of Hindoo law.

since his conversion to Christianity does not in the opinion of the Court affect this case.

Defendant, Luxmee Bace, admits that Plaintiff is father of the child by marriage lawfully contracted, and Plaintiff has proved (Exhibit No. 35) that subsequently to his becoming a convert he made strenuous exertions to induce the Defendant, Luxmee Bace, to join him with their son, and desisted only when obliged to abandon all hope of her doing so : and he represents that a belief that he was prevented by the regulations from claiming his child before he was seven years old prevented his adopting legal measures for that purpose.

The child is not now of such infantile age as absolutely to require its mother's care. No mother, by either English law or any other law, has any right of property in or guardianship over her children adverse to that of her husband. She owes them duties, such as protection, &c., but the father has a paramount right of guardianship over them : this is a universal maxim of law.

The natural right of the father to the guardianship of the child is beyond dispute ; and he has not, by adopting the Christian faith, committed an act which renders him morally unfit for the exercise of that right.

Had the position of the parties been reversed—had the Defendant, Luxmee Bace, renounced Hindooism and embraced Christianity, or Islamism, or Judaism, and her husband, the Plaintiff, remained a Hindoo, the Court holds that it could not have decreed against his right to the guardianship of his child after it had attained that age when it no longer necessarily needed a mother's care. Since Hindooism is not by the law of the land viewed as a sufficient ground for depriving a father of the care of his offspring, neither is Christianity. Religious belief in the abstract is not, in the opinion of the Court, an element by which its decision should be influenced in a case like this.

It is urged that as the child was not born until after Plaintiff was, according to her religious law, dead to his wife, she should be regarded as the surviving parent, and ought not to be obliged to give the child to him. This, however, is an untenable position, because it assumes that being dead to her, he is therefore civilly dead also ; or in other words, devoid of all civil and natural right—in fact, an *outlaw*. Such, however, is not the case. He has, by renouncing Hindooism, forfeited certain rights and privileges, but not those pertaining to him as the acknowledged father of the child. He has, as has been already observed, a natural authority over it,

paramount to the authority of all others, and not to be abrogated by any inference of religious law. He would have just the same authority if he had adopted the Mussulman or Jewish creed, or any other which did not evidently render him morally unfit for the guardianship of his child.

The Court therefore decrees that the right of guardianship over the child is now vested in his natural guardian, the father, and that as such guardian he is entitled to the possession and charge of the child, which the Defendant, Luxmee Bae, is accordingly directed to make over to him.

C. FORJETI, *Principal Sudder Ameen.*

APPEAL.

The above Decision having been set aside by the Judge.

To the JUDGES of the SUDDER DEWANEE ADAWLUT.

The humble Petition of NARAYEN RAMCHUNDER KHISTEE, a Brahmin by caste, but now a convert to Christianity.

MOST HUMBLY SHOWETH,

1. That your Petitioner is a Brahmin, and became converted to Christianity in the year 1840. Your Petitioner's wife, the Respondent, Luxmee Bae, at the time he received baptism was in a state of pregnancy, and shortly afterwards gave birth to a son. After this event your Petitioner made many and strenuous efforts to induce her to join him with their child, but without success. He only desisted when he found all his endeavours were unavailing, deferring the adoption of legal measures for the recovery of his child until that child should be of age to admit of separation from his mother.

2. The child being seven years old, and Respondent having come with him to Nugur on her way to Benares, your Petitioner took him away to his house. Respondent having complained to the Magistrate, your Petitioner was directed to return him to her, and told that if your Petitioner wished, he might sue Respondent before the Civil Court to obtain possession of his child.

3. Your Petitioner accordingly instituted a suit in the Court of the Principal Sudder Ameen, and obtained a decree in his favour. But Respondent having appealed to the Judge, the decision of the lower Court was reversed.

4. Being aggrieved by this decision, which he submits is opposed to justice and every principle of law, your Petitioner prefers this, his Petition of Special Appeal, to your Honourable Court.

5. Your Petitioner begs leave to state the grounds of the Judge's decision, and solicits attention to his remarks thereon.

