

Law

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(3)

(3.1)

(ESTABLISHING GRADATION OF DIGNITY AMONGST  
BRITISH SERVANTS AND RESTRICTING USE OF PALANQUINS  
BY NATIVES IN CALCUTTA : cir 1766-7 )

(3)

The committee taking into consideration the necessary  
parade to be kept up by their servants both civil and  
military propose that the following regulations be esta-  
blished in order to distinguish properly each station  
and office, and that no covenanted or military servant  
whatever shall be suffered to carry any other ensigns  
of dignity or a greater number of peons before them than  
what are limited by these regulations, and this only  
during the time they hold such station or office, after  
which they are regularly to be delivered over to the  
successor.

Ornament for Chub- Peons  
the Palanquins dars

The second in council to be allowed	Rose Heads & Cullases	4	12
The Third " "	"	3	10
Every other member of the Board	"	2	8
Chiefs at subordinates being members of the board but being under council only	Fish Heads & Cullases	4	12
The commander in chief if a member of the Board (when with the army)	Fish Heads & Cullases	4	12
But if not a member of the Board, only	Rose Heads &	2	8
All Colonels	"	2	8
Lt Colonels	Cullases		4
Majors			2
All councillors at subordinates	Cullases		4
The Mayor of the town	Rose Heads & C	2	8
Storekeeper of the new works	Cullases		4
Naval storekeepers	"		4
Master attendant, Mint Master, Secretary to Council, Secretary to Select Committee, Sheriff, President of Judicial Court of Cutticherry, Secretary and Accou- ntant to the Committee of Trade Sub-treasurer			4
Resident at Burdwan and Midna- pore while at their Residences	Same as councillor		2
Assistant Secretary, Aldermen, Sub-secretary to Select Committee, Clerk of Peace, Ceruner			2

The above servants are to be paid by the Company and  
are to be distinguished by belts and badges, and where  
chubdars are allowed the arms of the Company to be  
fixed on the top of the chubdar sticks.

The badges for the Governor and council are likewise  
to be marked with the arms of the Company.

Those under council to be marked with and the

British Museum: Liverpool Papers: Add Ms 38413: Proceedings  
of the Committee of Inspection, Bengal 18.3.1766 to  
6.11.1767 (90 folios). The above is dated 30.10.1766  
(ff 59v-60v) and members present were: Lord Clive (resident)  
Gen Carhart, Verelet, Mr Russell, Alderney.

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and the name of the office inscribed on the borders; These for the Mayor with the court seal and those for the Sheriff with the Sheriff's seal.

(ff 60r) The committee recommend that every native who keeps a Palanquin in Calcutta shall on or before the 15th December deliver in his name to the Jemindar to be registered, that the register be laid before the Board as soon as it is compleated (ff 60v) when such as may be allowed to keep them will receive a summd from the jemindar specifying such indulgence. That those who attempt to evade the regulation shall for the first time be transgresses forfeit his palanquin, for the second be liable to a fine at the pleasure of the Governor and Council, and for the third offence shall be banished the settlement.

Proceedings 6.11.1767

(ff 87v) The committee ... are unanimously of opinion ... that a Palanquin is absolutely necessary (for a writer).

(ff 88r)... The President observes that the order passed by the committee on the 30th October 1766 for the natives who keep palanquins to register with the jemindar their names, in order that such who might be indulged with that privilege should receive a summd for the same has not hitherto been complied with and as he finds since that time this piece of extravagance has considerably increased among all degrees of natives, in so much that many English gentlemen are obliged to walk whilst these upstarts are insolently parading about the town, particularly the surgeons whose (ff 88v) occupation and want of bearers oblige them to walk to the great risk of their healths and delay of assistants to their patients, he therefore recommends the above order be immediately enforced, and as the office of jemindar is now held by a junior servant whose influence may not be sufficiently respected to enforce an obedience, he proposes to take the direction of this necessary regulation under his own management, and will if approved by this committee grant summds only to such natives, whose character, office or fortune may entitle them to such indulgence.

The committee entirely approve of the President's proposal.

B.2

## ( REGULATIONS FOR NATIVE SERVANTS : CIR 1766-7 )

Proceedings Committee of Inspection, Bengal: 13.5.1766

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(ff 28v) That a rate of monthly wages be established according to the above list of servants.

That if any servant refuses service agreeable to such established wages his possessions in land be sequestered and himself and family secluded the settlement, but if no possession in land that he then on conviction of such refusal do suffer fine, imprisonment, or corporal imprisonment as the court of zemindary shall judge meet and be obliged to serve or quit the settlement.

That if any servant so quit his service without one ninth's warning he shall on conviction be liable to (ff 29r) fine, imprisonment, or corporal punishment at the discretion of the court of zemindary.

That if any master evil treat his servant or use him or her with any unjustifiable severity such servant shall be entitled to redress and release from his service on regular complaint being made and proved before the zemindar, provided nevertheless, that no plea of ill usage shall be deemed sufficient to exculpate any servant quitting his service before regular made complaint of such his ill usage.

That the established rate of servants wages be announced published by beat of drum (tom tom) and also affixed to the most publick places in the town in English, Persian, Bengali and Nagreez.

In order the more effectually to bring the servants to a compliance with the above regulations they propose that a proper person with an assistant be appointed to keep a register of all the servants in Calcutta and that the inhabitants be directed to send their servants with a list of their names by the 15th June to be registered and that it contain the name of each servant, his master's name, the name of his service, rate of wages, age, place of birth, place of present residence, place of family's residence, within whose district and zemindar's name.

• (lower price of commodities in 1765 compared to 1760 as 1548 to 1534)

(ff 28r) Notwithstanding the decrease in the price of provisions the committee remark the rates of servants wages have on the contrary gradually increased. In order therefore to put a stop to this growing evil they refer to a regulation made by a quorum of zemindars 21st March 1759 which having now modeled and rated the servants as follows, they beg leave to recommend to the Board the same table enforced: ... •

British Museum: Liverpool Papers: Add Ms 38413

(33)

To Harry Van Sittart Esq

Cal 29 Sept 1769.

Dear Harry

(page 82) ... A reformation of the districts belonging to the Bengal province is the principal business which our rulers are at present engaged in. Since the Company's appointment to the Dewanny or in other words since the Government has fallen into the hands of the English every part of the country has been visibly on the decline. Trade, manufactures, agriculture are considerably diminished; many of the inhabitants have been driven by oppression from their homes, and the collection of the revenue becomes every year more difficult. To remedy these evils it has been resolved to send English gentlemen as supervisors into every district. Dinagepore has fallen to my lot, but I am at the same time to keep possession of Midnapore which will be taken care of during (p 83) my absence by Pearce my asst. The instructions prepared for us are extremely I may perhaps send you a copy of them hereafter, but for the present I will only attempt to convey to you a general idea of them. We are to enquire into the state of the revenue and trade for these twenty years past and write an historical detail of the changes and occurrences during that period; we are to ascertain the amount of the collections from the ryots, the quantity of land whether waste or cultivated in every pargunna, both that which yields the publick revenue and that which by sunnuds, by force, or by fraud has been diverted to private uses under the appellation of Nancars, Jagheers, religious lands &c; we are to make a strict examination into the various abuses which have been committed; to form as exact an account as possible of the produce and manufactures of the country and the several imports and exports; to put a stop to all force and violence by a ready and impartial administration of justice; and to establish such regulations as may secure the ryots and manufacturers from oppression and prevent all monopolies in trade. This is the general plan and I think a very useful one, but some of the particulars which are recommended in the course of the instructions appear to me rather calculated for speculation than practice and likely to occasion a deal of unnecessary trouble; and there is one circumstance (p 84) which unless altered may perhaps defeat the whole scheme. The collections are not put under the care of the supervisors but left in the hands of the dependents of the Hoershedabad ministry. Now their interest evidently requires that every possible obstruction should be thrown in the way of the supervisors, and the pretence of the collections being interrupted and balances occasioned by the measures we shall pursue will be an inexhaustible source of dispute. We are to act under the orders of the Resident at the Durbar, but the bounds of authority are not sufficiently defined.

