

Regarding the outrages committed by the Vizier, Colonel Leslie declared that he had heard many "vague reports regarding the matter and certain particular ones which were attended with such circumstances that I could scarce give any credit to from the situation of the parties. There was a particular one at Bissowly: one of the daughters of the Rohilla Chief of that place whom they said he had committed violence upon, and that she in consequence poisoned herself, and knowing the situation of the Vizier at that time I thought it almost impracticable, which made me give very little credit to the stories which I heard at the time of such a nature." On being cross-examined by General Clavering as to the treatment the Rohillas received at the hands of the Nawab, Colonel Leslie stated: "The prisoners who fell into the hands of the Vizier, which I believe to be very few, are now entertained in his service; there are some of the sons of Hafiz Rahmat, two particularly whom I know, and have often seen riding in his suite. He generally took one of these out with him all the time he was at Bissowly; their appearance was good, and I think the same of the rest of his cavalry, and they appeared contented, but no doubt he kept a watchful eye on them."

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\* Secret Select Committee's Proc., 19th December 1774, Vol. I, pages 163 and 164.

Mr. Francis then asked the witness the following question :

*Q.*—"Did the Vizier make any suitable allowance for the maintenance of the families of the conquered chiefs, or were they abandoned to distress and misery for want of the common necessities of life at any time?"

*A.*—"The Vizier has I am told settled allowances, jaghirs upon most of them, but I believe not sufficient to keep them in that way of life they are brought up in; but upon my word I don't know what distresses they have been brought to as they are confined within forts, but the report of the world says they suffer great distress."\*

Major Hannay was the next witness. In answer to the first question regarding the oppression stated to be exercised by the Vizier, he said: "To the best of my knowledge I saw no signs of oppression to the inhabitants of the new conquered country; but from particular enquiries which I had an opportunity of making of the country people, they said they had met with no treatment that they could complain of; that from the treatment they had met with they had no reason to fear greater severity from the Vizier than their former masters."† This is a very different picture to that painted by Macaulay, who describes Hastings folding his arms and looking on while their villages were

\* Secret Select Committee's Proc., 19th December 1774, Vol. I, page 166.

† Ditto ditto 19th December 1774, Vol. I, page 167.

burnt, their children butchered, and their women violated. The Rohillas were not, as Macaulay depicts them, innocent men, fighting for their liberty, but military adventurers who only half a century previously had conquered the country. Major Hannay in his evidence stated: "I have learned from many people that it is only within fifty years that the Rohillas have become masters of the country to the north of the Ganges; that they were originally Afghans, came to Industan under a sardar named Daul Khan, and that they conquered that country from the Hindoos, and that since that time they have followed no other profession than that of arms, and the ancient Hindoos have cultivated the country."\* No doubt villages were burnt as they have been burnt in every war, but Major Hannay informed the Board that both the Vizier and the Rohillas were concerned in burning the villages. "I was informed that some days before our arrival at Shawbad, the Rohillas had burned some villages towards Mamdy in the Vizier's ancient dominions."\* As to the country being reduced to a desert and a hundred thousand people flying to the jungles, Major Hannay stated: "At the time that I went upon an expedition from Bissowly to Sumbul, Mera-dabad, and Rampore, the country appeared to be in

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\* Secret Select Committee's Proc., 19th December 1774, Vol. I, page 167.

good cultivation; the inhabitants were employed in tilling it. It is in general one of the best cultivated countries I have seen in Industan, and very well inhabited, and the people appeared to be busy at this time as if there had been a profound peace, and under no kind of apprehension from the conquerors."\*

In the course of his cross-examination by Francis, Major Hannay was asked :—

*Q.*—"Do you know or believe that the Vizier entered the zenanas of the wives of any of the Rohilla Chiefs"?

*A.*—"It is impossible for me to answer with any degree of precision from the zenanas being spacious places, consisting of many apartments, many of which are not occupied by women. I never knew of his going into any of them at Pellybeet. I can positively say he did not, for he never went into the town of Pellybeet. At Bissowly I have heard that he went frequently into the zenana there, but to the best of my remembrance it was after the women were removed to camp, and that he was fitting up the zenanas for the reception of his own family during the time he was going to Puttergur."†

Regarding the Rohillas, whose character has been painted in such glowing colours by Burke, Mill, and Macaulay, Major Hannay stated: "Their national character has in general been a want of sincerity, to elucidate which I beg leave to mention one instance.

\* Secret Select Committee's Proc., 19th December 1774, Vol. I, page 167.

† Ditto ditto 19th December 1774, Vol. I, page 168.



At the time that Muhammad Ali was their chief he prevailed upon the Almora Raja and the other hill Rajas to assist him in his rebellion against the King, Mahomed Shah; that they did assist him with 20,000 men, that upon the approach of the imperial army they found themselves so much inferior in point of strength that they judged it imprudent to give him battle and prevailed upon the Almora Raja to admit them into his country, the access to which is so strong, that a small number of troops may defend the pass against a very numerous army. They continued there till an invasion of the Mahrattas required that the army of the empire should be returned against them. As soon as ever the army of the empire quitted the Rohilla country, then the Rohillas seized the country of the Almora Raja, their ally, carried away most of the handsomest women of the country captives, amongst others the daughter of the Raja, whom Ali Muhammad took himself, and she was the mother of the present Fyzoollah Khan. This is mentioned as an instance of their insincerity; farther it is a proverb in Industan that they pray with one hand and rob with the other. Their manner of making war is much the same as is practised all over Industan; towards their conquered enemies they have generally been bloody; those whom they have saved they commonly made captives of; and in the late campaign I have been very well assured

by many of the prisoners that their intentions towards us were very bloody, that they had orders to give no quarters.”\*

The next witness called was Colonel Champion, the bitter foe of the Vizier and of Hastings. He described no burning villages, nor thousands of people flying from their homes to pestilential jungles, but he stated: “The native inhabitants are still remaining and the country is in a flourishing condition.” Colonel Champion on being asked whether he had heard the report that brutal outrages had been offered to the wives and daughters of the Rohillas of the highest rank, said: “I did hear such a report, but as to the grounds I have none sufficient to prove the accusation, but the report of it was made to me.”†

The evidence of Colonel Leslie, Major Hannay, and Colonel Champion, a most hostile witness, removes what Macaulay stated to be “a lasting stain on the fame of Hastings and of England.” It is no doubt a great crime to trample out a nationality, but of this

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\* Secret Select Committee's Proc., 19th December 1774, Vol. I, page 168.

† Ditto ditto 28th December 1774, Vol. I, page 173.

*Note.*—Mill writes: “There can be no doubt that the Rohillas, whose troops were among the best and bravest of Hindustan, were a barrier against the Mahrattas.” He loses sight of the fact that the Mahrattas had twice defeated the Rohillas and devastated the country.

crime in our conquest of India we are guiltless. In India we found men belonging to diverse races, speaking diverse tongues, fighting for the supremacy. We found no nation. The Mussulman power was effete long before the battle of Plassey. Brave in battle, the followers of Mohammed were intolerant and proved themselves unfit to govern. All chance of Hindoo supremacy was lost on the field of Panipat. The Mahrattas were brave marauders, but were destitute of the gifts with which nature has endowed the races meant to rule. The Rohillas were soldiers of fortune from Afghanistan, who had only half a century before their defeat conquered the fair valleys and cities of Rohilcund. Hastings, in his minute to the Directors, states: "I must beg leave to take exception to the word '*nation*' applied to the Rohillas. They are a tribe of Afghans or Pathans, free booters who conquered the country about sixty years ago, and have ever since lived upon the fruits of it, without contributing either to its cultivation or manufactures, or even mixing with the native inhabitants. The Rohillas are Mahometans, the natives Hindoos, and have only changed masters."\* Colonel Leslie, in his evidence, remarked that the Rohillas "made the inhabitants till the ground, left them a substance, and kept the rest to

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\* Secret Select Committee's Proc., 16th January 1775, Vol. I, page 177.

themselves.”\* And Major Hannay informed the Board that since the time the Rohillas conquered the country, “they have followed no other profession than that of arms and the ancient Hindoos have cultivated the country.”†

The Rohilla war was no brave struggle of patriots fighting for their native land; it was a struggle of marauders fighting to maintain their supremacy over a people whom they were incapable of protecting from other marauders. The Mahrattas had laid waste the country and driven the Rohillas into their mountain fastnesses. At this grave crisis in their affairs the Rohilla chiefs appealed for assistance to the Nawab of Oudh, the ally of England, and he consented to lend his aid on the express condition that if the Mahrattas were compelled to retire from the country with or without war, the Rohillas should pay a certain sum of money. The treaty was signed and ratified by the Commander-in-Chief of the English troops. The Mahrattas were compelled to retire, but they invaded the country next year and were again driven off by General Sir Robert Barker. The Vizier then demanded from the Rohilla chiefs the sum they had stipulated by treaty to

\* Secret Select Committee's Proc., 19th December 1774, Vol. I, page 163.

