

poet, 'God's great gift of speech abused,' never received darker illustration.

What says the able Editor of the *State Papers* on which this Vindication is founded? 'History furnishes no more striking example of the growth and vitality of a slander. The Rohilla atrocities owe their origin to the malignity of Champion and Francis; their growth to the rhetoric of Burke; and their wide diffusion to the brilliancy and pellucid clearness of Macaulay's style. A close and minute study of the evidence demonstrates that a certain number of the villages were burned, and that the prisoners were ill subsisted. A hundred thousand people did not fly to pestilential jungles, but about seventeen or eighteen hundred Rohillas with their families were expelled from Rohilkund, and Hindu inhabitants, amounting to about seven hundred thousand, remained in possession of their patrimonial acres and were seen cultivating their fields in peace.'¹

What says Sir John Strachey, a most distinguished Indian administrator, as well as a highly informed and capable author, speaking from his own experience? 'Several years of my Indian service were passed in the province of Rohilkhand. When I was first sent there, old men were still living who remembered having heard in their childhood the story of Hafiz Rahmat, the great Rohilla Chief, of his defeat by the English, and his death. I went to Rohilkhand without a doubt of the truth of the terrible story told by Burke and Mill and by Lord Macaulay in his famous essay, but I soon changed my opinion. I found myself in the midst of a population by which the history of those times had not been forgotten, and of which an important and numerous section consisted of Rohillas, the children and grandchildren of the men whose race was supposed to have been almost exterminated. I was in frequent communication with a Rohilla Prince who ruled over a considerable territory which his ancestor owed to Warren Hastings, and which had been in the possession of his

¹ *State Papers*, Introd., p. xxxi.

family ever since. No one had ever heard of the atrocities which to this day fill Englishmen with shame. Later in life I was able to undertake an examination of the original authorities on the Rohilla war, and I can hardly express in moderate language my indignation at the misrepresentations, the suppression of truth, the garbling of documents of which I found that Mill had been guilty. The English army was not hired out by Hastings for the destruction of the Rohillas: the Rohillas, described by Burke as belonging to "the bravest, the most honourable and generous nation on earth", were no nation at all, but a comparatively small body of cruel and rapacious Afghan adventurers who had imposed their foreign rule on an unwilling Hindu population, and the story of their destruction is fictitious.'¹

The true conclusion is that the Rohilla war was clearly justified on grounds of public law and State policy:

Of public law, because the Rohillas provoked the war by their treachery and bad faith:

Of State policy, because the war, unsought by us, availed to effect the statesmanlike purpose of Warren Hastings to erect a solid barrier against menace on our northern frontier:

The barrier was erected, and the land had rest forty years.²

¹ *India*, by Sir John Strachey, G.C.S.I., p. 194.

² See Lyall, pp. 34, 35.

CHAPTER III

NUNCOOMAR

THE accusation brought against Warren Hastings that he instigated the prosecution of Nuncoomar for forgery because that person had charged him before the Council with corrupt practices is undoubtedly one of the gravest among the several imputations on the character and honour of the Governor General. Macaulay, indeed, who was convinced of its truth, maintains that it should not be counted among what the Essay terms 'his crimes', inasmuch as it was an act of self-defence, when he was sore pressed by Nuncoomar's vindictive attack. How far a man can be justified in causing, directly or indirectly, the death of a fellow-creature in order to save himself from ruin, is a point of casuistry which it is not proposed to argue. What is proposed is to show demonstratively, in the ensuing pages, that the statement concerning Warren Hastings having instigated, or having had any hand in, the prosecution of Nuncoomar on the charge of forgery, is absolutely unsupported by evidence, and is in fact totally untrue.

Soon after the close of the Rohilla War the Act of Parliament which altered the form of government in the Presidency of Bengal came into force. The administration of public affairs was by this Act entrusted to a new body which was to exercise an ultimate authority over the other Presidencies of Madras and Bombay, and which was to be composed of a Governor-General and four other members of Council. Unfortunately the Governor-General was given very little independent authority and was in truth only

primus inter pares, so that he was liable to be overruled by any chance majority. It was to the political error thus committed that much of the subsequent confusion and quarrel is to be attributed. Warren Hastings was named Governor-General of Bengal, and General Clavering, Colonel Monson, and Mr. Philip Francis were three of the Councillors. The fourth was Mr. Barwell, an old and experienced official of the Company. Clavering had been appointed by the Ministry at home on account of his powerful parliamentary connexion; Monson for some personal interest; Francis, who had been a clerk in the War Office, and was and is supposed to have written the famous *Letters of Junius*, for more or less occult reasons. Not one of the three had any acquaintance with India or knew any native language. It is certain that in the disputes over public affairs which soon arose in the Council all the knowledge and experience was on one side, and all the ignorance and presumption on the other.

Warren Hastings, at this time, had been for three years Governor of Bengal by nomination of the Directors of the Company, promoted to that position in consequence of the ability and resource which he had shown as member of the Council at Madras; and he had already signalized his administration by the vigour and success of his measures. He had determined to do away with the double government established by Clive, had taken the collection of the revenue into his own hands, had created throughout the provinces Courts of Civil and Criminal Justice, with Courts of Appeal in the capital¹, had organized a force of military police to

¹ This was a great work, and in itself enough to hand down the name of Warren Hastings to posterity. In the Introduction to the *State Papers*, p. x, Mr. Forrest says: 'It was impossible to place the revenue administration on a sound footing without a thorough reform in the administration of justice, and the first step Hastings took towards accomplishing a reform was the establishment of a Criminal and Civil Court in every district. The first consisted entirely of Mahomedans, and the latter of the principal officers of the revenue, assisted by the Judges of the Criminal Courts, and by

put down the bands of robbers which infested the country, and had thus introduced some approach (at any rate) to law and order in Bengal. Add to this that he had caused a digest of the Hindu law to be prepared by ten of the most learned pundits, and that he carried through a new assessment of the land revenue. Convinced that it was useless to maintain the fiction of the Nāwab's sovereignty, he removed the seat of government from Moorshedabād to Calcutta, and resolved that the Company should stand forth as the Ruler of the provinces of Bengal, Behar, and Orissa. Every one now acknowledges that these were wise and statesmanlike measures; yet the man who had achieved them was made the object of bitter attack by his new colleagues.

From the first week of their landing at Calcutta these three members of Council, Clavering, Monson, and Francis, took a violent line against the Governor-General. They began by denouncing the Rohilla War as impolitic and

the most learned pundits (or professors of Hindu law) in cases which depended on the peculiar usages or institutions of either faith.' These Courts were made dependent on two Supreme Courts which were established in the city of Calcutta, one for ultimate reference in capital cases, the other for appeals. To give the people confidence in the new Courts, and to enable the new tribunals to decide with certainty and dispatch, Hastings caused a digest of the Hindu law to be prepared by ten of the most learned pundits in the province. He writes to Lord Mansfield: 'This code they have written in their own language, the Sanscrit. A translation of it has begun under the inspection of one of their body into the Persian language, and from that into English. The two first chapters I have now the honour to present to your Lordship with this, as a proof that the inhabitants of this land are not in the savage state in which they have been unfairly represented, and as a specimen of the principles which constitute the rights of property among them.'

It may scarcely be credited that one of the steps taken by Clavering, Monson and Francis (described by Burke as the best administrators ever sent to India from England) was to abolish the District Courts and the police, and thus to throw back the province of Bengal into the lawlessness and disorder from which Warren Hastings had delivered it. These beneficial institutions were restored when the Governor-General regained his rightful authority in the Council. See Gleig, Vol. I, p. 263.

unjust, though, new as they were to Indian affairs, they could have known little or nothing of the policy involved; and they demanded from Warren Hastings the production of all his correspondence, public and private, with Mr. Middleton, the Resident at the Court of Oude. His private letters the Governor-General refused to give up, on the ground that it would be a breach both of honour and of policy to do so. He wrote to the Directors: 'My predecessors have ever followed the same rule, and I am persuaded would have thought it a dishonourable breach of confidence had they inserted on the records of the Company any letters which had been addressed to them as extra-official and private, without the consent of the writers of them. Lord Clive, Mr. Verelst, Mr. Cartier, General Smith, and General Sir Robert Barker are able to contradict me if I have misquoted their practice, and I shall be glad to appeal to them for the truth of it if there can be a doubt on the subject.' He also wrote to Lord North: 'The immemorial usage of the service had left the whole correspondence with the country powers in the hands of the Governor, and Mr. Middleton in that light could only receive his orders from and address his letters to me. In the course of his correspondence I had encouraged him to speak his sentiments freely under the assurance of their never becoming the subject of public record in cases which I judged improper for such a communication. When therefore Mr. Monson moved for the whole being laid before the Board, I could not consistently either with honour or good feeling comply. I urged these reasons, but they were overruled, and Mr. Middleton was immediately called from his station, and thus a declaration made to all Hindustan that my authority was extinct, and that new men and new measures would henceforth prevail. I do not know what use my opponents may make of my refusal to show those letters. I declare I have submitted every part to their perusal which was necessary for their information on public affairs, and as to those I have withheld, your

Lordship will, I hope, one day judge of the propriety of my conduct in this respect, it being my intention, as soon as Mr. Middleton arrives, to collect my entire correspondence with him, and to offer it for your Lordship's inspection.'

In consequence of the refusal to give up the letters, the three members, having the voting power in their hands, recalled Mr. Middleton, and directed Colonel Champion to conduct the negotiations. They ordered him to demand from the Vizier the immediate payment of the forty lacs due for the services of the troops in the Rohilla campaign, and of any other sum owing to the Company. They also resolved that 'further orders be sent to Colonel Champion that after having finished the negotiations for the money now due, he do immediately withdraw the whole of the forces under his command within the limits of the province of Oude, and that unless the Vizier should require the continuance of the troops for the defence of his original dominions, with the provinces of Korah and Allahabad, he return with them to the cantonments of Dinapore'.¹ Warren Hastings, who had vainly protested against these proceedings as alike impolitic and unjust, wrote to the Directors: 'They have disregarded the faith of our engagements which even in the most violent revolutions have ever been transmitted as sacred from one Government to that which has succeeded it; they have exposed the conquest which the British arms have acquired for the Vizier to be wrested from him, with the loss of our military reputation; they have risked the loss of the pecuniary resources which were stipulated for the Company as the fruits of their successes; and they have precipitately withdrawn the brigade from the station where its whole expense is borne by the Vizier to become again a heavy and useless burden upon ourselves'.²

In addition to all this, the three assailants went on to institute an inquiry into the manner in which the war had been conducted, hoping thus to injure the reputation of

¹ *State Papers*, Vol I, p. 122.

