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ALEXANDER WALKER ON INDIA

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ALEXANDER WALKER ON INDIA

A Selection from his Papers

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CHAPTER 2nd

Importance of the soil for the support of man: question respecting the proprietary right of the soil in India: the Mohammedan conquerors called the Raja and every person connected with the land, zemindars: different kinds of zemindars: confusion arising from their name and uncertainty in their rights: mistakes with respect to the Bengal zemindars: different authorities for the vesting the proprietary right in the Sovereign: objections: various Hindoo names for proprietors of land: effects of successive conquests: question undecided: but the right of the Sovereign if admitted reduced to a nullity: favourable situation of the Ryot compared to the Cultivator in Europe: stand which the Hindoos have made for their village rights: persevering and successful: the Ryots well acquainted with their rights: unfair way of estimating the Hindoo (78) character: the disadvantages of their situation: Proprietary rights fully established in Malabar.

The soil which covers the surface of our earth, considered with relation to its vegetative qualities is essential to the life of man. On its degree of fruitfulness depend a supply of the necessaries and conveniences of life. Without it we could not have trees, fruits, food and clothing*. It renders the air itself fit for sustaining vitality. In proportion to the degree of utility, and importance of the soil, in the economy of human affairs, its possession has been coveted and contested. Before we enter on the description of (79) the state of landed property in Malabar, and the tenures by which it is held, it may not be improper to offer some observations on the question that has been so long agitated respecting the proprietary right to the soil in India.

This question has been made obscure and intricate more perhaps by the way in which it has been discussed, than by the subject itself. Since

National Library of Scotland: Walker of Bowland Papers: (184a2) pp.77-141: Malabar Land Rights and Tenures: Review of British Approach: Chapter II

*Goguet

the facts on which it ought alone to be decided are apparently to be ascertained by due exertion and enquiry, it is truly surprising that the question should still remain a matter of uncertainty. Without any intention of engaging myself in the controversy, I shall mention some circumstances as they arise in my mind, and which have come within my observation (80).

The subject is inseparably connected with the condition of Hindoo society and their system of Government, particularly that branch of it which relates to taxes. In order to take a correct view of that society, and of the arrangement of property on which it depended, we must begin our examination either anterior to the Musselman conquest, or where we find the ancient Hindoo system of Government still subsisting. We shall find that what has been called the Zemindary System is the result of conquest and has no connection with the original institutions of India. It had its origin in their overthrow, and in the subversion of the proprietary rights of the natives. This was no new effect of victory.

History will furnish many examples (81) of conquerors having shared the land among them. This was evidently the view which Abulfazel took of the subject. Speaking of tribute and taxes, he says, the Mohammedans make three distinctions in conquered * lands; but of the proportions which were levied from each, there are many contradictory accounts. I am not aware that he, or any other author, has claimed the soil as the property of the Sovereign. They claimed only the right of imposing on it taxes, and of extracting a share of its produce, not the whole, for less the right of disposing of it at their pleasure.

In order to ascertain the existing state of property in Bengal, a knowledge of the zemindary system was of great importance; but it was not of any use in determining the circumstances (82) of ancient India, or of the Hindoos who continued to live under their own institutions. It was of very little use even in determining that of the zemindars who resided beyond the limits of the Company's provinces.

*Ayeen Akbery Vol.1 Page 300

A controversy however arose in Bengal which has continued to be surrounded and embarrassed with the local circumstances of its origin.

The condition of the Bengal zemindars, has been assumed as a standard for determining their situation everywhere; while it has been made a kind of rallying word, and applied to explain the rights of a people, who only become acquainted with the system when their own was destroyed. This was surely neither a just proceeding nor (83) a very accurate way of reasoning.

The situation and circumstances of the zemindars in different parts of India are as contrary to each other as possible. The term was indiscriminately applied by the Mohammedans to every Hindoo proprietor; in the insolence of conquest they called every Raja, a zemindar. It is probable that they meant at first merely to designate the aborigines as connected with the land or soil: there can be little doubt but that this was the origin of the term, and altho' it subsequently came to signify a retainer, at first, its obvious intention was to distinguish the real proprietors of the country. What word was more natural and expressive than to call them the holders of the lands. (84) In process of time the Mohammedans themselves became zemindars and acquired lands, and territory, under various conditions: they received the designation of zemindars, a name which custom had sanctioned, and which was appropriate, as having succeeded to the rights of the original Hindoo possessors.

It is difficult to state with precision and in detail the condition of the several gradations of zemindars. We shall divide them into three classes: original Mohammedans; the converts to that faith; and Hindoos: the latter ancient, the former modern: This distinction altho' general will sufficiently mark the origin and nature of the order.

1. The Mohammedan zemindars* received their

*The Mohammedan conquerors had converted all native sovereigns into the rank of zemindars. "These in the words of *Imam Hanisay* are called Rajas, who are the Chiefs of those people, who are distinguished by the name of zemindars, which signifies possessors of lands".

lands as a reward for services or as a boon from the favour of the Prince. They were either to be considered as Enams or free gifts, or as Jaghires* for which they were to perform certain duties, most commonly military. There is no matter whether this was expressed in their *ta* Patents or Firmauns: it would be perfectly understood from the nature and constitution of the Government. Possession for a moderate length of time would establish a hereditary right. Usage has even more force than its reverse, *demerit*. We have many instances that the Jaguiredars were to pay and inlist men. Under this view the Mohammedan zemindars were pensioners and officers of Government. Under a corrupt weak and indulgent Government, it was not difficult to establish an hereditary succession. This might even be provided for in the grant. The duty in return would be known if it was not (86) expressed.**

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- * Or jaguirs - from ja' place and gir taking - is literally the place of taking an assignment of the Government share of the produce of a portion of land to an individual. There were two kinds of Jaghirs, one called jay-gir-i-tau bodily or personal jaghire, being for the support of the person of the Grantee: the other jay-ger-i-seer, Jaghire of the head or an assignment for the support of any public establishment, particularly of a military nature. Dr. Wilkin's able Glossary to the Fifth Report 1812 from the Select Committee.
- ** The History of Persia affords a case exactly similar to this. Rather more than a hundred years ago, Jonas Hanway writes of the "Shah Seven", the "well affectioned to the King", as the Militia was called. "It was established by Abas the great, and consisted of persons chosen among the nobility, to whom he gave lands on condition of their lending a certain number of their vassals into the field when the Sovereign should have occasion for them. This body which amounted at that time to 300,000 men, was the last resort in any extremity or sudden danger; but as these employments were hereditary, and under the late reigns, very little care had been taken to oblige the holders of these possessions to discharge their duty, they no longer looked upon them in any other light, than as legal estates."

The jaghires may be compared to the benefices of the Middle ages. "It by no means appears that any condition of Military service were expressly annexed to the grants of benefices; but it may be justly presumed that such favours were not conferred without an expectation of some return; whoever possessed a benefice was bound to serve his Sovereign in the field."*

After the succession had run for one or two generations in the same line, the service would become more indistinct and vague; but in the same degree as this was weakened, the claim of hereditary and proprietary right would be strengthened. (87) We are informed by Seriphkare that in the days of Joseph, every inhabitant was a proprietor of a certain portion of ground. "there is not ought left in the sight of my Lord but ~~our~~ our bodies and our lands".**

2. We ought to mention another order of zemindars, who may be considered as a class between the original Mohammedans and the Hindoos. These were the converts from the Hindoo faith; in some situations they were numerous; but in most cases they preserved their old rights and privileges; their claims as founded on long established customs were fixed and natural. Their family or hereditary rights were generally respected, and the succession, altho' not always regular, was continued in the same course of descent. They were reduced more or less to the condition (88) of subjects, according to their situations, and actual circumstances.

3. The highest order of zemindars were those who retained their religion, and almost all their original independence. These like the rest, in the technical classification of the Mohammedan Government, were styled zemindars; and this term was continued by the Mahrattas, who were abject imitators of the Mogul forms. They adopted without scruple, without pride, and often with impropriety, all the practices of their predecessors.

In the Southern and Western parts of India, where the Mohammedan terms did not penetrate until

*Hallam on the Middle Ages Vol. 1 Pa. 113

**Genesis Chap: 47, Ver: 18

a late period, and where their customs had not (89) to take any deep root, the term of zemindars was quite unknown. In the Northern parts, the ancient Rajas of Ajmere, Jeypore and Jodypore were all classed as zemindars. Their alliances and connection with the Moghul family on the throne seem to have rendered them insensible to the disgrace of the name; but they exercised at the same time all the privileges of independent Rajas. By this means the rights of hereditary Princes, and those of the mere officers of Government, were confounded under one nomenclature. It appears certain that the rank and attributes of the zemindars were of a very dissimilar nature. The anomalous list comprehended the ancient Rajas of India, the Petty Chiefs of Tribes and the Moghul officers, or the zemindars. (90)

The original property in the soil of India could have no dependence on this factitious arrangement. I beg to repeat that this question depends on an anterior system of society, and on the old Hindoo institutions. Nothing is decided by admitting that the Mohammedan conquerors of India were the sovereigns of the soil. The right obtained by conquest, only proves the fact, that it was obtained by force and violence. It is remarkable also that the supposed assumption of the proprietary right of the soil, has always been confined to Mohammedan sovereigns; it has never been alledged that the Hindoo Rajas made any such claim, which must have been the case had there been any just and real foundation for it. Is it even certain, I would ask again, that the (91) Mohammedans have ever in express tones claimed and exercised this right? It is uncertain how much they granted in their vague and perplexed patents: they might have granted more than they had a right to bestow, but there is every reason to presume that they gave only the public revenue, burthened with the duty of maintaining troops, and perhaps their own royal right of raising or lowering the rent; the mere property of the soil itself remained in the possession of the inhabitants; if that indeed can be called a possession which left the smallest quantity of annual income on which life and the means of carrying on the process of cultivation, could be supported. But we must not confound tyranny and oppression with a just and legal prerogative. (92)

It is true that the Mohammedan princes by many indirect means, by excessive taxation, by requiring the whole rent for the use of the

Government; deprived the proprietors of their most valuable advantage; but so long as they continued to reap and sow; they continued to be proprietors. The strength of this sentiment is all powerful in India: the Ryots everywhere consider the soil as their own: to deprive them of the spot which they cultivate for their subsistence, would be as unjust, and as unlawful, as to take from a man his estate in England. We have seen calamity* and distress producing hereby the same effects in England, as excessive taxation has done in India. (93) The public burdens on land exceeded the rent of some farms. The bulk of taxation, fell either directly or indirectly on landed property. The taxes, the poor rates, the expence of farm houses, the support of jails and high roads, etc. did not leave the land owner above 9 shillings in the Pound.** In a Parish which consisted of 5,000 acres, the rental of which was £4,000, the poor's rate of 1819 amounted to 4500 £.*** Under these circumstances the tenants abandoned their farms, and the proprietors were afraid to take possession of the land, least they should be made answerable for the taxes.

It is easily seen that had this state of affairs continued long, the soil in England would have been placed in the same condition, as it is in most parts of India; (94) that is, the rent would have been consumed by the public burthens, and the proprietors reduced to the state of cultivators.

In India it is well known, that almost the whole of the public revenue is derived from land. The assessments were arbitrary and therefore irregular. Akbar fixed on one third of the medium produce of a Beegah, or acre, as the proportion for the revenue; but I do not believe that any proportion was ever exactly adhered to. The Tythes in England, which are imposed on the same principle, are more strictly regulated, and more consistent with the mode prescribed. It would be not a little curious, and would be useful, by

* The depression of the times (1819) in this country was aided no doubt by excessive taxation.

** Mr. Curwins speech in Parliament.

*** West Grinstead. Mr. Buerell's speech in Parliament February 2, 1819

giving us more correct ideas on this subject, were we to compare the rate of the tax on the soil in India, and in different parts of Europe. (95) In England I have understood that a seventh of the land produce is paid to Government, and in Bengal perhaps a fourth. But we must add in this country (England) all the parochial and extra assessments, which are much more considerable than in India.

Colonel Dow says in his preface, that, "all the lands in India are considered as the property of the king, except some hereditary districts possessed by Hindoo Princes." When Ferishta and the Persian writers, assert, "that there were no hereditary estates in India, for that all belonged to the King, which he disposed of at pleasure", we must consider them only as speaking the sentiments which favoured their own interests, and as conquerors. What Bernier, Thevenot, Chardin, Tavernier, and the rest of modern travellers (96) have mentioned, cannot have the force of authority. It was not original, and their testimony at the utmost could only establish the state of landed property after the conquest of the Mohammedans. There is no appearance that they made any enquiry into the fact as it existed in the time of the Hindoos: they repeated the accounts that they received from the courtiers, and their acquaintances, who were almost all Mohammedans.

The testimony of Governor Raffles, one of the most correct and enlightened writers on the affairs of India, is liable to similar objections. He says; "It is established from every source of enquiry, that the Sovereign of Java is the Lord of the Soil,"* @. But this refers only to the (97)

* Governor Raffles minute on Java. But the Lord of the Soil is very different from our Proprietor.

@ The right of private property in the soil is distinctly established at Bali. Lands are bought and sold and in hereditary succession from father to son. The share of the prince is confined to six sheafs in the hundred, and that taken from rice crops only(*). At this island close to Java many vestiges of Hindoo customs and manners exist. When pure and unmingled with foreign manners, they constantly give the idea of a proprietaryship in land.

(*) Malayan Miscellanies Vol.7

property after the original institutions of the country were destroyed. Besides the term Lord of the Soil is vague. In England by a fiction of the Law, the King is the Lord of the Soil.