† Ditto ditto 19th December 1774, Vol. I, page 167.

pay. They resorted to evasions and excuses till his patience was exhausted and he resolved to annex their country as a punishment for their breach of faith. The Nawab determined to ask his ally to aid him in the enterprise. The first proposition of the Rohilla war came from the Vizier and General Barker, and Hastings was most unwilling to accede to it. But he and his colleagues after long and mature deliberations came to the conclusion that on the annexation of Rohilcund to Oudh depended not only the tranquillity and safety of Oudh but the tranquillity and safety of our own possessions. Rohilcund was the gate of Oudh, and as Hastings wrote to the Directors: "If the Mahrattas, either by the defeat, or, which was as likely to happen, by the desertion of the Rohillas to their cause, should gain a footing in that country, nothing could oppose their entering into the province of Oudh and laying it waste, in spite of any attempts of our forces to prevent them. The map which accompanies this will demonstrate this truth more powerfully than any verbal argument. It was not to be supposed that the Mahrattas, whose ambition for some years past had aspired to universal conquest, and who had extended their arms from the centre of the Balaghat to the northern extremity of Hindustan, should sit down contented when they had added Doab, Corah, and Allahabad to their dominions. On the contrary, there

was every reason to apprehend, and it was publicly reported in their own camp, that they would next carry their operations into the country of the Vizier and even into the Company's own possessions."\* Hastings held the opinion, and it was supported by the evidence of Colonel Leslie, Major Hannay, and Colonel Champion, that the Vizier's state joined to Rohilcund would form "*a complete compact state shut in effectually from foreign invasions.*"† He, however, clearly saw that convenience does not justify aggression, for he wrote to the Directors: "I own that the convenience of possessing the Rohilla country was not sufficient reason for invading it. I never said it was; but if they had afforded a just provocation for invading these countries, and we saw advantages in invading it, though neither cause was alone sufficient to produce that effect, yet both united would certainly justify it, and the most rigid speculators would approve so fair a conclusion."‡ A breach of a treaty has always been regarded by nations as a just provocation for war.

Hastings and his colleagues determined to aid the Vizier, and for the services of the English troops they

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\* Secret Select Committee's Proc., 8th December 1774, Vol. I, page 141.

† Ditto ditto 16th January 1775, Vol. I, page 184.

‡ Ditto ditto 16th January 1775, Vol. I, page 184.



agreed to accept a payment of forty lakhs. Macaulay observes: "England now descended far below the level even of these petty German princes who about the same time sold us troops to fight the Americans. The Hussar-mongers of Hesse and Anspach had at least the assurance that the expeditions on which their soldiers were to be employed would be conducted in conformity with the humane rules of civilised warfare. Was the Rohilla war likely to be so conducted? He well knew what Indian warfare was. He well knew that the power which he covenanted to put into Sujah-ul-Dowlah's hands would in all probability be atrociously abused: and he required no guarantee, no promise that it should not be so abused. He did not even reserve to himself the right of withdrawing his aid in case of abuse however gross."\* The German princes had no interest, direct or indirect, in the American war. The English lent their troops to an ally to punish certain chiefs for a breach of a treaty to which the English Commander-in-Chief had affixed his signature, and to annex a territory which these chiefs had gained possession of by the sword and could no longer defend from a foe whose ambition menaced the safety of our dominions. Hastings never concealed the fact that the payment of forty lakhs to the Company greatly influenced his decision. Writing to the

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\* Macaulay's Essay on Warren Hastings.



Directors he said : " I shall be always ready to profess that I do reckon the probable acquisition of wealth among my reasons for taking up arms against my neighbours. I never in any period of my life, though long engaged in public affairs, gave my consent for taking up arms in an *unjust cause*, and I never shall but in cases of very notorious enormity give my consent to take up arms in an *unprofitable one*!"\* Regarding the charge first brought by Francis and repeated and embellished by Macaulay that Hastings took no guarantee from the Vizier that the war should be conducted in conformity with the humane rules of civilised warfare, Hastings at the time wrote : " It is a perversion of facts to say that ' the British arms and honour were absolutely at the Vizier's disposal,' that ' an absolute surrender has been made of the honour and interest of the Company.' We agreed to assist him in subduing the Rohillas. It was necessary to draw the line between the authority of the Vizier and our Commanding Officer. The service to be performed was entirely the Vizier's; it was therefore consistent and unavoidable that he should direct the objects of it; but the execution of military operations was expressly vested in our Commanding Officer; of course the safety of our army and the honour of the British

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\* Secret Select Committee's Proc., 16th January 1775, Vol. I, page 184.

name and arms were entirely confided to his conduct and discretion."\*

It was the Commanding Officer, Colonel Champion, to whom, as Hastings pointed out the honour of the British name and arms was entirely confided, who either through personal animosity or the desire of persuading the Board to grant him the power which he repeatedly solicited to entirely command the Vizier, first brought the graver charges against the Nawab which have tarnished the honour of the British name. The evidence however of Colonel Leslie and Major Hannay, strictly corroborated by the letters and de-

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\* Secret Select Committee's Proc., 16th January, 1775, Vol. I, page 182.

Hamilton's History of the Rohilla Afghans, page 268. Mill lays considerable stress on the use of the word *exterminate* in the official correspondence. Regarding this Hastings wrote: "I am here charged with a concealed design formed in concert with the Vizier to *extirpate* the Rohillas; and much use is made of this discovery both by the majority in the letter before me and by Colonel Champion in his vindication. The word in the original language of the letter which is here translated to *extirpate* means expel or remove. In another passage of the letter it is joined with a word which does literally express to extirpate or root out, and both passages mean no more than that it was the intention of the Vizier to expel or remove the Rohillas from the country which they occupied, without suffering the smallest vestige of their power to remain in it. In this sense I most certainly did agree to assist the Vizier, and so did the late President and Council, nor can I conceive how the war could have been undertaken with any other object. The majority know as well as myself that the Rohillas are not the people of the country, but a military tribe who conquered it, and quartered themselves upon the people without following any profession but that of arms, or mixing in any relation with the native inhabitants."—Secret Select Committee's Proc., 8th March 1775, Vol. II, page 268.

positions of Colonel Champion himself, proves that the Vizier was unjustly traduced in the reports which prevailed of the enormities committed by him in the course of the war. Macaulay, with the tendency to exaggerate which so seriously impairs the value of his work as a historian and critic, observes: "Their military resistance crushed, his (Hastings) duties ended; and he had then only to fold his arms and look on while their villages were burnt, their children butchered." A certain number of villages were burnt. This, as Hastings admits, was both barbaric and impolitic, but too much justified by the practice of war established among the nations of the East; and he might have added nations of the West. The statement made that children were butchered, is absolutely due to the imagination of Macaulay and to his love of contrast. Macaulay also infers that a wholesale violation of the women took place by the soldiery. But the charge was never brought against the soldiery; it was brought against the Vizier himself, and respecting this Hastings wrote: "The only authority which the gentlemen of the majority had for this horrid accusation at least I recollect no other, was a letter from Mr. Nathaniel Middleton, who mentioned it only as an instance of the falsehoods which had been propagated to injure the Vizier, adding that the unhappy victims of his brutal lust, who could not survive their

shame, but had put a violent end to their own lives, were still living, and that the Vizier had never seen them.”\* History furnishes no more striking example of the growth and vitality of a slander. The Rohilla atrocities owe their birth 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 villages were burnt and that the prisoners were ill subsisted. A hundred thousand people did not fly to pestilential jungles, but about seventeen or eighteen thousand Rohillas with their families, were expelled from Rohilcund, and Hindu inhabitants, amounting to about seven hundred thousand, remained in possession of their patrimonial acres and were seen cultivating their fields in peace.

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\* Secret Select Committee's Proc., 16th January 1775, Vol. I, page 181.

### CHAPTER III.

#### DEATH OF THE VIZIER OF OUDE—NUNDCOOMAR.

At a meeting of the Board on the 6th February 1775, a letter was read from the Resident at Oudh announcing the death of the Vizier. The majority of the Council considered all the treaties made with the Nawab as purely personal, and consequently invalid on the death of one of the contracting parties. They therefore determined to make a heavier bargain with the Vizier's successor. At a meeting of the Board on the 3rd March it was discussed and determined what part of the Nawab's dominions should be included in the new treaty. Francis stated: "My opinion is that we may with propriety guarantee to the present Nawab of Oudh for his life all the countries guaranteed to the late Vizier by the treaty of Illahabad, except the dominions of Chayt Singh. I think that this guarantee may be also conditionally, and *pro tempore*, extended to the countries of Oudh and Illahabad, until we shall be informed whether the treaty of Benares be ratified or disproved by the Court of Directors. I do not think it safe or prudent to enter into any engagement that may eventually carry the Company's forces

beyond the limits of the countries I have mentioned." Hastings observed: "My answer to the question is short, as it can be of no use; we ought in my judgment to guarantee to the Nawab of Oudh the Subehdary of Oudh, the districts of Corah and Illahabad, and the country lately conquered from the Rohillas, but no more. I do not wish to see the Company's forces carried within the line of the Rohilla country for its defences; I believe that an engagement to defend the country for him would render it unnecessary. I fear he may lose it. We shall in that case have a greater burden imposed upon us in the defence of the Nawab of Oudh, and he be less furnished with means of discharging his engagements with us."\* It was, however, "resolved that the Board will agree to guarantee to the Nawab Mirza Amaunay the province of Oudh and conditionally those of Corah and Illahabad until the pleasure of the Court of Directors on the treaty of Benares be known."† The Governor General then proposed the following question: "Whether it shall be made a condition of the new treaty that Raja Chayt Singh shall exercise a free and independent authority in his own dominions, subject only to the payment of his tribute;"‡ and it was resolved in the

\* Secret Select Committee's Proc., 3rd March 1775, Vol. II, pages 262 and 263.