6. The Judge considers—1st, That the Hindoo law on the point at issue is clear, and that the texts quoted in the case are ample to show that the Brahmin renouncing his religion, becomes an outcaste, and thereby resigns and *forfeits* all his *civil rights*, which he understands to comprise the guardianship of his children lawfully begotten previous to his renunciation. 2ndly, That by the mere act of renouncing Hindooism a Brahmin necessarily does that which the Hindoo law forbids, and omits to do that which it enjoins, and therefore becomes an outcaste; and 3rdly, That it is to be presumed that as a Christian, and living with other Christians, he cannot possibly live without partaking of food forbidden either on account of its nature or mode of preparation.

7. Before commenting on the views of the Judge as to the conclusiveness of the Hindoo law on the point at issue, your Petitioner thinks it necessary to state his dissent from the opinion expressed by that officer as to the right of guardianship of a parent over his child being a civil right. Civil rights, your Petitioner submits, are the rights created and fostered by law, in contradistinction to rights that are inherent and natural to every man, whether in a state of civilisation or in a state of nature.* The right of property in or guardianship over a child is not shown by any Code, either European or Oriental, to be the creature of any Civil or Municipal law, and your Petitioner therefore indulges a hope that it may be conceded by your Honourable Court that a parent's right over his child, like "personal safety," "personal liberty," and "personal property," is an absolute or natural right of which he cannot be deprived, except in those cases of crime against society which the laws of that society have specifically declared are to involve the forfeiture of that right.

8. Whether, as stated by the Judge, the Hindoo law on the point at issue is clear, and the texts quoted in the case are ample, will appear to your Honourable Court on a perusal of the exposition of the Law Officer, recorded in the case.

9. The Judge assumes that by the mere act of renouncing Hindooism, a Brahmin necessarily incurs the penalty of an outcaste,

* I. Blackstone's "Commentaries," 125.

by doing that which the Hindoo law forbids ; but this position is obviously untenable, unless it is shown that the renunciation of Hindooism is clearly and specifically denounced as a crime by some *text or other of such law*. But from a perusal of the answers of the Shastree to the questions propounded to him by the lower Court on this very important point, it will be seen that no such specific law exists.

10. The Judge further says that by renouncing Hindooism a Brahmin necessarily omits to do that which the law enjoins, and therefore becomes an outcaste. This, if taken literally and to its fullest extent, would, perhaps, render all but a very few Brahmins outcastes, and if the consequence of being an outcaste be, as the Judge maintains, forfeiture of all civil and natural rights, including the guardianship of one's own children, then there are few Brahmins who have not incurred that penalty ! But the Judge could scarcely have intended to go so far, and your Petitioner presumes that your Honourable Court will perceive that the Judge's statements must be received with limitation. A perusal, however, of Manu and other writings, which are esteemed sacred by Hindoos, will satisfy your Honourable Court, that the law upon which the Judge has grounded his opinion, strictly, emphatically, and exclusively applies to *Hindoos*, who are bound to act according to the Hindoo law, and that such a law cannot apply to your Petitioner, who, not being a Brahmin, is not within its pale.

11. In passing judgment on a claim of so solemn a nature as the present, your Petitioner regrets that the Judge should have, without any evidence whatever, assumed that as a Christian and living with Christians, your Petitioner has necessarily eaten forbidden food, and upon such assumption concluded that he has necessarily forfeited under the Hindoo law all civil and natural rights. Your Petitioner believes the point to be irrelevant ; in fact it is not touched upon by the opposite party ; but he submits that had he been called upon, he would have proved to the satisfaction of the Judge, as he is now willing to prove to your Honourable Court should it be deemed necessary, that he was deemed an outcaste, and solemnly expelled from caste by an assembly of Brahmins, long before he became a Christian, on the ground that your Petitioner was disposed to become one.

12. The Judge states that according to the Hindoo law, as already shown in many passages in Sir Thomas Strahge's "*Elements of Hindoo Law*," Macnaghten's "*Hindoo Law*," Macnaghten's

"Reports of Civil Cases decided in Bengal," there are two kinds of outcastes: that in one case the delinquent may be restored to his rights by expiation; that in the other the degradation is irrevocable, no expiation being allowed; that apostacy is of the latter description: that the apostate is irrevocably lost and dead in law, the same as though he were naturally dead.