The Bahar province is fallen still more to decay. It is in many parts rendered almost desolate, and the deduction of  $\frac{1}{2}$  of the revenue is I hear the least that is expected...

Ref: Dep b 100 : George Vansittart Papers: Above is extract of letter to his brother Henry Vansittart (pages 80-9)

(3.4)

## REGULATIONS PROPOSED FOR THE GOVERNMENT OF BENGAL

(5v) No 8. The Mahometan and Genteo inhabitants shall be subject only to their own laws.

This does not, nor can it, preclude the right which the Company has to establish new regulations upon any occasion where they may be required for the ease of the subject, or the better exercise or security of the Government. The equity of this proposal with respect to these inhabitants who reside without the bounds of our settlement, will not be disputed. Within the limits of Calcutta where they are intermixed with Europeans, as well as strangers of other countries, they must necessarily be subject to the jurisdiction of the Mayers Court. Yet even there the laws and customs prescribed by their own religion should be inviolate; and cases of property between one another decided by their own courts. It might be wished that a provision for such a distinction were made by chapter, and powers vested in the zamindar for the exercise of his office, which has hitherto subsisted without any legal right, and is thereby liable to great impediments and discouragements, and even to penalties was the rigor of the law to take place against him.

Many reasons might be urged for limiting the jurisdiction of the sessions court over the persons of the natural inhabitants. In many cases the punishments bear no proportion to the fault, and in as many others crimes of the highest offence have (ff 6r) escaped unpunished by the defect of some form required by the tenderness of our laws. In a state where every man's property is secured by fixed and equal laws, every violation of them may be (possibly with justice) accounted a capital offence, as aiming at the essential principles of civil liberty. But in a despotic government where the whole wealth of a nation is engrossed by a few, and the bulk of the people are liable to the severest effects of want, the laws are usually very gentle against small offences, rarely punishing theft or robbery, unconnected with crimes of a mere dangerous tendency, with death; because human nature can not in all cases withstand the provocation to it. But in the same governments murder is always retaliated by death, even the most ignominious and terrifying kind of death. Let the justice of this distinction of punishments be examined by its effects. There are not many instances of robbery in India, where these principles prevail, scarce any of murder. A traveller may pass through a whole province unarmed, and sleep in security in the open plain. He will have no enemies to dread but the wild beasts. Such being the laws by which the people of Bengal have been always governed, and such their effects, there can be no great objection to their continuance; but there may be a great degree of injustice in making men liable at once to punishments with which they have been

Unacquainted, and which their customs and manners have not taught them to associate with their idea of the offence.

British Museum: Add Ms 29203: Warren Hastings Papers.  
The document which consists of 16 articles is from ff 1-15.  
It probably belongs to the year 1772, the year of Warren Hastings appointment as Governor of Bengal.

(ff 6v) There are many defects in the police of Calcutta which might be remedied, but it is not here that the remedy can be found. One instance, only, being perhaps the most grievous, may be produced. I mean the practice assumed by every European, of arresting the persons of the inhabitants, placing peons (guards) upon their houses, seizing boats (?) and inflicting punishments in their own houses many times to a shocking degree of barbarity. Every such offence should be liable to the severest penalties of our laws, and no man's person or effects attached without an order from the acting magistrate, or the courts of justice, excepting in cases of treason, or other matters of the state, where a particular power should be reserved to the Governor and Council.

In a word let this be the ruling principle in our government of the people whose ease and welfare we are bound both by justice and policy to preserve; to make their laws sit as light on them as possible, and to share with them the privileges of our own constitution, where they are capable of partaking of them consistently with their other rights, and the general welfare of the state.

9. Magistrates shall be chosen from the natural subjects, and appointed by the President and Council.

This is a necessary conclusion from the preceding regulations, and may be further enforced by the reasons (ff 7r) mentioned in the 6th and 7th articles.

(ff 131r) But the greatest evil to be apprehended from the unlimited operation of the powers of the supreme court is in the restraints imposed by them on the authority of the Dewanny. For, if the officers (ff 131v) of the Collections acting under that authority are liable to prosecutions in the supreme court for pretended oppressions of the Reiahs, they will be totally disabled from enforcing the claims of government, or must exact them at the peril of suffering in their persons and fortunes, which is a risk that no men will voluntarily incur on pure motives of duty or zeal for the public welfare. The consequence will be, that they will be so attentive to legal forms, and so cautious of using any degree of compulsion which may be construed an oppression, that the collections will soon be reduced to the optional payments of the farmers and reiahs, that is, to nothing; for without force or the apprehension of force, the revenues never were, nor ever will be, collected among any people of India. This timid conduct of the collectors will produce a correspondent boldness in the people, and complete the ruin of the collections.

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British Museum: Add Ms 29203: Warren Hastings Papers  
The extract immediately above is from the 'Judicial Minutes' (undated, but perhaps 1773 or a little later)  
the original of which is on ff 95-125 and a copy on 126-43.  
The volume (Add 29203) consists wholly of undated minutes.

(3.5)

PLAN FOR THE ESTABLISHMENT OF PHOUJDARS FOR DETECTING DECOITS

The Board having thought proper to commit the superintendence of the courts instituted for the trial of offences against the public peace to my special care, I find myself compelled to address them on some points relating to this duty, in which I find myself unable to discharge it without their assistance.

Although the most beneficial consequences may be expected from the establishment of these courts, from the regular process with which they are conducted, and the equal distribution of justice which is thus provided for in this every part of this extensive and populous country, yet I can not avoid expressing my apprehensions that the benefits are reserved to a period of more established order than the present administration has yet had time to effect, and that the public tranquility will not be secured without the exertion of other and extraordinary means.

At this time I have repeated complaints from all parts of this province of the multitudes of deceits who have infested it for some years past, and have been guilty of the most daring and alarming excess. I knew not whether the knowledge of the evils has been officially communicated to the members of the Board. To me it has only come through the channels of private information, as I do not recollect to have heard the slightest intimation (ff 38v) of them from the zamindars, farmers, or other officers of the Revenue, which may appear extraordinary, but that I am assured that the zamindars themselves too frequently afford them protection; and that the Reials who are the principal sufferers by these ravages dare not complain, it being an established maxim with the Deceits to punish with death every information given against them.

The remedies for this evil will be best discovered from the knowledge of the means which have contributed to produce it. These may be reduced to the following heads.

1. The abolition of the Feudal jurisdiction and the Tannadaries dependent on it. This institution provided for the security of the public peace, and served as the official means of conveying regular intelligence of every disorder or casualty which happened in any part of the provinces. By its removal the confidence of the deceits is increased, nor has any other means been substituted for giving intelligence to the Government of such events as relate to the peace of the country.

2. The resumption of the chaukeeran zameen, or lands allotted to the tannadars and pykes for their service in guarding the villages and larger districts against robbers. Many of the people thus deprived of their livelihood have themselves turned deceits. Such of the monthly servants allowed by our late regulations (ff 39r) as receive their allotted pay are wholly employed for the service of the farmers in the business of their collections, but the greater part, I am assured, have their wages wholly withheld from them, so that none of them are of

British Museum: Add 29207: Warren Hastings Papers

\* Probably beginning of 1773: evidently Henry W. Hastings

Dharampal Archives CPS-TS-03

www.cpsindia.org

any utility to the community. This may perhaps account for the silence of the farmers with respect to the disorders committed in the districts.

3. The Farming System: Useful as this is to the general welfare of the state, and of the people, it is one of the principal sources of disorderly state of the nefussul, by the removal of that claim which the public by immaterial usage before possessed to the restitution of all damages and losses sustained by robbers, on the semindars of the country. These having no lenger the authority same can not be held accountable as they formerly were for the effects of it, although the right of government has never been formally renounced. The farmers who stand in their places ought indeed to be made answerable for the disorders proceeding from their neglect, but whatever they were compelled to pay on this account would be brought into their balances at the end of the year, and would thus fall ultimately upon the government itself.