†	Ditto	ditto	3rd March 1775, Vol. II, page 264.
‡	Ditto	ditto	3rd March 1775, Vol. II, page 264.



affirmative. The Governor General then proposed : " Whether it shall be made an article in the treaty that, in consideration of the engagement to be entered into by this Government to guarantee the possessions of the Nawab of Oudh as before resolved, he shall cede and make over to the Company the whole or any part of the tribute due from the zemindar of Ghazipore. " \* Francis stated : " I consider the cession to the Company of the whole tribute paid by the zemindar of Ghazipore to the late Nawab as the first and most essential condition of a treaty with the present Nawab : the advantage gained by the zemindar will be also very considerable, as it has always been my opinion that his authority in his own Government should be left free and uncontrolled ; as long as this advantage is preserved to him, he must consider it as his interest to be the tributary of the Company rather than of the Nawab. " \*

Colonel Monson and General Clavering, as was their wont, supported Francis, but Barwell strongly protested against the exaction. He observed : " The Company, it is obvious, never intended that upon the necessities of our allies we should grasp at any part of the territories they possessed. The son of a man with whom we were so lately intimately connected,

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\* Secret Select Committee's Proc., 3rd March 1775, Vol. II, page 264.



upon a supposition of his standing in need of our assistance, ought not in my opinion to be stripped of any part of his paternal territory."\* Hastings was of opinion "that a demand should be made, of a moiety of the revenue paid by the zemindar of Ghazipore, but I do not think that we ought to insist on this article or that the Nawab's refusal to consent to it should prove an impediment to our proceeding on the treaty."† It was resolved "that the demand be made for the tribute of Ghazipore, but that it be not considered an absolute and indispensable article in the negociation with the Nawab." The Governor General proposed the next question: "Whether the subsidy to be stipulated for the assistance of our troops to the Nawab of Oudh by the proposed treaty shall continue on the present footing of Rs. 2,10,000 per month for a brigade, or what other sum shall be demanded." And he expressed an opinion that the present subsidy was sufficient and that it ought not to be increased. "I doubt," he stated, "whether a larger sum would in reality prove a gain to the Company." It was however "resolved that an increase of the subsidy be demanded from the Nawab to make it equal to the expense of the troops."† Thus we find the states-

\* Secret Select Committee's Proc., 3rd March 1775, Vol. II, page 264.

† Ditto ditto 3rd March 1775, Vol. II, page 265.

man who has been branded as the violator of treaties and the oppressor of nations by extortions and exactions doing his utmost to prevent his colleagues from extorting any concession from a native prince inconsistent with a former treaty.

The majority of the Council, no longer content with attacking Hastings' public policy, now lent their aid to a grave imputation on his personal integrity. On the 11th March 1775 Francis informed "the Board that he this morning received a visit from Raja Nundcoomar, in which the Raja delivered to him a letter addressed to the Governor and Council and demanded of him, as aduty belonging to his office as a Councillor of this State, to lay it before the Board. Mr. Francis conceiving that he could not, consistently with his duty, refuse such a letter at the instance of a person of the Raja's rank, did accordingly receive it, and now lays it before the Board, declaring at the same time that he is unacquainted with the contents of it. Mr. Francis further begs leave to observe that he received this letter publicly in the presence of a considerable number of persons, and that the Raja's verbal request was interpreted to him by these different persons."\*

The letter laid before the Board professed to relate the connection of Nundcoomar with the company. It

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\* Secret Select Committee's Proc., 11th March 1775, Vol. II, page 298.

was due to him, he stated, that Meer Jaffir had waged war against Meer Cassim after the massacre of Patna; and after the defeat of Meer Cassim and Sujah-ul-Dowlah at Buxar he had obtained "from His Majesty the King Shah Alum the Subahs (of Bengal, &c.) for the Nawab Jaffir Ali Khan;" during the Nawab's lifetime he had faithfully distributed the revenue; after the death of Meer Jaffir he was deprived of his office by certain Englishmen who "for views of private advantage raised Mahomed Reza Khan to the post;" he reminds the Board that for the space of seven years Mahomed Reza managed the affairs of the Subah of Bengal; "what the measures were, which he pursued in the administration of the country, the balances which he fraudulently wrote off, his violence and oppressions upon his own masters and upon the ryots and his trade in grain, by all which his master's house and the whole country were desolated, are well known to all." Against Nundcoomar himself Mahomed Reza could bring no charge: "as nothing of the kind had been committed by me, he was able to produce nothing." It was Nundcoomar who assisted Hastings when he was appointed Governor in prosecuting Mahomed Reza Khan and Shitab Roy, and drew an account of their embezzlements which showed that Mahomed Reza Khan had appropriated upwards of 305 lakhs (£3,052,695) and Shitab Roy 90 lakhs (£900,000).

Mahomed Reza Khan offered 10 lakhs (£100,000) to Hastings and two lakhs (£20,000) to him (Nundcoomar), and Shitab Roy offered four lakhs (£40,000) to Hastings and one lakh to Nundcoomar. These offers he reported to Hastings who refused them. Soon after, he remarks, Hastings set Mahomed Reza at liberty and "entirely dropt the inquiry into his embezzlements and malpractices." "Why this extraordinary favour was so suddenly shown, the Governor can best assign the reasons."\* Shitab Roy was re-instated in office. "The motives of these proceedings will best be understood from Mr. Hastings himself."† After insinuating some other charges against Hastings, Nundcoomar adds: "Thus far I have written in general terms. I shall now beg leave to offer a more particular and circumstantial statement of facts." He then states that at various times in the year 1772 Hastings had received the sum of three lakhs and fifty-four thousand rupees from himself and Munny Begum "for procuring Raja Goordass's appointment to the Niabut and causing Munny Begum to be made the superior of the family."‡ It is difficult to read the letter of Nundcoomar without agreeing with Lord Thurlow that "a more extraordinary or a more

\* Secret Select Committee's Proc., 11th March 1775, Vol. II, page 300.

† Ditto ditto 11th March 1775, Vol. II, page 301.

‡ Ditto ditto 11th March 1775, Vol. II, page 303.

insolent production never appeared undoubtedly, nor one which carried falsehood upon the face of it more strongly."

After the letter had been read through, Hastings observed: "As Mr. Francis has been pleased to inform the Board that he was unacquainted with the contents of the letter sent into the Board by Nundcoomar, that he thinks himself justified in carrying his curiosity further than he should have permitted himself without such a previous intimation, and therefore begs leave to ask Mr. Francis whether he was before this acquainted with Nundcoomar's intention of bringing such charges against him before the Board." Francis replied: "As a member of this Council I do not deem myself obliged to answer any 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 delivered into the Board till I heard it read. I did apprehend in general that it contained some charge against him. It was this apprehension that made me so particularly cautious in the manner of receiving the Raja's letter. I was not acquainted with Raja Nundcoomar's intention of bringing in such charges as are mentioned in the letter."\*

At a meeting of the Board held on the 13th March 1775, a further letter from Nundcoomar was received

\* Secret Select Committee's Proc., 11th March 1775, Vol. II, page 303

and read. After referring to his former letter he states: "What is there written I mean not in the least to alter: far from it, I have the strongest written vouchers to produce in support of what I have advanced, and I wish and entreat for my honour's sake that you suffer me to appear before you to establish the fact by an additional incontestable evidence."\* Nundcoomar was too well acquainted with official etiquette and oriental custom not to know that his request was an act of gross impertinence, and that to grant it would be an insult to the Governor General and the death-blow to his prestige and authority in the eye of every native in Bengal. But Nundcoomar knew when he made the request that it would be pleasing to the majority and certain to be granted. He had been in intimate communication with Colonel Monson, and immediately after his letter had been read Colonel Monson proposed "that Raja Nundcoomar be called before the Board." Hastings upon this proceeded to write a minute in which he declared that he would not suffer Nundcoomar to appear before the Board as his accuser. "I know what belongs to the dignity and character of the first member 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

\* Secret Select Committee's Proc., 11th March 1775, Vol. II, page 304.



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."\* Hastings goes on to show that Nundcoomar was only a tool in the hands of the majority, "that he was guilty of great insolence and disrespect in the demand which he made of Mr. Francis, and that it was not a duty belonging to the office of a Councillor of this State to make himself the carrier of a letter which would have been much more properly committed to the hands of a peon or hercarrah, or delivered by the writer of it to the Secretary himself."† He points out that Francis acknowledged that it contained a charge against him but if the charge was false it was a libel.‡ "It might have been false for anything that Mr. Francis could know to the contrary, since he was unacquainted with the contents of it. In this instance therefore he

\* Secret Select Committee's Proc., 11th March 1775, Vol. II, page 305.

† Ditto ditto 13th March 1775, Vol. II, page 305.

‡ Ditto ditto 13th March 1775, Vol. page 306.