There is a curious and original passage in Mr. Colebrook's Digest of Hindoo Law. "By conquest, the Earth became the property of the holy Parashu Rama, by gift the property of the Sage Casyapa; and committed by him to the Kshatriyas for the sake of protection, became their protective property, successively held by powerful conquerors, and not by subjects, cultivating the soil."* The whole right is here assigned to victory. By this passage all the land was divided among the Kshatriyas, a numerous and powerful people. It was not consequently the property of a single sovereign. (98) But it did not long remain in their possession, for we learn from the same authority, that; "Thrice seven times exterminating the military sk tribe, the Kshatriya) Parasu Rama gave the earth to Casyapa, as a gratuity for the sacrifice of a horse." A Bengal Bramin produced a commentary on these passages, which makes the land the property of the sovereign, and permits him to turn off the cultivator at the end of every year. Col. Wilks has pronounced this to be a forgery, and manufactured on purpose to suit the opinions of the ruling power, at that time in love with the zemindary system.

It is remarkable that the Digest itself corresponds with the account of the people of Malabar, among whom we have (99) seen that the rights of landed property are fully and clearly established. They have a very different commentary from the Bengal Bramans. Land, they say, at first belonged to the Kshatriya for the purposes of governing and protecting, but when they were destroyed for their crimes by Parasha Rama, he bestowed the land on the Bramans, who subsequently divided it among the people. It is almost unnecessary to observe that the zemindary system was never heard of in Malabar.

Knox who wrote more than a hundred years ago, and who was consequently unfettered by any theory,

*Hindoo Digest. 1-400

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affirms the same thing of the lands of Ceylone; that they were the property of individuals, that they went by inheritance; that a parent had the power of dividing them among his children (100), or disposing of them by will, and that this species of property was possessed by females under peculiar privileges.

I own that I am more staggered by the authority of the ancient Greeks, who visited India before any controversy existed, than by any of the modern authorities. Botto Strabo and Dio: Sic: "expressly inform us, that the kings were the sole proprietors of the soil, and that a fourth part of the produce was usually paid them in kind, as the rent or tribute."* I can only oppose to this authority the actual state of landed property in Malabar at present and from time immemorial. It is possible that the Greeks who saw the lands defraying all the expenses of Government, conceived that it was therefore (101) public property: but their information was not always authentic, and in this case, they were certainly misinformed.

The various explanations that have been given of the term zemindar, have added to the uncertainty on the subject, and have been the means of perplexing the public judgment. It would perhaps have prevented some mistake, if we had in Bengal translated the word by the English compound of land-keeper** instead of land-holder. The last is a technical term at home, and unavoidably connects with it ideas of freedom and proprietary right. The term Abdar does not imply any thing more than a keeper of our drinking water, and not that he is the owner of either beverage, or of the utensils he keeps in his charge for cooling it.***

Frazers interpretation of the term is just in most situations. He wrote about the year 1740, long before the zemindary dispute had existence. Frazer says; "Zemindars are the Rajas or Indian princes and who have free estates, and a tract of land at their own command, only paying a small acknowledgment to the Great Moghul. This name

*Mr. Mills History: Strabo. Vol. XV. p. 1030, Dio: Sic
Re. Vol. II, Page 53

**I owe this idea to my friend Mr. Duncan.

***This was an observation of Mr. Duncan.

is composed of *ganai zemin*, land, and *dar* a possessor."*

The sentiments of Mr. Orme correspond with this description. He wrote in 1752 also before the origin of the dispute. "Zemindar derived from *Zemin*, the word signifying lands, is the proprietor of a tract of land given in inheritance by the King or the Nabob, and who stipulates the revenue which he is to pay for the peaceable possession of it. Such zemindars are not now to be frequently met with; but the title every where: it is transferred to all the little superintendants or officers under the *Phousdar*."**

It would appear that Menu considered land as private property, when he admits it as one of the pledges which were not lost; in consequence of adverse enjoyment.***

The Hindoos have many names for the proprietors of land, much more original and ancient than that of zemindar. Some of them are only of provincial (103) application, while others are in use wherever any of the cognates of the Sanscrit are spoken. 1. An *Adi Kari* is an original term for a person who possesses an undivided estate; that is, one which is not shared by others. It means a Master, owner, or proprietor of land. 2. *Desmook@* is the Head man of a District: it signifies a principal land holder. 3. The *Grammatin*, *Muchadom*, *Gođa*, *Patel* and *Dessoy*, have the same or a similar meaning in different parts of India. They are still the Managers and Superintendants of the land of villages, of which they were formerly the proprietors. 4. The *Grassias* of Guzerat are all either land-holders, or derive their subsistence from the portion which they claim, and continue to receive from estates, of which they were probably once the owners. (104) The word signifies a mouthful. 5. *Pruthoree* and *Veeteemunt* are very ancient terms for proprietors of the soil. 6. The term *Bhumi* or *Bumia* is still used to distinguish a numerous body of land holders in the Western part of Guzerat. In the Revenue Books of the Moguls all these classes were styled zemindars; while in

*Peazers History of Native Nader Shaw. Page 46.

**Orme's Historical Fragments page 403

***Menu on Jurisdiction and on Law page 149

@See Page 531 (page misquoted)

fact they belonged to the original population, who subsisted on their estates, long prior to the Mohammedan invasions. 7. The Jeunkars of Malabar and perhaps the most clearly defined land holders in our acceptation of the term, in India. They partake* of many of the most valuable privileges of our freeholders, and are distinctly marked as the proprietors of particular estates. The term means a proprietor by inheritance (105) derived from Jenm or Jennum, which signifies a birth right. There is no country in possession of a more expressive term than this. It shows an original and a very early right to the property of land. The rights and condition, of land holders will be considered afterwards.

Successive conquests and a long subjugation have weakened and almost extinguished the proprietary right in land in the Central parts of India. All traces however are not yet lost of this right. In Guzerat and other countries, circumstances indicate that land was at one period the inheritance of individuals. It is still the case wherever the country had not been thoroughly pervaded by the Mohammedan arms (106). The Rajapootes, the Grassias and Koolis, were the ancient proprietors of land in Guzerat. The different descriptions of land in Guzerat would be sufficient to prove that the whole never could have belonged to one person. Among those we find Sirkar zemin, which may be considered as the property of the Sovereign, since it is arable land assessed and paying full revenue to Government.

There are other lands called Vattā** or Wunta Grassia*** allotted expressly to the Grassias for their maintenance by the Musselman Invaders, as the descendants of the ancient landed proprietors of Guzerat. Their resistance to the Mohammedan Government could not otherwise be overcome so readily or humanely, as by this concession.@ The constitution (107) of a Hindoo village, a form of that society which is still to be found in many parts of India, implies the existence of land as separate property.

*or rather partook

**Vattan or Wuntton, a very original and descriptive term

***See page 535

@Report on the Peon of Broach 10th January 1804]

The Pagaritor* lands of each village which were for the support of the craftsmen, paid no part of their produce to Government.** Other lands are distinguished as Granea or Mortgaged, probably the pledge or pawn which Menu describes, and which cannot be recovered unless by paying the money lent upon them; but the pledge must have been considered legal before usurers would lend their money upon it; or before the inhabitants would offer a pledge which they did not view to be at their own disposal. From all these (108) circumstances I thought myself justified in a Revenue Report to the Government to conclude that the proprietary possession of land was vested in private persons as well as in the Government.*** I found that the rights of individuals to particular lands were derived from some very ancient state of society which was to be deduced from Hindoo institutions as well as from the grants of princes of a more modern origin. (109)

A great part of the land in India is Grania or Mortgaged. This is the case with every description of proprietors. The zemindars and the villagers are all in debt. Without capital it is hardly possible that they can avoid this misfortune. It is from the land that the public revenue is derived. This is collected and made payable at settled and unvariable periods. But the sale of the produce, from which the cultivator alone has the means of satisfying the demands of Government can neither be immediately nor regularly effected. It is impossible that he can command the market, and a ready money price can seldom be obtained. In the meantime the dues of Government must be peremptorily paid. No excuses are admitted for delay. There is not sufficient (110) time given to realise the profits of the crop, nor from their nature could they all be realised at the same period, and with the punctuality which is necessary to meet a regular demand. The cultivator has only one remedy, and to this he must at all risks have recourse. He applies to a money lender, some soukar or Shroff commonly who advances cash for the payment of his instalments to Government. For this, he pays in premium and interest, at the rate of 25, 30 and 35 per cent. The mortgaged man lays hold of the crop and sells it as he can, leaving the farmer a mere subsistence.@ This system has been going on perhaps

* Besides these there are free lands, salami lands and vazeefa lands which appear to be held under tenures which more or less confer a right of property. *Konfer*
 ** See Page 536-7 etc.
 *** Report to the Govt. of Bombay dated 18th June 1804
 @ The lender is called the Manootedar

for ages, and appears irremediable, unless the Government should itself make the loan to the Ryot at a moderate interest, or forego its demand (111) until the sale of his crop will permit him to discharge the public demand. Either of these ways would lead probably to loss, delay and confusion.

The possession of large estates has led to an inevitable consequence. What the proprietor cannot cultivate himself, he has let to others, who pay him a rent. This would not lead to any mischief probably if it stopped with only one link between the cultivators and the proprietors; but it is usual, particularly in Bengal, for the first Farmer or Renter to sublet his farm to a second class ^{h. wt} of tenants, and these again very often to others. This with other circumstances arising in a great degree out of the system we have established, has created in that country, an intermediate agency, who have oppressed and reduced to the lowest state of wretchedness (112) a numerous peasantry. Much of this has been the effect of conquest and of Mahomedan regulations. In the Hindoo original countries the peasant is less oppressed; he enjoys more freedom, and is a more important person in the community. This is the case in the south of India, and in the Deccan; but tho' the Mahrattahs spared their native country, they gave no relief or relaxation to the provinces which they conquered from the Moghuls. These they left under all their former oppressions, and in many cases added to them. A system of false imitation made them commit many errors, and following evil example, they increased the rates of taxation, when the population and resources of India were on the decline.

The conquest of India by the Mohammedans produced a great change on the state of property. It made a great change also in the manners and mode of thinking among the people. In this way it extended its effects beyond the countries which were conquered and over run. It produced a desire of imitation which inclined the ⁽¹¹³⁾ Hindoo princes to extend their authority, and individuals to enlarge their possessions. The exactions on property were increased and the possession of the land fell into fewer hands. Before this event, the state of dominion and of landed property were confined to small boundaries. It was afterwards that zemindars

arise, and that a district, or even a whole province, became the estate of private persons. This was not an uncommon effect of conquest. Something of the same kind happened in England after the successful invasion of the Saxons and Normans. It was a frequent occurrence during the Roman Dominion. Africa was divided among half a dozen families, who were the proprietors of all the land. A country in this unhappy (114) condition is exposed to the extortions of the Government, and of individuals, until property is annihilated or reduced until it affords only a bare subsistence for the people.

The proprietary right in land seems nearly to be in the same state in the Deccan, and probably through all the original Mahrattah territories, and other unconquered Hindoo countries, that it is in Malabar.*

The Meerasdars possess a private inheritable right of occupancy, on condition of paying the Government dues. This right they can sell or mortgage. The person who buys the meeras right becomes responsible for the payment of the public assessments.

The Meerasdars are of two classes (115): those called Beela- Bund Wuttundars, who possess the land supposed to have been originally cleared of stones and jungle by their ancestors** and those who have acquired it by long residence in a village for one or more generations occupying the same fields. It does not appear that either of these descriptions of Meerasdars possess their rights by any sunnuds or grants from Government although the Government can bestow lands in Meeras, provided it is not Meeras at the ~~time~~ ^{time}. The purchaser of any Meeras field is admitted into all the rights and privileges of the late occupant. As far as the Meeras right in land extends, both classes are on an equality. The Meerasdars cannot be dispossessed of his fields whilst he pays his share of Revenue. He has a (116) voice in all affairs concerning the village, and he is exempted from several dues and taxes. He possesses a right of grazing on the common and of building a house on the village site, which he may sell. In this

* See Page 539

** See Page 541 ^{etc}

situation a person who is not a Meerasdar, can neither sell nor remove the house which he may build; it becomes the property of the village or of the Meerasdar, on whose estate it is built. But it is the advantages accompanying the Meeras right which makes the tenure so desirable. It is not known how it was originally obtained. It appears that Meeras Property is sold in the Deccan at 5, 7 and 10 years purchase.*

The sales of Meeras property are made freely; an application to Government for permission from ⁽¹¹⁷⁾ long usage is unnecessary, tho' sometimes applications were made for a certificate of the sale, in order to attest the transaction, and to prevent claims being afterwards made by relations. The Meeras Bills of sale are very particular in guarding against any claims by other members of the sellers family. A present is always made on receiving this certificate.

When contributions were required by a maurading enemy they were paid by the Meerasdars. The Copree**, and the mere tenants and cultivators ought not to be called upon to pay for the price of exemption from pillage.

There was the greatest forbearance towards the Meerasdar; his land was not (118) forfeited even when the revenue to Government was unpaid; a temporary occupancy was given sometimes by leasing it, but when the Meerasdar returns to claim his field it is restored to him at the expiration of the lease; but such is the attachment to this kind of property that no Meerasdar will willingly quit his field, and it seems never to have been resorted to by the Mahratta Government to dispose of it to another in Meeras, tho' the right incases of delinquency is not disputed. A Meerasdar is entitled to other advantages besides the profit of the land.

The Meeras tenure is general throughout this country***, tho' in the district of Beejapore it

* This must vary according to the nature of the Government and other circumstances.
** Tenants at Will?
*** Sattarah *de*

has generally disappeared. Its former existence there however is not doubted (119), but that it was destroyed by the oppression which succeeded under the Moghul ~~guzars~~ *Omrans*.