² *Ibid.*, p. 156.

the Governor-General. It has been already shown in the preceding chapter that this design of theirs failed completely. The witnesses called before the hostile committee denied the allegations of plunder, desolation, fire and outrage, and described the then condition of Rohilcund as being peaceful, prosperous, and contented.

There can be no doubt that the object of the majority was to supplant the Governor-General, to drive him from the country, and to obtain the reversion of his office for one of themselves.¹ It was with this end in view that they availed themselves of the aid of Nuncoomar to make an attack on Warren Hastings' personal integrity.

The relations existing at this time between the Governor-General and Nuncoomar can hardly be understood without reference to previous transactions. As far back as 1762 Warren Hastings had been employed by the Board to make inquiry concerning some intercepted letters which proved to have been forged. His report thereon has been published for the first time in the *Selection of State Papers*², and the following extracts from it are instructive. 'From several depositions and the circumstances herein presented the Board will judge on whom to fix the forgery of the letters in question. . . . I must give it as my opinion that it appears pretty clearly that there was a design on foot to compass the ruin of Ramchurn, that subsequent thereto the letters forged in his name were intercepted, that the man to whose charge they were entrusted was a servant of Nuncoomar, and that Sudder-Odin (a servant of Nuncoomar) did foretell the disgrace of Ramchurn, and was (by his own declaration afterwards) privy to the forgery of the letters. I say from these circumstances already proved, I am of opinion that the letters were written and intercepted by the contrivance and direction of Nuncoomar, in order to fix the charge of a traitorous correspondence on Ramchurn.'

¹ Lyal¹, p. 63.

² Vol. III, before Index.

Again, when Warren Hastings was named Governor by the Directors of the Company, Nuncoomar sent letters to him while he was still in Madras, in the names of the Nawab's uncle and of the Munny Begum, the widow of the Meer Jaffier to whom Clive had given the throne of Bengal. These letters were filled with invective against Mahomed Reza Khan, then head of the native administration, and with recommendation of Nuncoomar, who no doubt felt confident that he would supersede his rival, and obtain the post. Warren Hastings, after his arrival in Calcutta, found that the Munny Begum had no knowledge of this correspondence, and she declared that the letter purporting to be written by her and bearing her seal was a forgery.

Shortly after this Mahomed Reza Khan was, by express order of the Secret Committee, arrested on a charge of peculation. Nuncoomar was active in pressing this charge, and doubtless looked for his reward. After a protracted investigation, however, Reza Khan was acquitted, and set at liberty by the Governor himself. But his office was abolished in pursuance of the policy resolved on of doing away with the double government and placing the direct administration in the hands of the Company's officials. This was a bitter disappointment to Nuncoomar who had planned and plotted for his own elevation. 'It was natural', says Macaulay, 'that the Governor should be from that time an object of the most intense hatred to the vindictive Brahmin.'

But in truth the animosity of Nuncoomar dated long before. Warren Hastings wrote to the Directors, 'From the year 1759 to the time when I left Bengal in 1764, I was engaged in a continued opposition to the interests and designs of that man, because I judged him to be adverse to the welfare of my employers; and in the course of this contention I received sufficient indications of his ill-will to have made me an irreconcilable enemy if I could suffer my passions to supersede the duty which I owe to

the Company.’¹ This was written in answer to the suggestion of the Directors that Nuncoomar should be rewarded for the services he rendered in the prosecution of Reza Khan; which suggestion was adopted by the Governor when, after appointing the Munny Begum to be superintendent of the young Nawab’s household and guardian of his person, he nominated Rajah Goordas, the son of Nuncoomar, to assist her as manager. Sir Alfred Lyall speaks with surprise of this nomination of the son, looking to the evil character of the father, and says: ‘It is hard to understand how Hastings could have been induced to adopt tactics that were neither clever nor particularly creditable.’² We may presume that Sir Alfred Lyall is not aware that the Governor was acting under the counsel of the Directors, who wished him to directly employ Nuncoomar. This he would not do, thinking the man too dangerous, but in an accommodating spirit he gave a valuable office to the innocent and respectable son. The Court of Directors expressed their approval of his conduct in this particular, and also of his choice of the Begum as guardian to the Nawab. But it is true that the appointment of Rajah Goordas did not placate Nuncoomar, who nourished his hate and waited his opportunity for revenge; nor did Burke’s boasted chivalry prevent him, in after years, from making the choice of the Begum one of his accusations against Warren Hastings, applying to that lady, who had been the wife of one Nawab and the guardian of another, terms of almost ferocious abuse. Such were the amenities with which the impeachment of Warren Hastings was conducted!

On March 11, 1775, Francis informed the Board that he had that morning received a visit from the Rajah Nuncoomar, who delivered to him a letter addressed to the Governor and Council, and demanded that it should be laid before the Board. Francis declared that he was unacquainted with the contents of this letter.

¹ Gleig, Vol. I, p. 262.

² Lyall, p. 38.

Nuncoomar stated therein his services to the Company, how he had faithfully administered the affairs of Bengal under Meer Jaffier, but had been deprived of his office by certain Englishmen who 'for views of private advantage had raised Mahomed Reza Khan to the post'; how Reza Khan (who had been, it must be remembered, tried and acquitted) had desolated the whole country by his oppressions and peculations, as was well known to all; how Reza Khan had offered, through Nuncoomar, ten lacs to the Governor, who refused them; how soon after, Mr. Hastings set Reza Khan at liberty, and entirely dropped the inquiry into his embezzlements and malpractices; 'how this extraordinary favour was so suddenly shown the Governor can best assign the reasons'; how 'the motives of these proceedings will best be understood from Mr. Hastings himself'; how, 'to offer a more particular and circumstantial statement of facts,' at various times in the year 1772 Warren Hastings had received the sum of three lacs and 54,000 rupees from himself and the Munny Begum 'for procuring Rajah Goordas' appointment and causing Munny Begum to be made the superior of the family'.¹ Of this letter Lord Thurlow truly said that 'a more extraordinary or a more insolent production never appeared, nor one which carried falsehood on the face of it more strongly'. Yet this was the evidence on which the three hostile members of Council grounded their charge of malversation against the Governor-General.

When the letter had been read, Warren Hastings, referring to the statement of Francis that he had been unacquainted with its contents, asked whether he (Francis) had been before acquainted with Nuncoomar's intention of bringing such charges. The answer of Francis was rather peculiar: 'As a member of this Council I do not deem myself bound to answer questions of mere curiosity. I am willing, however, to inform the Governor-General that I was totally unacquainted with the contents of the paper I have now

¹ *State Papers*, Vol. II, p. 300 et seq.

delivered to the Board till I heard it read. I did apprehend in general that it contained some charge against him.' Francis, it may be observed, could hardly have failed to know the nature of the charges, for Nuncoomar had been already in private and intimate communication with Monson.

On the 13th of March a second letter from Nuncoomar to the Board was received and read. In this he reiterated his previous statements, declared that he had 'the strongest written vouchers to produce in support', and asked leave to appear before the Council to establish the accusation 'by an additional incontestable evidence'. Monson immediately moved 'that Rajah Nuncoomar be called before the Board'.

The Governor-General at once wrote a vigorous Minute, declaring that he would not suffer Nuncoomar to appear before the Board as his accuser. 'I know what belongs to the dignity and character of this Administration. I will not sit at this Board in the character of a criminal, nor do I acknowledge the members of the Board to be my judges. I am induced on this occasion to make the declaration that I look upon General Clavering, Colonel Monson, and Mr. Francis as my accusers. I cannot press this in the direct letter of the law, but in my conscience I regard them as such, and I will give my reasons for it.' He pointed out that 'it was not the duty belonging to a Councillor of State to make himself the carrier of a letter which would have been much more properly committed to the hands of a peon, or delivered by the writer of it to the Secretary. He observed on the acknowledgement of Francis 'that he knew the letter contained a charge. He added that he had himself been shown a paper containing many accusations against him, which he was told had been carried by Nuncoomar to Monson, and that Nuncoomar was employed for some hours in private with Monson, explaining the nature of these charges'. He ended by

¹ Monson attempted to deny this by saying that he never heard or saw any paper in Persian or other native language which contained

stating his inflexible determination not to suffer the indignity of allowing Nuncoomar to accuse him before the Council. 'The chief of this Administration, your superior, gentlemen, appointed by the Legislature itself, shall I sit at this Board to be arraigned in the presence of a wretch whom you all know to be one of the basest of mankind? Shall I sit to hear men collected from the dregs of the people give evidence at his dictation against my character and conduct? I will not. You may, if you please, form yourselves into a committee for the investigation of these matters, in any manner which you may think proper, but I repeat that I will not meet Nuncoomar at this Board, nor suffer Nuncoomar to be examined at the Board, nor have you a right to it, nor can it serve any other purpose than that of vilifying and insulting me.'¹

Nevertheless the majority, disregarding this protest, carried a resolution that Nuncoomar be called before the Board, whereupon the Governor-General declared the Council dissolved, and protested that anything done during his absence would be illegal and unwarranted. He and Barwell then left the room.

Clavering was thereupon voted to the chair by his two colleagues, Nuncoomar was called in and was desired to deliver to the Board what he had to say in support of his charge against the Governor-General. After declaring that his reputation had been hurt by the Governor receiving into his presence Juggut Chund and Mohun Persaud, two persons of low repute, and refusing admission to him, Nuncoomar said: 'Everything is contained in the letter which I have given in, besides which I have papers which, if the Board orders me, I will deliver up.' He then handed in the translation of what purported to be a letter from

accusations against the Governor-General. But Sir James Stephen points out that Monson thus admits a conversation with Nuncoomar, and does not deny that he might have seen or heard something in English.

¹ *State Papers*, Vol. II, p. 306.

Munny Begum, dated September 2, 1772. In it the Begum states that in gratitude for her advancement to the Nizamut she offered Mr. Hastings a present of a lac of rupees. Mr. Hastings refused, but when she pressed the matter he said that Nuncoomar had promised two lacs. 'I guessed, my friend, that this two lacs was a part of the three lacs about which I wrote to you in a letter I despatched with Kaim Beg, and of which I sent you word by Juggut Chund.'¹ The Begum proceeds to state that she feared if she said anything about the matter 'all that your kindness had done for me would be entirely destroyed and lose its effect'. She therefore sent word to the Governor that she had given Nuncoomar a general authority 'to do whatever was judged requisite and expedient for my advancement and the fooling of my enemies', and that she considered herself bound to discharge what Nuncoomar promised. 'I therefore begged that he would accept one lac of rupees here and told him that I would draw upon you for the other lac which I would deliver to him at Calcutta. I was so fortunate to meet with the Governor's concurrence in this proposal. Your interest and mine are the same, and we are partners of each other's prosperity and adversity. Presuming upon this, I request that you will lend me upon honour the sum of one lac of rupees, which you will be kind enough to pay to the Governor when he returns to Calcutta. I am raising one lac of rupees which I shall here present to the Governor, and shall repay the sum with which I depend upon you supplying me in a few days by the means of Rajah Goordas. I earnestly intreat that you will not upon this occasion entertain any doubt of me.'² The letter closes with a strong injunction to secrecy.