4. I am sorry to enumerate among the causes of the increase of robbers, the regularity and precision which have been introduced into our new courts of justice. The dread which the common people (ff 39v) entertain of the deceits, and the difficulty which even without such an impression must attend the conviction of an offender of this kind however notorious, before a Mahometan court which requires two positive evidences in every capital case, afford them an assurance of impunity in the prosecution of their crimes, since they generally carry on their desins in the night or under disguise. Among those who have been convicted of robbery, I do not recollect an instance in the proceedings upon their trial in which the guilt has been proved by evidence, but by their own confession only, and this has occurred in so many instances that I am not without a suspicion that it is often obtained by improper means.

The chiefs of these banditti are generally as well known to be such as if they were invested with a legal and public authority for the command which they exercise, yet it would be scarce possible to prove any direct fact against them on which they could be condemned, and I have heard the names of some who have been taken up and examined on the notoriety of their character, but have been acquitted and released for want of evidence against them. With such offenders the authorised practice of the former government has ever been to ascertain the identity of the men, and to condemn them without waiting for further process to establish any specific charge against them. I knew to what I expose myself by recommending a practice so (ff 40r) repugnant to the equity and tenderness of our own constitution; but from a principle superior to every consideration which may affect myself, I venture to declare that unless the Government adopts the same summary mode of proceeding in such cases as I have described, I see no probability of freeing the country from the worst of oppression, or restoring it to security and order. A rigid observance of the letter of the law is a blessing in a well regulated state, but in a government less as that of Bengal is, and must be for some years to come, an extraordinary and exemplary coercion must be employed to eradicate these evils which the law can not reach.

I now proceed to prescribe the remedy to these disorders <sup>as</sup> it is pointed by the causes to which I have attributed them.

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(ff 96r) .. But to be more particular 1st (ff 96v) I answer on the subject of the state of the country with respect to inhabitants, that it was more populous some years ago than it is now. On the time of the late Shujah ud Dowlah, the ryots were in a state of opulence. In the time of Mahabut Jung by reason of the Mahratta troubles, and in the time of Meer Mehd Jaffeer Gawn, and Meer Cassim Gawn by reason of the various disputes, the ryots were impoverished. After this there was a grievous famine during which those who had some substance were reduced to want, and those who had not, died of hunger. With respect to the measures I would recommend first let the evils of former times be remedied and second let the present rulers apply themselves to this grand object with one voice, and one heart. ...

(ff 97r) Second with respect to cultivation, the land is of three kinds and the ryots, have always a proportion of each. Formerly the rent was small, and the greater quantity the ryots cultivated, the greater profit they made; in consequence of which a great deal of land was cultivated. Now the rents are high and the ryots exceedingly poor. The country for this reason is in a bad state of cultivation. It therefore becomes requisite that the rulers should assist them with seed and provisions, moderate their rents, and give them all proper encouragement. A ryot by this means, who has now ten beeghas may be induced to cultivate another five. ...

(ff 97v).. Fourth with respect to the former method of collecting the revenue in the mafusul, the zemindars and taleekdars used to consider the situation of the ryots and the prospect of the produce, and were very lenient to such ryots, as had not wherewithal to pay, not demanding the revenue till the harvest; and yet they themselves paid agreeably to their kists. The ryots were consequently easy, and the revenue regularly paid. But the zemindars and taleekdars are not now in their former state of affluence, and the ryots are (ff 98r) impoverished. If you will order the zemindars and taleekdars to collect the revenue in the manner, which may be the most easy to the ryots and indulge them with diminution, where the produce is but small, and collect according to the patta on such land only as has yielded a favourable harvest, this will be a comfort to the ryots and an advantage to the country.

(ff 98v)... Sixth with respect to merchants and bankers there were formerly in the country a opulent emrahs and munsubdars, and zemadar (?) and zemindars, and the merchants had some indulgence shewn them with respect to duties. They consequently came from distant parts. But now the country is not peopled as it was, nor do any such merchants exist as formerly. Therefore commerce is declined. Was the country to be populous, was there abundance of goods, and was no one to obstruct the merchants, then the merchants would flourish. The success of bankers depended on the abundance of loans and bills and... Formerly when the zemindars and taleekdars owed money to the bankers, the Government enforced the payment of it. But now in the Company's time the bankers have been plainly told that their debt could not be recovered for them. For this reason their business is stopt....  
British Museum: Add 29136: Warren Hastings Papers: Volume 5 of original correspondence, undated and unsigned.

Probably from S. Vansittart whose letter of 23.2. 1773 precedes  
This piece at ff 96-9

(37)

Case of Abortion at Rajeshahy: 1770-71

Supervisor Rajeshahy to Council of Revenue, Murshedabad: 27.12.1770  
 (Extract Proceedings 31.12.1770)

I beg leave to represent to you that the officers of the adawlut of Bhatterah, have never yet received any definitive orders from the Nabob on the subject of the case tried before them in August last upon an accusation of murder. As so long a time has elapsed since this trial, I apprehend the force of example would not now operate so strongly as were to be wished, should either of the criminals be ordered for execution. One of them has died in prison and the survivors are in a languishing way.

Murshedabad Council to Supervisor Rajeshahy: 31.12.1770  
 (Extract)

The proceedings of the adawlut of Bhatterah and Phoonnah have been delivered to the Sudder Adawlut here. For the reasons you mention we think the adawlut at Phoonnah may very well be dispensed with, and we desire that you will accordingly abolish it. The delay in transmitting you the sentence on the case of abortion, whereof the proceedings at the Bhatterah adawlut, were forwarded by you in August last, has been owing to the degree of uncertainty in which the establishment of the Sudder Adawlut still remains here. But as it is improper that the execution of justice should be longer postponed the Naib Scubah has now passed sentence, which we transmit you enclosed, and desire you will deliver to the officers of the adawlut at Bhatterah.

Supervisor Rajeshahy to Murshedabad Council: 16.1.1771 (Pro 21.1)  
 (Extract)

The sentence of the Naib Scubahdar upon the case of abortion has been delivered to the officers of adawlut, and by them regularly carried into execution.

Supervisor Rajeshahy (?) to Murshedabad Council: 19.1.1771 (Pro 7.2)  
 (Extract)

Will give permission to the Cawzies to collect all the demands which are established by the ancient practice of the government and are agreeable to the laws of the Koran; so that the character of the Cawzies may be exposed to no dishonourable imputations, and general happiness may result to the inhabitants.

Murshedabad Council to Supervisor Rajeshahy (?): 7.2.1771  
 (Extract)

We have received your letters of the 19th, 28th, and 3rd instant: we have examined the subject of the former relative to the authority exercised and the emoluments received by the Cawzies and we in general esteem the regulations you propose in that branch to be salutary. The subject however will be further considered by us in concert with the Naib Duan, and such regulations as may be necessary will be issued on the commencement of the new year thro all the provinces. In the meantime to obviate as much as possible pleas for deductions in the present year's revenue having consulted the Naib Duan we think that the six following articles of the various taxes may continue to be levied without subjecting the riotts to oppression: 1. Akdanna, 2. Fusilanna, 3. Mohrenna, ~~etc~~ including Sunnud Salamy, 4. Russer Bed, 5. Sut Wasah, 6. Khutnah.

Proceedings of the Council of Revenue Murshedabad, vol 2 pp 167, and vol 3 pp 70, 144 and 146 respectively. (Printed volumes)

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Proceedings of the Governor General in the Foujedarry Deptt: 29.6.1782

Received the following letter from the Acting Collector at Chittagong enclosing proceedings of the Hon'ble Board.

To  
Mr Ralph Secke, Resident at Tipperah

Sir

Enclosed I transmit you a copy of an extract of the proceedings of the hon'ble the Governor General in the Foujedarry Department, to which I request your attention.

Islamabad  
July 27th 1782.