In the Raja of Sattarah's territory it is stated that there are about two thirds Meerassees to one third of Copress, or 70 Meerassees in the hundred. The Ryots are very tenacious of their Meeras rights in land. The officers of the Government exercise no control over Meeras land, excepting collecting its rent.

If a Ryot being a Meerassdar refuses to cultivate his field, he is threatened with being obliged to write down his resignation of all privileges. If an Copree refuses to cultivate, the field is offered to another, but if no one will take it, the rent is lowered. There is no other restraint (120) and never has been.

Wuttun and Meeras both signify hereditary right of any kind; but Meeras is more particularly applied to land, which is Wuttun in general in its significance; but Wuttun applies to hereditary offices, as well as land.*@

On the whole the question is certainly not yet decided, that the Sovereign is the Proprietor of land in India. There is great room to hesitate before we adopt an opinion which is unquestionably in opposition to the long established and settled usage of a considerable part of India, where the Hindoo manners have undergone the fewest changes. At best the claim of the (121) Sovereign, if it has indeed any existence, is but ideal. Everywhere we shall find vestiges of a proprietary right in land; a right which seems to have been handed down from the most remote times, and which a long system of tyranny has been unable to destroy.

The grants of land which have been found in different parts of India engraved on stone have been supposed

* See Page 488^{de} and 499

@ I am indebted for this account of the Meerassees Proprietors to my ingenuous and much esteemed friend Captain James Grant, late Political Agent at Sattarah.

to afford strong indications of the proprietary rights of the Sovereign; but this is a very questionable proof. Colonel Mackenzie, whose indefatigable labours have thrown so much light on the history and antiquities of India, seems to have considered those inscriptions as proofs of established tenure, and of a civilized and cultivated ~~state~~ state of society. The most natural conclusion is (122) that they were grants from the king's own demesnes. Every Hindoo sovereign had a landed estate, which formed a part of his revenue, and which was at his disposal.

The author of the History of British India has exhausted this subject: he has discussed it with his usual accuracy, and great talents. He maintains a right of ownership* in the sovereign: But, "that the possession of the Ryot was a permanent possession; a possession from which he was not removed except when he failed to pay his assessment or rent: a possession he could sell during his life, or leave by inheritance when he died. As far as right can be established by prescription, these rights came undoubtedly to be established (123) in the case of the Ryots in India. And to take them away is one of the most flagrant violations of property which it is possible to commit***. Again, "The rights of the Ryots, which are incontestible, secured to them nothing more than the privilege of employing their labour always upon the same soil, and of transferring that privilege to any other body: the sovereign claiming a right to take of the produce as much as he pleased, and seldom leaving them more than a very scanty reward for their labour." This reduces the advantages of the Ryot to the mere usufruct of the soil; if he has any thing more it depends on the moderation of the sovereign, and the extent of his exaction. In this respect the (124) Ryot in India has the same security that the proprietors of land have, wherever they have the misfortune to live under any arbitrary Government: they have been reduced to this condition by gradual and successive encroachments. They are protected by custom which has the force of law, and the interests of the sovereign. "Let a king not cut up his own

*Query. Is not this ownership only a superiority?
 **Mr. Mill's History Vol. 1: Page 192

roots by taking no revenue, nor the roots of other men by excess of covetousness; for, by cutting up his own roots and theirs, he makes both himself and them wretched." (e)

It is remarkable that all the authorities for this limited construction of the Ryots rights, are deduced from the practice of countries, which have been conquered (125) the theatre of frequent wars, of despotism, and revolutions within the last century. Canara, Malabar and those provinces which have enjoyed their ancient rule, and where property has remained undisturbed, are exceptions to this system. The benevolent author of the History, concludes by observing, "that in this mode of interpretation we reduce the ownership of the sovereign to an empty name." "The controversy is then at a close." "It is most certain, that the principles which constitute the very foundation of Government reduce the ownership of the sovereign in the soil, wherever it exists, to the limits above described. And it is no less certain, that all which is valuable in the soil, after the deduction of what is due to the sovereign, belongs of incontestible right (126) to the Indian Husbandman."*

Under this explanation, the sovereign of England stands in the same relation towards the lands of His Kingdom. In both cases they are the lords paramount. It is more than a legal fiction that the sovereign in this country is the Lord superior of the soil: most of the estates in the Kingdom are held under this feudal tenure. Does this imply an original grant from the King, and that the ownership was at one period vested in him? Allodial lands or even were surrendered by their proprietors to the King, and received back as his benefice.** This was for the sake of his protection. In Great Britain the power of the sovereign is controlled by our constitution, by the advancement of society, by its free opinions, and (127) by the regular administration of laws. The despotism of the sovereign in India is restrained, more or less effectually, by rules authorised by long custom, which have the force of laws, and by the considerations of personal interest

(a) Memo on Government Pa 139

*Mill's History Vol. 1 Pa. 193

**Hallam Vol. 1.7 & 119

of personal interest.* The tax is imposed under all the limitations, We shall suppose, which may be naturally expected to arise out of this difference of circumstances. After this the same principle is followed in both countries. When the tax is not paid, the sovereign indemnifies himself from the estate of the proprietor or Ryot. Every proprietor of land in England who neglects to discharge his land tax is liable to suffer (128) the same penalty as the Hindoo. The zemindars of Bengal, who have been placed as nearly as possible on a footing with the land holders in this country have their estates yearly put up to auction, and sold, for the discharge of arrears due to the revenue, or for unpaid taxes. In this respect the zemindar, the Ryot, and the Englishman, stand on the same ground. The Ryot after having discharged his pecuniary obligations to the Government, may do as much with the land as the Englishman can do with his estate: he may sell it during his life, or leave it by Will when he dies.

The situation of the Ryot considered merely as a cultivator of the soil, is very superior to the condition of a Husbandman in Europe, who works for wages (129): the Ryots, have the advantage of employing their labour, for their own benefit, and of transferring that right to another. Let us hear what an enlightened observer says of the state of the cultivator in Europe. "The cultivator enjoys freely, only in a very small part of Europe, the fruits of his labour, and we are bound to own that this civil liberty is not so much the result of an advanced civilisation, as the effect of those violent crises during which one class or one state has taken advantage of the dissensions of the other."** The Peasant in the North of Europe, he adds, still lives in the same state of degradation, under which he groaned three or four centuries ago. "We should think higher, he says, perhaps (130)

* The sovereigns demand from the soil was fixed at a 4th a 5th and a 6th in different parts of India. "Holo! bid the Hermits being my sixth part of the grain" Sacoutula. It appears that he might take more even on 8th or a 12th "according to the difference of the soil, and the labour necessary to cultivate it" Menu on Government Pa.130

** Humbolt Political Essay Vol.1, Pa: 178

of the situation of the Indians[@], were we to compare it with that of the peasants of Courland, Russia and a great part of the North of Germany.**

I must own however that the situation of the Hindoo Ryot is sufficiently deplorable. The simplicity of his dress and mode of living, cannot always conceal his misery. His political state is extinguished; but it is a delusion to think that he does not feel his condition; that he is indifferent about the breaking up and division of Kingdoms in which he has drawn his breath. If he is now become indifferent, while the village remains entire, to what power it is transferred, or to what sovereign it devolves, provided its internal (131) economy remains unchanged, the cause of this apathy is to be traced to his long degradation. It has happened, because all the natural ties with Government have been so often and so long dissolved. The changes have been so frequent and so violent, that all ideas of allegiance, and of lawful authority have been worn out; but we must not imagine that they abandoned without a struggle the attachment which nature has planted in all men, for their native country. Any common principle of our nature is not easily destroyed. After they had unsuccessfully fought for their independence, and were deprived of any share in the administration of the country, they made their last exertion to preserve the constitution of their villages. This in some degree enabled them (132) to escape from their oppressors. In these humble retreats, they were permitted to live under their own institutions, and they enjoyed something like the resemblance of their old Government. The ties however with the general community were broken and each village became a distinct family or society. In this state of insulation, there was nothing to hope or to fear, beyond the increase or diminution of taxes. In this situation they were compelled to consider only their individual ease. It is in this way that we reason about the intellectual springs of the people of India.

[@] These remarks apply to the middle and northern parts of India.

* American.

** ib. Page 178. This comparison is made with the American Indians who are oppressed and kept by the whites in a state of extreme misery. The Hindoo Indian would stand this comparison under very superior circumstances.

We expect in vain to find them in their present state endowed with energy and ardour. Their primeval character of a free and independent people has been lost. It is quite unjust after having (133) destroyed the causes which excite lofty and dignified sentiments, that we should accuse the Hindoos of not being subject to the emotions, and laws of nature.

It is another mistake to think that the Ryot is not sensible of his interests and right to the soil. He clings to it with a tenacity which is quite surprising. All agricultural nations are attached to the land they cultivate; but the Hindoos maintains his rights with a degree of vigour and perseverance which we should scarcely suppose to belong to his character. He is far from acknowledging any inherent right in any person, to raise his rents at pleasure. He appeals to some old period, to some epoch as the standard of justice, and of his assessment. When an attempt is made to oppress him (134) he boldly accuses his sovereign or his Manager of cruelty and injustice. He complains loudly that he is deprived without rule or law of his property. They are well acquainted with their rights, and maintain them with spirit and obstinacy.

The Ryot considers the land as his own; tho' in the same breath he will call it the Sirkar's: it is difficult in a state of society where one class is oppressed by another, to separate truth from adulation, or to obtain an expression of submission and respect to the sovereign without appearing to relinquish some important privilege.

The Ryot is neither ignorant of his hereditary rights, nor of his use in the machinery of Government. One of them (135) observed to me, that they were the roots of the trees; and unless they were watered and nourished, the Government could not go on.

But as the Ryot in India been always in the state of oppression and degradation? This is a question certainly not very easily decided. The circumstances of the cultivators of the Earth are at present very far from being the same throughout India. In some places his labours are less obstructed, India. What are the causes of this inequality? In some places his labours are less obstructed,

and he enjoys more freely the fruits of his industry, than in others. This will be found to be regulated by the political events which have happened. A very different form of society and of mitigated taxation will be found in those parts which have not been under (136) the domination of foreigners. Every conquest and change was unfavourable to the original inhabitants and to the proprietors of land. We cannot fix on a period when this great change was first made; it was afterwards probably gradual, and arrived by degrees at the present excessive demand which consumes all the Rent. The principle was then introduced, of assuming that the whole belonged to the sovereign. The order of tenants were annihilated, and the proprietors were reduced to the class of cultivators. They are either descendants of the old proprietors or remains of the peasantry who cultivated the land as ~~vagabonds~~ ^{h. vassals} and slaves; for we shall presently see that there is great room for concluding that this was the ancient form of Indian society. There are still families (137) among the Ryots who enjoy hereditary rights, and who have preserved memorials of their former prosperity. Some of these continue to exercise a species of Magistracy in the Hindoo villages. It has been the effect of repeated conquests, that an apparent equality is now established, among the country people of India, and that all the diversities of rank have been suppressed. The distinctions of cast which alone remain have not much of their original dignity, and exclusive prerogatives. The different classes of nobility and their privileges have been swept away entirely. These differ in form in various countries, but as they are artificial, they depend on time and chance.* These circumstances (138) must have a great influence on the political and moral state of the people of India. The mild and humane laws which we have introduced among them, have no doubt been attended with many advantages; but can they efface the effects of ages of degradation and oppression? They continue in fact the system of degradation. As no part of the administration of the country is entrusted to the natives, all our innovations are calculated rather I imagine to perpetuate the humiliation of their situation,

*Montaigne Vol: Pa: 64 Nobility he says is a fine quality and with reason introduced.

to confirm that equality in their condition which leaves nothing for hope and ambition. We are afraid of natives abusing their power and influence; but whatever may be the political strength (if any) of this argument, it is not difficult to foresee that the system must produce a lasting deplorable degeneracy. (139)

It has been the fashion to describe the natives as too prone to venality and too practised in the acts of fraud and dishonesty, the effect it is said of their loose system of morals - to be entrusted with power. This opinion is partly from prejudice, but generally derives from that overweening confidence in our own moral and intellectual superiority, which is cherished by the contemplation of our vast and unexampled dominion. But let us pause a little and dispassionately consider what would be the influence if the system of Government as applied to the natives if applied to ourselves. Has not our early history in India developed the most flagrant examples of corruption and from what cause? That temptation was greater than recompence. It is true thus with the native to whom power has been committed, but place him in our own favoured circumstances and the boasted integrity of the European will be found an inherent principle of human nature.

I do not mean to affirm that this will explain all the circumstances which have changed the face of India, and have altered the character of its inhabitants; but they have had a great and leading influence on the past, as they will on the future. I imagine that we are not to look for any amendment in this moral character until they are removed from their present state of extreme humiliation, until the opposition of interests has ceased between them and their European masters, and until mutual confidence takes place between them*. Those who at present possess all the power must be prepared to share it with the people or lose it. The order of proprietors should be again separated from the cultivators, not as was done in Bengal by allotting and selling the soil, but by fixing the (140) revenue so as to leave a reasonable portion of the produce surplus, after defraying the expenses of cultivation. This would lead to the employment of capital, and extensive farms, and finally to ownership.

*i. e. between fire and water, an impossible union.

This would be effected by the natural progress and influence of wealth, which forms one of the most essential distinctions of rank, a distinction of which the possession of land is one of the original foundations.