13. Every nation, your Petitioner submits, has laws suited to its own genius and peculiarities for the purposes of checking vice and punishing crime. Expulsion from caste is amongst Hindoos a punishment which, according to the magnitude or veni-^{lity} of the crime, is either irrevocable, or temporary and atonable by expiation; and the crimes so punishable are specifically enumerated in the various codes of Hindoo law and distinguished as "Maha-patuk," "Oop-patuk," and "Loho-patuk."

14. Patuk is crime, and your Petitioner, with much deference, appeals to the judgment of your Honourable Court as to whether that which is no crime, morally or legally, and which is not specifically named as crime even in the Hindoo law, should be brought under the provisions of a code which provides only for the punishment of crime; whether that law (Regulation IV. of 1827, Section XXVI.) which prescribes that the law of the Defendant to be observed in the trial of suits shall be a "specific law" might be set aside at the option of any Judge, and whether that check which the Legislature contemplates with regard to a code which is both equivocal and ambiguous, and in reference to which the interpreter may at once become a legislator, might be overthrown, and inferences or deductions drawn either by the Law Officers or the Judge from the law of the Defendant, be substituted for "specific law."

15. The Judge states that the Principal Sudder Ameen argues that according to the Shasters a Brahmin cannot be banished for any crime without his family, and that your Petitioner cannot be deprived of his son. Your Petitioner, however, does not perceive ANY such arguments in the decree of that officer.

16. The Judge admits that by the strict letter of the Hindoo law the persons, families, and property of Brahmins have many and wondrous immunities; but observes that these immunities are not recognised in our Courts, many of them being disallowed and made void by our Penal Code.

17. He then, by way of illustration, remarks that according to the Shasters, the highest penalty that can be inflicted on a Brahmin guilty of the greatest enormities is banishment with his

family and property; but that by the law as it now stands, *i.e.*, by the regulations of Government, he is subject to death, to banishment, and to transportation "beyond the seas" without his family, and his property being confiscated. The precise object of the Judge in these observations is not very apparent, since it is not to be supposed that your Petitioner admitted that he had committed a crime, and by way of immunity wished his family to be visited with his punishment.

18. But there is a most important principle to be drawn from the fact alluded to by the Judge, of the Government, by its regulations, having abrogated the immunities conferred by the Hindoo law on Brahmin culprits. That fact most significantly manifests the intention of the Legislature in setting aside and entirely repudiating certain portions of the Hindoo code. Where the criminal would escape, or on the ground of being a Brahmin, suffer only a minor and very inadequate punishment under the Hindoo code, the present code is meant to place him on the same footing with other criminals, denying him special privileges or immunities. Surely it never intended to punish where no crime had been committed.

19. The Judge says that the present Penal Code never intended to prevent a Brahmin from abdicating his rights to his heir, or to interfere with the forfeiture of his civil rights, either by death, apostacy, or by entering into a religious order; and he then states that by apostacy, or by entering into a religious order, such as becoming a "Sunyasee," every Hindoo is accounted as dead in law as though he were naturally deceased. As regards becoming a "Sunyasee" there is, your Petitioner begs to remark, a specific law in the Shasters declaring the effects of that act, and by that act a Hindoo does not renounce Hindooism. He continues within its pale, and avowedly and voluntarily remains subject to the law of the Shasters. As regards what the Judge designates "apostacy," the renunciation of Hindooism, there is no *specific* law in the Shasters, and by that act a man voluntarily withdraws himself from the pale of Hindooism. Your Petitioner submits that while the present Code permits a Brahmin to resign certain rights and privileges by becoming a "Sunyasee," it does not deprive a Hindoo of his natural rights, and thus punish him for renouncing Hindooism and becoming a Christian. The two acts differ essentially in character, and the Judge is not borne out in classing them as one in nature and effect.