I am sir &c  
John Bullers

EXTRACTS FROM THE PROCEEDINGS OF THE GOVERNOR GENERAL IN THE FOUJEDARRY DEPARTMENT 29 the June 1782.

ISLAMABAD,  
For a Jemadar 20  
20 Badged Peons  
@ Rs 4 each  
per mensem 80  
Mehurries and  
Office charges  
150  
Per Mensem 250

That the allowance for an establishment at Islamabad be restricted to Sa Rs 250 per mensem to begin from the first of August. A larger establishment for this station is unnecessary, since every purpose for which a larger could be wanted may be much more effectually answered by the sepoys stationed at Islamabad; that when any occasion shall require the aid of these sepoys for enforcing the orders of the magistrate he shall make application in writing to Major Ellerker (?) or the officer commanding who shall have orders to comply immediately with such application.

That no guards, patrols or out-posts shall be allowed, but the whole establishment confined to the station of the magistrate, except where it shall become necessary to detach occasional parties which having performed the service required from them, shall immediately return. That if Thannahs be required-sites the Zemindars shall be required to erect them, and to defray the expence thereof, stationing them as they shall be enjoined by the magistrate and shall be made answerable for the conduct of the people stationed at the same.

For the better enforcement of the above regulations:  
Resolved that a proclamation be issued to the Zemindars as follows:

Whereas the peace of these provinces has been greatly disturbed through the negligence or connivance of the zemindars, choudries, talookdars and other proprietors of land, do conformably to the original and fundamental tenure on which they all hold their zemindarries or other portions of landed property take effectual care no robberies, burglaries or murders be committed within their districts, and that they do their utmost to bring all offenders to justice; that they do erect Thannahs in such places as shall be pointed out to them by the magistrates and be answerable for the good behaviour of the Thannadars and other officers appointed thereto and for their punctual obedience of all orders issued to them from the magistrates, and it is hereby declared that if any robbery be committed, the Zemindars to whose districts the robbers appertain, or in whose district the robbery shall be committed according to the circumstances of the case shall be made to refund the amount. But if any Zemindar shall either commit or connive at any murder, robbery or breach of the peace, and it be proved against him, he shall be punished with death. And if any Zemindar shall refuse or neglect to obey any orders issued under the authority of Government he shall be punished as the nature of the case and the degree of the crime shall require.

Shrewsbury R. G. (?)

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A Copy of Regulations formed by the Hon'ble Governor General  
and Council : 12th August 1783

1st: That the Committee of Revenue, Chiefs, and Collectors, be enjoined to observe the utmost regularity in issuing and enforcing their public orders, and do make it an invariable rule to take notice of all contempt of, or resistance to the orders issued by them, and punish the persons proved guilty of such offences in such a manner, as may not affect the health, life, or limb, of the offenders.

2nd: That in all cases where the Zemindars or landholders are proved on satisfactory evidence taken on oath, to have resisted any written process directed to them, they be required by public advertisement affixed at the head cutcherry of the district, and at the place where they reside, to appear to answer the complaint, within a sufficient specified time, under penalty of confiscation of their lands, and that in default of appearance their land be actually confiscated, and be not restored to them without the express permission of the hon'ble the Governor General and council, who reserve to themselves the right of mitigating the sentence.

3rd: That it has been represented to the Board, that the Zemindars in many parts of the country are suspected of conniving at robberies and murders or of being parties concerned in such offences notwithstanding the public regulations by which they are bound to preserve the peace of the country within the limits of their respective jurisdictions. The Committee, Chiefs, Collectors be authorized, on information given, or on well grounded and general suspicion to cause such Zemindars to be apprehended, and on their apprehension to public advertisements giving notice thereof, and requiring all persons who have been robbed within their respective zemindarries to appear and give evidence thereof, and in case evidence should be produced that the Zemindars be delivered over to the Phousdarry courts to take their trial. But in case no witness should appear against them that the Zemindar be released either with or without security as circumstances may warrant.

4th: That whenever a Zemindar is proved guilty of having abetted, practised, or committed connived at robberies, or murders, none of his family be permitted to succeed to the zemindarzy without the express permission of this Board.

5th: The Board desirous to prevent the effusion of blood, at the same time that it shall be necessary to maintain the obedience which is due to its authority, direct that in every case where it can be done, a regular summons be served on the persons against whom any force shall be detached, or otherwise to them, requiring their immediate attendance or such submission as the nature of the case may require, and (warn) them of the consequences of their disobedience; But if (they) shall be of a nature, as will not admit of this precaution the instance of previous and declared contumacy, or of surprise if after such summons direct resistance be arms against the detachment, it shall be in such case ( must be as specifically described as possible) directed to of actual force and put to death, all such persons continue in arms against it, and in every such instance (e) to be apprehended and brought to public justice, either by immediate pursuit or proclamation of reward for those who shall be the instruments of his apprehension, and denunciation of punishment to those who shall abet or, conceal him.

Revenue Department  
A True Extract  
W. Webber, secretary.

Shrewsbury R.O. (?)

(3.10)

Sir Robert Chambers to Philip Francis:  
(Extracts)

(e)

31 Dec 1782: ff 118-23 (Recd 4.6.1782)

(Justification for appointment as President of the court of justice  
at Chinsura)

1. The creation of such a magistrate was an act of justice and humanity to the Dutch and French, whom it would have been cruel to subject to the same jurisdiction both civil and criminal with the black people, and who are clearly not subject to the jurisdiction of the supreme court at Calcutta; as you may remember was decided, (agreeably to your opinion if I mistake not) in the case of a Monsr Sanson arrested by the Foujdar of Midnapore.

2. The expence of this establishment is small, and is no new load upon the (ff 122v) Company, being paid by the Commissaries of Chinsura out of the Dutch public property seized at the capture of that place.

3. My appointment does not interfere with the interest of any of the Company's servants, because none of them could execute the office in the manner in which I am to perform it. ...  
(ff 123v)

P.S. I have neglected to tell you that my salary as president of the court of justice at Chinsura is 3,000 Rs a month, but that I have no other possible emolument, and this salary is not all clear profit because my expences must be somewhat increased by living in two places and moving from the one to the other.

29 Nov 1782: ff 124-35 (Recd 27.5.1783)

(ff 133v) My employing that leisure in the service of the public, though by the appointment of a private subject or of a corporation could not be a whit more immoral or improper than it is for a judge in England to be chancellor of the Bishop of Durham or Recorder of Bristol.

12 Dec 1782: ff 188-93

If Mr Pitt were to name me to the chancellor, he would readily join with him in recommending me to the king. For, as I was acquainted with Lord Thurlow in England, and very intimately acquainted with his brother, the present Bishop of Lincoln, it is, I think not unreasonable to suppose that, if no part of my conduct has been misrepresented to him, he would be inclined to attend favourably to any proposal that the first minister might make to him in my behalf. ...

Sir Robert Chambers to Mr Buckley: 2.2.1789 (ee)  
(Extract)

{Death of Miss Loftie in Calcutta}

(ff 89v) She died a very few hours after she had received by the post Mr Loftie's consent to her nuptials.

It may be some comfort to her friends to know that she was attended by three of the ablest physicians in Calcutta. It must be a yet greater comfort to them to recollect that she was a girl of exemplary goodness, and we have the strongest reason to believe she is now happier than she could have been in any state or condition upon earth.

Her funeral was attended this evening by most of the principal (ff 90r) ladies in Calcutta, and among others by my wife.

British Museum: (e) Add Ms 40763: Francis Papers, vol 8. An earlier letter by Chambers to PF (19.5.1781 ff 83-90) has many references to persons all referred to in numerals, like 76, 60 etc.

ff 194-6 has a letter (private) from PF to McKenzie dated 15.4.1786 which ends: your ever P. Francis

Mitchie and Matteux, Chairman and  
Deputy! Chairman & Deputy!  
Wood and Wire in the Hand  
of Dundas .