This plan for ameliorating the condition of the people of India, is opposed by too many passions and interests to expect that it will ever be earnestly carried into execution until the increasing intelligence of the people demands it. Much of it would be shocking to European pride and it cannot be reconciled with a distrustful policy. (141) It is now time that I should proceed to show, that the proprietor, the farmer and the cultivator actually exist in Malabar, where they are distinct and established classes of the social state. In many parts of India this relation of property with the general interest is hid in obscurity, and has the undetermined confusion of that which has been abolished by misch disusage; but we may still find the system complete in Malabar.

Land is held by as great a variety of tenures there as it is in Europe, and in many instances we find an exact parallel.

V.2

CHAPTER 7th

Difficulty of tracing ancient usages to their origin. History of the ownership of land in Malabar. Great value and respect for landed property in that country: its limits and rights ascertained - difficulties thrown in the way of alienation: tenures by which it is held: violated by the Mapillas who conquer estates: Deeds for the protection of land contained in a code of Laws: immemorial customs of the country the foundations of Justice: various circumstances enumerated respecting the Malabar land-owner: the rights connected with Jenmankars freehold: his feudal (306) state: the state of the soil in Egypt. Disorders quoted: the lands in Malabar probably divided by conquest: Military service attached to its possession. The proprietors form a species of Aristocracy. State of the inhabitants and the Afghans compared. The Chirmirs or slaves: an account of them: the same policy on Ceylone: Comparison between this state of society in Malabar and in Europe in the middle Ages: concluding remarks. (307)

It is seldome that we can trace ancient usages back to their origin. Tradition and conjectures are the uncertain foundation of all that we know. Instead of deriving some of their most common rights from a probable and natural source, men are fond of ascribing them to extraordinary circumstances, or of deducing them from causes out of the usual order of nature. On such principles the Malabars have formed their ideas of the origin and rights of Jennum. They trace up to the Creation, the origin of the Investiture of Landed property in individuals. It is related in their Books that Jennum was first granted by Parashurama when he recovered the country from the Sea. As it was

National Library of Scotland: Walker of Bowland Papers: (184a2) pp. 305-77: Malabar Land Tenures: Chapter 7
(circa 1801?)

obtained from the Water, it is (308) they say, to commemorate the circumstance that they sip of the element, on the transfer and sale of an estate.

The ownership of land is one of the first stages of civilisation. It succeeds a wandering life, and society must have made considerable progress before the right would be acknowledged. Nothing could contribute more to the improvement of agriculture. Each inhabitant would then try every means of increasing the value of his land.

There are many circumstances that tend to prove, that security in the property of land at a very remote period engaged the attention of the Legislators of Malabar. It would be impossible perhaps to fix the area when land was partitioned (309) out and became the property of individuals in that country; but it is a certain and well attested fact, that it was an arrangement of great antiquity. This we have every right to presume from the writings of the natives; the universal sentiment which prevails on the subject; the distribution and arrangement of principles; the order and consistency of a system which has had its foundation in this right from time immemorial.

In all ages, the grateful sense of mankind has been disposed to derive from the particular favour of Heaven, those benefits which they held in the greatest estimation. They endeavoured also to make them more venerable, by consigning them to times long past. Accordingly, the fabulous history of Malabar (310) has described the proprietary right of land to be coeval with its creation. This refers to some remarkable epocha for which there is no certain date, but it has possibly some connection with the great deluge, as from the tradition and belief of the inhabitants, their country was submersed under the ocean, until Parashurama made the waters retire. It would be needless and unprofitable to examine this fictitious portion of Malabar History. The people relate however that the creation of Malabar by Parashu Rama took place towards the end of Kridaya* Yogum

*The first or Suth Joog consists of 1,728,000 years. Suth means truth, when all the four quarters were here. Hindoo System Page 15.

when the life of man extended to 100,000 years. In the Treda* Yogum which (311) succeeded, he divided the lands amongst the Bramans. At a subsequent period, under his divine authority, the Book Veerahaarum**, which treats on Law and right, was compiled by the united labours of the Bramans of the 64 Grahams. The Hindoos by connecting all their rights and institutions with religion have secured their authority and permanency.

This circumstance above all others proves their antiquity and that they were framed in the dawn of civilisation. It would be difficult for a fierce and warlike people to submit to mere human restraints. It was necessary that their violent passions should be kept in check by some thing which they beheld with awe. (312)

In process of time, the exact period is not settled, the rest of the casts were permitted to possess land. The superior classes of the Sooders have always performed the functions of the Kshatryia in Malabar. From this, or some other custom, the privilege of possessing land has been extended almost to the lowest gradation and is apparently only limited by the means of purchasing.

When any kind of property is generally diffused among the members of a society, the knowledge of the rights and conditions which belong to it, must be of infinite importance to them. This knowledge was at first confined to the breasts of Bramans, who are supposed to have (313) been the original proprietors, and for whom alone it was in that case necessary; but in the progress of manners, or according to the Hindoos, as mankind became more trained with wickedness and the privilege of possessing landed estates was more widely spread, it was essentially necessary that the society at large should be acquainted with all the Laws and

*Or Treta Joog - the second age of 1,296,000 years: when three of the four quarters were true

**or Wiwahaarum Mala on Law and Right - by Naraden.

conditions of that species of property. The Bramans who are so often, and so unjustly accused of retaining their countrymen in ignorance are mentioned to have performed this essential service for the inhabitants of Malabar, by translating from the Sanscrit, into the vernacular tongue, the treatise abovementioned on Law and Right. It is for this reason perhaps, that the (314) natives consider this work as having been compiled by the Bramans; although the author was Narada a celebrated Muni or holy personage, and one of the reputed children of Brahma. Altho' it is a circumstance incapable of accuracy, the inhabitants are very exact in fixing the period when the Veevahaurum was translated, which marks their estimation for the work, and the importance which they attach to the event of its communication: they say that this happened precisely 4002 years ago (1801). It forms a Code of Law which points out the legal rights enjoyed by land-holders, and exhibits forms for all the Carunams or Deeds which are employed in agrarian affairs. It was from the Vivahauren that (315) the Deeds in the preceding Chapters were extracted.

Thus much is certain, that in no part of the World is the nature of landed property better understood than in Malabar, or the rights connected with it better defined, more minutely explained, and more tenaciously maintained. It is extremely probable that originally the possession of Jennum or freehold land was unalienable, and that it was confined to one or two casts; but the fact is undoubted, that at present, and for a long period back of which there is no certain record, any person who has money may become the purchaser and proprietor of a Jennumi estate. There is also evidence, that this species of (316) property was exempted from every direct burden, excepting Military service. There appears to have been no regular land tax anterior to the Mohammedan invasion. The Rajas were supported by the produce of their own lands, and by certain fugitive forfeits, or immunities, which were more singular than advantageous. In case of public necessity, they might have recourse to the voluntary or constrained assistance of their subjects; but this aid was uncertain, and they had not always the means of enforcing it. They could seldom command more from a jealous and turbulent

aristocracy, than a short personal service.

From all these circumstances that (317) have come to our knowledge, it is obvious that considerable provision had been made in Malabar for the security of landed property. The Carunams or Deeds may not be drawn out with all the legal precision which ought to characterise documents of this nature, but it is difficult for a stranger to describe, and even to understand the extent of their technical operation. The limits and rights of the landed proprietor are ascertained in almost every situation with no small degree of exactness. There is great attention paid to protect him against encroachment and to preserve all his privileges inviolate. In all the stages of conveyance, the most watchful jealousy is (318) observable: there is an evident wish to prevent the property being loaded with additional engagements, and to save it from total alienation. The conditions of each step are the subject of a new writing, in which they are recorded with precision, and in the simple language of an early age. The Allodial right is the last parted with: it is separately valued, and it is evident that a considerable degree of importance was attached to it. The final act which is to complete the transfer of the land and its privileges, must be executed before a number of witnesses, with the consent of the heir, with the knowledge of the sovereign, and concluded by an impressive ceremony. (319)

The whole transaction cannot fail to convince us of the high estimation in which this species of property was held in Malabar. It must also prove the early and positive rights that attend it. Honourary privileges which are hereditary, are chiefly valuable from their antiquity. In Malabar, they were attended by political consequence in the state.

An equal attention to the interests of the proprietor and tenant, is to be found in the inferior tenures, which only convey a temporary possession. They have all the effects of contract and lease. We perceive a system in the forms of the deeds. They are the engagements of free men,

voluntarily and (320) mutually contracted. While the cultivator is punished for any loss, or injury, sustained by his neglect, and bad management, he is fully rewarded for his improvements. By a wise provision, the tenant is fined, when he returns his farm into the hands of the proprietor, before the period of his Lease expires. The proprietor suffers a similar punishment when he makes an untimely resumption of the Lease; and this is made so severe at the season of produce, as to be next to a prohibition; both parties were liable to a penalty, but by submitting to it, they were at liberty, the one as well as the other, of dissolving the connection. The forfeit seems to have been considerable, and was sufficient probably to (321) prevent an improper, or a frequent use of the privilege. The Leases were short, rarely exceeding five or six years, but this was of less consequence and perhaps no detriment in a country highly cultivated; and where a genial climate gives everything a precocious ripeness. The advantage of long Leases is chiefly felt where the land is not naturally fertile, where the improvements are tedious, and where from the uncertain state of the climate the labours of the Husbandmen are peculiarly liable to miscarry.

The tenures by which waste lands were brought into cultivation, held out no small inducement to industry, and shows in a strong point of view the study to improve the art. It is deserving of remark (322) that few or none of the tenures are simple contracts of Lease. They unite almost in every case the consideration of Mortgage and Rent.

The usual necessities and imprudence of land owners, led many of the Malabar proprietors to encumber their estates. Their situation was aggravated by the unhappy situation of their country, which was exposed to the rigorous effects of conquest, and of religious persecution. From these circumstances it was supposed that when Malabar fell under the dominion of the East India Company, a large proportion of the land was

mortgaged. The Mapillas who were merchants, and had generally the command of money, took (323) advantage of the distress of the land holders. Their superior craft and dexterity were assisted by the privacy of the transaction and by availing themselves of the nature of the Deeds, which were often hastily concluded during the pressure of want and danger, under the confidence of a promise of a restoration in more favourable times. Some of the Deeds of Mortgage it may be remarked make an indefinite transfer of the property without its Jennum rights, and others impose considerable obstructions to its resumption. The necessitous state of many of the Jenmunkars made them raise money on any terms by mortgages on their estates; the same poverty commonly prevented them from discharging the debt and (324) these circumstances co-operating with the complicated nature of the Deeds, with which the Company's servants were at first totally unacquainted, prevented any effectual steps being taken to restore the estates to the original proprietors. When these circumstances were not sufficient to deprive the original proprietor of his right, in these times of lawless confusion force and violence were employed. Large ~~states~~ estates were often acquired by actual conquest, and, as is said to have been the case in Scotland, till the time of James VI*, the conquerors maintained possession with their swords.** The Southern districts which belonged to the jurisdiction of the Samcoory were particularly exposed (325) to these acts of depredation. In latter times therefore landed property in Malabar has undergone various transfers and mutations. The species of entail which was established under the old system has been broken, and these interruptions to the regular line of succession, will probably increase in proportion as the communication with other nations becomes more general. It is a state of insulation which gives permanency to many customs. The ancient policy however of Malabar interposed all the obstacles it could in the way of the total alienation of free land: there was no formal prohibition, but it was indirectly frustrated: a system was established which created an artificial

*James the 1st of England.

**Wallace on the ancient State of Scotland, Page 53

(326) delay, and prevented a sudden or rash engagement. In the time of the Rajas, none of the higher Carunams could be executed but with the knowledge of the sovereign. It was necessary before a Deed of sale could be valid, that it should be confirmed by a certificate from him. This was a species of Register, and must have prevented many alienations and gave to the transaction a higher degree of importance. We also instituted a Register of Mortgages by causing them to be recorded in the Collectors Office; but this regulation was at first very little attended. Such a regulation however under proper limitations is calculated to give additional security to property, to simplify the (327) transactions of business and to make legal investigations less intricate.*

The Deeds which have been contrived by the legislators and by the usages of Malabar, for conveying the legal rights of land, will be found to meet that kind of property in almost every condition in which it can be placed. They are contained in a regular, but a combined system of customs, and Laws, apparently, as I have said, of great antiquity.

The people of Malabar were particularly fond of committing all their contracts to writing, and of confirming the most common transactions by legal documents. It is probable that this arose (328) from the nature and constitution of their Governments. The country was divided into a variety of independant states, who seem to have been in the habit of giving shelter to fugitives; and as the debtor could easily pass from one jurisdiction to another, an authentic memorial was peculiarly necessary to the creditor.

An exact knowledge of the forms and mode of transacting business among the natives, is essentially necessary to enable us to perform all the useful offices which the inhabitants of India have a right to expect at our hands. Unless we are

*This has been felt even in England and more so in Ireland where everything is less secure. It was only in March 1822 that Lord Blessington gave notice in the House of Lords that he would on an early day move to bring in a Bill for the better registering of Deeds in Ireland.

instructed and enlightened in this curious and most interesting part of the History of the people, how is it possible to decide with accuracy and justice on all (329) those cases which arise in the intercourse of society? These must be determined not merely by a judicial process and by a written Law; but by the immemorial customs of the country. These are the foundations of justice. It is evident that without this information, some of the most essential objects of government can be but imperfectly attained. It is absolutely necessary to understand the habits, the mode of expression, the prejudices and feelings of those among we live if we mean to rule over them with justice.

It has been observed that Customs have been preserved with amazing exactness in India, and everybody knows their powerful influence in that country over all the actions of life. They have stood (330) the lapse and revolutions of ages. In Malabar they have been equally permanent, and are at this moment, fresh and entire.