20. The entire spirit of the present Code is against upholding whatever is contained in Hindoo law opposed to the principles of justice and equity or to natural rights. It accordingly abolished the unnatural right of "Suttee," and subjected all assisting in any act of self-immolation to the penalty of murder. It pronounced all immunities to Brahmins under the Shasters for crimes against society or the State to be at an end. How, then, could it be construed as to render those who renounced the law of the Shasters subject to its penalty for that act which the legislature has not only not forbidden, but recognises as a natural right.

21. But as regards his own case, your Petitioner submits that the Hindoo law is perfectly silent; that there is not the shadow of a pretext, on the ground of such law, by which his claim to the custody and guardianship of his child could be set aside, and that the Regulation already quoted, precludes a mere inference from texts relating to outcaste that the act of renunciation of Hindooism, *ipso facto*, on the part of a Brahmin, involves the forfeiture of the right of custody and guardianship of his child.

22. Your Petitioner would, moreover, submit that such a decision is essentially repugnant to reason, justice, and nature: that therefore it ought not to be upheld.

23. Your Petitioner is told that a Brahmin renouncing his religion becomes an outcaste and forfeits all his civil rights; that he is dead in the eye of the law. Is such your Petitioner's position? Are the doors of your Courts closed against him? Is he debarred from suing for the recovery of any debts that may be owing to him? No. The statement of his having forfeited his civil rights and being dead in law is therefore a solecism—a position contradicted by the very fact of his being a recognised party of this suit. Your Petitioner's "apostacy may involve the loss of privileges pertaining to caste-membership and of civil rights based on Hindooism," but it cannot affect his right as father of his child, which right your Petitioner submits is not a right based on Hindoo law, but a right of which he cannot and ought not to be divested under the operation of that law which the Regulations permit him to renounce.

24. In conclusion your Petitioner would urge on the solemn consideration of your Honourable Court the peculiar circumstances of his case. A conviction of the truth of Christianity, and the paramount obligations thence arising, led your Petitioner to embrace the Christian religion in order to escape eternal condemna-

tion. Having, as he hopes, entered the way which leadeth to life everlasting, he would fain have his child go with him in the same way. It now rests with your Honourable Court to decide on your Petitioner's claim justly and equitably; and your Petitioner, as in duty bound, shall ever pray.

NARAYAN RAMCHUNDER KHISTEE.

The circumstances under which the above appeal was prepared were as follows :—

In the year 1847 Narayen Ramchunder, a Christian convert connected with the Ahmednuggur Mission, instituted a suit against his wife in the Court of the Principal Sudder Ameen for the recovery of his son. Mr. Forjett, who was then Principal Sudder Ameen, gave a decree in his favour. An appeal was then made to the Sessions Judge, W. J. H * * * *, Esqre., who reversed that decree. An appeal was then made by Narayen Ramchunder, under my direction, to the Sudder Dewanee Adawlut. In preparing this appeal we felt it important to present the merits of the case in the clearest possible light. A draft of an appeal was made and shown to Mr. Forjett, who disapproved of it as not presenting the arguments in the best form. I then requested him to prepare a draft of an appeal, as he was so well acquainted with the law, the customs of the Hindoos, and the whole merits of the case. He expressed a doubt as to the propriety of his preparing an appeal from the decision of his superior officer, but said he would consult some friend in regard to the matter. After consultation with a gentleman high in the service of Government and one of his official superiors, he came to the conclusion that there was no impropriety in his preparing a draft of an appeal agreeably to my request. He accordingly prepared this appeal, a copy of which was sent in to the Sudder Adawlut in Bombay, and at length, after two or three years, a decision was obtained from the Sudder Adawlut, reversing the decision of the Sessions Judge and confirming the decree of the Principal Sudder Ameen.

H. BALLANTINE,

American Missionary at Ahmednuggur.

Ahmednuggur, 18th December, 1854.

APPENDIX B.

No. 881 of 1863.

TO THE HONOURABLE H. L. ANDERSON,

*Chief Secretary to Government.**Poona, 17th September, 1863.*

SIR,

1. The inquiry instituted at Cawnpoor with reference to the prisoner who was taken into custody at Ajmeer, appears from letters published in the columns of *The Times of India* newspaper, from its own Correspondent, to have resulted in the belief that the prisoner is not the Nana, of Bitoor.