¹ Sir James Stephen remarks: 'This allusion was not explained by Nuncoomar, nor did he produce any letter as being the one referred to.' Nor, it may be added, did any one of the three members of Council ask a question concerning it. See *Story of Nuncoomar*, by Sir James Stephen.

² *State Papers*, Vol. II, p. 309.

Sir James Stephen, commenting on this letter, says: 'The only questions put to Nuncoomar by the Council were either trivial or were questions which he must have suggested himself, though if they had allowed themselves time to study the letter said to be written by the Begum, and to compare it with the written accusation of Nuncoomar, the Council must have perceived that on several points there was urgent need for inquiry. The story told in the letter does not on the face of it agree with the charge made by Nuncoomar. Nuncoomar said he had given Hastings in gold 104,105 rupees, and that the Munny Begum had given him at Moorshedabad a lac, and had caused Nur Singh to pay him a lac and a half more, making in all 354,104 rupees. The letter says that the Munny Begum was to pay two lacs, and that she was raising one lac to pay it to Hastings at Moorshedabad, and it begs Nuncoomar to pay the other lac to Hastings at Calcutta, and promises to repay him. . . . Apart from this the majority of the Council did not observe the most obvious and common precautions. They took no steps to ascertain the authenticity of the letter attributed to the Munny Begum beyond comparing the inscriptions on two seals. They did not even impound the alleged original, but returned it to Nuncoomar.'¹

It is observed in the Introduction to the *State Papers*: The Board did not cross-examine Nuncoomar as to the time and place where the gold was delivered, the persons from whom he got so large a sum, the books in which he had made entries about it, the place and time of his alleged conversation with Hastings on the subject, or any of the other obvious matters by which his truthfulness might be justified.²

The three members of the Council, acting by themselves, had however no hesitation in resolving, on the sole evidence of Nuncoomar, that the sums named by him had been

¹ Stephen, p. 58 et seq.

² *State Papers*, Introd., p. xxviii.

paid to the Governor-General, and that he (Hastings) be requested to pay them into the Company's treasury. Moreover, it was ordered that the proceedings of the Council and all the papers relating thereto should be sent to London, that the Company might file a bill against Hastings and recover the money. But the only result of this move was that the law-officers of the Company, when the papers were submitted to them, declared that the information of Nuncoomar, even upon the *ex parte* case before them, could not possibly be true. It would have been difficult for any other opinion to have been arrived at by men trained to deal with evidence, or indeed by any men, lawyers or other, accustomed to use their common sense in judging of facts before them.

Yet Burke afterwards asked: 'If therefore Rajah Nuncoomar was a man equal in rank according to the idea of the country in which he lived to any peer in the House, as sacred as a bishop, of as much gravity and authority as a judge, and who was prime minister in the country in which he lived, with what face can Mr. Hastings call this man a wretch, and say that he will not suffer him to be brought before him?' The preceding pages, it is submitted, have given reasons enough why the Governor-General should have refused to be charged at his own Council by a man who had been proved to have forged letters with the villainous purpose of ruining an innocent person, a man whose character was so infamous that the appointment of his son to a public office was objected to in the Council on the ground of the baseness of his father.

The rhetorical utterance of Burke may be taken as a tolerably fair sample of the style which distinguished his impeachment oratory. But what amazes us is that the three members of Council should have thought it within the bounds of reason or of decency, acting on the evidence of a confessed accomplice, of a miscreant known as such to the whole community, native and European, among whom he lived, to condemn their own superior officer, the head of

the administration under which they served, the statesman chosen by Parliament, named by statute as Governor-General, and known, as his past services and his daily exertions proved,¹ to be the most able, the most accomplished and by far the most experienced, of all Anglo-Indian officials. The malignity and insolence of such a proceeding were, perhaps, even surpassed by its folly.

The truth is that such a line of conduct would seem incredible were it not for the irrefragable testimony borne by the Minutes of Council at this juncture. Many of these entries have never been before the public, and space prevents complete quotation here. But as samples it may be pointed out that these gentlemen stated in one Minute 'there is no form of speculation from which the honourable Governor-General has thought it reasonable to abstain'. In another they observed that Nuncoomar's discoveries explained how the Governor-General had amassed £400,000, 'which he is said to possess,' in two and a half years. This of the man who, having formerly served during a period of almost unexampled corruption, had passed through it admittedly with clean hands, and had returned to England in 1764 with no more than a modest competence, when so many had come home with large fortunes. Such wild accusations compel the belief that nothing short of a covert conspiracy existed to drive Warren Hastings from office by any means available, whether fair or unfair, open or underhand. Such seems to be the opinion of Sir Alfred Lyall.²

¹ Macaulay points out that even at this juncture Warren Hastings 'continued to take the lead at the Council Board in the transaction of ordinary business; for his opponents could not but feel that he knew much of which they were ignorant, and that he decided, both surely and speedily, many questions which to them would have been hopelessly puzzling.'—*Essay*.

² 'It could never have been the intention of the English Ministry or the Court of Directors, when they appointed Hastings by name in the statute as Governor-General, and prescribed unity and concord as the primary condition of success, that the first use to be made of these powers should be an attempt by his colleagues to prosecute

Throughout these trying scenes of insult and defamation the Governor-General preserved a rare self-control which often baffled, though it could not disarm, his persecutors. It was a patience which proved at once his strength of mind and his conscious innocence. But his written communications with the Directors of the Company show his sense of the monstrous injustice that was done. In a letter to the Directors dated February 22, 1775, enclosing answers to a Minute written by Clavering, Monson, and Francis, 'a performance of so virulent a nature, I confess I scarce find myself equal to a reply,' he says: 'Were the charges contained in it against me explicit and direct, I might quote your records. I might appeal to facts in refutation of them, but dark allusions, mysterious insinuations, bitter invective and ironical reflections are weapons to which I have been but little accustomed before the formation of the present Council, and I am equally unacquainted with the arms by which I am to defend myself against them. I have been often engaged in contests at this Board from the year 1760 to this time, and have been too frequently compelled to fill many pages of your records with controversial discussions, but I dare boast that there is not a passage, nor even a word in any of them, intended to cast an oblique reflection on any man, nor an allegation not openly stated and supported by proofs or circumstances which in my conscience I believe to amount to proofs. The rule which I observe to others I require for myself, and in this instance I require no more than common justice.'¹

And the concluding sentence of his dispatch, commenting on and replying to the accusations of his opponents, runs as follows: 'My situation is truly painful and mortifying, deprived of the powers with which I have been invested by a solemn Act of the Legislature, ratifying your choice him publicly, to annul his powers, and degrade his office.'—Lyll, p. 63.

¹ *State Papers*, Vol. II, p. 267.



PORTRAIT OF WARREN HASTINGS

By Sir Joshua Reynolds. (Taken on his first return to England.)

of me to fill the first office in this Administration, denied the respect which is due to my station and character, denied even the rights of personal civility by men with whom I am compelled to associate in the daily course of official business, and condemned to bear my share in the responsibility of measures which I do not approve, I should long since have yielded up my place in this disgraceful scene, did not my ideas of my duty to you and a confidence in your justice animate me to persevere ; and if your records must be dishonoured and your interests suspended by the continuance of such contests as have hitherto composed the business of your present Council, it shall be my care to bear as small a part in them as possible, making the line of my duty, exempt from every personal consideration in this, as in every other concern incident to my station, the sole guide of my conduct if I can.'¹

Soon after the open quarrel in the Council over Nuncoomar's accusation, a circumstance occurred which, though not very important in itself, throws a noticeable light on the character and conduct of that virulent accuser on the one hand, and of Warren Hastings on the other. On the 19th of April one Kamal-u-din had gone to the Governor-General and complained that Nuncoomar and a Mr. Fowke had compelled him by threats to sign a petition stating that he had bribed Hastings and Barwell, and had also forced him to acknowledge the correctness of a certain account. The Governor-General referred Kamal-u-din to the Chief Justice, and Sir Elijah Impey and the other Judges, acting in the capacity of Justices of the Peace (as the Judges of the Supreme Court did at that time) summoned the parties and held an examination of the witnesses and defendants. They then asked Hastings and Barwell if they meant to prosecute. On their determining to do so, Fowke, Nuncoomar, and a native called Radachurn, were committed to trial for conspiracy and admitted to bail. At the Assizes all the defendants were acquitted of the charge of con-

spiracy against Hastings, Radachurn was acquitted and Nuncoomar and Fowke were convicted of conspiracy against Barwell. Fowke¹ was fined fifty rupees. No sentence was passed on Nuncoomar because he was then lying in the common gaol under sentence of death for forgery.

Now when Nuncoomar was before the Council, having handed in the alleged letter of the Munny Begum, and answered some questions put to him, he was asked if he had any more papers to produce. He replied, 'I have no more papers.' Possibly he thought that something more might help him, and a short time after he was extorted by threats from Kamal-u-din a petition to the Council stating that he (Kamal-u-din) had bribed Hastings and Barwell. The equal of peers, bishops, and judges was busy at his accustomed work.

On the other hand, the promptitude and fearlessness which Warren Hastings showed in at once referring Kamal-u-din to the Judges, and at once resolving to prosecute, were in themselves proofs that he had no intention, as he had no need, to instigate proceedings against Nuncoomar covertly. What he did he did openly; courage in action was the characteristic of the man.