"The term of the expression here is peculiar. It implies an admission that the charge was true, though it might have been false, but this can hardly have been the writer's meaning. I read it rather as an argument founded on a concession (for the sake of argument) that the charge was true."—*The Story of Nundcoomar*, by Sir James Fitz-James Stephen, Volume I, page 53.



incurred the hazard of presenting a libel to the Board. This was not a duty belonging to his office as a Councillor of this State." Hastings proceeds to inform the Board that he had been long acquainted with Nundcoomar's intention of making the attack upon him. He writes: "I was shown a paper containing many accusations against me, which I was told was carried by Nundcoomar to Colonel Monson, and that he himself was employed for some hours in private with Colonel Monson explaining the nature of these charges." He adds—"I do not mean to infer from what I have said that it makes any alteration in the nature of the charges were they delivered immediately from my ostensive accusers, or whether they came to the Board through the channel of patronage, but it is sufficient to authorise the conviction which I feel in my own mind that these gentlemen are parties in the accusation of which they assert the right of being the judge." Hastings closes the minute by stating his inflexible determination not to suffer the indignity of allowing Nundcoomar to accuse him before the governing body of which he was the head. "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? I believe I need not mention his name, but it is Nund-

coomar! Shall I sit to hear men collected from the dregs of the people give evidence at his dictating 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 will repeat that I will not meet Nundcoomar at the Board nor suffer Nundcoomar to be examined at the Board; nor have you a right to it, nor can it answer any other purpose than that of vilifying and insulting me to insist upon it."\*

Monson requested that the Governor General would inform the Board from whom he had his information respecting the visit Nundcoomar paid to him. Hastings refused to give up the name, because he would not expose his informant to the vengeance of the majority. He added, however, that Barwell had received similar information at the same time. Barwell informed the Board "that he was apprised of it, and received a copy of the same paper that the Governor laid before the Board." The paper was entered by the Board after the consultation. It is substantially the same as the letter laid before the Board by Francis, though in it Nundcoomar makes no mention of having himself bribed Hastings. Incorporated in the paper is a

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\* Secret Select Committee's Proc., 13th March 1775, Vol. II, page 306.

letter purporting to be written by Munny Begum, which is identical with both the letters produced by Nundcoomar. Monson said: "As the Governor General has not thought proper to acquaint the Board from whom he received the information with regard to my conversation with Nundcoomar, I shall take no further notice of it." He added, "I do hereby declare that the Governor and Mr. Barwell likewise have been totally misinformed, for I never heard nor saw any paper in Persian or any other country language which contained to the best of my knowledge any accusation against the Governor General.\*" This, Sir James Stephen remarks, admits by not denying a conversation with Nundcoomar, and suggests that Monson did "see or hear" a paper in English.

The motion of Monson to call in Nundcoomar being put to the Board, Hastings again protested against it. He said, "I do not understand the question to be whether Nundcoomar shall be called before the Board, but whether I shall be confronted with him, since the same effect may be produced, as I have declared before, by a Committee of the Board without my presence." It was resolved "that Nundcoomar be called before the Board, and the Secretary is ordered

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\* Secret Select Committee's Proc., 13th March 1775, Vol. II, page 306.

to summon him accordingly."\* Then occurred the following scene:—

THE GOVERNOR GENERAL.—“I declare the Council now dissolved and I do protest against any acts of it as a Council during my absence as illegal and unwarranted.”

MR. FRANCIS.—“I beg leave to ask the Governor General whether he means to quit the chair.”

THE GOVERNOR GENERAL.—I shall not answer your question, because I do not think it is sufficiently defined. I quit the Council.

MR. BARWELL.—“I think the Governor said he dissolved the Council; it is now 5 o'clock in the evening. The Governor, as I understand him, did not say “I quit the Council, but that I leave it.” I esteem the Council as dissolved, and unless I receive a summons agreeable to the usual form from the Governor General, whose office still exists, and is not vacated, I do not propose to partake in the debates.

Mr. Barwell withdraws from the Board.

General Clavering, in compliance with the resolution of the majority, having taken the chair Nundcoomar was called in, and Colonel Monson moved that he be desired to deliver to the Board what he has to say in support of his charge against the Governor General. He replied: “I am not a man officiously to make complaints, but when I perceived my character, which is as dear to me as life, hurt by the Governor's receiving into his presence Juggut Chund and Mohun

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\* Secret Select Committee's Proc., 13th March 1775, Vol. II, page 307.

Pershaud, who are persons of low repute, and denying me admittance, I thought it incumbent upon me to write what I have. 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." Being called upon for these papers he delivered the translation of a letter from Munny Begum, dated 2nd September 1772. In it the Begum states that in gratitude for her advancement to the Nizamut she offered Hastings a present of a lakh of rupees. Hastings refused, but when she pressed the matter he said that Nundcoomar had promised two lakhs. "I guessed, my friend, that this two lakhs was a part of the three lakhs about which I wrote to you in a letter I despatched with Kiam Beg and of which I sent you word by Juggut Chund."\* 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 Nundcoomar 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 Nundcoomar prom-

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\* Sir James FitzJames Stephen remarks: "This allusion was not explained by Nundcoomar, nor did he produce any letter as being the one referred to."—"The Story of Nundcoomar," Volume I, page 56.

ised. "I therefore begged that he would accept one lakh of rupees here, and told him that I would draw upon you for the other lakh which you 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 lakh of rupees, which you will be kind enough to pay to the Governor when he returns to Calcutta. I am raising one lakh 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 Raja Goordass. I earnestly entreat that you will not upon this occasion entertain any doubt of me."\* The letter closes with a strong injunction to secrecy.

Nundcoomar being asked if he possessed the original of the paper, produced what he said was the original of the translation. Mr. Auriol, the Assistant Secretary, being asked to look at the characters on the seal and inform the Board what they are: "he informs them the characters are Persian and express the name of Munny Begum." Sir John D'Oyly, the Acting Persian Translator, having now arrived, was

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\* Secret Select Committee's Proc., 13th March 1775, Vol. II, page 309.



called in and shown the seal. "He also declares it to be Munny Begum's." This expression, as Sir James Stephen remarks, shows how ill-fitted the Council were for taking evidence. "D'Oyly's statement goes much further than Auriol's, but the writer of the consultations seems to have considered them equivalent to each other." The moonshee to the Persian Translator being asked whether another letter from Munny Begum which was produced by Sir John D'Oyly from the Persian office was in the same handwriting as that delivered by Nundcoomar, replied that it was not, but "that the seal of the letter is Munny Begum's seal, and that the direction and body of the letter appear to be in the same hand." It was observed by the Board "that the letter which has been given in by the Raja was written two and a half years ago, and that the letter produced by Sir John D'Oyly was written only a few days ago." The spirit shown by such a remark is noticeable. The Council, who had taken upon themselves judicial functions as soon as a difficulty appears in Nundcoomar's case, suggest an answer to it instead of inquiring into its weight.\*

Nundcoomar, who had requested to be summoned before the Board because he had the strongest written vouchers to produce in support of what he advanced,

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\* The Story of Nundcoomar, by Sir James FitzJames Stephen, Volume I, page 58.



on being asked if he had any more papers to produce, replied—"I have no more papers." He was then further questioned whether the Governor General or any other person on the part of the Governor General had attempted to obtain from him the original letter. He replied—"the Begum applied to me for it through Cantoo Baboo, the Governor's banian. I gave it into Cantoo Baboo's hands to read it, and on being refused the original, he desired that he might take a copy of it to send to the Begum. I told him he might copy it in my presence, but it being then late in the evening he said he would defer copying it till another day."\* The questions obviously suggest that Nundcoomar must

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\*"The only questions put to Nundcoomar 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 Nundcoomar, the Council must have perceived that on several points there was urgent need of inquiry. The story told in the letters does not on its face agree with the charge made by Nundcoomar. Nundcoomar said he had given Hastings in gold 1,04,105 rupees and that the Munny Begum had given him at Moorshedabad a lakh, and had caused Nur Singh, Cantoo Baboo's brother, at Cossimbazar, to pay him a lakh and half more, making in all 3,54,104 rupees.

"The letter says that the Munny Begum was to pay two lakhs, and that she was raising one lakh to pay to Hastings at Moorshedabad, and it begs Nundcoomar to pay the other lakh to Hastings at Calcutta, and promises to repay him.

"Upon this Nundcoomar should have been asked whether he did what the Munny Begum asked him, and whether the 1,04,105 rupees which he said he gave in gold to Hastings at Calcutta was the lakh which the Munny Begum asked him to advance? If he said yes, his statement and the statement in the Begum's letter were in direct conflict; for, according to the letter, the total amount paid or caused to be paid by the Begum was two lakhs, and according

have been in previous collusion with the majority or some member of the majority, for there was nothing to suggest it in his previous letters or statements. Its object was to furnish an excuse of offering a fresh insult to Hastings by summoning his head native secretary before the Board. He was summoned to attend, but replied—"The Governor is at present here, and I am with him. He prevents me, for which reason I cannot go. When the Council is complete, if I am summoned I will attend."\* The Council held "that he

to his statement the amount was three lakhs and a half. If he said no, two questions arose, namely, first on what consideration the 1,04,105 rupees in gold were paid, and, secondly, how the letter of the Begum could be reconciled with his accusation, the letter stating that the Begum was to pay one lakh at Moorshedabad, and expressing a wish to borrow another from Nundcoomar to be paid at Calcutta, and the accusation stating that one lakh was paid at Moorshedabad, and another lakh and a half to Nur Singh at Cossimbazar, the suburb of Moorshedabad? I do not say that these questions might not have been satisfactorily answered, but I do say that they ought to have been asked, for they arise upon matters patent on the face of the document accepted by the Council. 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 Nundcoomar. They did not even send for the persons alleged by Nundcoomar to have delivered and received the bags of gold, nor did they ask Nundcoomar a single question as to the time when, and the 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 tested."—*Story of Nundcoomar*, by Sir James FitzJames Stephen, Volume I, pages 60–62.

\* Secret Select Committee's Progs., 13th March 1775, Vol. II, page 310.

was guilty of a high indignity to this Board." Nundcoomar was further questioned whether he himself was present when the money was given to Hastings' servants, and he replied in the affirmative and stated that he was accompanied by certain servants of his own. All were present, he mentioned, in Calcutta, except one who was at Moorshedabad. On being questioned whether he was sure that the servants received the money on account of the Governor, he replied—"They undoubtedly took it for the Governor. I asked the Governor if it had reached him, and he said, it had." This closed the examination of Nundcoomar, an examination entirely conducted not to elicit truth but to extract answers damaging to the accused. The Board did not cross-examine Nundcoomar 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.† They did not examine Nundcoomar as to the grave discrepancies between his accusation and the letter of the Begum. But on the evidence of Nundcoomar, an avowed accomplice, who was known to be the bitter foe of Hastings, the Board came with indecent haste to the conclusion "that the several sums of money specified in Maha-

raja Nundcoomar's letter of the 8th March have been received by the Governor General, and that the said sums of money do of right belong to the East India Company.\* It was resolved "that the Governor General be requested to pay into the Company's treasury the amount of those sums for the Company's use."