(ee) Add Ms 3912 Dharmpal Archives CPS-TS-03

(3.11)

Examination of the Doctrine of Mahomed as applicable to the Crime of Murder, with a view to the Formation of a Just Scale of Punishments: Introductory Report: (Read 7 Dec 1797) (Extract)

Vol II, p8 (p 12) The punishment of death extends only to three (p 13) offences, the prophet declared, that "it was unlawful to spill the blood of a mussulman, except only for apostacy, adultery and murder."

The first is a crime, which as it ought never to come under the decision of a christian judge, need not be considered in this place.

Vol II, p 666 (p 3) The second is attended with so much difficulty in the proof, which requires no less than four witnesses, none of which shall be females, and that two in (p 14) a country where the apartments of the women are by custom protected from sudden intrusion, and even from the approach of strangers, being called the Haram, or the prohibited, that this heavy penalty, which was to be inflicted by stoning the criminal, is in fact found to be nugatory; for the evidence must be circumstantial, consistent and positive; the four witnesses must be strictly cross examined by the Kasee, in public and in private, in the hope that circumstances (p 15) may appear in the course of investigation, of a nature to prevent punishment, for the prophet said, "Seek a pretext to prevent punishment, according to your ability."

Blackstone  
Capel Loft  
& Dr Jebb's  
Pamphlet

(p 16) ... The third therefore, in the view of the British legislator, is the only crime punishable with death, whilst in England, from the high state of civilisation, nearly 170 offences have been enumerated, for which a man is liable to suffer death, a sanguine spirit in our laws, which led (p 17) Sir Henry Spelman, above a century since, to observe that whilst every thing else was risen in its nominal value and become dearer, the life of man had gradually grown cheaper.

Genesis IX 6 (p 19) ... Surely, in cases of wilful murder, it is absurd to deny, that society has a right to inflict capital punishment; for it is the duty of us all, from the law of self defence, to cut off that man who has shewn a disregard for the life of man, Nos. XXXV-31

(p 21) ... No reparation can be made to the party slain; the consequence of the crime deprives him of the means; life does not admit of any rate or valuation, and had it any, there is no person to whom the debt should be paid, for the life of the deceased is in no wise the property of his relatives. ... (p 22) The magistrate may therefore lawfully inflict the dreadful punishment.

(p 23) ... Many civilians argue that the magistrate can have no power but what he derives originally from the people, who, by common consent, agreed to resign their natural rights, for certain purposes and under certain conditions.

(p 26) ... But though wilful murder is forbidden by the Koran, under the severest penalties, to be inflicted in the next life, yet, by the same book, the crime may be compounded for, on payment of a fine to the family of the deceased, and freeing a Muslim from captivity; but it is in the election of the next of kin.

(28) ... Mahomet, in thus going against the express letter of the Mosaic Law, (p 29) which declares that no satisfaction shall be taken for the life of a murderer, seems, in so doing, to have had respect to the customs of the Arabes in his time.

...This law of atonement, however inadequate it may appear, as (p 30) punishment for the horrid crime of murder, is not confined to the Koran. ... It has been the practice of most countries in the early stages of civilisation.

(36) ... But as policy grew more refined, they began to conceive the idea of a crime against the state. ...

IOR:Home Misc: 419: by Chas Poole, Judicial Examiner of Reports. pp 1-80. Note Vol II referred in the Margin is to The Koran or

3.12

Calcutta, 25 March 1778

Dear Sir

Since I did myself the honour to write to you on the 24th of last month no event has happened of any importance to the Publick except the dismissal of Mahomed Raza Khan from his employments; of which he has been divested by Mr Hastings and Mr Barwell, against the opinions and remonstrances of Mr Francis and Mr Wheeler, and without the imputation or suspicion of any fault or misconduct whatsoever.

The business was begun in council by the perusal of a letter from the Subhdar Mebarek ul Dewlah, in which he represents that he is now old enough to manage his own affairs and has no occasion for a guardian, and that he thinks himself sufficiently qualified to superintend the Faujdarzy courts, and perform all the other duties of his station, and therefore conceives he has no need of a Naib Subhdar. The ruling part of the council agreed in (ff 93v) opinion with the Nawab, and, without assigning any other reason for their conduct, deprived poor Mahomed Raza Khan of both his offices.

I have indeed good reason to believe that before the production of that letter, or any publick mention of the intended change, a negotiation had been set on foot with Mahomed Raza Khan, and conditions suggested to him with which if he would have complied he need only have resigned the guardianship of the Nawab, including the management of his household; and might have retained his more important charge of Naib Subhdar, with perhaps the whole of his salary. I will not however trouble you with an account of the reports that I have heard, because Mr Francis who is, on this subject, better informed than I am, has I understand written very fully to Lord North and Mr Ellis, with whom I take it for granted that you, sir, have the most intimate communication on the affairs of India. Neither shall I presume to discuss the political consequence of this measure, since you will have before you the proceedings of council comprehending the minutes (ff 94r) that were written on the occasion. But as I am happy to learn, both from the last letter which I had the honour to receive from you, and from my friend Weston, that you were not dissatisfied with some information respecting facts that I formerly took the liberty to transmit, I will venture to indulge my feelings on this occasion also, and tell you whatever I knew of Mahomed Raza Khan, that appears to me to be worthy of your attention.

When I came here, in October 1774, he resided in Calcutta without any employment, being considered in some sort as a prisoner at large, though he visited, and was visited by, the chief people in the place. During about a year, which he passed in that after our arrival, I interchanged many visits with him, and, though I was not then qualified to profit so much by his discourse as I could now if he were here, I was

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British Museum: Liverpool Papers: Add Ms 38401  
 Letter from Sir Robert Chambers, judge, supreme court Calcutta, and later chief justice, to Hon'ble Charles Jenkinson, later 1 Earl Liverpool, a member of Lord North's government.

sufficiently allured by it to make every conversation a long one, and very soon discovered in him those qualities which seem to be most necessary in a native magistrate of the first rank.

He has a very good understanding, improved first by education, and afterwards by long practice (ff 94v) in publick affairs. His learning, though it would not perhaps be thought great in a country where Mahomedan literature is encouraged, is however greater than can be found in Bengal, even among professed scholars. He seems to have an extensive acquaintance not only with Persian but Arabian authors, has obtained, from Arabick translations of Greek books, some knowledge of the philosophy and even of the politicks of ancient Greece & Greece, and has been thereby, as I conceive, enabled to understand so well as he does what he has heard among English Gentlemen of our constitution and government. For to the natives of this country in general such discourse is almost unintelligible, though it be clearly expressed in their own language.

His behaviour is distinguished by affability, and ease and attention mixed with a certain gravity very well suited to his age and station. In short his manners are such as must be thought elegant by men of every nation; for they are naturally polite.

His conduct in the different offices which (ff 95r) he had filled before the establishment of English power, is allowed to have been irreproachable; and it is certain that when Buraj ul Dewlah first formed the design of attacking Calcutta, he ventured earnestly to dissuade him from so iniquitous an enterprise.

His subsequent fidelity to the English and the dangers he thereby incurred are sufficiently known, as well as his appointment, on that account and for the sake of his abilities, to the office of Naib Subahdar under Budjin ul Dewlah, when Lord Clive was last in India. In that station his utility to his employers is universally acknowledged, and I can not learn that in the exercise of his authority any misconduct was generally imputed to him by the natives; for execution of the Company's orders must not be so esteemed, how oppressive so ever they might appear to the people. It is indeed probable that great oppressions were committed by some of his officers, as instruments of private Englishmen; and that he might connive at enormities which he had not power to prevent. But if he had been actively criminal, some proofs of his guilt would surely have been produced when he was ignominiously brought to Calcutta under a guard (ff 95v) of black soldiers, and all men were encouraged to give information against him.

When the directors were pleased to declare themselves satisfied of his innocence and of his eminent fitness for the highest offices, and he was consequently restored to so much of his former authority as it was thought convenient that a Naib Subahdar should now be suffered to possess; I was myself a witness of the joy which was expressed by many of the natives who could have no hope of engaging his favour, or of being directly benefitted by him.