I now propose to draw together some circumstances respecting the Malabar land owner which have already been noticed at various times, and to add some others, in order to render the considerations which I mean to offer afterwards more easy of development. I wish to avoid mixing ideas that depend on theory, tho' this cannot always be prevented when the object is not susceptible of rigorous proof; but I shall endeavour to make facts alone the foundation of analogy.

We have seen the jealousy with which (331) proprietary rights were watched, and the strong hold which they had even on the imagination of this people. It was perhaps a similar sentiment that subjected the land owner to a penalty, if he left his rights neglected and unguarded. When a Paramba (?) was left without a master, when it had no known owner, or even when there were no people settled on it, i.e. taking care of and cultivating it, a Kudian was at liberty to take possession of the property. On the return however of the proprietor, or of any one producing sufficient proofs, that it was his inheritance, the Kudian was obliged to relinquish the estate, on condition however of his receiving

Kooly Canum, or the value of all his improvements.
(332)

The Jenmumkar was allowed to deduct 10 per cent from this, which was a forfeit for the Kudian cultivating what was not his own, and without authority; but on the other hand, altho' the Paramba might be in the possession of the Kudian for several years, the Jenmumkar was not allowed to claim any rent, because he had been remiss in looking after the property and was justly punished by the temporary loss of its advantages.

The crimes of rebellion and treason made Jennum property an escheat; that is it might be taken possession of by the Raja, but it was usual to restore it to the heirs on a compromise as a composition. (333)

When a Jenmumkar had no legal heirs he had the full power of disposing of his property by Will: ~~Th~~ He left his Jennum with all its rights to such of his friends or acquaintances as he thought proper; but if he died without a Will, the Raja was his heir, and his property became an escheat to him. There was no restriction in the choice of his heir. The Testator whether of a high or a low cast, was at liberty on the want of natural heirs, to dispose of his Jennum by Will to any person, and to select his heir from any cast he pleased. Menu says that the property of a Braman can never become an escheat; but that the wealth of the other classes on failure of all heirs, the King may take. *(334)

The Jenmumkar possessed the entire right of the soil, and I adopt the words of Menon "no ^{human} earthly power could with justice deprive him of it." This in strictness gave him neither judicial nor political authority but he assumed and exercised both, in proportion as his domains were more or less extensive.

*Menu on the Commercial and Servile Classes Pa:189

The possession of Jennum passed by descent in the order of succession, established by Law; and it was only on the failure of an heir, that the estate was at the disposal of the proprietor, as the last heir of entail. On that event he was entirely unrestrained and he might leave his property by Will to a person of any cast, or of any religion. (335)

There is reason to think, and this agrees with the opinions of the best informed natives that in Malabar land was anciently unincumbered by any service. It appears at first to have been allodial property, and became afterwards burthened with conditions to answer the increased wants of society. These burthens were all personal and military.

It is but recently that land was subjected to a direct tax. This was introduced in latter times on pretence of defending the country against foreign enemies, and probably as a commutation for personal service. Before this there was no regular assessment; and it was even then levied rather as a contribution (336) or a benevolence than as a tax. The Jennumkar in fact never considered himself as under any obligation to support the Raja, or to defray the expences of the state from the produce of his Jennum land. He was liable to serve his country against its enemies, and was obliged for this purpose to appear when summoned with the whole of his men armed, from 16 to 60 years of age. The Raja was obliged to find support for him and his people during their time of service; and while the Chief performed this regularly the Kudians were under the necessity of following his standard.

Tenants or temporary occupiers (337) follow naturally a proprietary right in the soil. This necessity gave rise to contracts and Leases. The natural effect of the contract of lease is to give security to the proprietor and occupier. Both enjoy legal rights, and both are entitled to protection. In Malabar this was done by a system of Deeds, founded on Laws, and usages, or customs. The rights of landlord and tenant were defined with precision. The private right of

property in the soil was fully established: the tenant had temporary possession of the property, and he had full security for its use. The conditions of his lease were specified; he held on certain terms.

The possession of land in Malabar (338) conferred privileges, exclusive of the profit it yielded. It conferred rank and honour. A Nayr acquired importance from the size of his estate. He derived power and consequence from the number of his retainers. He had the privilege of advising and even of controuling his sovereign: this is clearly stated by Van Rhee: We see in his account all the elements of an Aristocracy.

Within the last 40 or 50 years, the condition of the proprietors of landed property in Malabar has undergone a great change. Many of the estates of the original proprietors have been wrested from them or sold. A new race of land~~sd~~ holders have arisen (339) in the Mapillas: some of these adventurers like the Scots at a period not very remote, ^{con}quered their estates; but the great mass of the owners of land are still the Hindoos, of whom the Nayrs form the greatest proportion. The loss of independance has been followed by a regular and a heavy taxation: the privileges as well as the profits of land are hence diminished; the feudal and aristocratical privileges are gone; but the proprietary right to the soil is still highly respected, and valued as the sacred inheritance of their ancestors.

It would appear that the lands at first were claimed by the Bramans as their property that they afterwards distributed them among the people (340) reserving a part for their own support and another for that of the Royal dignity. The Historians inform us that the inhabitants of Egypt were distributed into three classes. Priests, soldiers, husbandmen and mechanics.*

Strabo says that in consequence of this primordial division, the lands of each province

*Diod V. l. p. 84, 85

@as we have before said

were divided into three parts, and one allotted to each class. Diodorus mentions also that all the lands were divided into three shares, one of which belonged to the King, one to the Priests, and the other to the Soldiers; and the Husbandmen took these lands in farm for a very moderate portion of their produce.* This last circumstance is not unlike what is said to have been in (341) ancient times, the state of the Sooders in many parts of India, and is still that of the slaves of the soil, who are the chief cultivators in Malabar. The conformity of this arrangement between these nations is remarkable.

It is probable that Malabar, in a very ancient period of its history, was exposed to the violence that too often attends conquest. Their history continually refers to some early state of warfare and commotion.

To this cause we may assign the partition of lands, and the predial slavery of a great proportion of the inhabitants, who boast that they are the aborigines of the country. It is not necessary to go far for examples of the great (342) abuse of victory, and of the sudden and complete change which it may effect in the property and condition of the people. The Lords and Barons of William shared among them the lands of England. To him we owe the feudal system. The same change of property has happened at different times in Ireland. There is one singular coincidence in the History of Malabar and of this country. A proportion of the land was set apart in both for the service of religion, and for the use of the sovereign. The Church and Crown are terms perfectly understood in Malabar. The former was known by the name of Devasom or holy, and the latter by that of Cherokeeel or Royal. The demesnes allotted (343) to the Rajas formed the principal source of their revenue, and were the chief support of their dignity.

Much of this revenue was received in kind. It was paid in provisions, which the Raja issued

*Diodorus Pa: 85, Goguet Vol.1 Pa: 54.

again to his Household and to his troops. The troops received no pay whatever unless they were detained beyond the regular period in the field; they then received an allowance of provisions.*

The lands of the Rajas and of the Namboories or priests were held without any acknowledgment of superiority. They owed no service. The rest held from the Bramans, or from particular temples, and from the Rajas. (344) Some estates were free, or what we should call allodial. The Church lands were exempted from all burthens, and paid no contributions, even after the misfortunes of the country required that taxes should be levied from every other class of the people. The Bramans claimed a jurisdiction over their own lands. The priests enjoyed the same exemptions in Egypt. Moses informs us, that the Priests received their lands from the ~~country~~ ^{country} of the King and paid no ^{tribute} tribute for them. "And Joseph made it a law over the land of Egypt even to this day, that Pharaoh should have the fifth part; except the land of the priests only, which became not Pharaoh's."** Diodorus also tells us (345) that ~~this~~ ^{L. III} gave the property of the third part of Egypt to the priests for their own maintenance, and for furnishing the necessary sacrifices.***

But, although Military service was attached to the possession of land in Malabar, this regulation applied more directly to the great proprietors. The petty proprietors were included within the protection and jurisdiction of others more considerable than themselves. There was a great deal of artificial regularity in the construction of this society. The land was divided among proprietors, but in unequal proportions. The estates were of various extent. The possession of land was greatly coveted. (346) It ensured respect and authority. It was cultivated by the proprietors, or let out to tenants. Many of the proprietors cultivated their lands themselves; but the great mass of the labourers were slaves. In many situations the

* This does not exactly agree with what is said before.

** Genesis 47.26

*** Diodorus Siculus Chap:1.

proprietors of the soil themselves are the cultivators, and collect their own rents. How are we in this case to obtain a true knowledge of the custom? Again when lands are leased on Patour, they are liable either to be at a rack rent or to be under valued. The rent may be regulated by the necessities of the proprietor, and by circumstances of favour or severity.*

All the proprietors bore arms in peace as well as war; they attended the (347) Raja into the field with their vassals and free cultivators; for this honour was denied to the slaves. The Chief land holders had a voice in the administration and were often in a condition to controul the Will of the sovereign. They formed an Aristocracy, resembling in many respects that of our feudal Barons, and like them often disturbed the country by their private disputes. They rendered the Government weak, and the exercise of its authority unsteady.

In time of peace, the land proprietor filled the civil offices: from among their body all the officers of Government were selected. Within their own domains they administered justice, and lived in a state of considerable independance. An arrangement similar to this prevails (348) at this moment among the Afghauns, and we may find there, nearly all the distinctions of property that we discover in Malabar. We are told by a distinguished and enlightened traveller, that there are five classes of cultivators in Afghaunistan. 1st Proprietors who cultivate their own lands. 2nd tenants, who hire it for a rent in Money, or for a fixed proportion of the produce. 3rd Bazgiers, who are the same as the Metayes**, in France. 4th hired labourers and 5th Villains, who cultivate their Lords' lands without wages.***

This account closely corresponds with the state of the Agrarian population in (350)@ Malabar.

*My friend Mr. Strachey's report.

**Farmers

***Mr. Elphinstone's account of Cabool.

@Numbering of pages wrongly done, otherwise matter continues.

It is curious to find the same customs and domestic life prevailing at the two utmost extremities of India, where at the same time the genius and moral character of the people are widely different.

It would be an omission in an account of the society and manners of Malabar, unless something was said of the Cheramers, or slaves of the soil. The society and the Government were established on settled maxims. Arms and agriculture were the great employment of the people; but those who carried the former, wished to escape from labour. This is perhaps the foundation of agrarian slavery which prevailed to a great extent in Malabar. (351)

The race of Chirmirs or Cheramirs composed the slaves. They were predial, and employed chiefly in agriculture. The description of Tacitus of the state of slavery in Germany would describe that of the Chirmir. "The slaves, he says, are in general not arranged at their several employments in the Household affairs, as is the practice at Rome. Each has his separate habitation, and his own establishment to manage. The master considers him as an agrarian dependant; who is obliged to furnish a certain quantity of grain and cattle. The slave obeys, and the state of servitude extends no further. To punish a slave with stripes, to load him with chains, or to condemn (353) him to hard labour is unusual. It is true, that slaves are sometimes put to death, not under colour of justice, or of any authority vested in the master; but in a transport of passion, in a fit of rage, as is often the case in a sudden affray; but it is also true, that this species of homicide passes with impunity."*

In Malabar the Cheramer was distinct from the domestic slave. They were in reality the slaves of the soil, and the property of the owners of the land. They were slaves but not treated with severity, and their lives were protected (354) by custom, or by express legislative enactments. Even in the state of slavery the Chirmir had rights, which the master was obliged to respect. Slavery was also limited to certain classes which were however numerous. It is remarkable that the free man

*Tacitus translated by Murphy XXV.

and the slave followed the same profession, and led the same mode of life. The cultivation of the earth was the employment of both, and they had each their separate habitations. But the Chirmirs were attached to the soil, and sold with it. A man might kill his slave almost with impunity; but if he killed the slave of another, he was obliged to pay a compensation. This was one of the provisions of the Salic Law which (355) directed that he who killed the slave of another, was obliged to pay a certain fine, and the expense of the suit.*

The Cast of Chirmirs, altho' not the only slaves form the great body of the agrarian labourers in Malabar. They are said to have been reduced to slavery in the following manner.

After Parashu-Rama had divided the lands amongst the Bramans, they represented to him that without assistance, or people to cultivate them, they must remain waste and unproductive. Parashu Rama accordingly went in search of the wild people who at that time inhabited the (356) Jungles; collected them and delivered them over to the Bramans. They were thus reduced to slavery, being considered thenceforward as Jenm, and continue to this day to cultivate the lands in Malabar. We perceive in this story a conqueror depriving the earliest inhabitants of the country of their freedom and riches, by force or by civilisation, reducing them to servitude.

The Cheramers are absolute property. They are part of the live stock on an estate; but in selling and buying land it is not absolutely necessary that they should follow the soil. They may be disposed of to a different proprietor.** The Cheramers (357) may be sold, leased and mortgaged like the land itself, or like any chattel or thing. The Jenmumkar may hire them for Patom or Rent, independantly of his Jenm land, or he may sell them altogether with his estate. The Patom on a Cheramer was usually four Fanams a year; if they were disposed of on Otty, their price was 32 fanams if on the Attipett Ola as Jennum, 48 fanams.

* Tacitus Note 5XXV

**This is the law, tho' it is seldom carried into practice

The price of a human being was about 15 shillings and his labour for a year cost half a Crown! A man who shew the salve of another paid his price.

By the ancient and established Law of Malabar, the Jenmunkar was accountable to no person for the life, (358) of his own Cheramer. He was the legal Judge of his conduct, and might inflict the punishment of death, if the offence of the slave appeared to deserve it. But the Koolloonaven, who may be considered as the Mortgagee rather than the Purchaser, could neither put to death, nor sell a Chirmir, although he might chastise him.