It was "ordered that the proceedings of the Board and all the papers relative to Maharaja Nundcoomar's charge against the Governor General be delivered to the Company's attorney, that he may lay them before counsel for their opinion how to proceed in recovering for the Company's use the several sums of money which the Governor General has received from Maharaja Nundcoomar or Munny Begum for services done them through his influence." The law officers of the Company in Bengal did not recommend any prosecution in India, but advised the Board to transmit all the documents and evidence to the Company, who might, if the matter was worthy of their notice, file a bill against Hastings and compel a discovery. "These documents," said Lord Thurlow, "arrived at a time when it certainly was the anxious wish of the Minister to take any fair and reasonable ground he could for the removal of Mr. Hastings. The papers were all

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\* Secret Select Committee's Proc., 13th March 1775, Vol. II, page 311.

submitted to the law officers of the Company, who declared that the information of Nundcoomar, even upon the *ex parte* case before them, could not possibly be true. The reasons for that belief were assigned at length. The Directors, though a majority of them were very well disposed to oblige the Minister, concurred with their law officers, and all that rubbish and trash remained unnoticed from 1776 to the year 1789, when, as Your Lordships know, it was repeatedly mentioned to you by the managers, as containing proofs of the corruption of Mr. Hastings, and it was very properly rejected by the Court. It was never pretended by the managers, that they had evidence to go a step beyond this rejected information of Nundcoomar."

The accusation brought against Hastings by Nundcoomar formed part of the seventh article of impeachment against him. The minute which he wrote at the table of the Board was regarded by his accusers as bearing marks of conscious guilt. The learned judge, whose statement of the case is a masterpiece of comprehensive exposition, writes—"It certainly bears marks of strong excitement, and though I should not go so far as Sir Gilbert Elliot and Burke in thinking it inconsistent with innocence, I think it suggests that there was something to explain."\* The matter which Hastings did not explain was the fact that of the three

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\* The Story of Nundcoomar, by Sir James FitzJames Stephen.

and a half lakhs Nundcoomar accused him of receiving from Munny Begum he had received one and a half lakhs as a sumptuary allowance, which was entered in the public accounts of the Nawab's treasury. In the May following (1775) when the Board deputed Mr. Goring to examine the disbursements of various sums in several departments at Moorshedabad, and to deprive Munny Begum of her office and authority, she was questioned regarding the transaction and declared that "every Governor coming to Moorshedabad received two thousand rupees a day in lieu of provisions, beyond that she had not given a single cowrie, and every payment would appear on the record." At the trial of Warren Hastings the managers of the impeachment having summoned the auditor of the India Office, he read from a book of public accounts a statement of the allowance made at Moorshedabad to Lord Clive first and next to Mr. Verelst when they were Governors which confirmed the truth of the Begum's declaration that every Governor at Moorshedabad received the same allowance as Hastings. It would, no doubt, have been wiser if Hastings had stated in his minute that he had received a lakh and a half of rupees as a sumptuary allowance; but the minute, it must be borne in mind, was written in the Council Chamber at a moment of great excitement. Hastings had to encounter the deliberate and guarded attacks of his enemies by the



instant and unpremeditated impulse of his own judgment. "Do not," he writes to his masters, "wonder, therefore, Hon'ble Sirs, if my behaviour in any part of these disputes shall appear to you defective or improper. I am not yet conscious of any impropriety in it, but I think that on many occasions I could have provided myself with a much completer plan of defence had I been allowed the same leisure and tranquillity to form it as my opponents possessed in concocting that of their attacks upon me."

Burke inveighed bitterly against Hastings for calling Nundcoomar a miscreant. "If, therefore," he said, "Raja Nundcoomar was a man who (it is not degrading to your Lordship to say) was 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." Hastings had better opportunities than Burke of forming an estimate of the character of Nundcoomar, and had solid reasons for describing it in harsh language. Thirteen years before Nundcoomar brought his accusations against Hastings, Hastings had been employed in investigating a charge of forgery brought against Nundcoomar.

Certain traitorous letters were intercepted and brought to Calcutta, but they proved to be forgeries. Hastings was appointed to enquire into the matter, and his report is now published for the first time.\* He came to the following conclusion: "From several depositions and the circumstances herein presented the Board will judge on whom to fix the forgery of the letters in question. One observation it remains upon me to make, that a fact of this kind, in which the intervention of more than one person is not immediately required, can scarce ever admit of a positive and incontestable proof, though the several consequent and relative facts may be sufficiently proved, and point out in the most evident manner the main spring which set them in motion. In this light regarding the enquiry before us, 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 Nundcoomar's, and that Sudder-odin (a servant of Nundcoomar's) 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

\* This will be found in the Appendix III.

contrivance and direction of Nundcoomar, in order to fix the charge of a traitorous correspondence upon Ramchurn." When Hastings was first appointed Governor of Bengal, Nundcoomar sent letters to him at Madras in the names of the Nawab's uncle and Munny Begum. The letters were filled with invectives against Mahomed Reza Khan and recommendation of himself. Hastings afterwards found that Munny Begum had no knowledge of these letters, and she declared the letter stated to be written by her to be a forgery though it bore her seal. It was only natural after the experience of the past that Hastings should regard the letter produced by Nundcoomar as another forgery, though like the letter forwarded to Madras it bore the Begum's seal. "I make no doubt of proving it," he wrote to a friend, "it bears most evident symptoms of it in the long tattling story told with such injunction of secrecy and a word to the wise pertinently added to the end of it, when the sole purpose of the letter was to order the payment of a lakh of rupees, and Nundcoomar's son and son-in-law were with the Begum, and daily informing him of all that passed."\*

But even if Nundcoomar had borne an unblemished character, Hastings would have been justified in refusing to submit to the disgrace and mortification of

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\* Memoirs of Warren Hastings, by Gleig, Volume I, page 515.

the head of a Government being accused in person during the sitting of the Council over which he presided. Such a procedure must have brought his office into contempt and injure the dignity of station which a man has interest to preserve. It moreover was unnecessary for the purpose either of eliciting truth or of promoting justice. A Committee of inquiry, consisting of the Council without Hastings, would have been equally efficacious for these purposes. Hastings did not dispute the right of his colleagues to make an inquiry into the charges of corruption brought against him, nor did he, as Mill states, "raise any pretences for stifling inquiry." He only pointed out the mode of conducting it which would be least injurious to the dignity and authority of the Government. As Hastings wrote to the Directors—"Had the majority been disposed to accept of my proposition of appointing a Committee for prosecuting their inquiries either into these or the Ranny's allegations, they might have obtained the same knowledge and all the satisfaction in this way that they could have expected from an inquisition taken by the Board at large, their proceedings would have had the appearance at least of regularity, and my credit would have been less affected by them. The only point which they could possibly gain by persisting in bringing such a subject before the Board was to gain a public triumph over me, and

expose my place and person to insult.\*"

The animosity of the majority against Hastings and their desire to insult and degrade him in the most public manner was strikingly illustrated by their treatment of his secretary and agent, Cantoo Baboo. He was a man of high caste and good family and for many years had taken a leading part in the administration. As the Secretary of the Governor General he was "considered universally as the first native inhabitant of Calcutta."† Because, acting under the orders of the Governor General, he did not appear at their first summons before the Board, it was proposed to place him in the stocks, a punishment, as Hastings remarked, "so disgraceful to a man of character and credit as would be an extension of rigour equal to death." General Clavering, in proposing the motion, observed that Hastings had said that if Clavering meant anything personal to him he would make him answer for it with his life. On this Hastings observed: "I said if he attempted anything in his own person and by his own authority, I would oppose it with my person, or personally oppose it at the peril of my life."‡ The discussion growing dangerously warm

\* Secret Select Committee's Proc., 22nd April 1775, Vol. II, page 348.

† Ditto ditto 20th March 1775, Vol. II, page 320.

‡ Ditto ditto 20th March 1775, Vol. II, page 324.

Francis moved an adjournment of the Board, and it was agreed that the Board do adjourn accordingly.

On the 20th of April at a meeting of the Board, at which the majority only were present, a letter was received from Hastings in which he informed them that "as his attendance at a meeting of the justices at the house of Sir Elijah Impey was required, he requested General Clavering to take his place and direct the despatch of such business as may require it." The majority, after mentioning that they had heard from Mr. Fowke that a charge of conspiracy against that gentleman and his son was being investigated by the justices, stated, "we think it proper to acquaint you that we mean to continue in Council until we shall be apprised of the subject and issue of that inquiry, as we conceive that a conspiracy at the investigation of which you and Mr. Barwell think fit to attend while this Council is sitting must be of great moment if not interesting to the safety of the State. We flatter ourselves that you will be pleased to inform us, as soon as possible, of the circumstances and result of the enquiry in which you and Mr. Barwell are now engaged."\*

Hastings in reply wrote:—"Last night I received a letter signed by the Chief Justice and the Judges of the Supreme Court, informing me

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\* Secret Select Committee's Proc., 20th April 1775, Vol. II, page 344.



that a charge had been exhibited upon oath before them against Messrs. Joseph and Francis Fowke, Maharaja Nundcoomar and Radachurn for a conspiracy against me and others; that they had summoned the parties to appear this morning at 10 o'clock at the house of Sir Elijah Impey, and requested my attendance. The like notification was also made to Mr. Barwell. In consequence of this intimation, we have both judged it indispensably incumbent upon us to give our attendance. I am sorry that you should have thought it necessary to continue in Council until you shall be informed of the subject and issue of this enquiry which, I presume, you will perceive to have no relation to the safety of the State, nor to any circumstance, that requires your present attention.”\*

The charge of conspiracy was due to some accusations brought against the accused by one Kamal-ud-din.† The day previous this man had gone to

\* Secret Select Committee's Proc., 20th April 1775, Vol. II, page 345.