To his deportment in office, during the last two years and a half, nothing has been objected by those who have removed him, and there is reason to believe that it was much more upright and disinterested than has been usual among Mahomedan magistrates. I speak particularly of his superintendance over the Foujedarry courts, in which employment he has been remarkably diligent and active, and is not, I believe, suspected of having made any profits beyond his salary.

(ff 96r) The judges and other officers of his Foujedarry courts have been the ablest and best qualified that could be found, though he is himself, I am told, ready enough to lament that they are not such as could be wished; for which three reasons are to be assigned. First, that these places are less profitable than they were formerly. Secondly, that the colleges and schools of Mahomedan learning throughout Bengal are reduced to decay by the oppressions of the English Government; and particularly that the three most eminent, viz., Furrus, Mungulsoat, and Chowgurreah, which are all in the Burdwan district, are almost ruined by an exaction, begun by Mr Johnstone and continued by his successors at Burdwan, of a full rack rent for all the college lands; of which part was before exempt from all taxation and part was only subject to a small quit rent or land tax invariably fixed by Aurangzeb. This might easily be remedied because the gain arising therefrom to Government is incconsiderable; But the third is a reason which must I fear daily grow more and more operative. It is said that, among the Mahomedans of this country, the study of law and of (ff 96v) every thing other kind of learning is neglected because it is no lenger honourable. The observation is true and the cause is evident: Much of the dignity of knowledge depends on the power it is supposed to have of introducing its possessor to the society of his superiors; and the knowledge of a conquered people must lose its rank and importance if it neither excites the curiosity nor ministers to the passions of the conqueror.

What I have said relates only to Mahomedan literature, because that only is wanted in the Foujedarry courts; but the rapid declension of science among the Hindoos, and the state of their academies, seem also to claim, though they have never experienced, the attention and care of the English rulers of this country. Knowledge and civility are so closely allied, that a nation which sinks into savage ignorance is not perhaps very likely to retain and transmit those manual arts and elegant manufactures that have formerly been sources of wealth to Bengal.

To conclude what I have to say concerning Mahomed (ff 97r) Raza Khan. If his removal from an employment, for which neither the Subahdar nor any assistant that he can procure is equally qualified, does not rouse indignation, it must I think at least awaken compassion when it is considered, that the man thus degraded is nearly related by marriage to the late princes of the country, that his children, by a grand daughter of Hadjee Ahmed, are now the only legitimate representatives of Alliverdi Khan, that he is approaching to the verge

of long life no small portion of which has been spent in the service of the English nation, and that he is encumbered with debts which, if he had continued three years longer in office, would have been discharged out of his salary by trustee appointed for that purpose, and some of which were probably contracted in order to gratify the avarice of Englishmen.

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... (ff 99r) ...

Your most obedient and  
most humble servant  
Robert Chambers

To  
The Right Hon'ble Charles Jenkinson

3.13

Letter from Warren Hastings to Sir R. Chambers: Dec 1784

Dear Sir,

I knew not how to express my thanks for your most valuable present of the Sanscrit Glebe, to the study of which I am impatient to apply, and hope from it much elucidation of the historical part of Naha Bhaurut which is very obscure for want of the old geography of India. A few points well ascertained will serve to establish the rest.

I am also obliged to you for your case of the books, I shall return my thanks...

I am dear sir

Your affectionate and  
faithful servant  
Warren Hastings

• Catalogue of the Sanskrit Ms of Sir R. Chambers by Dr F. Resen (printed 1837).

The collection consisted of 726 volumes and is reported to have been purchased by the Berlin Museum. One of the prospective buyers was the Emperor of Russia. The catalogue consists of 26 fulscape pages and listed under 131 main heads.

Sir Robert Chambers was in Calcutta from 1774 to 1799. From 1783 onwards he acted as chief justice, first in officiating capacity, later by appointment. He was born in 1737 and died 1803. Before his coming to India he had succeeded Blackstone to the Professorial chair in Law at Oxford. The Liverpool collection contain about a score of his letters to the 1 Earl Liverpool. A brother, a linguist, Mr Chambers was also in India and has a few books to his credit.

(3.14)

## ( THE OLD INDIAN SYSTEM )

... Before Sir Ryrs Cootes arrival it was, I believe, universally supposed that he was coming out instructed and resolved to join with Mr Francis and Mr Wheeler in their efforts to control, at least, and if possible to establish, the old Indian system; by which I mean that scheme of policy, whereof the main object is to enrich the Company's servants, by deceiving the people of England, especially the king and his ministers; by defrauding the Company, not only in the purchase of their investment, as it is called, but under the form of (ff 316r) nominal contracts, and in a thousand other ways; above all by oppressing the poor natives, in every possible mode but chiefly through monopolies, through the rule of justice, and through the conversion of all hereditary estates into temporary farms, whereby a fixed though heavy land tax is turned into a rack rent variable at the pleasure of men who set every thing to sale.

British Museum: Liverpool Papers: Add Ms 38403  
Sir R. Chambers to Mr C. Jenkinson (2 Earl of Liverpool)  
ff 315-324, dated 29.12.1779.

(3.15)

## (BUILDING A PROPER PLACE OF RELIGIOUS WORSHIP IN CALCUTTA)

Parliament Street  
26 October 1776.

My Lord

I have the honour to transmit herewith to your Grace copies of several letters and papers I have received from Mr Chambers, one of the judges of Calcutta, and from Mr Johnson one of the chaplains of our factory there, concerning the building there of a proper place of religious worship for the members of the church of England resident in Bengal, I need add nothing, I am sure, to the arguments used by these gentlemen in support of the measure they recommend. Parliament have endeavoured by many ~~means~~ wise regulations to promote the cause of virtue and honesty in that part of his majesty's dominions. I wish I could say that these endeavours had been attended with the success, which they had reason to hope; this failure may be perhaps owing to the want of religious principles for the encouragement of which sufficient measures have not been pursued. I have not the least doubt that your Grace will use all your influence to induce the East India Company to do what is proper on this occasion, and I trust that the directors will not scruple to allow a small sum out of their vast resources for the support of so good and pious a design.

I have the honour to be with great truth and respect

My Lord &  
C. Jenkinson  
Archbishop of Canterbury

British Museum: Liverpool Papers: Add Ms 38306, page 82.  
Mr Johnson married, perhaps while at Calcutta, the mother of the first Mrs C. Jenkinson, and grandmother

3.16

Causes for the Decline of Education in Bellary

The population of this district is specified in the enclosed statement 9,27,857 a little less than a million of souls. The number of schools is only 533, containing no more than 6,641 scholars or about twelve to each school and not seven individuals in a thousand of the entire population.

(After proceeding with his enquiry and observations on the subject generally he states in his 18th para) :

I am sorry to state that this is ascribable to the gradual impoverishment of the country. The means of the manufacturing classes have been much of late years greatly diminished by the introduction of our own European manufactures in lieu of the Indian cotton fabrics. The removal of many of our troops from our own territories to the distant frontiers of our newly subsidised allies has also of late years affected the demand for grain; the transfer of the capital of the country from the native governments and their officers who liberally expended it in India to Europeans, restricted by law from employing it even temporarily in India, and daily draining it from the land has likewise tended to this effect, which has not been alleviated by a less rigid enforcement of the revenue due to the state. The greater part of the middling and lower classes of the people are now unable to defray the expenses incident upon the education of their offspring while the necessities (p.) require the assistance of their children as soon as their tender limbs are capable of the smallest labour.

University of Nottingham: Papers of Lord William Bentinck: PWF 2403 : Extract from a report (dated the 17 of August 1823) on Education by Mr Campbell, collector at Bellary, to the Board of Revenue. One of the districts settled Rystuary by the late Sir Thomas Munro in the years 1799, 1800, 1801 and 1802.

(3.17)

## (INTRODUCING CHRISTIANITY IN THE EAST INDIES 1812)

Kensington Gore  
June 30th 1812.