It is rather significant that Macaulay makes no mention of this charge of conspiracy. Possibly he thought that to notice it might destroy the dramatic effect of his narrative, in which he tells us that—'On a sudden Calcutta was astounded by the news that Nuncoomar had been taken up on a charge of felony, committed, and thrown into the common gaol. The crime imputed to him was that six years before he had forged a bond. The ostensible prosecutor was a native. But it was then, and still is, the opinion of everybody, idiots and biographers excepted, that Hastings was the real mover in the business.' When this committal (of which an account will immediately be given) took place, Nuncoomar was already, with others, under

¹ It was probably considered by the Court that Fowke was a mere tool.

a charge of conspiracy and about to be tried for it, as was of course well known to the whole community of Calcutta. It was also well known that Hastings and Barwell were prosecutors in the case, and it is hardly credible that any astoundment could have been caused by the arrest of Nuncoomar, well known as an adept at forgery, on a further charge for that offence. The history of the charge is as follows:—

It will be remembered that Nuncoomar prefaced his accusation before the Board by declaring that his reputation had been hurt by the admission of Mohun Persaud to the presence of the Governor-General,¹ while he (Nuncoomar) was refused admittance. This Mohun Persaud was attorney to a certain Bolakee Dass, a native banker, who had died in 1769. On the settlement of his affairs a few months afterwards Nuncoomar produced a bond signed, or supposed to have been signed, by Bolakee Dass, purporting to be the acknowledgement of a debt due to Nuncoomar, and this bond was settled by the executors. On the amount being paid, Nuncoomar cancelled the bond by tearing it downwards at the top for a couple of inches. This document and others relating to the deceased banker were lodged in the Mayor's Court at Calcutta as a Court of Record. In the year 1772 a suit was instituted against Nuncoomar for more than a lac of rupees said to be due to the estate of the banker on account of bonds of the Company. The Court recommended that the case should be referred to arbitration, but this Nuncoomar refused at first, and when he consented a dispute arose as to the arbitration. These facts explain the six years' delay. Matters were in this position when the whole legal and judicial state of things was altered by the arrival of the

¹ Why was this stated to the Council? It could have no bearing on the charge against the Governor-General. But was it that Nuncoomar, with his evil conscience, suspected that Mohun Persaud was stirring about the forged bond, and was uneasy as to what was going to happen?

Supreme Court of Judicature, created by statute, at Calcutta. About a month after its arrival Mr. Farrer, who had landed about the same time and had been admitted as an advocate of the Supreme Court, was informed by Mr. Driver, an attorney, that he had advised a client to institute a criminal prosecution against Nuncoomar for forgery, and that his client had agreed to the advice. There was, however, an obstacle in their way. The original papers, without which the forgery could not be established, were lodged in the Mayor's Court, and though the Court were willing to grant copies, the originals could not be obtained. 'He told me, added Mr. Farrer, 'that the Mayor's Court had not been so entirely free from influence as could be wished when proceeding against men of a certain description, such as Nuncoomar, but that, now that a more independent Court was come out, he should advise his client, Mohun Persaud, to authorize him (Driver) to instruct me to make the same motion before the Supreme Court of Judicature, to wit for the original papers, that he had himself made before without effect in the Mayor's Court.' Mr. Farrer accordingly moved the Court for the papers *six weeks before* Nuncoomar's accusation was produced before the Board by Francis, and was obliged to repeat his application twice before he obtained them. Soon after this, on May 6, 1775, Nuncoomar was charged with forgery before Mr. Justice Le Maistre, who happened to be the sitting magistrate, as at that time (as already mentioned) the Judges of the Supreme Court were also the Justices of the Peace. 'He requested the assistance of Mr. Justice Hyde, who attended with him the whole day upon the examination which lasted from nine in the morning till near ten at night; when, no doubt of his guilt remaining in the heart of either of us upon the evidence on the part of the Crown, a commitment in the usual form was made out.'¹

It is submitted that the history given above of the committal of Nuncoomar on the charge of forgery absolutely

¹ See *State Papers*, Introd., pp. xli, xlii.

demolishes the statement, made with such confidence by Macaulay, that Warren Hastings was the mover in the business. In the first place, while it is true that the crime charged was six years old, it is also true that the delay in the prosecution was due to the fact that Bolakee Dass himself was dead, and that his executors had believed the bond presented to them to be genuine; the discovery of the forgery grew out of the civil suit instituted in 1772, and proceedings thereupon were long delayed by the difficulty of obtaining the original bond from the Mayor's Court: as soon as Mohun Persaud obtained that document the prosecution was commenced.¹ In the second place, if Farrer's account is to be believed, it was impossible that Warren Hastings could have had any hand in the matter, for there was no motive for his moving in it before Nuncoomar charged him with corruption in the face of the Council, and that charge was not made till six weeks after Farrer moved the Supreme Court for the papers. Is it credible that Farrer was mistaken? He was a counsel of reputation, he was Nuncoomar's advocate at the trial and did his best for his client; and to suppose that his memory could be at fault about such a man and such a case is to suggest the impossible. Warren Hastings himself stated: 'I have declared on oath before the Supreme Court of Justice that I neither advised nor encouraged the prosecution of Maharajah Nuncoomar. It would have ill become the first magistrate in the Settlement to have em-

¹ Sir Alfred Lyall says (p. 66), 'the alleged forgery arose out of a transaction of thirteen years before, and the fact, if true, must have been long known to the complainant.' This is a misconception. The 'thirteen years' is impossible, for Bolakee Dass died in 1769, and as Mohun Persaud was his attorney, and no doubt advised the executors, they would not have paid the bond if he had then known of the forgery. The facts most probably came to his knowledge during the civil suit begun in 1772, and it is shown in the text that as soon as Mohun Persaud got hold of the original papers he moved at once in the prosecution. The crime itself could not have been more than six years old.

ployed his influence either to promote or dissuade it.' Macaulay, we must presume, chose to disbelieve this solemn assertion; but an impartial reader, with the full facts before him, can hardly fail to see its truth. It is clear enough that 'idiots and biographers' were right, and that the brilliant essayist who could not stoop to verify his facts was wrong.

On the committal of Nuncoomar by the Judges the majority in the Council at once and ostentatiously took sides with him. He petitioned the Council to interfere, alleging that he could not perform the offices of his religion and could not eat in the place where he was confined. The Governor-General thereupon remarked that he was doubtful of the correctness of the statement, but that he had already ordered some Pundits to attend the Judges and to give their opinions. It turned out that these Pundits did not confirm Nuncoomar, but expressed an opinion that it was much more difficult for a Brahmin to lose caste than he seemed to suppose. Nevertheless the majority insisted on sending for the Sheriff to know on whose authority he had imprisoned Nuncoomar. In this rather foolish inquiry the warrant of commitment signed by two of the Judges was of course produced. When Colonel Monson, in strange ignorance, inquired why the Sheriff had imprisoned Nuncoomar in the common gaol, the opinion of the Chief Justice and the two committing Judges was shown to justify the course pursued. The majority still persisted and addressed the Chief Justice, but Sir Elijah Impey returned a firm and well-worded refusal to interfere, in which he alluded to a report spread in Calcutta, that an attempt would be made to release Nuncoomar by force. According to Macaulay, indeed, Clavering swore that Nuncoomar should, if necessary, be rescued by force even at the foot of the scaffold. But this may be taken as one of the many embellishments with which the famous essay was enriched. Clavering, Monson and Francis, all three made an affidavit, which was sworn before the Governor-General,

denying that any such intention was known to any one of them; and there can be no reason to suggest that Clavering signed his name to a deliberate falsehood.¹ All that can be said with certainty is that at this stage of the proceedings the majority in the Council (always opposed by Hastings and Barwell, who stood up for the independence of the Judicature and the respect due to the Bench) did endeavour, even to the extent of indecency, to interfere with the authority of the Court, and were repelled with dignity and effect by the Judges. •

The trial of Nuncoomar began on the 8th of June and continued for no less than seven days. Macaulay, in his usual haphazard way, says that it took place before Sir Elijah Impey and a jury composed of Englishmen. This statement is in itself sufficient to prove that he had never taken the trouble to read the report of the trial. Nuncoomar was tried before a Bench of four Judges, the Chief Justice, Mr. Justice Chambers, Mr. Justice Le Maistre, and Mr. Justice Hyde. The jury was composed of European (not all necessarily English) inhabitants of Calcutta, some of whom had been long resident therein, and some born there. Durham was counsel for the Crown, and Farrer (described on authority as the ablest advocate at the Bar) appeared for the defendant. A verdict of guilty was returned, and Nuncoomar was sentenced to death. Farrer, on return of the verdict, had made a motion for arrest of judgement, which was refused by the full Court. A petition for leave to appeal was also presented, but it was rejected on the ground that it did not contain any specific reasons why an appeal should be allowed. An effort was made to obtain the signatures of the jury to a prayer for respite, but only one jurymen could be persuaded to sign. Lastly, Farrer wrote a petition to the Governor-General in Council, to be signed by Nuncoomar, in the hope that this petition might be endorsed by the Council and forwarded to the Court. But the three members of the

¹ A facsimile of this affidavit will be found in *State Papers*, Vol. I.

majority had now altered their tone. Whether the evidence given at the trial had caused them to change their opinion, whether they thought they had gone too far in their insolence towards the Supreme Court, or whether they perceived that the bulk of the community, European and Native, were against them, it would be impossible to say. Certain it is that they declined to aid Nuncoomar any further. When his petition was presented to the Council they refused to entertain it, Clavering assigning as a reason 'that it had no relation whatever to the public concerns of the country, which alone he was sent out to transact, and that he would not make any application in favour of a man who had been found guilty of forgery; nor indeed did he think that it would do any good.' Nuncoomar also sent a pathetic letter to Francis praying him to procure a respite till the King's pleasure could be known. But Francis, who, to aid his own malignity against the Governor-General, had been willing to back Nuncoomar as accuser, though assuredly knowing his evil character, now turned a deaf ear and left the suppliant to his fate. On August 8, 1775, Nuncoomar was hanged.

It is probable that the account given by Macaulay of the horror and consternation caused by the execution is much exaggerated. The Hindoos of Bengal had been too long under the rule of their Mahomedan conquerors to be greatly affected by the sight of a high-caste Brahmin being put to death. But no doubt there was a strong feeling that the sentence was severe, and that at any rate a respite ought to have been granted. In this feeling most persons will now concur. Nuncoomar was a very bad man; possibly the worst of his race in that generation.¹ He had

¹ Macaulay says of Nuncoomar: 'The Company's servants had repeatedly detected him in the most criminal intrigues. On one occasion he brought a false charge against another Hindoo, and tried to substantiate it by producing forged documents. On another occasion it was discovered that while professing the warmest attachment to the English, he was engaged in several conspiracies against them, and in particular that he was the medium of a correspondence

been the promoter of a villainous conspiracy to bring about the ruin and death of a fellow countryman by forging treasonable letters in his name, and contriving that these should be discovered. A native historian of reputation states that in Nuncoomar's drawers, after his death, were discovered copies of the seals of rich merchants and other notables of Bengal, available for his nefarious practices. It is certain that he forged the letter, alleged to be from the Munny Begum, which he sent to Warren Hastings in Madras. It is just as certain, though Macaulay, without giving any reason, tried to throw doubt on the fact, that he also forged the letter, alleged to be from the Begum, which he produced before the Council. The Munny Begum, on hearing of the charge against the Governor-General, declared that the writing and the seal were forgeries. For saying this she was iniquitously deprived, by the majority of the Council, of her guardianship of the Nawab, which they bestowed on Rajah Goordas, son of Nuncoomar. When that 'wretch', as Warren Hastings rightly termed him, mounted the scaffold, he well deserved his fate. But English justice does not recognize the idea that a man should be hanged because his character and history may show that he deserves it. He can be hanged for nothing but for the crime of which he has been convicted; and though Nuncoomar's trial was absolutely fair (as it was certain to be before a Bench of English Judges) and though the verdict was just upon the facts proved, and the sentence legal under the statute, it cannot be denied that a respite, to ascertain the pleasure of the Crown, would have been advisable. Not that any rational person, as we conceive, can agree with the exaggerated language of Macaulay when he says that the crime for which Nuncoomar was to die was regarded by Hindoos in much the same light in which the selling of an unsound horse for a sound price is regarded by a Yorkshire jockey. It is probable, perhaps between the Court of Delhi and the French authorities in the Carnatic.—*Essay*.

certain, that the theory of Hindoo ethics differs in many respects from English ideas; but it is to be observed that in all ages and all countries the standard of mercantile morality has attached high regard to the sanctity of pecuniary contracts; and it is impossible to believe that in the great trading centre of Calcutta the native merchants and bankers thought no more of the forgery of a bond than they did of sharp practice in the sale of a horse. Nevertheless, the enforcement of the capital sentence under a statute passed to apply to England, in accordance with English views, on a native of Bengal was excessive. But it is easy to understand that Sir Elijah Impey, an ordinary English lawyer, with no wide views, made obstinate, as is probable enough, by the attitude of the majority in the Council, was likely to insist on the strict letter of the law.