† “The prosecution of Nundcoomar for conspiracy was regarded by the Council, and was afterwards represented by Burke and Elliot, as a counterstroke to Nundcoomar's attack upon him, and no doubt it was so, but why, with Kamal's evidence before him, Hastings was not to take the matter into Court I cannot understand.”—“*Story of Nundcoomar*,” Vol. I, page 89.

Impey stated before the House of Commons that “it was in evidence that Mr. Palk, Judge of the Adalat, had confined Nundcoomar, and that it was notorious that Mr. Hastings had ordered him to be released. This of itself was sufficient to prevent any native inhabitant of Calcutta from commencing a prosecution against him.” On this Sir James Stephen remarks:—Palk's evidence, if he gave any, is not in the report of the trial. The evidence of

Hastings and complained that Nundcoomar and Mr. Fowke had compelled him by threats to sign a petition stating that he had bribed Hastings and Barwell, and they had had also forced him to acknowledge the correctness of a certain account. Hastings referred Kamal-ud-din to the Chief Justice, and Sir Elijah Impey and the other Judges acting in the capacity of Justices of the Peace, summoned the parties and held an examination of the witnesses and defendants. They discharged the son of Fowke and asked Hastings, Barwell, and Vansittart if they meant to prosecute the others and gave them a night to come to a decision. On the 23rd Hastings, Barwell, and Vansittart declared their intention to prosecute Fowke, Nundcoomar, and Radachurn for conspiracy and bound themselves over to do so, the defendants being admitted to bail. Hastings resolved on the prosecution "because," as he wrote to his friends, "in my heart and conscience I believe both Fowke and Nundcoomar to be guilty." At the assizes all the defend-

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Farrer and Boughton Rouse, given before the Impeachment Committee after Impey's defence, does not mention this, and is hardly consistent with it. I think, therefore, that Impey must have been mistaken in his assertion." Mr. Beveridge points out that though Palk did not give evidence, Kamal-ud-din did, and he was sufficient authority for Impey's statement. "When was this?" "It was about two months before Mr. Palk confined the Maharaja."—*The Trial of Maharaja Nundcoomar Bahadur for forgery, published by authority of the Supreme Court of Judicature in Bengal. London: T. Cadell, MDCCLXXVI, page 11.*

ants were acquitted of the charge of conspiracy against Hastings; Radachurn was acquitted, and Nundcoomar and Fowke were convicted on the charge of conspiracy against Barwell. The sentence on Fowke was fifty rupees fine. No sentence was passed on Nundcoomar because at the time he was lying in the common gaol under sentence of death for having committed forgery.

Nundcoomar in the letter accusing Hastings of bribery which was read before the Board complained that "Mohun Pursaud is admitted by the Governor to private conferences both in town and at his gardens." This Mohun Pursaud was attorney to a certain Bolakee Dass, a banker or native shroff, whose bond or deed Nundcoomar had been found guilty of uttering knowing it to be forged. The deed purported to be the acknowledgment of a debt due to Nundcoomar and contracted some years before by the shroff. The banker died in June 1769, and on the settlement of his affairs a few months after his decease, Nundcoomar's bond was, with the other claims on the estate, settled by the executors. On the bond being paid Nundcoomar cancelled it 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 as a Court of Record. In the year

1772 a suit was instituted in the Court of Kachari or country Court against Nundcoomar for more than a lakh of rupees said to be due to the estate of the banker on account of bonds of the Company. Nundcoomar was committed to prison for contempt of Court and released by Hastings. The Court recommended that the case should be referred to arbitration, but Nundcoomar at first refused to give his assent to this course being adopted, and when he did consent a dispute arose as to arbitration. Matters were in this condition when the Supreme Court of Judicature arrived in Bengal. About a month after their arrival Mr. Farrer, who had arrived 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 Nundcoomar 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 original 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 Nundcoomar, but that, now that a more independent Court was come out, he should

advise his client (Mohun Pursaud) to authorise 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 before the Mayor's Court." Mr. Farrer accordingly moved the Court for the papers six weeks before Nundcoomar's accusation was produced at the Board by Mr. Francis, and was obliged to repeat his application twice before he obtained them. Soon after this, on the 6th May 1775, Nundcoomar was charged with forgery before Mr. Justice LeMaistre, who happened to be the sitting Magistrate, as at that time the Judges of the High 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 9 in the morning till near 10 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." \*

At a meeting of the Council on the 8th of March 1775 a letter was received from Nundcoomar in which, after recounting his past services, he stated—"My only intention in setting forth the services I have done, and the character I have

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\* Secret Select Committee's Proc., 10th August 1775, Vol. II, page 409.



to an advanced age supported, is to introduce my request that I might not suffer upon such a charge, from the bare accusation, a punishment equal to that of death, the violation of the most sacred duties of my religion. The Hon'ble President, I am well assured, is fully assured of the facts I allude to; it may be requisite to explain to the rest of the Hon'ble Members of the Board that the institutions of our religion enjoin a number of ablutions, prayers and other ceremonies to be performed by the sect of Brahmins before they can take any kind of food. Nothing of this can be performed in the place where I am now; and could even these obstacles be surmounted, the place itself, as being inhabited by men of a different religion, would prevent my receiving any sustenance, without breaking those rules which I have hitherto religiously observed. I therefore humbly request that I may be permitted to reside, under as strict a guard as may be judged requisite, in some place where these objections may be obviated."\*

Colonel Monson moved that the Sheriff and his Deputy be requested to attend the Board with the warrant of commitment for Nundcoomar's imprisonment. Hastings objected to the motion as an interference with the authority of the Judges of the Supreme Court.

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\* Secret Select Committee's Proc., 8th May 1775, Vol. II, page 366.



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

"THE GOVERNOR GENERAL.—I beg leave to observe that

many things have been asserted which I presume Mr. Francis gives only from report. I have not heard myself that Nundcoomar is confined among common felons. I do not believe that by the principles of his religion his caste can be effected by any habitation that may be allotted him. This is a point of which the heads of the religion are only capable of judging. I understand by a note received this morning from Mr. Durham that the Judges are at this time assembled for the purpose of taking into consideration the plea of Nundcoomar in this particular, and that he was desired by them to apply to me for proper persons to give them information concerning the effects which his confinement might produce on his caste, or some points of the like nature, and I in consequence directed the Superintendent of the khalsa records to apply to such of the pundits as were in Calcutta and to desire them to give their attendance on the Judges."\*

It was ordered that the Sheriff and his Deputy should be immediately summoned. On their attending and being asked for the original warrant for the commitment of Raja Nundcoomar for the inspection of the Board, they delivered it as follows:—

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

"Receive into your custody the body of Maharaja Nundcoomar herewith sent you, charged before us, on the oaths of Mohun Persaud, Cammaul-ud-deen Khan, and others with feloniously uttering as true a false and counterfeit writing obligatory knowing the same to be false and counterfeit in

\* Secret Select Committee's Proc., 8th May 1775, Vol. II, page 366.

order to defraud the executors of Bollokee Dass, deceased, and him safely keep until he shall be discharged by due course of law.

"Given under our hands and seals this 6th day of May in the year of Our Lord 1775.

"S. C. LEMAISTRE.

"JOHN HYDE."\*

Colonel Monson then asked the Sheriff upon what authority he committed Nundcoomar to prison, and he replied that he was not in town and did not execute the warrant. The Colonel then proceeded to question the Deputy Sheriff as follows:—

"Q.—Did you on this warrant commit Maharaja Nundcoomar to the jail of Calcutta?"

"A.—I did.\*

"Q.—Did you not subsequent to that warrant receive a note from Mr. Justice LeMaistre acquainting you that it was his opinion that Maharaja Nundcoomar should be committed to the common jail?"

"A.—On receiving the warrant from Mr. Justice LeMaistre and Mr. Justice Hyde, which has now been read, I was going to order it to be put into execution, but Mr. Jarrett, attorney for Nundcoomar, expressing a desire that he might be sent to some other place than the common jail, and delivering it as his opinion that he might as properly be confined in any other place, the Judges took it under consideration, and, in answer to Mr. Jarrett's request, told him that they were both

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\* Secret Select Committee's Proc., 8th May 1775, Vol. II, page 367.

of opinion 'he could be nowhere properly confined but in the common jail, but that for his satisfaction they would ask the opinion of the Lord Chief Justice to whose house they were then going. In consequence of this I detained Raja Nundcoomar till I knew the Lord Chief Justice's opinion, and soon after received a note signed by Mr. Justice LeMaistre, which I beg leave to produce."

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

S. C. LEMAISTRE.\*

Francis then asked the Sheriff whether "he knew what conveniences or accommodation Nundcoomar had in the jail," and the Sheriff replied—"He has a small room in which the Jailor used to sleep who removed his family on that account." The Deputy Sheriff added "that it was without the prison gate and had no communication with the other people in the jail."† A motion was then put by Francis and carried that "the Sheriff and his Deputy be directed to wait on the Chief Justice on the part of this Board and to represent to him the situation of the Raja Nundcoomar,

\* Secret Select Committee's Proc, 8th May 1775, Vol. II, page 368.