2. It is *possible* that he may not be the Nana, but his capture having been brought about under arrangements recommended to Government by me, I very respectfully beg that I may be pardoned in submitting for the consideration of His Excellency the Honourable the Governor in Council, whether, as regards the great importance of the capture of such a person as the Nana, the inquiry instituted at Cawnpoor with reference to the prisoner can be deemed to be complete; or the means taken by the authorities to satisfy themselves that he is *not* the Nana, such as may be considered to be exhaustive.

3. I beg to enclose a photographic likeness of the Nana taken from a woodcut print in Chambers' "Indian Mutiny." Woodcuts may not be trustworthy representations of the originals as regards exact delineation of countenance, but my object in submitting the photograph is to bring to notice the clear indication presented by the appearance of his person, of a man in the enjoyment of the greatest comfort, and of the most luxuriant ease, and that he was from his childhood tenderly nurtured, in a fact which admits of no doubt.

4. Raised at the age of twelve years from a state of comparative poverty to a birthright of affluence, he was, up to the time of the outbreak of the Mutiny, surrounded by all the blessings that peace and plenty, and an overflowing treasury could bestow. The plenitude of his grandeur suffered no change; the tide of his prosperity knew no ebb; it flowed on, and promised to him a life, time of enjoyment.

5. In the meantime the mutinies break out. He becomes possessed of the idea of subjugating the British Power and establishing his own Brahmanical Raj ; and in the prosecution of that great enterprise, he indulges in deeds which place him beyond the



The NANA SAHIB, from an Original Drawing.

pale of humanity. Success, however, must have seemed to him certain, and the aspirations he indulged in could have known no bounds.

6. Within one short fortnight, General Havelock and his detachments are found marching on to Cawnpoor. Large bodies of his very highly trusted sepoy army are despatched by the Nana

to intercept and destroy the General and his handful of Europeans. By them, however, each hostile body is successively encountered and overthrown, and very soon the Nana himself is forced to fly, a wretched fugitive; harrassed by the torments of a terrible disappointment, experiencing a pang of terror at the sight of every stranger, and existence rendered intolerable by fears for his safety, intensified by the offer for his capture of so large a reward as one lac of rupees (£10,000).

7. Six years of such a life, with its vigils and vicissitudes, it need not be doubted, would very much alter his appearance.

8. It would, I am very humbly of opinion, render a "fair complexion" "rough and dark;" a "well-built, stout, powerful frame, well-formed and graceful figure," into one that is "spare, bony, unmuscular, lean, stooping, bent, and ungraceful." The bend and the stoop, which a six years' listlessness of life was well likely to bring on, would account for the difference in the height; and it is quite probable that such a life as the Nana has been leading would turn "black hair" into "quite grey."

9. In the description of the Nana after the Mutiny he was stated to be thirty-six years of age. If his age was then correctly given, at the present time he would be forty-two years old. Dr. Cheke and Dr. Jones state that the prisoner at Cawnpoor is at least fifty-five—adding that he has the *arcus senilis*, an absolute physiological proof that he is above fifty years. Eminent medical authorities, I beg to state, very clearly show that the *arcus senilis* constitutes no such proof, and that its presence in persons under forty years of age, even, is by no means uncommon; nor is the face—"flat, full, and round," as stated in the description after the Mutiny—incompatible with the "sunken features, angular face, and singularly prominent nose" of the prisoner at Cawnpoor. A flat, full, round face, divested of all superfluous flesh, must exhibit an appearance very different from what it did.

10. In the original description, the Nana is said to have "large round, dark eyes." In Dr. Cheke and Dr. Jones' description of the prisoner at Cawnpoor, his eyes are stated to be "greyish and bleared," and the cicatrix of a lance wound on the left big toe, mentioned in the description, is stated not to be perceptible. But in letters to me, Major Davidson, I beg to state, very clearly states that the prisoner "resembles the Nana in every particular," and that "he has the lancet scar on his toe as entered in the descriptive

roll." I would, therefore, very respectfully submit whether its imperceptibility at Cawnpoor may not be deemed unaccountable, and inquiry with reference thereto suggested.