Of course Francis, we say Francis because he was throughout the moving spirit of the three, and we say of course because his whole conduct betrayed his inveterate hostility to the Governor-General, declared that Nuncoomar had been put to death under a conspiracy between Hastings and Impey. The charge was false, like other charges brought by Francis; just as false as the assertion that Warren Hastings was the mover in the prosecution. But Macaulay adopted it, at any rate as against Impey, and seems to have believed that he proved it by quoting words used by Warren Hastings in subsequent years, when speaking of Impey as the man 'to whose support he was at one time indebted for the safety of his fortune, honour, and reputation'. To this quotation Macaulay added: 'These strong words can refer only to the case of Nuncoomar, and they must mean that Impey hanged Nuncoomar in order to support Hastings. It is, therefore, our deliberate opinion that Impey, sitting as a judge, put a man unjustly to death in order to serve a political purpose.'

As far as the conduct of Impey is in judgement (though with that we have no direct concern) it may be sufficient to refer, the reader to Sir James Stephen's *Story of*

Nuncoomar, an admirable exposition of the whole tragedy, in which the innocence of both the Chief Justice and the Governor-General is conclusively proved. But in respect to the words used by Warren Hastings, it is certain that Macaulay, with regard to them, fell into one of his many rash mistakes. These words were used in reference to the attempt made by Clavering and Francis to seize the reins of Government on the pretext that Warren Hastings (owing to a resignation handed to the Directors in London by his agent and disavowed by him) was no longer Governor. At that momentous crisis, big with the fate of British India, which brought out conspicuously the high qualities of Warren Hastings, he, after telling the army to obey no orders but his, and thus defeating Clavering's attempt to possess himself of Fort William, calmly offered his angry and storming colleagues to refer the question between them to the arbitrament of the Supreme Court. They were reluctantly compelled to accept the offer, as they dared not face the consequences of refusal. The reference was made, and the Chief Justice, with the other Judges, gave a unanimous decision in favour of the Governor-General. It was to this, and in no way to the Nuncoomar business, that Warren Hastings alluded, when he expressed his lasting obligations to Sir Elijah Impey.

The whole story, as told by Macaulay, is more than inaccurate; it bears the character of fiction. He starts with the assumption, for which no evidence of any kind is produced, that Impey, an old schoolfellow of Warren Hastings, had at once on landing in Calcutta become the obsequious tool of the Governor-General, and had entered into a conspiracy to rid him of Nuncoomar by corruptly using the powers of the Supreme Court for that purpose. When stating this, Macaulay had either failed to perceive or had purposely passed over, the fact that the trial, in all its stages, was conducted not by Impey alone, but in unison with three other Judges; and his statement therefore amounts to this, that four English gentlemen, in a high

judicial position, combined together to do not only a corrupt but also a most wicked thing. The history of the English Bench, and we may truly say the nature of English character, forbid belief in such a story.

Pitt, after hearing the facts, in connexion with the proposed impeachment of Impey, declared his opinion in the House that there was not a shade of solid proof for such a charge. It has been shown that the prosecution for forgery was commenced by Mohun Persaud before the accusation against Warren Hastings came before the Council, and therefore before the Governor-General could have had any motive in the matter. The suggestion made by Sir Alfred Lyall that some hint might have been given to Mohun Persaud is just as impossible as is the broader accusation; for there could be no reason to give any such hint at the time when Mohun Persaud obtained the incriminating papers, which indeed he had been trying to do long before. It is to be regretted that Sir Alfred Lyall made any such suggestion, seeing that it directly conflicts with his own words two pages earlier in his book: 'It may be accepted, upon Sir James Stephen's authority, that no evidence can be produced to justify conclusions adverse to the innocence of Hastings upon a charge that has from its nature affected the popular tradition regarding him far more deeply than the accusations of high-handed oppressive political transactions, which are little understood and leniently condemned by the English at large. There is really nothing to prove that he had anything to do with the prosecution, or that he influenced the sentence.'¹ That is all true, but it is not quite the whole truth; the case does not rest on a negative; in the preceding pages it has been shown that strong positive proof has come to light of the absolute innocence of Warren Hastings of any part in the prosecution. With the sentence he had no power to interfere, the Supreme Court being, by the terms of the

¹ Lyall, p. 70.

statute which created it, absolutely independent of the Bengal executive.

The story, in its origin, was the invention of Philip Francis, whose disappointed ambition bred in his rancorous nature a hatred and revenge which dogged Warren Hastings for years in Calcutta and at home. It was used in the attempted impeachment of Impey, and was discredited in the House of Commons. It was revived by Macaulay to add a deeper dramatic effect to a rhetorical essay, and like many other falsities it has been widely accepted as truth, because it appeals to that love of the sensational which is inherent in the nature of mankind.¹

¹ Macaulay's account was certainly taken from Sir Gilbert Elliott's speech on the proposal to impeach Impey; and that speech bears internal evidence that it was inspired, if not actually composed, by Francis.

CHAPTER IV

MAHRATTA WAR. WAR WITH FRANCE. INTERNAL DISSENSIONS.

IN the struggle over Nuncoomar the hostile majority had been signally worsted. They were at first completely silenced, though in a few months' time (January 25) they entered on the records of the Council a minute signed by all three (but obviously written by Francis) declaring with some malice of expression that no man who had any regard for his own safety would venture to stand forth as accuser of the Governor-General.¹ No doubt it had been borne in on the Native mind that it might be safer to be in a minority with Warren Hastings than in a majority with his opponents. But there was something more. The European inhabitants of Calcutta and settlers in Bengal had perceived the blunders committed by the faction in the Council. They knew well the improvements in administration that had been carried out by Warren Hastings, and which had been swept away by the ignorant folly of his enemies. Not only had those three upset the arrangements made with the Vizier,² and thus imperilled as the Governor-General had prophesied, the security of our north-western frontier, but they had restored the double government with all its corruption and inefficiency,

¹ *State Papers*, Vol. II, p. 476.

² The policy of the Council majority towards the Oude Vizier had proved ruinous to their ally; for owing to his mutinous army, his powerful and intractable mother, and the incessant demands made on him by the British Resident for arrears of debt, Asaph-u-Dowla's predicament was most distressful; and the whole country appears, by the description given in the letters from the Resident of Lucknow, to have been falling away into masterless confusion.—Lyall, p. 74.

placing Reza Mahomed Khan once more at its head, and had reversed Warren Hastings' statesmanlike legislation concerning the Courts of Justice. Life and property became as insecure as before, and bands of robbers again appeared in the confines of Calcutta.¹ It may seem scarcely credible that such ruinous steps could have been taken by any sane persons occupying a responsible position; but their blind hatred of the Governor-General had deprived the three malcontents alike of prudence and reason. Happily for British interests, imperilled by temper and incompetence, the hour was soon to strike when the authority of the great Indian statesman would be restored. But before that day came their pernicious opposition was to manifest itself in foreign relations.

At the end of May, 1775, a dispatch reached Calcutta from Bombay, announcing that the Government of that Presidency had concluded a treaty with a Mahratta chief, one Raghoba, who was a claimant to the office of Peishwa², by which he agreed to cede the island of Salsette, and also the town of Basscin, to the English on the condition that they would use their power to restore him to Poona. The acquisition of Salsette was most important, for the Portuguese had designs upon it, and it is so close to Bombay that part of the city is now built thereon. But this advantage did not blind the Governor-General to the imprudence of the transaction, and he at once pronounced the treaty unseasonable, impolitic, unjust and unauthorized.³ 'It is unseasonable

¹ The conduct of the three Members of Council was the more inexcusable, because at the first meeting of the new Council, held on October 25, 1774, the Governor-General laid before his colleagues an able Minute, worded in a conciliatory spirit, on the revenue and politics of the country. He explained the mode he had adopted for the collection of the revenue, and earnestly advised its continuance. — *State Papers*, Vol. I, p. 115.

² That is, to the virtual headship of the Mahratta confederacy.

³ It is significant that the Managers of the Impeachment, who vehemently attacked Warren Hastings for the subsequent war with the Mahrattas, never noticed his Minute condemning the Bombay

because the treaty was formed with Raghoba at a time in which he appears to have been totally abandoned by his former adherents. It was impolitic because it threw the whole burden of the war on the Company without a force at the command of the Presidency equal to the undertaking, without money or certain resources, and because it was undertaken without any regard to the general interests of the other settlements of the Company in India. It was unjust because they had received no injury from any part of the Mahratta State which could authorize their interfering in their mutual dissensions, nor were under any actual ties to assist Raghoba.' But though he thus condemned the treaty, Warren Hastings was far too much of a statesman to suppose that he could disregard accomplished facts, or could extricate himself abruptly from the complications in which his rash subordinates had involved him. He proposed to the Council: 'That the President and Council of Bombay be peremptorily enjoined to cancel the treaty with Raghoba, and to withdraw the detachment immediately to their own possessions by whatever means may be in their power, unless any of the following cases may have occurred:—

1st. That they shall have obtained any decisive advantage over the enemy;

2nd. That the detachment shall have proceeded to such a distance, or be in such a situation, as to make it dangerous either to retreat or to go on;

3rd. That a negotiation shall have taken place between Raghoba and his opponents in consequence of the support afforded by this alliance.'¹

There can be no real doubt of the wisdom of this proposal; it covered the retreat of the Bombay Government

expedition in aid of Raghoba. This shows the tone and temper of the proceedings; to rake up everything against the accused, and to keep back everything in his favour. Few impartial inquirers can doubt that the Impeachment was engineered by personal malice.