† "General Clavering to the Deputy Sheriff—

Q.—If it is without the gate, it is not in the prison.

A.—There are two gates to the prison. When I said it was detached from the place where felons and debtors were kept, I did not mean that it was not a part of the prison; the Jailor's house is always considered as a part of the jail and adjoins it."—*Secret Select Committee's Proc. 8th May 1775, Vol. II, page 370.*

whose religion, as he hath informed this Board, obliges him to deny himself sustenance in the particular circumstances of his present confinement, and to desire that the Chief Justice will consider of granting the prisoner such relief as may be consistent with the strict security of his person to answer to the charges brought against him."\*

At the meeting of the Council next day, a letter was received from the Sheriff and Under-Sheriff, stating that, in obedience to the commands of the Board, they had waited on the Chief Justice, and laid the circumstances before him; and that he in answer had desired them to inform the Board "that Raja Nundcoomar was not committed by him, and that he has no authority to interfere in the affair, there being felony expressly charged in the warrant."† A letter was also received from the Chief Justice, intimating to the Board—that before he had received their message he "had been informed that Nundcoomar had on account of his religion refused to take sustenance, and that he had immediately sent his munshy to him to acquaint him that he had given strict orders to the keeper of the prison that his confinement should in every respect be made as easy as

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\* Secret Select Committee's Proc., 8th May 1775, Vol. II, page 371.

† Ditto      ditto      9th May 1775, Vol. II, page 373.

possible to him, and to know from him whence his scruples arose. The answer returned to me was—*that he could not eat nor drink in a room where Christians or Mussulmans had been.* I thought it not proper to refer his case to the Judges who committed him merely on his suggestion, and to ascertain the facts I sent for the pundits, who are the keepers of the consciences and oracles of the Gentoos." The pundits stated "that it is no easy matter to lose caste. A Brahmin must eat eight times of the meal of a Mussulman before he can lose his caste." The Pundits also informed the Chief Justice that they were "unanimously of opinion that if a straw shed was built in the inside of the prison-yard separate from any house, the Maharaja after a month's confinement would be obliged to pay R12 or thereabouts for the purpose of feasting the pundits and Brahmins." Impey pointed out that should the claim of Nundcoomar be allowed "it would be a very heavy burden to the Sheriff should he be obliged to provide separate houses for each Brahmin whom it might be necessary to confine, and much more so to provide a sufficient number of officers to surround these houses to prevent escapes. Many Brahmins are now in the common gaol. Men of higher caste than the Maharaja have been confined there. None of them have lost their caste, and this is the first complaint of the kind." The Chief Justice also sug-



gested that the Judges and not the Council were the proper persons to whom Nundcoomar ought to have applied. "I am happy in this instance that the Board has given me an opportunity of vindicating the Judges from any surmise of rigor or want of humanity; but must make it my request that the Maharaja may be acquainted by the Board that if he has any further application to make for relief that he must address himself immediately to the Judges, who will give all due attention to his representations, for, should he continue to address himself to the Board, that which will and can only be obtained from principles of justice may have the appearance of being obtained by the means of influence and authority, the peculiar turn of mind of the natives being to expect everything from power and little from justice. I know I shall be pardoned the observation, being clearly convinced that the Board would be as cautious in furnishing grounds for, as the Judges can be jealous of, incurring the imputation."\*

The Board replied to Impey's letter as follows: "As the Government of the country is vested in us, we consider the natives of it as the immediate objects of our care and protection. Having received that petition from Maharaja Nundcoomar, of which we had the

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\* Secret Select Committee's Proc., 9th May 1775, Vol. II, page 375.

honour to send you an extract, we thought ourselves bound, not only by our official duty, but by the obvious dictates of humanity, to communicate it as soon as possible to you. But in order to prevent that deception which you conceive we lay under, we examined the Sheriff and Deputy Sheriff with respect to the circumstances of the Raja's confinement, and afterwards put questions to the persons who act as President of the Caste Cutcherry in this city, by all which we are confirmed in thinking that the facts represented by Raja Nundcoomar were true, and that his refusal to take sustenance was founded on a sincere religious prejudice.) We cannot refuse to receive any petitions presented to us, and if they relate to the administration of justice we conceive we are bound by our duty to communicate them to the Judges."\* Impey answered that "he did not question the authority of the Board in receiving petitions, but that he carefully restricted what he said to the individual prisoner. I did not desire his petitions should not be received, but when received, if they were to require anything from the Judges of the Court, that the answer given to the petitions should be that he must apply himself directly to the Judge. This I did to avoid the imputation I there alluded to, which would be equally derogatory to the character of the Council as that of the Judges.

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\* Secret Select Committee's Proc., 9th May 1775. Vol. II, page 377.

The particular reason which called upon me in this case to make that requisition was the reports publicly circulated in this town that, if the Judges could not be prevailed upon to release the Maharaja he would be delivered by force. These reports I knew to be groundless; but was apprehensive of the effects of their gaining credit, especially in the infant state of the court, before its authority is sufficiently understood or established. It is not sufficient that Courts of Justice act independently; it is necessary for the good government of a country that they should be believed and known to be above all influence."\*

The Council answered that the reports mentioned by the Chief Justice were wholly untrue, and enclosed an affidavit in which they denied that they ever entertained an intention to release Nundcoomar by force. Hastings declined to sign the affidavit, deeming it was unnecessary, but declared his "entire conviction and assurance that no Member of the Board ever conceived an intention of using force for the release of Maharaja Nundcoomar from his imprisonment."†

On the 8th of June the trial of Nundcoomar began before the Chief Justice, Mr. Justice Chambers, Mr. Justice LeMaistre, Mr. Justice Hyde,

\* Sir James FitzJames Stephen writes:—"I have not found the answer made by the Council to this letter."—*Story of Nundcoomar*, page 99.

† Secret Select Committee's Proc., 16th May 1775, Vol. II, page 378.

and a Jury consisting of the most respectable European inhabitants, some of whom had been long resident in the country and some born in it.\* The prisoner had the privilege of challenging twenty on the panel, and exercised it in the cases of eighteen, reading their names out from a paper in his hand. Mr. Durham was counsel for the Crown, and Mr. Farrer, the ablest advocate at the bar, for the defence. After a trial which lasted continuously for seven days a verdict of guilty was returned. A week after the verdict, a motion in arrest of judgment was made by Farrer before the full bench, but refused, and sentence of death was passed. Farrer then got his junior to present to the Court a petition for leave to appeal, but this was also rejected, because it did not contain any specific reasons why an appeal should be allowed. The next step he took in his client's favour was to prepare a petition to the Judges for the signature of the Jury praying for a respite, but only one Juryman consented to sign it. Undaunted by want of success Farrer prepared another petition, which was addressed

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\* Macaulay states: "Nundcoomar was brought before *Sir Elijah Impey* and a jury composed of Englishmen." Macaulay could never have read the trial, or he would have known that Nundcoomar was tried before *Sir Elijah Impey* and three other Judges, which makes a very material difference in forming an estimate of the case. Mr. *Elijah Impey* pointed out this fact in the *Memoirs* of his father, but Macaulay had not the generosity to correct the error into which he was led by *Mill*. *Merivale* also makes no mention of Nundcoomar having been tried by four Judges.

by Nundcoomar to the Governor General in Council, and he suggested that the Council should endorse this petition to the Court. But General Clavering and Colonel Monson refused to entertain the idea, the General 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 it would do any good." The day before he forwarded his petition to the Governor General in Council Nundcoomar had sent a most piteous letter to Francis. He wrote: "All my hopes under God Almighty is in you, therefore most humbly entreat, in the name of God, you will be pleased to intercede for me and procure a respite till His Most Gracious Majesty's pleasure is known." He added: "As I entirely rely on your Worship's endeavour to do me all the good you can, I shall not, according to the opinion of the Hindoos, accuse you in the day of judgment of neglecting to assist me in the extremity I am now in." But Francis took no steps to save the life of his suppliant, and on the 5th August 1775 Nundcoomar was hanged \*

\* "But whilst he (Hastings) was exposing to publicity Nundcoomar's infamies and giving proof of most of them, or indeed of all, it came out that this man used to forge bills of exchange under the hands and seals of eminent men, and that, after having imitated their seals exactly, he kept them at home

At a meeting of the Council held on the 14th of August, General Clavering informed the Board "that on the 4th of the month a person calling himself a servant of Nundcoomar came to his house and sent an open paper to him. As I imagined that the paper might contain some request that I should take some steps to intercede for him, and being resolved not to make any application whatever in his favour, I left the paper on my table until the 6th, which was the day after his execution, when I ordered it to be translated by my interpreter. As it appears to me that this paper contains several circumstances which it may be proper for the Court of Directors and Her Majesty's Ministers

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ready at all times for manufacturing, as occasion required, bills of exchange and bonds in any one's name and hand to be hereafter produced at his pleasure, by which iniquitous practice he used to keep everyone in awe of his displeasure; amongst these pieces of this manufactory he had forged an obligation bond in favour of Bolakee Dass, a banker, at all times of much credit, but who had acquired a great name in Mir Caffenghan's time: he had presented it to the Company's cash-keeper and had received the full amount, which he had kept to himself." \* \* \* \* \*

Nevertheless, the General's protection having proved of no avail against crimes that had been fully ascertained, Nundcoomar underwent his sentence in the manner stated, and on the seventeenth of Jemad of the year one thousand one hundred and eighty-nine he was drawn up and hanged by the neck. His money and effects were registered and then delivered to his son Raja Goordass. They say that the whole amounted to fifty-two lakhs of money, and full as much more in effects and other property in his possession. Amongst other strange things found in his house there came out a small casket containing the forged seals of a number of persons of distinction. In consequence of this discovery his malicious acts were dragged to open light, and they met with what they well deserved."—*Sair-ul-Mutakerin*.



to be acquainted with, I have brought it with me here, and desire that the Board will instruct me what I am to do with it."\* It was resolved after some discussion that the paper delivered by the servant of Nundcoomar to General Clavering be produced and read.