My Dear Lord L

I was about to take up my pen, to execute an intention too long deferred of requesting your lordship to allow the favour of an interview to a deputation consisting of Lord Gambier, Mr Grant, Babington, myself &c &c from the society for missions to Africa and the East, on a subject on which they had an interview with our lamented friend Mr Percival, that means of introducing and maintaining christianity in the East Indies. I will enclose a little tract which will give your lordship (ff 255v) information which you will naturally desire concerning the nature, objects and dramatical persona of that institution which I solemnly assure you is strictly consistent with the church of England not merely in form, but in principle.

I was about I repeat it to take up my pen to request the honour of the above mentioned interview, when I was interrupted by two highly respected gentlemen whose character and worth have been long known to me and whom I have occasionally seen as occasions have arisen which have rendered intercourse between us necessary, for (ff 256r) many years. I mean Mr Butterworth and Mr Allen.<sup>a</sup> For above two hours we conversed most seriously and confidentially and I must earnestly beg your lordship will be so kind as to allow me to have an opportunity without delay of stating to you the result of our interview. The most important national interests are in question, I can not speak too strongly on this head. I will attend your lordship any time and place you may appoint. I am just going to the House and shall remain till evening in Westminster calling last thing at the New Palace Yard Hotel <sup>or</sup>, to inquire (ff 256v) if your lordship has (been)able to send me an answer. I am forced to send this in extreme haste. Meanwhile I remain with real esteem and regard.

My dear Lord L  
Yours....

W. Wilberforce

The Earl of Liverpool  
(Prime Minister)

British Museum: Liverpool Papers: Add Ms 38191

Lord Liverpool succeeded Mr Percival in the office of Prime Minister, earlier in 1812.

<sup>a</sup> The name may be Allan.

<sup>or</sup> The word may not be Hotel. Wilberforce's writing is rather difficult to decipher.

(3.18)

(WILBERFORCE'S INTRODUCTION OF C BUCHANAN TO LIVERPOOL )

Landgate near Folkestone  
August 12th 1812.

My Dear Lord L

I have been desired by the Rev Dr Buchanan to forward to your lordship the inclosed letter. I believe the manuscript which it has intended to announce and accompany, by mistake, has been already left at Fife House. The plan the it at first appears grand, yet will appear moderate or rather diminutive, when compared with the extent of country and the amount of the population which are under our Government in the East. I consider (ff 262v) myself however merely as being the medium of conveyance. And I dare say your lordship is already so well acquainted with Dr B thro his works, as to render it unnecessary for me to do more than name him. I ought however to add, because his being the author of a valuable book even on a religious subject, does not necessarily, I am sorry to say, imply that, Dr B is a man whose life does honour to his profession. It is only to be regretted that his health has been of late so bad as to occasion serious alarm to those who value and love him.

I remain always with respect and regard

My dear Lord L  
Yours very sincerely

W. Wilberforce

The Earl Of Liverpool

B.M.: Liverpool Papers: Add Ms 38191

Dr C. Buchanan's letter to Lord Liverpool is on ff 264r-265v.

Add Ms 38191 also has two long letters from Wilberforce to Liverpool, one dated 16.9.1820 (ff 274r-278v) and other dated 30.9.1820 (ff 280r-283v). The subjects treated are moral principles, the press etc. The second letter acknowledges Liverpool's reply to the first.

(3.19)

( C BUCHANAN ON ECCLESIASTICAL ESTABLISHMENT FOR INDIA)

Kirby Hall  
Borebridge  
6 Aug 1812

My Lord

I have the honour to enclose a paper on the subject of an ecclesiastical establishment for British India, and I hope your lordship will pardon the liberty I take in presenting it. About the middle of last season when the discussion of India was expected to come on, (ff 264v) some of my friends connected with India urged me to put down a few notices on the subject. I accordingly drew up the accompanying prospectus and sent a copy to Mr Percival. That lamented minister acknowledged it a few days before his death. A copy was transmitted at the same time to the Archbishop of Canterbury and another to Lord Buckinghamshire.

I can not suppose that any thing I can offer can be of much service to your lordship to whom the sources of Indian information have been open for so long a period, and who must have a far more comprehensive view of India in relation to Britain, than I can possibly possess. It is possible however that the notices (ff 265r) of some local circumstances taken while I was on the spot with immediate & reference to this subject, may be useful in the general arrangement, if it should appear fit to your lordship to propose a religious establishment for British India.

I have the honour to be  
My Lord, with most respect,  
your most obedient and humble servant,

C. Buchanan.  
To  
The Earl of Liverpool

British Museum: Liverpool Papers: Add Ms 38191: sent through Wilberforce: Wilberforce's letter introducing Buchanan is on ff 262.

Add Ms 38362 (ff 213-7 and ff 218-9) has copies, one in hand other in print, of the resolution passed on India by the society for promoting christian knowledge in Africa and the East, dated 23.6.1812.

3.20

Extract from a Minute of Sir Charles Metcalfe: 19 Feb 1829

I have long lamented that our countrymen in India are excluded from the possession of land, and other ordinary rights of peaceable subjects.

I believe that the existence of these restrictions impedes the prosperity of our Indian Empire, and, of course, that their removal would tend to promote it.

I am also of opinion that their abolition is necessary for that progressive increase of revenue, without which our income can not pace with the continually increasing expence (p) of our establishments.

I am further convinced that our possession of India must always be precarious, unless we take root by having an influential portion of the population attached to our Government by common interests and sympathies.

Every measure, therefore, which is calculated to facilitate the settlement of our countrymen in India, and to remove the obstructions by which it is impeded, must, I conceive, conduce to the stability of our rule, and to the welfare of the people subject to our dominion.

Extract from a Minute of Sir C. Metcalfe: 19 Feb 1829

The only objection that strikes me, to the spread of a British Christian population in India, is the existing discordance of the laws by which our English and our native subjects are respectively governed. This objection will no doubt in time be removed, and the sooner the better, by framing laws equally binding on both parties, in all concerns common to both; and leaving to all their own suitable laws, in whatever peculiarly concerns themselves alone. The present system of judicature in India, by which the king's court is rendered entirely separate from the local administration and institutions, and often practically subversive of their power and influence, is fraught with mischief; and that part of the system which makes our native subjects under some circumstances liable to the jurisdiction (p) of the king's court, under some to that of the Company's court, and under some to that of both, without regard to residence, or any clearly defined limitations by which our native subjects can know to what laws or courts they are or not amenable, is replete with gross injustice and oppression, and is an evil loudly demanding a remedy, which can only be found in a strict local limitation of the powers of his majesty's court with regard to the persons and property of native subjects, or in an amalgamation of the king's courts with the local judicial institutions under a code of laws fitted for local purposes, and calculated to bestow real and equal justice on all classes of subjects under British dominion in India.

Department of Palaeography and Diplomatic, Durkham  
 II Earl Grey Papers: Box 36/ File 1  
 No 4-16 (marked Al-L) are on "Law and European Settlement"  
 6 — No 11 (marked F)  
 66— No 6 (marked Bl)

3.21

ARGUMENTS FOR EUROPEAN IMMIGRATION AND A NEW CODE OF  
LAWS FOR INDIA (A.D. 1829)

Extract from a Minute of Sir Charles Grey: Oct 2, 1829

It may be doubted, whether the present state of things, which I believe to be unexampled in the history of the world, can last much longer. Throughout the great part of India there are to be found some individuals at least of four distinct classes, each of which is supposed to live under a distinct system of law, and to have different rights and different duties, but none of them accurately defined. There are persons born in the British Islands, Hindoos, Mahomedans, Asiatic Christians, (p) and besides all these, there are in many parts, foreigners and subjects of Great Britain, who have been born neither in the British Islands nor in India, as to whom I believe, there is no one who, consistently with usage, can say, with any just confidence, what law it is to which applies to them. Hitherto it has been possible to make a shift; but as the native Christians, British and colonial persons, and foreigners shall increase in numbers and pervade India, a result which must gradually take place, matters may be brought to such a pass as would scarcely be tolerable.