¹ *State Papers*, Vol. II, p. 392.

if they found their expedition to be a failure; it gave them the option to stand firm if they scored a success. But Francis at once opposed it, and the majority (following his lead as usual) resolved: 'That the troops be ordered to be recalled without any exception but the single consideration of their safety.' The consequences were most unfortunate. Before the dispatch arrived at Bombay a hard-fought battle had been won at Arras, and the moral effect of this success, if the position had been maintained, would have powerfully aided the British diplomacy; but the Government of Bombay, though their President wrote a dignified protest, felt bound to obey the instructions they had received; they withdrew their troops from Mahratta territory, and the advantage gained was totally lost. It was in vain that the Supreme Government dispatched a special agent (Colonel Upton) to Poona to negotiate, for the Mahratta ministers now demanded impossible terms; and when the Calcutta Council at last consented to a bolder policy, and empowered the Bombay Government to renew the war, it was too late; the treaty of Purandhar had been signed (March 1, 1776) and Warren Hastings could do nothing but state his disapproval of its conditions. No better example could be given of the mischief wrought by the persistent and factious opposition waged in his own Council against the Governor-General. Taking this particular case; to that opposition were largely due the losses and anxieties of the prolonged war which two years later broke out with the Mahrattas.

But before that peril was encountered the act of God intervened for the salvation of our country's interests in the East. In September, 1776, Colonel Monson died. This event at once reversed the political conditions in the Council. The number being reduced to four, Hastings and Barwell were equal to Francis and Clavering, and the casting vote lay with the Governor-General. He at once acted with his usual energy. He swept away the paltry proceedings of his opponents, with their fatuous policy and their evil administration; he once more abolished the double govern-

ment, and made the British rule sole and undivided through the Bengal Presidency; he re-established the provincial Courts, and enforced law and order under his sway. The whole fabric of British administration and British justice now supreme over two hundred millions of our Indian fellow-subjects, to their immeasurable benefit, has been built on the foundations laid by Warren Hastings as soon as his assailants' clamour was silenced and his own hands were untied. He also did his best to reinstate the good understanding with the ruler of Oude, and to ensure a safe policy on the frontier, by recalling the nominee of the late majority, and replacing in the Residency his own tried and approved subordinate, Mr. Middleton.

It was indeed time that adequate power should be restored to the Executive. In 1778 a French agent¹ appeared at the Court of the Peishwa, and was received with effusion by one of the Mahratta statesmen who was powerful in the Ministry at Poona. Fortunately another of the officials, who had negotiated the treaty of Purandhar, took the opposite line and made overtures to the Bombay Government for the restoration of Raghoba. That Government at once passed a resolution approving of the course proposed, and forwarded a copy thereof to the Governor-General. Then was seen the advantage of the changed position in the Council. Francis vehemently opposed the resolution as illegal, unjust, and impolitic; illegal because it had not the sanction of the supreme authority; unjust because it was contrary to the treaty; impolitic because it involved the Company in the dangers and burdens of war. He had perhaps forgotten that the present difficulty had arisen because he and his colleagues (then both living) had opposed and defeated at the outset the wise policy of Warren Hastings. But now the Governor-General had the power in his hands, and he stood firm. He said, in the spirit of true statesmanship, that the emergency justified the illegality. He pointed out that if they were acting contrary to the treaty they were

¹ The Chevalier de St. Lubin.

doing so at the instance of the minister who had negotiated that treaty. He knew what was meant by the presence of a French agent in Poona; he forecast the possibilities of a French alliance with the Mahrattas. He moved, and by his casting vote he carried a resolution authorizing the President and Council at Bombay to carry out the policy they proposed, granting to them a sum of ten lacs of rupees, and sending to their aid a military force under Colonel Leslie. It was a bold move, and had it been possible to take it earlier it might have averted many misfortunes, but this had not been possible while the triumvirate still held power. It is sufficient, in proof of this, to say that no sooner did a letter from Leslie reach Calcutta mentioning that some slight resistance was offered by the Mahrattas to his advance, than Francis at once moved that 'the expedition be absolutely countermanded, and Colonel Leslie's command of course dissolved as soon as he has quartered his troops on this side the Jumna'.¹ Such and no less was the persistent faction of the man!

But at this moment there came news from Bombay calculated to silence the disputants. 'It is with much concern,' wrote the Government of the Presidency, 'we acquaint you that by the *London Gazette* of the 16th December just received from Bassora, we learn that General Burgoyne, with his whole army of 3,500 fighting men, was compelled to surrender to General Gates on the 14th of October on the condition of being transported to England from Boston, and not to serve again in America during the war. General Howe remains in possession of Philadelphia, with which place the fleet have in vain endeavoured to open a communication, and three of our ships have been destroyed in the attempts. General Washington was encamped within a few miles of Philadelphia, &c.'²

A crisis of this sort, big with the fate of empires, brings out the qualities of politicians. Let us see who was the man capable of saving British India and resolute to do so;

¹ *State Papers*, Vol. II, p. 623.

² *Ibid.*, p. 630.

and who, if he could have had his way, would have lost it. Francis, on receipt of the news, at once took the line of political cowardice. He begged his colleagues to consider 'whether the unfortunate event in America ought not to have a general influence upon our measures here, whether this be a season for hazarding offensive operations of any kind, and whether policy and prudence do not plainly dictate to us that while the nation is so deeply engaged and pressed on one side, with everything to apprehend from the designs of France and Spain on the other, we should stand on our defence, and not weaken or divide the force on which the safety of Bengal may depend'.¹

But to this counsel of despair Warren Hastings at once replied with force and dignity: 'I hope that our affairs in America are not in the desperate situation in which they are described to be; but I see no connexion between them and the concerns of this Government; much less can I agree that with such superior advantages as we possess over every power which can oppose us, we should act merely on the defensive and abruptly stop the operation of a measure of such importance to the national interests and to the national safety as that in which we have now decidedly engaged, with the eyes of all India turned upon it. On the contrary, if it be really true that the British arms and influence have suffered so severe a check in the Western world, it is the more incumbent on those who are charged with the interest of Great Britain in the East to exert themselves for the retrieval of the national loss.'²

These were the words of a great Englishman, bent on doing his duty as ruler of India and determined to maintain, as far as in him lay, the interests and the honour of his country. They were a prophecy of the events that followed. In other quarters of the globe, during that long and deadly struggle, England lost territory and had much ado to keep her flag flying; but in the East the genius and courage of Warren Hastings upheld her supremacy and brought

¹ *State Papers*, Vol. II, p. 632.

² *Ibid.*, p. 632.

her, through much tribulation, to ultimate triumph and peace.¹

On July 7, 1778, the news arrived that France had declared war against England. The Governor-General at once held a Council and proposed, among other things, that Rajah Cheit Sing (of Benares) should be required to raise and pay three battalions of Sepoys. Francis was anxious that words should be added to imply that this additional charge upon the Rajah would not be continued after the close of the war. Warren Hastings said at once that such was his own intention; but he refused to add any words of qualification which might throw doubt on the right of the paramount power to make the demand. He always held that the subsidiary States under the Company's rule were liable to extraordinary contributions in case of urgent need; and he carried a resolution 'that the Rajah Cheyt Sing be required in form to contribute his share of the burden of the present war, by the establishment of three regular battalions of Sepoys, to be raised and maintained at his expense, and that the Governor-General be requested to write to him to that effect.'² It will be well for the reader to bear this circumstance in mind when we come to some further passages in the history of Cheit Sing.

The Governor-General, who seldom waited for his adversary to strike, at once resolved to seize the French settlements in India. A force was dispatched to Chander-nagore, which took possession of the place with no more bloodshed than was caused by one volley from our Sepoys

¹ The anxiety which beset Warren Hastings from the time when a combination of foes were leagued together against our Indian possessions, was expressed by him before the Lords, when he indignantly replied to the unworthy accusations that he had sought emolument for himself in his Governorship. 'I was too intent,' said he, 'upon the means to be employed for preserving India to Great Britain from the hour in which I was informed that France meant to strain every nerve to dispute that Empire with us, to bestow a thought upon myself or my own private affairs.'

² *State Papers*, Vol. II, pp. 638-9.

in reply to a discharge of muskets by the French guard at the gates. Both the commandant and the inhabitants protested against what they considered an outrage, but the Governor-General replied that the declaration of war by both England and France left him no alternative, and that he had directed the officer in command of the force employed to treat the inhabitants with all possible tenderness. Instructions were also sent to Madras desiring that immediate steps should be taken to capture Pondicherry and Mahé. The former place capitulated after a resistance so gallant that the garrison were allowed to march out with the honours of war, and to retain their colours. Mahé was also occupied, an event which led to momentous consequences. By the same dispatch from the Madras Government which told of the occupation of Mahé came also a letter from Hyder Ali strongly protesting against an attack on a French factory situated in his dominions.

This new danger added to the Mahratta difficulties. The attempt to push into the heart of the Confederacy's dominion with a small army had ended in disaster. This indeed had been retrieved by General Goddard, a soldier of courage and capacity, who, on hearing of the defeat of the Bombay troops, marched his detachment from Bundelcund to Surat a distance of three hundred miles, in twenty days, and by his timely arrival saved the Bombay Presidency from the grave danger which threatened it, and restored the reputation of the British arms. The Governor-General directed General Goddard to open a negotiation with the ministers of the Mahratta State on the basis of the Treaty of Purandhar, provided they would recede from their late pretensions, and would agree not to admit any French force to their dominions, nor allow that nation to form any establishment on the Mahratta coast. Peace could not be obtained on these terms, and on January 1, 1780, the war was renewed¹.

But before dealing further with the storm of war which was

¹ For this see *State Papers*, Introd., pp. liv, lv.

now descending upon India, it is requisite to call attention to two dangerous controversies that had arisen among the English authorities themselves. Much has been written on both these topics to incriminate Warren Hastings ; but on both, it is submitted, his reputation will stand out unclouded in the eyes of those who will look impartially into the facts.