The possession of Chirmirs was originally confined to a particular class, in the same manner as the soil. They were then employed entirely in the labours of agriculture; they are reported to have been the first and the sole Husbandmen in Malabar. At present this labour is divided with the rest of the population. The (359) cultivation of the earth is the occupation of all the casts of Malabar, and many of the Kudians improve and till their own lands.

We may perceive a similar state of domestic policy and of manners on Ceylone. On that island lands are hereditary; but the father has the power of dividing it among his children. If a slave has children by a free man, the children are the slaves of her Master. They follow the condition of her the Mother; for if a slave has children by a free woman, the offspring is free.* It is remarkable that freedom has always come from the Mother. "Gentility, says an old author, comes by the (360) father, and not by the mother; but freedom is derived from the mother only; and whoever is born of a free mother, is himself free, and has free power to do any thing that is lawful.**

* Knox's account of Ceylone

** Hallam V. l. Va:152 - Beaumanoir

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This state of property and society must have great influence on the character of the people. One of the most obvious and sensible effects in Malabar, was to establish an aristocratic influence: to create tenants and retainers, and to give a Warlike but turbulent spirit to the Nation.

The picture of Malabar manners and property seems to be interesting. It appears more curious and singular when contrasted with that of the rest of India. Men must have lived a long time in ⁽³⁶¹⁾ society, and been long accustomed to the arts of civil life before they could have established such a complicated system of property. The similarity of this system with that which was established in Europe, and which forms at this moment the basis of all our most valuable institutions, was too striking to escape observation. It has been occasionally noticed in the course of these remarks, and I shall now proceed to point out some extraordinary instances of correspondence, between the state of feudality in Europe, and the customs established from time immemorial in Malabar. The subject is certainly curious.

A similar state of property (362) seems to have had the same effect on the political form of the Governments: Malabar was divided among a variety of jarring and rebellious Jenmunkars who had all the elements of an Aristocracy; presenting almost the same scenes as distinguished and disturbed Europe in the middle ages. In both countries slaves were employed in the cultivation of the ground. The condition of the chirmirs was nearly the same, perhaps not worse, than that of the villaines and serfs. In both countries they were bought and sold; the power of the owners was to the same extent absolute over the lives of these unfortunate beings. (363)

The Chirmir in Malabar, let me repeat, was not in a worse condition than the Servi, adserpti globa, and the villani, who ploughed the fields of England! The relief of a great part of our peasantry from this state of bondage does not go very far back. Sir John Davies who wrote in 1612 mentions that in Ireland nearly the whole population, "were but tenants in villanage, and were not fit to be sworn in juries". It is in a much more recent period that, Miners* were liberated from the same

*Coal miners?

state in Scotland, and it was remarkable that many of them objected to receive their freedom. So much does custom and habit take off the accuteness of the greatest evils ! (364)

The Rajas demesnes, resembled the demesne lands of the Crown of England, and generally of the Crown lands in the rest of Europe. In both countries their management formed an important branch in the political economy of Government. In Europe Charlemagne composed directions for their administration. They formed the most important and regular source of revenue. They were capable of alienation, but we see in both countries, the sovereign resuming the imprudent grants of his predecessors. The History of Europe will afford many instances of this, and we find Van Anglebeck advising the Raja of Cochin to increase his revenue, and (365) his power, by taking back what some of his predecessors had given away. It was still however in both countries an acknowledged right of the reigning Prince to dispose of the Crown lands; it does not appear that they were resumable at pleasure, but only in cases of delinquency and necessity.

The possession of land made the essential distinction of rank in Malabar, as it did in Europe. A person who wasted and sold his estate, fell with his descendants into the mass of the people, and the new possessor became noble in his stead; but this did not happen until the total alienation of the Jennum rights, as well as of the property. The former might be reserved (366) while the last was sold; a most remarkable coincidence in this comparison. Partial alienations might be made of the land, but the superiority of the proprietors, and his feudal privileges remained, until he parted with his birth-right, which may be called his freehold qualification.

By reserving the Jenm rights, or the superiority, the Jenmunkar after he had sold the property of the land, continued to be acknowledged as the feudal Lord. He was still entitled to the claim of a superior, which was also the case in

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many parts of Europe. This resembled the practice of sub-infeudation, which was never had recourse to in Malabar through ambition and pride, but from necessity.* (367)

The possessor of the domain was bound to the performance of certain services; he attended the Jenmunkar into the field; he appeared on Nuptial celebrations; he made one of his retinue, and he presented his offering at the Feast of Onam.

The superior exercised an influence very similar to that of the Barons of Europe; authority annexed to property, was retained even after alienation.**

There was a similar relation between the Lord and the Vassal in Malabar, that seems to have existed in Europe. The latter was bound to perform Military service, but he had the privilege of choosing his Chief; the condition and the consequences were the same. In Malabar the Vassal who left the domains of his Lord, and transferred his service to another, was often pursued and reclaimed by his former master. A sum of money was given for protection, which was one of the principles of the feudal system.⁽³⁶⁸⁾

As in Europe, there were several gradations of land holders, in Malabar; all jealous of their common and personal rights; but without any accurate notion perhaps of political liberty. They formed however a separate and superior class, known by the title of Jenmunkars or freeholders. It was their immediate duty to maintain peace (369) and order among their dependants; to hold courts of justice; which took cognizance only of petty offences, and to lead their followers when required into the field.

The foundations of the political system resembled in many respects the feudal institutions of Europe.

*Hallam 1. Pa:117

**Wallace - as to the same thing in Scotland.

Malabar like Germany was divided among a number of independent states, of unequal extent and resources. They were ruled by Rajas, or Kings; and some times by a body of Lords or Chiefs. The power of the rulers of whatever denomination was controlled by general assemblies, and by the various classes of nobility, of whom an account has been given. The great body of the people claimed the privileges of free born men; but a considerable (370) part were at the same time in a state of servitude.

We may trace the principles of a feudal relation still further. For the service of the Vassal, corresponding duties of protection towards him were imposed on the Lord and the Jenmunkar. "The associations founded upon ancient custom and friendly attachment, the impulses of gratitude and honour, the dread of infamy, the sanction of religion were all employed to strengthen these ties, and to render them equally powerful* with the relations of nature, and far more so than those of political society." They often adhered to their Chief against their sovereign.

In the ceremonies of homage and investiture there was a striking analogy. (371)

The Malabar Jenmunkar performed homage with his Head uncovered, his sword was unslung and his hands held up in a reverend posture; but he did not kneel. The investiture, or the actual conveyance of lands we have already been occasion to notice. It was of a symbolical kind and consisted in the delivery of water and flowers, or of a portion of the earth. In Europe, "it consisted of the delivery of a Turf, a stone, a wand, a branch, or whatever else might have been made usual by the caprice of local custom**". We see in each the same association of ideas.

It does not appear that a proprietor in Malabar made any present, or acknowledgment to his Chief upon (372) taking possession of his estate

*Hallam 1. Page 123

**Hallam V. 1. Pa: 123

but what was very closely connected with this practice he paid a fine to the Raja, upon its alienation, and sale. This was not valid without the consent and approbation of the sovereign. The consent of the heir was also necessary. The restraint therefore on the transfer of landed property was for the protection of heirs, and preservation of families, as well as that the original service should not be changed for that of a stranger.*

There is another remarkable feature of resemblance. Primogeniture was strictly established in Malabar, and in Europe. The same remedy was resorted to in both countries in order to provide for the support of the younger (373) branches of the family. The eldest son was bound to make a provision in money, by way of appanage for the other children, in proportion to his circumstances and their birth.**

Escheats and forfeitures fell to the sovereign, nearly on the same principles as they are appropriated to his use under our feudal system. It was a fundamental Law that estates for want of heirs, and for crimes, should be forfeited.

There was another circumstance connected with the system, which was seen in both countries. This was the aids which the superior was entitled in certain cases, to demand from his Vassal. These depended upon local (374) custom, but they were established on the same principle. They were given for protection; on occasions of marriage; and to defray the expences of festivals, etc.

But tho' it is of great importance to trace of the similarity of these customs, I am sensible of the danger of seeming analogies. @ It is easy to mistake partial resemblances to the feudal system; but I am not aware that they have any where been founded, to the same extent at least, upon the tenure of land, and military service.

* Hallam V. 1. 130

** 1b. 132-Du Cange

@ Hallam vol. 1. 140

The system was supported in Malabar as in Europe, by various classes of nobility and the privileges of birth. Authority was annexed to the property (375) in land and to offices. The priesthood formed a powerful order; in the gross they exercised the duties of religion; but many of them were Jenmunkars, Barons, Rajas and Princes. The rest of the inhabitants consisted of free men and slaves. Of the former, as well as the latter, there were various classes; but the latter were in general the cultivators of the earth.

It is to this system perhaps that we are to ascribe the spirit of freedom, and of independence, that characterised the people of Malabar. It gave them stronger and better defined ideas of the rights of property, and made them value more highly all the privileges which depended upon its possession. (376)

The Laws and Customs, which accident or choice have established for the domestic regulation of different nations, contain the most useful portions of History. Those laws are the most curious and important which ascertain the rights of property, and which connect them with civil institutions. Such laws have generally the force of long custom and will scarcely submit to be altered without overturning the whole fabric on which they are built.

I shall conclude in the words of an author, who has surveyed the various combinations of society, as a politician, and a man of deep knowledge.

"We are astonished to see in regions the most remote from each other, and under climates (377) of the greatest diversity, man following the same model in his edifices, in his ornaments, in his habits, and even in the form of his political institutions.*"

*Humbolt Political Essay on the Kingdom of ^{New} Spain
Vol:2. Page 195

V.3

Preface

The following account of the castes and professions in Guzerat, was originally taken in detached notes in occasional conversation with natives, who came to me on business. They are not therefore the result of research, or of much enquiry. They were meant merely as Memorandums, which might have been useful to me in official intercourse. I wished to have a list of the various classes of () inhabitants in Guzerat, and in putting down their names I added the few observations which fell from the lips of my visitors. They were made at different times and as the occasion or occurrences required. The list of names by this means does not exhibit the professions arranged according to the prescribed order of rank and caste. It is merely a descriptive list of their employments; yet as little besides fable is known of the history of castes, a knowledge of their manners and character would be desirable. It is to these circumstances that we should chiefly () direct our enquiries; tho' it would be also useful to ascent to antiquity, and to ascertain the causes which have not only given rise to a peculiar state of society, but which have maintained it in defiance of time, and of those revolutions which are continually changing the manners of men.

Caste must have had its existence in a particular state of the social union. This union could not have been formed without some strong tie of public or private interest; but that the tie should have existed so long and remained indissoluble during () all the changes of Government and opinion, which have taken place in the course of so many ages, has no parallel in History.

National Library of Scotland: Walker of Bowland
Papers: (184.c.11):Gujarat Castes - Preface (34445)
(circa 1805-10)

The population in Guzerat is of the most various kind. This country has suffered as much if not more from the invasions and injuries of foreigners, than any other part of India. At the same time there is perhaps no country that can exhibit more strongly the permanency of feeling and of opinion. Notwithstanding all its changes, the institution of caste has lost very little ground. Many of the () minor observances and distinctions, which separated the people from each other, may have been forgotten or abandoned; but the main features of the system remain the same in full force. In these are to be comprehended the laws which separate professions, and which permit their exercise only to certain communities. It is still unlawful for different sects to intermarry and each is as ready as ever to maintain the original privileges of the caste as its exclusive inheritance; but notwithstanding the most watchful jealousy, the rules in some cases will be found violated. () This has been produced by the intrusion of foreigners, over whom the laws of the country had no power, and who despised the spirit and prejudices of the natives. But time which has been called the physician to our passions, has cured in the minds of these strangers their first hatred against the arrangement of Indian society, and after having carried their hostility to a certain extent, they have ceased their opposition. They are even ready to stand forth as the advocates of distinctions which they formerly held in contempt, and the Mohammedans are themselves constituted () into a caste.

On this subject however there has no doubt been a considerable relaxation, and according to a Guzerat proverb- "When the mind has consented, who consults caste"? But while I shall admit that in many things the feelings of caste may have subsided, I am compelled to conclude from my own observation and experience, that the most material principles are very little impaired. They have yielded in some things which are not very essential, such as dress, and a few imaginary circumstances; some other changes in the () mode of life of the Hindoos have been gradually effected, but in the customs of marriage and in almost the whole

of their prohibitory system, they remain unchanged.

The various castes in Guzerat are known under the general appellation of Nyat, as they are in Malabar by the name of Jadu Jathu. In Sanscrit they are called Gnyatee and in Persian Jat and Khom.

The number of these classes or communities were originally fixed at four; but they are now spread out perhaps into a hundred. These mixed classes () or Vurrun-Sunker, have arisen according to the natives, either from some neglect of religious and moral duties as prescribed by the Hindoo Code, or from some forbidden intercourse between the sexes; but they seem to me to have been often produced by the growing wants of society without any misconduct. In the Hindoo view of the subject however, they are in general considered as expiations for offences.

The Bheels, Coolees and Grassias, are supposed to have been the original inhabitants of Guzerat. The Grassias appear to have been () the proprietors of the country, and still retain some of their rights. They derive their name from the Sanscrit word Gras which means a mouthful; referring probably to the share or maintenance which they receive from the lands of villages. This is more or less according to circumstances, and when it is not duly discharged, the Grassia never fails to enforce his claim by violence. His usual recourse is to attack the property of the village, not so much for the sake of plunder as of destruction, and it is therefore that he makes his vengeance () felt by some incendiary act. The whole are called Grssia, a name which they do not deem dishonourable, tho' some of them are Thakores and Rajas.*

They consider themselves as the proprietors of the soil. They are numerous in Guzerat, and maintain their claims over some of the richest

* The Thakore, Lord or Chief of Bownagur; the Raja of Raj-peompla. *JK*

parts of the country. These are called Gras rights, which every successive Government has been obliged to acknowledge, and which it would be for their interest to see punctually discharged. () Whatever may have been their origin, they have the opinion of the country, and long prescription in their favour. The claims of the Grassias are not supported by the Grants and Sunnuds of Princes; but they have a much more ancient and independent charter founded on immemorial possession. They are in reality allodial.