At a meeting of the Council held on the 16th August "the Persian Translator sent in a correct translation of the document," and Hastings moved that as it "contained expressions reflecting on the character of the Chief Justice and Judges of the Supreme Court, a copy might be sent to them."

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

"MR. BARWELL.—I have no objections to the paper being burnt by the hands of the common hangman, but I would deliver it to the Judges agreeably to the Governor's proposition."

"COLONEL MONSON.—I differ with Mr. Barwell in opinion. I think this Board cannot communicate the letter to the Judges; if they did, I think they might be liable to a prosecution for a libel; the paper I deem to have a libellous tendency, and the assertions contained in it are unsupported. I agree with Mr. Francis in opinion that the paper should be

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\* Secret Select Committee's Proc., 14th August 1775, Vol. II, page 412

burnt under the inspection of the Sheriff by the hands of the common hangman."

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

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

"The Board do not agree to the motion for sending a copy of the address of Maharaja Nundcoomar to the Judges, but resolve that orders be sent to the Sheriff, with the original letter, to cause it to be burnt publicly by the hands of the common hangman, in a proper place for that purpose, on Monday next, declaring it to be a libel."

"MR. FRANCIS.—I beg leave to observe that by the same channel through which the Court of Directors and His Majesty's Ministers or the nation might be informed of the contents of the paper in question, they must also be informed of the reception it had met with, and the sentence passed upon it by this Board. I therefore hope that its being de-

stroyed in the manner proposed will be sufficient to clear the characters of the Judges, so far as they appear to be attacked in that paper; and to prevent any possibility of the imputation indirectly thrown on the Judges from extending beyond this Board, I move that the entry of the address from Raja Nundcoomar entered on our proceedings of Monday last be expunged.”\*

The Judges addressed the following letter to the Board:—

To

*The Hon'ble WARREN HASTINGS, Governor General,  
and the Gentlemen of the Council.*

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

“Knowing the satisfaction His Majesty and his Ministers, as well as the Hon'ble East India Company, who were deeply interested in the due administration of justice, must

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\* Secret Select Committee's Proc., 16th August 1775, Vol. II, page 413.

receive from the high reputation which the Supreme Court has acquired in this country, we thought we owed it to ourselves and the State to transmit to you the enclosed papers that they may stand recorded on your Consultations, which we think peculiarly proper at this time, as by promulgating the universal sense of this settlement in relation to our conduct, they are a direct and public refutation of the libel, and corroborate such of your minutes as tend to vindicate our reputations."\*

"We are,

Hon'ble Sir and Sirs,

Your obedient humble Servants,

E. IMPEY.

ROBT. CHAMBERS.

S. C. LEMAISTRE.

JOHN. HYDE."

*"28th August 1775."*

The papers which the Judges enclosed were no doubt the addresses presented to them approving of their conduct. The first was by the Grand Jury to Impey individually; the second, also addressed to Impey personally, was by the free merchants, free mariners and other inhabitants of the town of Calcutta,

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\* Secret Select Committee's Proc., 4th September 1775, Vol. II, page 414.

and was signed by eighty-four Europeans.\* A third address to all the Judges was signed by forty-three Armenians, and a fourth was signed by about a hundred leading natives of Calcutta and the neighbourhood.

Francis objected to the addresses being entered "because the libel to which the papers are said to contain a direct and public refutation has been expunged, the original burnt, and I do not believe a copy of it now exists.† His Majesty's Ministers and the

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\* Mr. Beveridge states eight were members of the Jury.

"These addresses jar on the sentiment which condemns the praise of persons in power during their actual tenure of it; but I am by no means sure that they do not represent the actual state of feeling, both European and Native in Calcutta at that time. That they represent European feeling there is no reason to doubt. The Europeans were quite independent of the Court, and not long afterwards bitterly attacked it. An address by natives is always open to suspicion, but the Council had at that time far greater influence over the natives than the Court, which indeed had none."—*Story of Nundcoomar*, by Sir James FitzJames Stephen, Volume I, page 228.

† Francis was mistaken. Impey produced it and read it in his defence. He said that Hastings "thought it no more than common justice to the Judges to give it to me, and as it was in the Secret Department of the Government, he delivered it to me under an oath of secrecy not to disclose it in India except to the Judges. Except to them it has not been disclosed to this day when it is called forth by necessity for my defence."—*Story of Nundcoomar*, by Sir James FitzJames Stephen, Volume II, page 95.

A facsimile of the petition is printed in Impey's Memoirs, page 417. The petition states:—"For the fault of representing at this time a just fact which for the interest of the King and the relief of the people I in a small degree made known, many English gentlemen have become my enemies; and, having no other means to conceal their own actions, deeming my destruction of the utmost expediency for themselves, revived an old affair of Mohun Pursaud's which had formerly been repeatedly found to be false, and the Governor, knowing Mohun Pursaud to be a notorious liar, turned him out of his house, and themselves becoming his aiders and abettors, and Lord Impey and the other Justices have tried me by the English laws which are contrary to the

Hon'ble East India Company should be informed of the high reputation which the Supreme Court has acquired in this country." It was resolved by the majority "that the enclosures in the letter from the Supreme Court be not inserted on the records of the Board," and "that the Judges be not furnished with copies of the minutes upon the libel." A few months after Francis had borne evidence as to the high reputation which the Supreme Court had acquired in the country, and had moved that the petition of Nundcoomar be burnt on account of its being a libel on the Court, he began to make insinuations against the integrity of the Judges. In the Consultation of the 25th January will be found a minute signed by Clavering, Monson and Francis, but evidently written by the last, in which occur the following remarks:—

"After the death of Nundcoomar, the Governor, I believe, is well assured that no man who regards his own safety will venture to stand forth as his accuser. On a subject of this

customs of this country, in which there was never any such administration of justice before; and taking the evidence of my enemies in proof of my crime have condemned me to death. But by my death the King's justice will let the actions of no person remain concealed, and now that the hour of death approaches I shall not for the sake of this world be regardless of the next, but represent the truth to the gentlemen of the Council. The forgery of the bond, of which I am accused, never proceeded from me. Many principal people of this country, who were acquainted with my honesty, frequently requested of the Judges to suspend my execution till the King's pleasure should be known, but this they refused, and unjustly take away my life. For God's sake, gentlemen of the Council, you who are just, and whose words are truth, let me not undergo this injury, but wait the King's pleasure. If I am simply put to death I will with my family demand justice in the next life."



delicate nature it becomes us to leave every honest man to his reflections. It ought to be made known, however, to the English nation that the forgery of which the Raja was accused must have been committed several years ago ; that in the interim he had been protected and employed by Mr. Hastings ; that his son was appointed to one of the first offices in the Nabob's household with a salary of one lakh of rupees, and that the accusation which ended in his destruction was not produced until he came forward and brought a specific charge against the Governor of corruption in his office. If Mr. Hastings had been careful of his own honour, we think he would not have appeared himself as the prosecutor of his accuser, and that he would have exerted his influence with Mohun Persaud to suspend the other prosecution until he had proved the falsehood of the charges brought against himself by Nundcoomar. As things are now circumstanced the world may perhaps conclude that this man was too formidable a witness to be suffered to appear, and that any degree of odium or suspicions which the violent measures taken to destroy him might throw on the Governor's character, was not to be weighted against the danger of his proving the truth of his accusations.\*"

Hastings, as his correspondence with the Court of Directors clearly proves, made use of the services of Nundcoomar because he was commanded to do so by the Court of Directors, and he employed his son for the same reason. His prosecution of Nundcoomar for conspiracy was an act of legitimate self-defence, and

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\* Secret Select Committee's Proc., 25th January 1776, Vol. II, page 476.

it would have been an act of doubtful propriety for the Governor of a province to have used his influence to suspend the prosecution of a criminal charge. It is extremely probable, as Francis stated, that if Nundcoomar "had never stood forth in politics his other offences would not have hurt him." If he had not attacked Mohun Persaud before the majority, who he believed were supreme in the state, Mohun Persaud might never have pressed the charge of forgery. But if the evidence of Farrer is trustworthy,\* and it is the evidence of a hostile witness who was the advocate of Nundcoomar and a close friend of Francis, the criminal proceeding grew naturally out of the previous civil suit. There has never been produced a particle of evidence to connect Hastings with the forgery suit, but on the other hand we have his own solemn assertion that he had neither prompted nor encouraged it. He stated :—" I have declared on oath before the Supreme Court of Justice that I neither advised nor encouraged the prosecution of Maharaja Nundcoomar. It would have ill-become the first Magistrate in the Settlement to have employed his influence either to promote or dissuade it."† For the death of Nundcoomar Hastings

\* Mr. Beveridge gives reasons for questioning Farrer's memory, but it seems highly improbable that an advocate who played so leading a part in so important a case should forget the circumstances connected with it.

† The motives of delicacy which Hastings averred he felt on the subject were wholly beyond the conception of Francis. To him it was only natural that Hastings should use his influence against Nundcoomar, because Francis