The Act for regulating the Government of India had been drawn, or at any rate had been passed by Parliament, in a confused fashion which on several points left the intent of the Legislature obscure. This was especially the case with regard to that part of the measure which dealt with the Supreme Court of Judicature. It was clear that the Court was intended to be independent of the Executive ; but it was by no means clear what were the intended limits of the Court's authority. It was certain that the Judges had full jurisdiction over what was called the Presidency District, but it was matter of considerable doubt whether their jurisdiction extended into the wide and densely populated territories beyond. It was also dubious how far their admitted independence of the Executive availed them to interfere with administrative acts of the Executive itself. These were questions on which different opinions could be honestly held, questions which would have been best cleared up by the supreme authority at home. Unfortunately the Judges took the ground that they alone had power to construe the Act, that their jurisdiction over the entire territory of the Bengal Government was not to be questioned, and that the millions of the population thereon, inclusive of all officials, were subject to the manifold technicalities of the English law. This astonishing pretension was naturally resisted by the Company's servants, and collisions occurred between the officers of the Supreme Court and the officials of the revenue and other departments. A sort of civil war began, and the service of the Court's process was often openly resisted. The Judges were so ill-advised as to issue writs against the Governor-General

himself, an insult which he treated with just contempt. It is certain that on one occasion an armed band under the orders of the Sheriff was encountered, and of course worsted, by a party of the military acting under the direction of the Executive. Such a state of anarchy could not be permitted to continue. Warren Hastings, who had taken at first a moderate and conciliatory line, in unison with his known opinion that the Crown should exercise more direct authority in India, now declared with determination for the authority of the Council. For once he was unanimously supported by his colleagues, and with the army at his back could easily have defeated the Court. But his just and equal mind prevailed over all provocation. The times were dangerous; the enemy was at the gate; and Warren Hastings, always a statesman, resolved to compromise. To restore peace and unity to the civil authority in Bengal, to leave the hands of Government free to grapple with the war, was the prime necessity. He effected the object with his usual adroitness. He offered to the Chief Justice the control of all the Company's Courts, from the Sudder Adawlut downwards, if he and his colleagues would give up their preposterous claims to interfere with the Executive. The new appointment was to carry a salary of £6,000 a year, and to be tenable at the pleasure of the Governor-General. This last provision fully secured the public interests. The offer was accepted and quiet was restored. Warren Hastings said at the time that he knew the arrangement would be attacked and that he would be abused for having made it. But like a true patriot he faced the blame to secure the safety of the State. His words came true. When the terms of the compact were known at home, great blame was thrown on the Governor-General and the Chief Justice both by Parliament and by the Ministry. Francis had vehemently opposed the arrangement, and it may be well believed that he was at the bottom of the representations made in Downing Street. But it was eminently a case in which the opinion of those on the spot

may be taken as conclusive. In Calcutta the universal feeling, the feeling of Natives and Europeans alike, was that the action of the Governor-General had saved the Presidency from a great danger. All knew that the right thing had been done, and knew also that there was only one man who had the wits and the moral courage to do it. It may be added that Macaulay, who seldom throughout the *Essay* lost an opportunity to condemn Warren Hastings, admits that in this difficult matter the Governor-General acted as a statesman.

Sir Elijah Impey was recalled by a vote of the House of Commons, for his share in the transaction, but nothing was finally pressed home to him; and Sir James Stephen, after a careful consideration of the whole subject, expresses his opinion that there was much to be said for the view taken by the Chief Justice. A greater witness than that accomplished jurist bears even still more convincing testimony. The witness of experience has now for many years shown that the plan for which Impey was recalled and Warren Hastings was abused, that of placing all the country courts in each Presidency under the appellate jurisdiction of the High Court, works well throughout India.¹

The other controversy, still more serious it may be at the moment, but of much shorter duration, arose out of the alleged resignation of his office by the Governor-General. It is quite true that in 1775 Warren Hastings, under circum-

¹ Sir Alfred Lyall says: 'The measure was at once politic, practical, and effective; it terminated by a master-stroke the conflict of jurisdiction; and it undoubtedly placed all the country courts, which had been dispensing a very haphazard and intuitive kind of justice, for the first time under the control of a person who could guide and control them upon recognized principles . . . Impey accepted the salary subject to refund if the arrangement should be disallowed at home; and he appears to have undertaken the duties in an honourable spirit . . . The plan of uniting the Chief Justiceship with the superintendency of the district courts, taken on its merits, was a good and practical remedy of existing evils.'—Lyall, p. 115.

This is a much juster estimate of Impey's conduct than that given by Macaulay.

stances of great stress, blamed as he was at home when distance made it difficult for him to answer or explain, thwarted and abused in his Council, and traduced in the dispatches of his opponents, did write to his agent in London, Colonel Maclean, that if he were condemned over the Rohilla war or the Benares treaty, he would leave India at once, and that in the event named Colonel Maclean should send in his resignation. But more than two years had since elapsed, and the circumstances by which the resignation had been conditioned had not occurred. The Directors of the Company had passed a resolution, dubiously worded, on the subject of the Rohilla war, but it could hardly be construed as a vote of censure, and nothing more had followed. The Benares treaty, which had been settled by Warren Hastings himself with the Vizier, and had handed over to that ruler the outlying districts of Korah and Allahabad in exchange for a large sum of money then sorely needed by the Bengal treasury, had not been challenged. Nevertheless, Colonel Maclean, made nervous as it would seem by proceedings in the Commons, and by differences of opinion among the Directors, handed in the resignation, attaching to it the condition that Warren Hastings should be held to retire with honour, and be free from any future molestation. The resignation was thereupon accepted, Mr. Wheler, a member of the Board of Directors, was appointed to succeed, and General Clavering was authorized to assume the position of Governor-General until Wheler should arrive at Calcutta.

The whole circumstances of the case, and especially a letter written by the Governor-General before the events just narrated had happened, expressing his determination not to give up his office unless he were removed by the King, must compel the conclusion that Colonel Maclean exceeded his instructions, and that his act consequently did not bind his principal. It may be taken as certain that Warren Hastings had never thought of resignation from the moment that Monson's death gave him the decisive voice in the Council, and it is quite possible that he may have

forgotten the instruction given to his agent under circumstances past and buried. Any way the heat and aggressiveness exhibited by Clavering must have spurred the Governor-General to resistance. He sat with Barwell in one room; Clavering sat with Francis in another. Each claimed the office and the rule; each issued minutes and notices demanding support and obedience; but there was this decisive difference in their respective positions. Warren Hastings had with him the army, the officials, the people, Native and European, in a word the community. Clavering had no one but Francis. When he demanded the keys of Fort William, the commandant refused to give them up. There was little doubt, if force had been appealed to, what the result would have been. But here, as ever, Warren Hastings showed his temper and his statesmanship. He kept his coolness while his rival stormed. Having made himself secure as to the army, he offered to refer the question between Clavering and himself to the arbitrament of the Supreme Court, and undertook to abide by its decision. Such an offer could not be refused; it was necessarily, though we may be sure with reluctance, accepted. The Judges decided unanimously in favour of the Governor-General, and Clavering, deeply mortified, had to subside into the position of a Councillor. He died a few months after, and from that time till the close of his rule the supremacy of Warren Hastings in his Council was in the main undisputed. It was well for our Indian Empire that this was so, for, had the power fallen into other hands, ruin would at that moment have been imminent. Ordinary men may do well in ordinary times; but with the Mahrattas threatening our borders, Hyder Ali thundering on the Carnatic, and a French squadron in the Indian seas, none but Warren Hastings could save the State.

It only remains, in this chapter, to note the celebrated quarrel between the Governor-General and Philip Francis, which in August, 1780, terminated in a duel. To make the subject clear it is necessary to recall the exact position of

affairs in the Council when this event was brought about. The deaths of Monson and Clavering had left Francis the sole representative of the three members who had so long opposed the Governor-General. Wheler had arrived in expectation of being sworn in for the high office supposed to be vacant, and found that he must content himself with the post of a simple Councillor. It may be easily understood that his temper towards Warren Hastings, whose success had disappointed his hopes, was not amicable; he consequently attached himself to Francis, by whose strong personality he was soon dominated. The voices in the Council were now equal; Hastings and Barwell on one side, Francis and Wheler on the other; Sir Eyre Coote, who had been nominated to succeed Clavering, had not yet arrived; so the casting vote of the Governor-General decided every issue. But Barwell was broken in health, he had made a large fortune, and was anxious to return home, though he loyally hesitated to leave his chief in an embarrassed minority. Francis and Wheler persistently opposed the Governor-General in his conduct of the Mahratta war, and strong Minutes were interchanged on the subject. At a meeting of the Council held on January 20, 1779, Warren Hastings stated (in reference to the intimated retirement of Barwell) that it would be fatal to the success of the Mahratta war if it were known at Poona and Nagpur that the powers of the Government were 'on the eve of devolving on two members who have invariably opposed in every stage of its progress the plan which has been publicly adopted for the support of the Company's interest on the western side of India, and who, it is universally believed, will seize the first means that are offered to them to defeat and annul it altogether.' He added—'A Member of the Government, entrusted with the guardianship of the Company's interests, and of the honour of the British name in India, has not scrupled to propose that we should make an abject submission to the honourable possessors of the feeble Government at Poona, acknowledging our past faults with

a promise of amendment, and humbly entreating their permission for the safe retreat of our army from Berar to its confines.' And he went on—'I do therefore conjure Mr. Barwell, both by that zeal which he has hitherto steadily manifested for the interests of our common masters, and even by the ties of a friendship cemented by the participation of the same labours and sufferings for the public service, that he will not permit the measures in which he has a common and equal responsibility with myself to be exposed to the triumph of a party, but that he will both continue to afford the support of his presence and abilities to the present Government while it yet exists, and that he will suffer me to exact from him a declaration to that purpose, not only for my own satisfaction but for that of every man who has the Company's interests or the prosperity of this settlement or the credit of his country at heart, and who, I presume to say, expects this sacrifice from him.'¹ Barwell, in response to this appeal, declared that—'the reasons that are assigned for it by the Governor-General, require me absolutely to retract my intention. I have declared I admit the force of them, and with pleasure declare my determination to support his Government as long as the public measures of it shall require.' These quotations show the deep sense entertained by Warren Hastings of the danger that would ensue if Francis should by any accident regain a predominant voice in the Council.

Yet not long after this an arrangement was arrived at, it is believed through the mediation of a common friend,² under which Francis was to abstain from any general opposition, especially with regard to the conduct of the war, and to receive in return a certain share of Government influence and patronage. Warren Hastings, in a letter written on the 4th of March, quotes the terms of the agreement: 'Mr. Francis will not oppose any measures which the Governor-General shall recommend for the prosecution of the war in which we are supposed to be engaged with

¹ *State Papers*, Vol. II, pp. 633-34.

² Sir John Day.

the Mahrattas, or for the general support of the present political system of this Government. Neither will he himself either propose or vote with any other member who shall propose any measures which shall be contrary to the Governor-General's opinion 'on these points.' Nothing could be more explicit; and in consequence of this agreement Barwell, who had been 'privy to the treaty in all stages of it,' left, with Warren Hastings' free consent, for England.