The Grassias derive their descent from different Rajpoot stocks, as Chowra, Soolunkee and Vagila; Rhotores, Permars and Jadows. It is well known that the three former tribes were formerly powerful sovereigns, () whose capital was Puttun, or Narwalla.

There are however other families of Grassias who have a less honourable ancestry, and many who profess the religion of Mohammed; these have been converts from the Hindoo faith and still retain their original appellation of Caste, as well as much of its superstition.

In many cases the claims of the Grassias are vague and ill defined. The Patells sometimes lose their lives in resisting their unjust demands, and it is usual for the village to bestow () as a recompence to the family of the deceased, a portion of land. This is called Hadeeyo or a remuneration for bones, referring to the person who had been murdered; but it is an unauthorised alienation of the public revenue.

The tranquility of Guzerat, the interests of the country, and of course those of the British Government, would be greatly promoted were the Guzerat Grassia dues fixed and paid regularly.*

* This is now effected. The whole of the money-grass is fixed on a liberal scale and paid from the Treasury, and no such thing as a disturbance on that score is said now to occur. All these landed estates too are duly registered and thus protected against invasion, either by individuals or the officers of Government.

The fruits of such an arrangement however would full be lost unless it was made on a scale of liberality. We should not () attempt to drive a hard bargain with men who have the injuries of ages to complain of. The Company can never acquire honour or profit by a contest with people of this description. It has been observed, that more blood has been spilt in the petty wars with the rude tribes of India, than in those which have been waged with the great sovereigns of the country. The wars in Malabar and with the Poligars will prove this assertion. It has been proposed to pay the Grassias a fixed money rental out of the Company's Treasury; but many of () them who have hereditary claims on particular spots of land would be very unwilling to exchange this even for a larger amount of income derived from a different source. This marks the idea of an original right, and a feeling we shall in vain attempt to destroy. It would perhaps be a better policy to encourage it by an arrangement which would make the subsistence of the Grassia to depend on the prosperity and good state of the village. We should endeavour to give him a home, and an attachment to the country, founded on his own personal () interests.

At present many of the Grassias of Guzerat have no settled habitation. They are in a manner banished from society, and when they commit crimes retire into places of concealment which the researches of the Magistrate have rarely been able to discover.

From this statement there is very little intercourse and no confidence between the Government and this rude race. They are ready on every occasion to raise disturbances in the country, and to extort from the villagers contributions of money. ()

The Colees and Bheels are more numerous than the Grassias, and in general more uncivilised. These tribes are spread over a great part of India. They are supposed to be the most ancient inhabitants

of the country. They have consequently original rights which they have never ceased to contend for, tho' they are to a degree indefinite, and are not acknowledged by the Government. The Bheels and Colees are therefore professed robbers, and may be said to be always at war with every ruling power. They are sometimes kept quiet by the () Chief taking a body of them into their pay; but this is merely a temporary expedient, and has made no change in their manners.

The names of these tribes are to be found in the Sanscrit writings; but their History is divided between fables and conjectures. It may be considered as a proof of their having been the first possessors of the country that the Chiefs of the Rajpoot family who hold the sovereignty of Raj Peemla with the title of Raja, and who are themselves very ancient are on every succession invested by a Bheel, who () is supposed to be descended from one of the original Chiefs. *h posse -*

The Hindoos have a great respect for legitimacy, and many instances may be produced of families who have got dominion from others, employing the descendents of the vanquished to instal them in their office. The dynasties of the families who have been deprived of their country, are allowed to live in obscurity, but they live in safety, and on every occasion of new sovereign they are called forth to transfer as it were their rank upon another ()

There is something singular in this practice. It appears as if they considered the property as stolen, and that it required the consent of the rightful owner to guarantee its possession, or to make it lawful. We may discover in this sentiment a respect for property, and the rights of legitimacy; in fact of inheritance.

The population of Guzerat is exceedingly multifarious, and of a very dissimilar nature. The different degrees of civilization are not easily to be reconciled with the influence of

association, and of observation in other societies () of mankind. We see tribes associating together in the same country, speaking the same language, and professing the same religion, but acting in direct opposition to each other in all their conceptions of moral duty. Tho' one of these classes may have attained an extensive knowledge of the arts of regular life, the other is almost ignorant of them. While one side submits to the Laws and Government, the other is always in opposition to them. This is the consequence of the unequal state of conquerors and the vanquished.

() Guzerat has been repeatedly exposed to the fate of a conquered country. It appears in the early part of its History to have been overcome by the Raj-putes; but it suffered little from them, and it was from the Mahomedans that the most desperate injuries were inflicted. The followers of Mahomed have retarded civilisation wherever they have established their religion. With a few exceptions, it has every where retarded the progress of knowledge.

The first and most destructive expeditions into Guzerat () were made by Mehmood of Gizni. They took place in the eleventh Century, and were repeated with increased cruelty and violence. The invaders were guided by fanaticism and avarice; and their object was to destroy every monument of Hindooism. The dominion of the Raj-puts was overthrown, and from that period the influence of the Mahomedans was permanently established.

At the end of seven centuries the Mahomedan power was subdued by the Mahrattahs, which brought no relief to the country; the people were still plundered. ()

During a long possession of 6 or 700 years the manners and language of the Mahomedans were diffused throughout Guzerat. They obtained an influence which is not likely to be eradicated, tho' their power is gone. The extent of this may be estimated by the fact, that many of the Nagur Bramans, are at present distinguished by their

learning and knowledge of the Persian language. They are the best scholars and teachers of that tongue. We may easily imagine that a people whose language had almost become vernacular in the country must have () been deeply fixed.

From repeated conquests, and a foreign intermixture, the population of Guzerat is of the most opposite and dissimilar character. It forms a strange anomaly in the History of human beings. Arts and all the manufactures for which India has been from the most remote times remarkable, had attained a very high degree of perfection. The country was full of people and highly cultivated. It contained a far greater number of splendid and populous cities, than are to be found in almost any other part () of the world of the same extent.* The towns and villages were at short distances and consequently exceedingly numerous. These still remain with some degree of opulence, but the cities and palaces are now every where in ruins. In these cities however the sciences were cultivated and luxury kept pace with knowledge; but beyond their walls exhibited a strange mixture of refinement and barbarism. The patient and laborious Guzerattee was in continual danger of having his Husbandry (disturbed), and his looms destroyed, () by the insubordinate tribes who were spread in every direction around him.

At the same time these rude races, who claim to be the original inhabitants, were in constant communication with the more civilized part of the community without partaking of their civilisation. Their manners remained the same, and they made no improvement in the arts of life. They have learnt nothing. They still continue barbarous and uncivilised. Are we to ascribe this peculiar anomaly to an inherent () depravity of disposition, as or to the state of degradation in which these successive tribes have been held by successive races of conquerors? We hear now only

*Surat, Baroda, Broach, Dubhoy, Ahmedabad, Champanier, Mahmoodabad, Coombay, Puttun, etc.

of the depredations and evils they commit, without being told of those which are inflicted upon them. I am not acquainted with any other people, who have maintained their original state of ignorance and of separation, except the Gipsies; but they have no injuries to complain of.

There are some other anomalies in the population of Guzerat, which are however () to be observed in other parts of India, tho' not probably to the same extent. The Borehs are peculiar to the Western provinces, and have a different character, as well as occupations, from the rest of their religion.* They are a numerous body, and have some singular and original features.

Bramans who maintain themselves by labour are also very numerous in Guzerat. They are commonly employed as Husbandmen, and have nothing in their appearance to distinguish them from the rest of the Ryots. They are () excessively ignorant; but their caste is not disputed, tho' the more affluent and better instructed Bramans hold them in contempt.

The Parsees form a considerable colony in Guzerat, and may be considered as the most useful and active population in India. They are descended from the ancient worshippers of fire, and fled in consequence of the persecutions of the Mahommedans. They have preserved their religion and even their original appearance; but have adopted the language of the country; for it is another () singularity that the whole of these people, who are in other respects so dissimilar, speak the same tongue.

The punishment of adultery when the female is the transgressor is commonly among every class in Guzerat punished by a fine. The female is burnt in effigy and considered as dead in law. She is called tail torn. The male

*They are a sect of Mahommedans.

transgressor may be punished in the same manner, and his offence is termed Chamchowree, or skin stealing.

There are some low professions which are not hereditary () and only deserve to be mentioned as I believe they are not to be found any where in Europe except in the largest cities. They are probably the united fruits of excessive luxury and misery.

The Guzerat Dhooldhoyas or Dust washers, and the Jarro, the sweepers, & or sifters, may be compared to those wretched creatures who are seen in the streets of London picking up rags and searching among cinders and ashes for what they can find. In Guzerat however this privilege is let to individuals, and we may therefore () presume that it is more profitable than with us.

There is another sect of people in Guzerat called Grenna, who hire out ornaments and fine cloths by the day, month, or week, and whose occupation resembles that in some of the most populous cities in England. All these resources of wretchedness proceed perhaps from a crowded population.

(V.4)

An account of the Kerool-ood-Patty and a brief view of the nature of the Government of Malabar.

The Kerul-ood-Patty from which the following narrative is taken, is a work composed in the Sanscrit Language. The reputed author is Changara Ausary, or Acharia, who from some circumstances may be supposed to have lived about eleven hundred years ago in the reign or vice regal Government of Sherman Perroomaul; but by other accounts in a much earlier period. It appears to have been composed at different periods, and by different persons. The History of Changara is involved in *table. (2)*

Changara Ausary occupies a very important place in the History of Malabar: many of the Institutions of that People are derived from him: he framed a code of regulations which prescribes the duties and limits of all the casts: but particularly of the Soodras who are the most numerous in that country: he established rules for Marriage and funeral rites; and the authority of Changara Ausary is at this day decisive in some of the most momentuous concerns of Malabar Society.

The Kerul-ood-Patty, contains 24,000 slogues. These are comprised in a volume of no great magnitude. The copies of this work are numerous, and every person among the Natives of this southern part of India is more or less acquainted with its contents. The accurate or complete copies *(however many)* scarce so that it is difficult to procure, one which is perfect and without interpolations. Additions and alterations have been made to the original manuscript, to suit the views of particular families, and to gratify the passions, and jealousies of the petty chiefs of those inconsiderable principalities.

The most authentic oldest copies, are *(3)* supposed to exist in the Travancore Country but throughout Malabar generally it is very

National Library of Scotland: Walker of Bowland Papers: 183.c.15: pp.1-18: Malabar: Introduction I.

popular, and highly prized, for every family of any consequence, is in possession^{of it.} Every Raja or Chief has generally a copy, which serves as a Manual for his conduct, and as a record of his family, or of his Government. Many of these are said to be partial, and to give such representations as may flatter the interests, or the prejudices of particular casts, or of the little communities which compose the states or rajeums of Malabar*.

Notwithstanding these defects the Kerul-ood-Patty,** which literally means the production of the Kerul country, is respected and even revered in Malabar for it is considered as one of the holy Shasters; and whatever relates to the division and regulation of cast, is believed to be the work of an inspired author. It contains the Laws of Inheritance, and details the system which unites in India the mysteries of religion with the duties of domestic life and being translated into the vernacular language, is familiar to the inhabitants of the country.

I did every thing in my power to obtain a correct copy, and an accurate translation of this work; but I cannot boast of success.(4)

What follows under this head has been compiled from translations of two different copies. In the arrangement, and most essential circumstances they were found to agree; and this, where there was no possibility of collusion, must appear a considerable test of accuracy. One of these translations was made under the eye and inspection of Mr. Duncan the late Governor of Bombay, who investigated the History of Malabar with the utmost perseverance and attention. The other was executed under my own direction.

* Moolum or Moolyalum pronounced Maleam

** The title of the work is generally - "Kerool-ood Patty."

In what follows a summary and not a translation is to be expected. When there appeared to be any material difference in the copies, it is noticed. Mr. Duncan's notes, or remarks, are distinguished by his initials;

The Malabars consider Changara as Native of the country, and their peculiar Law-giver; ^{compose} in fact the great mass ^{(Sudra?) (5)} of Malabar population.

The Kerul-ood Patty is a mixture of fable and of true History. The first and principal part, is occupied with the adventures and achievements of the Hero, or Divinity Rama - surnamed Parashu. The division and regulation of casts, is an important portion of the work. But the whole is interspersed with miracles and extravagant legends. These are diffused through that part of the History which relates genuine events, almost in the same degree as that which is fabulous. Even when the History approaches a modern period, the most common and natural occurrences, are brought about by supernatural agency. Real matters of facts are thus not only obscured, but indistinctly recorded; without dates, and with few circumstances. So far however as it goes, the Kerula is meant for a general National History of Malabar. The many Governments into which that country was split and the frequent wars which they waged with one another, would ~~be~~ minutely recorded, entangle the ^{with} details, and render the subject too complicated to be easily understood, especially by strangers. This has been attempted to be remedied by separate Histories of the Rajas or petty princes, and of their Government, or rather quarrels, which resembled very much in their nature and importance, ⁽⁶⁾ the feuds of the Barons of Europe. The most remarkable circumstance perhaps in the Wars of Malabar, was, that they were seldom attended with conquest, or change of territory. This is a general feature of Hindoo character and policy. It had its foundation in the permanency of casts, respect for ancestry, and the feelings of a Patriarchal society. Almost every little state has preserved an account of its transactions; but they are no more than chronicles of particular families, or relations of vindictive disputes,

generally prosecuted by short inroads, and terminated by pillage. The same principles formed the basis and pervaded the organization of all the Malabar states. An account of them would be more curious than useful. Even a literal translation of the Kerul-ood Patty however, might be interesting for although it might supply but a small portion of genuine History; yet it is one of the few ~~books~~ ^{works} of this description which the Hindoos appear to have composed and in this view whatever it contains would be valuable, as it enables us to judge of the taste and genius of the people.