11. Singularly, the prisoner himself admits that he is of the same age as the Nana.

12. With some apparent show of freedom the prisoner states that his name is Apparam Damadur, that his father was murdered when he was twelve years old; that he soon after adopted the "vagrant life of a faqueer," that a few years ago he visited the village where he was born; was recognised by three or four persons whose names he gives, but who, he declares, are all dead; and he adds, the village was washed away by an encroachment of the river; but he, nevertheless, very singularly maintains the strictest silence with regard to the name of the village, and the district in which it was situated. Thus, I would submit, he would not be likely to do were he the person he states himself to be.

13. Legally, however, a prisoner under trial need not give any account of himself, especially if such account is calculated in any way to lead to his crimination. It is possible, if the prisoner be not the Nana, that he may be in some such difficulty, and therefore maintains the silence he does. I would therefore very respectfully submit, whether a free pardon may not be offered to him, on the condition, *if he be not the Nana*, that he make known who he is, and prove it to the satisfaction of the authorities to whom the inquiry may be delegated.

14. I would also very respectfully submit, if after such promise of pardon, the prisoner still maintains silence, whether he should be set at large without having been seen and examined by Dr Tressider, by whom the operation on the Nana's toe was performed.

15. In conclusion, I would very humbly solicit the kind offices of his Excellency the Honourable the Governor in Council, in suggesting to his Excellency the Right Honourable the Governor-General of India in Council, the expediency of not setting the prisoner at Cawnpoor at large, till every doubt as to his identity is quite set at rest.

I have the honour to be, &c.,

(Signed)

C. FORJETT,

Acting Commissioner of the Police.

NOTE.—The Nana's eyes were "large, round, and dark." Doctors Cheke and Jones, tacitly admitting that the prisoner's eyes were large and round, stated that they were "greyish and bleared." Blear is a disorder which a change from a life of voluptuous ease and comfort to one of the severest trial and privation, was well calculated to bring on, and ought not to have weighed in the consideration of the prisoner's identity with the Nana. With regard to the term "greyish," if it referred to the cornea, it constituted no objection to the prisoner being the Nana; but if it referred to the iris, then the prisoner was not the Nana. To render the medical examination complete, this most important point should have been clearly determined. With natives of India greyish eyes are phenomenal. Hardly one in twenty thousand has them, and if the iris of the prisoner was grey, it could not have escaped the observation of Doctor Murray, by whom he was examined at Ajmere immediately after his capture, and who, in his evidence, stated that he *corresponded* with the description of the Nana in almost every particular. Notwithstanding the prisoner's admission that he was of the same age as the Nana, Doctor Cheke and Doctor Jones, jumped to the conclusion that the *arous semilis* was an absolute physiological proof of his being more than fifty years of age—hence it is by no means unreasonable to suppose that the conclusion in respect to the greyish appearance of the eyes was equally perfunctory.

The difference—as noticed in paragraphs 8 and 9 of my letter—in the appearance of the prisoner, and that of the Nana as stated in the descriptive roll which was issued shortly after the mutiny, is by no means irreconcilable. In that roll was indicated the scar of an operation performed by Doctor Tressider on the second toe of the Nana's right foot, and Doctor Murray certified that "he had examined the prisoner said to be the Nana and found the mark of a small wound or cut on the anterior portion of the first phalanx of the second toe of the right foot: that the cicatrix was a little more than half an inch in length, as fine as a horse hair, slightly opaque, and precisely the sort of mark that would be made by a lancet or a fine, sharp-pointed bistoury." The discovery of this scar leaves no doubt as to the prisoner's identity with the Nana of Bithoor.

APPENDIX C.

Calcutta, 14th May, 1858.