All went smoothly for a time, but when Francis perceived that he had once more the power in his hands if he chose to exercise it, he became aggressive in his demands. The Governor-General was most anxious to bring the Mahratta war to an end, for he foresaw the other dangers that were at hand, and, convinced that it could be ended only by decisive action, designed a diversion in Malwa to draw off the attention of the Mahrattas, and thus enable General Goddard to act vigorously in Berar. This course had been strongly recommended to the Council by the Commander-in-Chief. Francis at once broke out into bitter opposition, and when reproached by Warren Hastings, in fair and moderate language, for his departure from the engagement, he replied that the agreement only referred to the operations already commenced on the Malabar coast. Of course this contention was clearly opposed to the wording of the agreement, but as Francis afterwards denied point-blank that there was any agreement at all, it mattered little what he said on the subject. On June 26, 1780, Warren Hastings wrote:—'If Mr. Francis (I am compelled to speak thus plainly) thinks that he can better and more effectually conduct the war to the termination which we both profess to aim at, and that he can in honour deprive me of the right which I claim to dictate the means of accomplishing it, let him avowedly take the lead; but if I am to be charged with the consequences of it, or if the right which I claim be justly mine, let him allow me to possess and exercise it. It is impossible to combine the principles of enterprise and

inaction in the same general measure ; and as impossible for his sentiments and mine to be brought into agreement on the subject of the Mahratta war.'¹ To this Francis replied in a Minute, marked by his undoubted ability, denouncing the whole conduct of the war, and refusing to sanction any measure until a general outline of the whole campaign was submitted to him. Upon this Warren Hastings, seeing that all hope of a compromise was at an end, prepared a powerful Minute dealing with the conduct of Francis, and laid it next day before the Council. After assuming that the Minute signed by Francis and Wheler was written entirely by the former, and expressing his disappointment that the hint he had given had not 'awakened in the breast of Mr. Francis, if it were susceptible of such sensations, a consciousness of the faithless part he was acting,' he went on to say—'*I have lately offered various plans for the operations of the war. These have been successively rejected, as I have successively amended and endeavoured to accommodate them to Mr. Francis' objections. I had a right to his implicit acquiescence.*' He pointed out that Francis demanded a complete plan of the campaign in every detail, and promised his candid consideration. 'But in truth, I do not trust to his promise of candour, convinced that he is incapable of it, and that his sole purpose and wish are to embarrass and defeat every measure which I may undertake, or which may tend even to promote the public interests, if my credit is connected with them. Such has been the tendency and such the manifest spirit of all his actions from the beginning. Almost every measure proposed by me has for that reason had his opposition to it. When carried against his opposition, and too far engaged to be withdrawn, yet even then and in every stage of it his labours to overcome it have been unremitted, every disappointment and misfortune have been aggravated by him, and every fabricated tale of armies devoted to famine or to massacre have found their first and ready way to his office,

¹ *State Papers*, Vol. II, p. 701

where it was known they would meet the most welcome reception.' And he went on to say: 'My authority for the opinion which I have declared concerning Mr. Francis depends upon facts which have passed within my own certain knowledge. I judge of his public conduct by my experience of his private, which I have found to be void of truth and honour. This is a severe charge, but temperately and deliberately made from the firm persuasion that I owe this justice to the public and to myself, as the only redress to both, for artifices of which I have been a victim, and which threaten to involve their interests with disgrace and ruin: the only redress for a fraud for which the law has made no provision is the exposure of it.' He then proceeded to quote the first article of the agreement, and he added—'By the sanction of this engagement and the liberal professions which accompanied it, I was induced to part with the friend to whose generous and honourable support steadfastly yielded in a course of six years I am indebted for the existence of the little power which I have ever possessed in that long and disgraceful period, to throw myself on the mercy of Mr. Francis, and on the desperate hazard of his integrity.'¹

On the rising of the Council Francis handed a challenge to his adversary, which was immediately accepted. The duel took place on August 17, 1780, and Francis was shot through the body, but not mortally. He was able to take his seat at the Council again in September, and he then handed in a Minute denying solemnly that he had ever made the agreement mentioned by Warren Hastings, though admitting that he had agreed to support the existing operations on the Malabar coast. He also denied that the departure of Barwell had anything to do with the matter, but in respect to this last assertion it may be observed that Sir Elijah Impey, in a letter written at the time of the duel, said: 'Mr. Barwell left this country on the strongest assurances that Mr. Francis would coincide

¹ *State Papers*, Vol. II, p. 712.

with Mr. Hastings, or he would never have gone.' Warren Hastings wrote a Minute in reply, referring to the denial of Francis in these words: 'What can I say to such a declaration but to declare on my part in as solemn a manner that Mr. Francis was a party to the engagement which I have stated? This I now most solemnly declare, and may God be judge between us. He proceeded to give facts and precise dates which seem incontrovertible. But in truth, independent of Minutes and assertions, the notorious facts are against Francis. The Governor-General was safe as long as he had Barwell by his side; Barwell had recorded his determination to stay as long as his presence was required; is it credible that Warren Hastings would have consented to his departure if there had not been an agreement with Francis? The whole controversy is set out in the Introduction to the *State Papers*, and what is the verdict of Mr. Forrest? 'No impartial judge can read the respective minutes of the two men without coming to the conclusion that Francis was guilty of a gross breach of faith.'

Yet Macaulay has left an opinion on the subject which is either astonishing in its bias or else is clear proof that he wrote without informing himself on the facts. 'Then,' says he, 'came a dispute, such as frequently arises even between honourable men, when they may make important agreements by mere verbal communication. An impartial historian will probably be of opinion that they had misunderstood each other.' This is a good instance of Macaulay's inaccuracy. In the case with which he was dealing there was no question of mere verbal communication; the agreement had been put into writing and had been produced by Warren Hastings at the Council. The solemn promise of Barwell had been publicly given and was on record in the Minute book of that body. It must be a strange impartiality which could look at the evidence as it stands and say that there was nothing involved but a misunderstanding. The damning facts are that Francis made a promise and broke

it ; that he entered into a public engagement, not without advantage to himself, and when it was convenient to do so, he violated faith. He had for years shown faction and malignity ; he now proved himself capable of perfidy and dishonour.

It may be well, at this point, to give some consideration to the character and career of this remarkable man. He will come up again when we arrive at the story of Hyder Ali's formidable invasion, but we have reached now the real crisis of his fortunes in India, when he broke faith with the Governor-General and made his stay at Calcutta for any period impossible.

He had come there with great expectations of advancement, fired with the idea that he should supersede Warren Hastings. Soon after his landing, he wrote: ' I am now, I think, on the high road to be Governor of Bengal, which I believe is the first situation in the world attainable by a subject.' To this aim all his efforts were directed, and it is no breach of that charity which is due to the dead at least as much as to the living, to impute his constant and envenomed attacks in Council on the Governor-General to this motive. Repeatedly defeated, and, still more often worsted in argument though he carried with him the votes, he returned, again and again, perseveringly to the attack. But, as Mr. Forrest says, he had miscalculated the mental vigour and pertinacity of his opponent, and he left India a disappointed and baffled man.

Macaulay, in the Essay, gives a clear and, taken as a whole, an unprejudiced account of his character. ' The ablest of the new Councillors,' says he, ' was, beyond all doubt, Philip Francis. His acknowledged compositions prove that he possessed considerable eloquence and information. Several years passed in the public offices had formed him to habits of business. His enemies have never denied that he had a fearless and manly spirit ; and his friends, we are afraid, must acknowledge that his estimate of himself was extravagantly high, that his temper was

irritable, that his deportment was often rude and petulant, and that his hatred was of intense bitterness and long duration.'

After giving his reasons, which are cogent, for identifying Francis with the anonymous Junius, the Essayist proceeds: 'He was clearly a man not destitute of real patriotism and magnanimity, a man whose vices were not of a sordid kind. But he must also have been a man in the highest degree arrogant and insolent, a man prone to malevolence, and prone to the error of mistaking his malevolence for public virtue. "Doest thou well to be angry?" was the question asked in old time of the Hebrew prophet. And he answered "I do well." This was evidently the temper of Junius; and to this cause we attribute the savage cruelty which disgraces several of his letters. No man is so merciless as he who, under a strong self-delusion, confounds his antipathies with his duties. All this, we believe, might stand, with scarcely any change, for a character of Philip Francis.'

It is well to add the opinion of Mr. Forrest: 'Had Macaulay studied the minutes and letters now printed he would have had no reason to correct or modify his judgment regarding Philip Francis. The minutes, like the letters of Junius, display the same art of assuming a great moral and political superiority and the same art of evading difficulties, insinuating unproved charges, and imputing unworthy motives. The minutes, like the letters of Junius, are distinguished for their clear and vivid style and are charged with envenomed and highly elaborated sarcasm. In them is displayed the art which Francis possessed to supreme perfection of giving the arguments on his side their simplest, clearest and strongest expression, in disengaging them from all extraneous matter, and making them transparently evident to the most cursory reader.'¹

There is much more in the Minutes which shows the hate and malignity of the man, and which also explains his

¹ *State Papers*, Introd., p. xxiv.

final failure. The baser qualities of human nature, even when cleverly used, are apt to shatter themselves against the higher attributes of calmness, fortitude, and self-respect. On the rock of Warren Hastings' superior character the waves of Philip Francis's animosity beat in vain. 'The struggle between them' (to quote again from Mr. Forrest) 'for five years had been a severe one, and Francis left India defeated only to renew the war in England. With ceaseless vigilance and concentrated industry he worked to secure the recall of his enemy and to gain the coveted office. He enjoyed the triumph of seeing his foe impeached, and he endured the bitter disappointment of seeing him acquitted after a trial of seven years during which his activity to secure a conviction was unremitting to the end. The inveterate hostility which he displayed towards the accused created a profound prejudice against Francis, and so materially helped to deprive him of the great ambition of his life. "I will never be concerned", he said, in bitterness of soul, "in impeaching anybody. The impeachment of Mr. Hastings has cured me of that folly. I was tried and he was acquitted." But there was about his nature a pertinacity which nothing could subdue. Six-and-twenty years did he pursue with unwearied zeal and industry his object. Then, when Pitt died and the Whig party came into office, he believed the prize to be within his grasp. The death of Cornwallis had left the Governor-Generalship of India once more vacant. But the new Ministers, as Lord Brougham said,¹ could no more have obtained the East India Company's consent to the appointment of Francis than they could have transported the Himalaya mountains to Leadenhall Street. The fixed ideas and ungovernable temper of the man must have brought ruin to their dominion. In one of the last speeches he ever delivered in the House of Commons, Francis denounced the second Mahratta war in the same vigorous terms in which he had denounced the first Mahratta war in the Council chamber

¹ *Statesmen of the time of George III.*