Extract from a Minute of Lord William Bentinck: 30th May 1829

Recent events, and the occurrences now passing under our eyes, still more clearly justify the persuasion, that whatever change would be beneficial for our native subjects, we may hope to see adopted, in part at least, at no distant period, if (in)adequate means and motives be presented. I need scarcely mention the increasing demand which almost all who possess the means evince, for various articles of convenience and luxury (p) purely European. It is, in many cases, very remarkable. Even in the celebration of their most sacred festivals, a great change is said to be perceptible in Calcutta. Much of what used, in old times, to be distributed among beggars and Brahmins, is now, in many instances, devoted to the ostentatious entertainment of Europeans; and generally, the amount expended in useless alms is stated to have been greatly curtailed. The complete and cordial cooperation of the native gentry in promoting education, .... (p)....(p) ... the anxiety evinced at Delhi and at Agra, and elsewhere, for the means of instruction in the English language; ... (p) .. these, and other circumstances, leave in my mind no doubt, that our native subjects would profit largely by a more general intercourse with intelligent and respectable Europeans, and would promptly recognise the advantage of it.

Department of Paleography and Diplomatic, Durhams:  
II Earl Grey Papers: Box 36/File 1:  
e—No 8 (marked C)  
m—No 9 (marked D)

(3.22)

T. B. MACAULAY to J. TYLER (?): 28.1.1835

(Copy)

January 28th 1835

Dear Sir,

Our difference of opinion is quite fundamental, nor do I conceive that discussion is likely to bring us nearer to each other. I deny every one of your premises without exception. I deny that no nation was ever educated by means of foreign languages. I say that all the progress which knowledge has made in Russia has been altogether through the medium of languages remote from the Russians as English is from the Bengali.

I deny that no derivative language can be well understood without a knowledge of the original language. The best and most idiomatic English has been written by men who knew neither Anglo-saxon or Norman French. I deny that there is the smallest use in (p 2) making the vernacular dialects of India at the present time precise, regular, or eloquent. These things come without fail in their proper season. They are conveniences or luxuries. What we now want are necessities, we must provide the people with something to say, before we trouble ourselves about the style which they say it in. Does it matter in what grammar a man talks nonsense? With what purity of diction he tells us that the world is surrounded by seven seas of butter? In what neat phrases he maintains that Mount Meru is the centre of the world?

I deny that it is necessary to teach absurdities to a man or to a native for the purpose of afterwards refuting those absurdities. It is very well for a few studious (p 3) men to pass their lives in examining tracing the history of opinions. But the great mass of students have not a life to give to such researches. If they are taught errors while their education is going on, they will never learn truth afterwards. Nor is it necessary to the rational belief of truth that men should be acquainted with all the forms which error has taken. The same reasoning which establishes truth does ipso facto refute all possible errors which are opposed to that truth. If I prove that the earth is a sphere I prove at the same time that it is not a cube, or cylinder, or a cone; nor is it necessary for me to go through all possible figures one after another, and to direct a separate argument against each. (p 4)

I deny that there is the smallest analogy between our attempts to teach sound science to people who are desirous to learn it, and the attempts of the Spanish Government to bring up Jewish children in the Christian faith. I do not propose to bribe any body to learn English as the pupils of the Sanscrit College are now bribed to learn Sanscrit. I would merely provide the means of wholesome instruction for those who desire it. I have no doubt that there are many such.

I deny that we wish to conceal both sides of any scientific question from our students. But life is too short to study every thing. You cannot teach your pupils truth and all the various forms of error in the short time which is allotted to education. I can not see the wisdom of making a boy, for example, a great (p 5) astrologer, of keeping him several years employed in casting nativities and then telling him that the whole of the science which he has painfully mastered is good for nothing. I think myself entitled to laugh at astrology though I do not know its very rudiments; to laugh at alchemy though I have no knowledge of it but what I have picked up from Ben Jonson. Would you teach your children astrology? And would you not think it strange if any body were to tell you that it was cowardly in you not to teach them astrology? that you shewed great distrust in the force of truth: that truth would not be defended unless its defenders were thoroughly acquainted with all the details of the errors which they reject.

You say that there is some truth in the oriental systems. So there is in the systems held by the rudest and most barbarous tribes of Caffraria and New Holland. (p 6) The question is why we are to

TON: H.H. Wilson Correspondence: MSS Bur B 301/2 : p 51

teach any falsehood at all. You say it is necessary in order to make the truth palatable to the natives. I am not convinced of this. I know that your Sanscrit and Arabic books do not sell. I know that the English books of the School Book Society do sell. I know that you cannot find a single person at your colleges who will learn Sanscrit and Arabic without being paid for it. I know that the students who learn English are willing to pay. I believe therefore that the native population if left to itself would prefer our mode of education to yours. At all events the onus probandi lies upon you. (p 7)

You see how less likely it is that we should come to the same opinion on this subject. I am greatly obliged to you for taking the trouble to place your sentiments before me in so clear and precise a manner. And I wish you most heartily a pleasant voyage with a speedy restoration to health. We will finish our dispute when we return.

Believe me, Dear Sir,  
Your faithful servant  
(signed: T.B. Macaulay)

**NOTE:** The letter, in the Wilson correspondence, has no name of the recipient. But P 52a, dated 26.1.1835, is a copy of a letter from John Tytler to Macaulay on this subject and the above seems to be the reply to the various points raised in Tytler's letter of two days earlier. (Tytler's letter is 14 pages)

3.23

Court Martial at Allahabad: 13.6.1766  
(Extract)

The persons being put on their defence, and Berwar Sing sepoy says that he knew his sister was a whore, and Bengar Sing sepoy's wife told him of it, and he killed his sister for being a whore, and killed Bengow Sing's wife for telling him of it, and killed the slave girl for knowing of it and being with his sister and not telling him of what she did. ..

The court having considered the matter which was laid before them and finds Busvar Sing sepoy guilty of wilful murder, and as Bengon Sing has been partakers with him, the court therefore do sentence them to be hanged by the neck until they are dead.

And as Joree Sing sepoy was standing by when the murder was done and did not endeavour to gett people to put a stop to the murder nor inform against them who committed the murder the court do sentence him to receive 1500 laishes by the tomtoo of the different battalions in the garisson and a rope put about his neck and tomtoed out of the hon'ble Company's service.

Fucker Monett, Commandant  
(his mark)

**IOR: Orme Collection: Vol XVI : pp 4663-4** titled "Court Martial of Sepoy Officers, on a sepoy who had killed his sister, his brother's wife; and a slave, and his accomplices".

3.24

London  
June 19th, 1813.

My Dear Sir

In the first place, I beg your pardon for the liberty I am about to take, in saying to you one word more concerning the 13th Resolution. I am afraid that the Anglo-Indians are using every possible effort and I see symptoms of shrinking in some whom I deemed (page ) our friends, which render it the more necessary to call to our aid all who are really of that number. After stating to you the critical circumstances in which we are placed, I will say no more. You know the importance of the question and it will scarcely escape you, that, as Government look more to parliamentary strength, than (page ) to that of the (feelings of the men in the street) our appearing weak in the House of Commons may operate injuriously against all measures whenever they may be proposed to them hereafter for enlightening and improving our East Indian fellow subjects.

Once more I beg pardon for a freedom which however I should not use, (page ) if I did not give you credit for feeling warmly on this great subject and if I could not say, that were our circumstances interchanged, I should be glad to have you write to me, as I now do to you.

I am My Dear Sir  
With esteem and regard  
Sincerely yours

W. Wilberforce

Sam'l Whitbread Esq.

Bedford County Record Office: Whitbread Papers: W 1/5116

The words in parenthesis marked @ are from the calendar of Whitbread Papers as they are not easily deciphable in the original. The original of these reads : .....  
..... out of town (or down).

The indication given above for a new page is approximate after the first indication as this missed being noted when copying. The letter runs to four pages.