MY DEAR FORJETT,

I have to acknowledge, with my best thanks, your two last letters. The long one I found most interesting, and I think the plain straightforward narrative you give of the most important and intricate events is highly creditable to you. I have shown it to several friends here, who have all expressed their admiration of your zeal and energy and good sense. Sir James Outram has read it. He thinks it highly creditable to you; but he, as a military man, and a friend of the Brigadier, will not give a military opinion of the merits of your respective plans. You have, however, showed pretty plainly that, had any outbreak occurred in the sepoy lines, the troops and guns, as placed by you, must have been more effective against them than the body of men located by the Brigadier could possibly have been; but still, as the movement was a military one, etiquette requires that the military head (under the gravest responsibility, no doubt) should be obeyed. It certainly would have been poor consolation to people who lost their lives and property, had any short-lived advantage been gained by the sepoys; and we must all feel thankful that a higher power interfered to prevent mischief, which certainly it would seem to have been very much in the power of the sepoys to have caused, had they mustered the pluck to rise. Thanks be to God they did not. I suppose all Governments are more or less bound by red tape. It is very sad, but so it is; but it was very sad to see the number of valuable lives which were last year sacrificed to the absurd infatuation of British officers choosing to consider their men *staunch*. Altogether, there is great cause for thankfulness in Western India. I believe the evils and horrors were, humanly speaking, in a great measure averted by the governing class being better acquainted with the governed than they were in Bengal, and the police being more efficient. * * * * * I shall break off now, and with the warmest assurances of my admiration of your measures and conduct, believe me,

Yours always sincerely,

P. W. LeGEYT.

APPENDIX D.

THE Southern Mharatta country was so overrun with crime as to have elicited from the visiting judicial commissioners the remark, that "it was a disgrace to British rule." The men here actively engaged in the commission of crime were the rural police, about 15,000 of whom were tenants-in-chief of the Government, and held lands, in lieu of cash payment, as a consideration for their services; but our courts of law sustained the claims of coparceners to share the land and do the duty with their chiefs in half-yearly or yearly rotation, and this swelled their ranks to more than double 15,000, which rendered the produce of the lands insufficient for their maintenance, and the property of the people at large suffered seriously, in consequence, from their depredations. *These co-heirs I at once struck off.*

The success which attended this measure, and the re-organisation that was carried out, is matter of record. They were the means of giving "*the most complete protection to life and property that could possibly be afforded;*" of reclaiming the rural police from a state of lawlessness; of making them what they should have been—the guardians of life and property; and of converting some thousands of their relations, who, as co-heirs, had struggled in vain to exist on the scanty produce of their lands, into peaceful and independent cultivators of the soil.

It is matter of record also that this duty was delegated by Government, without any specific instructions, and in carrying out the re-organisation, I was compelled to take upon myself the gravest responsibility, I was, during a part of the time, seriously thwarted and interfered with by the chief magistrate (Mr. W. H. Reeves), who represented my measures as "oppressive and intolerable," and obtained the sanction of Government for their relaxation. The co-heirs whom I had struck off, about this time, gathered round my tent in hundreds, armed with matchlock, gun, and sword, and sullenly seated themselves before it, and declared that they would rather lose their lives than give up their "wutton," or hereditary right. A written notice was left at my tent door that twenty matchlocks would be levelled at me if the order I had issued against them was not rescinded. A Canarese never gave a notice of that kind without having made up his mind to put his threat into execution. I thought it necessary, therefore, when I

again went among them, to be armed, in addition to a club I always carried, with a pair of loaded pistols; and, alluding to the notice, I said I was rather obliged to them for the warning, and, pointing to my pistols, stated that it was my intention to benefit by it. At the same time, I repeated the assurance that nothing should induce me to recall the order I had issued; that it was for their good, although they did not then choose to look at it in that light; and as to their threats, whenever they might think proper to begin, by night or by day, they should find me prepared. No precaution was taken by me to guard against the threatened danger. I continued my intercourse with them with my usual freedom, and kept up the practice of sleeping in my tent at night without a single sentry, and at some distance from the five or six Peons then and previously with me. This was not without exciting surprise. When the excitement was at the highest, finding a larger number than usual of armed men about my tent, engaged in boisterous talk, I told them to amuse themselves at target practice, for which they seemed quite ready. After the firing had continued for some time, there was a cry that one of their best shots had pierced the bull's-eye; this was disputed by the Peon who was placed on the watch. I went forward to look at the target. While doing so, a matchlock was fired, and the ball whizzed and passed within two or three inches of my head. The ball, I had no doubt, was intended for me. On turning round, I saw the man who had fired lowering his matchlock. My first impulse was to run to and strike him down. I had proceeded about half way. Better reflections, however, succeeded. The odds were greatly against me, and I felt that no good could result from so rash an act. On coming up to the man, I said to him, if the shot was intended for me he was a great idiot for having missed me, and if it was intended for the target, he was a still greater one for having failed to hit so large an object; and, addressing the men around me, I said, "Here is one of your best shots, see what a fool he is." I added something more to the same effect. One laughed, then another laughed, and I laughed, and the whole was turned into a joke. Knowing that I was dealing with a great evil, and feeling convinced that I had adopted the right means of effectually removing it, I persevered in my purpose. It is also matter of record that the opposition of the chief magistrate, as to my measures being "oppressive and intolerable," and the orders of

Government for their relaxation, were met by me with explanations. Subsequently, one of my native officers was cut down, and an anonymous notice was forwarded to the chief magistrate (Mr. J. D. Inverarity), that if I were not immediately removed my life should be sacrificed within "ten days," and that gentleman had instituted an inquiry to discover by whom the threat was made, but I begged of him to stop proceedings, for I was of opinion that the discontented would be led to believe that their threat was inspiring fear.

The re-organisation being completed, it became necessary to increase the pay of the men whom I had appointed as police to the scale at which I had fixed it, and this rendered necessary a measure which brought about the resignation, within a fortnight, of more than 2,000 men whom I had set down for reduction.

The Kittoor rebellion, in 1825, is matter of history. On that occasion, Mr. Thackarey, the principal collector and political agent of the Southern Mharatta country, and Captain Black with Lieutenants Sewell and Dighton, and a strong detachment of the Madras Artillery, were shot down within an hour. The men who resigned were the descendants of these rebels, and belonged to the class that, in 1843, rose in rebellion against the Government at Kolapoor. The resignations, therefore, alarmed Government, and I was told that "I had disregarded their orders to such an extent that upwards of 2,000 men of the rural police had been brought to resign by being called upon to do service in villages where their lands were not situated; that *there was nothing to justify the deliberate contravention on my part of the orders of Government; that I had needlessly incurred a heavy responsibility, such as I could not free myself of, that I had, by my impatience, involved Government and myself in difficulties of which the limits could not then be perceived, and that I had very materially altered the opinion entertained by Government of my prudence and judgment.*" Orders were then issued for undoing all that I had during five years been toiling to establish—a well-regulated, efficient rural police—and in communicating to me the resolution of Government, the chief magistrate's instructions, to give immediate effect to it, may be characterised as peremptory.

I presumed, however, to make a stand against even the orders of Government, and respectfully submitted an explanation in vindication of the policy that brought about those resignations, which, as I clearly showed, did not take place until ample precautions had

been taken by me, for guarding against the possibility of any rising on the part of the disaffected. In fact, I had created to myself the means by which any attempt of that kind could have been met and crushed at once. I was the bearer of my letter to the Government, and I was deeply indebted to Lord Elphinstone for his ready comprehension of the difficulties under which I had carried out the reform, and for his appreciation of the principles that had guided my measures; and, notwithstanding the severity of the censure passed upon my conduct, and the peremptory manner in which I was required to undo what I had done, every one of my measures were allowed to remain undisturbed. And to this fortunate decision was owing, in a great measure, the quiet of the Southern Mharatta country during the Mutiny.

If this ^{large} body of armed men, numbering more than 15,000 together with a larger number whom I had struck off, and who eventually became contented and well-to-do cultivators, had remained united as they were previous to the re-organisation, and might have continued to be if the orders of Government had not been withstood, if they had been left with inadequate means of maintenance, and continued their depredations upon the property of the people; and if the attachment of the reformed police to their rulers had not been secured by placing them above want, the condition of the Southern Mharatta country during the time of the Mutiny, it is reasonable to suppose, would have been very different. It is well known that the native regiments at Belgaum and Dharwar were ripe for mutiny, and if they could have calculated on being joined by 30,000 armed men, who, for a short time at least, would have commanded the resources of the country, it is difficult to conceive to what extent the quiet of the Southern Mharatta country would have been disturbed. The result, too, as regards the mutiny at Kolapoor of the 27th regiment N.I., would have been serious.

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