The same arrangements of society produce every where the same results. ^k It ^{k(7)} is among small states that liberty seems to spring up most naturally and to flourish with most vigour. It seems impossible to extinguish the individual characteristics and sympathies of these little nations. They still survive in Italy and in Greece, notwithstanding the storms of so many terrible revolutions, and the lapse of so many ages. A similar organization of society in Malabar has been followed by the same result. Their contests and battles had perhaps in themselves an equal importance with those of the celebrated nations of antiquity; but the poet and historian were wanting whose refined and lofty genius could give dignity to the details of petty warfare. Even with these advantages in the case of Greece and Rome, it may be doubted whether the ~~late~~ events which their histories record could have the interest which they now possess, were it not for the aid of scholastic prejudices, and early associations.

Malabar, Mallayam or Mallaywar, would appear to have been a province of the ancient empire of Dravira which extended from Mysore or Bangalore to Cape Komara or Comorin including the sea coast on both sides of the Peninsula, and this seems ⁽⁸⁾ more probable, than that Malabar at first formed an independent kingdom. The national pride and vanity has endeavoured to conceal this state of subjection by asserting that

the Perroomauls, or Vice Roys, were sent from Dravira, in consequence of the choice and solicitation of their own Brahmins. It is much more natural to suppose that they were rulers appointed by their conquerors. This may be inferred from the evidence of the Kerul-ood Patty itself, since it relates, that where the people of Malabar wished to prolong the Government of a popular Perroomaul beyond the period of his appointment, which was limited to twelve years, the Paramount Sovereign, sent an army to depose his rebellious Deputy. This History also discloses another fact, equally applicable to the character and disposition of the Malabars of the present day. They were factious, credulous, and easily excited to disturbances. With this tendency to turbulence, was united a national and independent spirit. The form of their Government, which had many popular features, and the subdivision of the country into a number of small states, gave an air of freedom to the society, notwithstanding the rigid Institution of Casts. In some respects these Governments resembled the states of Greece, and of Italy - the same effect perhaps is produced where-ever men have formed themselves into small and separate communities; but those of Malabar differed in one respect from any other: they were not protected by Walled Towns, which were unknown among them. There was also an extraordinary diversity in their forms of Government. Though the majority were under a single Ruler, in others the authority was divided among three or four families, and in all of them, the chief authority was under some controul or check. There was a strong infusion of aristocracy, and even of a Democratic spirit, in their public administration. Each state pursued its own interests, separately and independently of any other: but the whole according to the injunction of Sherman Perroomaul, who is considered as the founder of these Governments, were under an obligation of uniting for the common security of the country.⁽¹⁰⁾

There was no power that could enforce such a regulation, and in the pressure of danger, it was ever feebly executed. Within

itself, Malabar was in a state of continual agitation and a prey to factions: but this, as I have already observed, produced very little political change. The same jealousy which armed them against each other, preserved a kind of balance of power. They contended for superiority, but did not aim at the destruction of one another. Their institutions bore a great resemblance to the feudal system of Europe during the dark ages.

The possession of land by individuals, and the proprietary right of disposing of it, seem to constitute the firmest basis of society, and one of its most valuable privileges. A division or partition of the soil, was one of the earliest public acts that is recorded in Malabar, and was made the foundation of the general interest. All the Laws carefully protect, and provide for the security of Landed Property.

Besides the share which individuals had in the soil, there were public or national domains of a moderate extent, which were appropriated to the support of Government, and to defray the expences (Household) of the rulers. The voluntary contributions of the Landed Proprietors provided for a deficiency, or they withheld a supply and there is room for concluding that they were frequently in the habit of shutting their purses against the craving demands of their rulers. The Landed Proprietors in fact composed a kind of public Council, and it was their collective voice, that determined the questions of most importance to the realm. They were bound in many cases to give their personal services to their sovereign; but they were not obliged to support measures, to which ~~they~~ they had not given their assent, and which had been disapproved of by the majority.

All the Rajas, and some of the Public Officers, enjoyed their dignity and office, by descent. There existed, a regular and hereditary order of Nobility. As an incitement to great and virtuous actions, the Prince, had the power of conferring titles and honors.

This state of Government and society was favorable to freedom, and the people of Malabar have always been remarkable for an independent and manly spirit: but the arts of life do not appear to have made that progress which might have been expected, from this Natural order of things.⁽¹²⁾

The Kerul-ood Patty mentions two Perroomauls as converted to the Mahomedan faith. The fact of a Proselyte Ruler seems pretty certain, though it does not appear to have been followed by the conversion of any of his subjects, and it was attended with this not common result, that it did not produce any lasting resentment, or persecution, on the part of the people of Malabar. The exercise of the Mahomedan Religion continued to be permitted and protected. The conversion of the Perroomauls by this account, was effected by a supernatural agency; considered to depend rather on a demoniacal than beneficent influence. Some suspicion therefore may attach to an event, which is traced to such an origin.

It may be doubted whether Sherman, the last Perroomaul, who is said to have been converted, was actually an apostate from his faith, or was murdered and expelled from his Government, by rebellious subjects; but it appears pretty certain that about a period of 900 or 1000 years ago, his powerful⁽¹³⁾ vassals and his own servants, appropriated and divided among themselves his Dominions. It is most probable that this important revolution was not effected without some resort to fraud and violence, notwithstanding the unanimity with which it is described to have been accomplished. The fate of Perromaul may have resembled the apotheosis of Romulus. Be this as it may, it is from the event in question, that all the Rajahs of Malabar date the foundation of their authority. Though the title of Rajah was in use before that event, yet properly speaking there were nothing of that dignity, which implies a Prince, that is sovereign and independent.

Under the Perroomauls, the Namboories and Nayr chieftains formed a Magistracy of Landholders, who governed the country. To these, the name of Raja was often applied; but this was mere courtesy, and adulation. Some of the descendants of these chiefs still remain, and they consider the rank and dignity of their families as far superior to any of the Perroomauls Rajas. It was under the

Government of these chieftains, that Malabar exhibited a system of feudal and turbulent aristocracy. (14)

If we pass over the fabulous origin of Malabar, and form our judgment from the physical and natural appearance of the country, it is extremely probable that the sea anciently flowed to the bottom of the mountains; and that the intervening space to the ocean was covered with water, or interspersed with islands. This opinion is supported by tradition, and some singular facts. The formation or creation of the Island of (Vappeen?), is still celebrated by a festival, and the event is the commencement of an era, which is yet followed in some countries to the southward. This era is called Poodoowarpa, or the new. The 14th of the Month Meenam* of the 322nd year of this ~~era~~ era, corresponded with the 22nd of March 1663.

It is further to be remarked that the Hindoo relations, or chronicles, give the same history of the Low-Lands of Kanara and Konkun, as the Kerul-ood Patty, does of the creation of Malabar. It is therefore probable that the great range of Sikkheeh or Ghant Mountains was in the whole of this extent, the Margin of the sea.

The Namboories, or Brahmins, appear to have been the first rulers or Governors of Malabar. It was a boon like all the Braminical/priviledges, bestowed upon them (15) by Heaven. They claimed it as a divine gift; but it has been easier for the Brahmins to preserve their clerical than their temporal rights. The original Government in short was a Hierarchy, or an Ecclesiastical Aristocracy. The secular states rose afterwards, and seem to have originated in the dissections and mismanagement of the Brahmins, met by the natural desire of checking their usurpations. The jarring of the Brahmins produced disorders: their ambition and avarice, caused oppression, and rebellion. The abuses of this Government were the occasion of its overthrow, and its weakness, or corruption, brought the country under a foreign yoke. Some of the descendants of the original ruling Bramins still exist in Malabar, and are called Nambooupad.

It is not quite certain what Government or Empire maintained the paramount

* March - April

authority in Malabar: but the most probable opinion is, that the Raja of Chaldeish or Chola-mandalum*, held the Chief rule either by conquest or agreement. The Kerul-ood Patty mentions with some precision the commencement, and end of this Government. It seems to have been exercised (with (16) mildness: there is no appearance that it was supported by a Military force, to which conquerors usually have recourse for the maintenance of their authority; Hence the government was probably so agreeable to the Malabars, that they submitted to it from choice, which might have suggested the idea that the Perroomauls were of their own selection. During this Vice-regal period, the country appears to have enjoyed tranquility.

By this time the Empire of Dravira or Choldesh had declined, and was soon afterwards entirely subverted by the Mussulmans. These circumstances, with the growing prosperity and strength of Malabar, and the popularity and talents of the last Perroomaul, enabled the country to throw off its dependance on a foreign Government.

The Brahmins or Namboories appear to have lost their ascendancy; and on the division of Malabar they fell into the natural situation of their order. We do not afterwards hear of the assembling of the Brahmins of the 64 villages, and those acts of authority by which they disposed of the Government. The Government however of the Rajas resembled in form and principles, that of the Namboories. It wanted (the order, the (17) tranquility, and perhaps the security of the Perroomauls. It does not seem however to have been disturbed by any external misfortune, and the agitations of the chiefs kept up a rivalry which did not impede the general happiness.

It was under the Government of a great number of Rajas, that the Portuguese found Malabar on their arrival in India. They constantly bestow on them the epithet of

* Coromandel

kings, and describe the country as in a high state of prosperity.

An extensive commerce was carried on with Arabia, and all the West of India. The Arabs, the Jews, and the Christians of Syria, were the active Managers of this Commerce. They had all formed commercial establishments in Malabar. The Arabs especially were numerous, and had acquired great influence. They were in particular settled in considerable numbers at Calicut. They excited the jealousy of the Samoory against the Portuguese, whom they looked upon as formidable and dangerous rivals. It is probable that the Arabs succeeded to the Greeks and Romans in the Trade of India, if they did not share it with them. The collision of these interests, produced the first foreign War, which materially disturbed, and in its consequences affected the independence of Malabar. The Mapillahs, or descendants of Arabs, and the Samoory, on one side, the Raja of Cochin and the Portuguese on the other, were involved in long and calamitous hostilities. They assumed a predatory and piratical character, rendered more fierce by avarice, and religious animosity. The settlement of Europeans in the country after they began to act in a Military capacity, opened new and unexpected avenues to ambition; and by degrees sapped the power of the Native Princes. These came at length to act only a secondary part, and a few Dutch and English factors at Cochin and Tellicherry, were able to divide the wealth, of Malabar, between their respective Nations.

A great number of of Governments of nearly equal power in the neighbourhood of each other, produced dissension and jealousy, which afforded an opportunity to an extraordinary man*, to make a conquest of the country, after it had enjoyed independence for perhaps a thousand years.

* Hyder Ally.

(V. 5)

I am aware that some of the circumstances contained in the following sheets may appear contrary to the opinions of many respectable men. I have however stated facts rather than opinions. I have adopted no theory, and I am not conscious of any prejudice. I wish to speak of the Natives of India with the experience of a residence amongst them of nearly 30 years. During that time I lived with them in every situation of human life: sometimes associating with them as equals, and without any other society: at other times exercising authority, and invested with the powers of Government; but at all times looking on them as men and my fellow creatures; as beings invested with reason and acting under the influence of passions and interests common to our nature. It would be an equal folly to look for nothing among a people but nobleness, integrity and virtue, as it would be to discover only depravity of manners. I shall therefore without entering into any controversy, without denying, or disputing either the experience or judgment of other men, beg leave to make use of my own, always however, I am ready to confess happy, when I find something like merit and honesty, rather than a constant and unnatural mass of vices and crimes.

The most opposite characters have been given of the Bramans by different writers: it is unnecessary to attempt to reconcile them, for they do not appear to be speaking of the same beings: the statements are so contradictory that they hardly can be supposed to describe the same men.*

National Library of Scotland: Walker of Bowland Papers: 134.a.1 (pp.482-549): Malabar: Introduction II. (written about 1822?) (Rd. p. 500 m. 5.)

* Mr. Arne makes the following observations on the character of the Bramans (Historical fragments, p.433).

Nevertheless it may be asserted that if ever superstition produced an universal good, it is in Indostan, where we see it the foundation of an universal benevolence.

The supreme good of the Bramans seem to center in the idea of plenty enjoyed in peace. They quit not the silence of their groves to join the tumult of the state, nor point the brand flaunting from the altar against the battlements of the citadel. Their ideas of power are confined to their own little community: here they live in a state of subordination which knows no resistance, and slumber in a voluptuousness which knows no interruption.

The Bramans are a numerous people, who, though united in some settled tenets, are divided by family and fortune; they are distinguished from each other frequently by their language and habits.

The learned alone understand the Sanscrit. In other respects they are characterised by the peculiarities of the different Nations, to which they belong and which are more or less varied and refined, according to circumstances.

It would therefore be the same mistake to ascribe to the whole Bramans of India, the same qualities good or bad, as it would be to consider the Natives of Bengal and Malabar as possessing the same constitution of mind and character.

They have no doubt some general features which may be said to constitute their character, in the same way as we speak of European and Asiatic faces; but their individual and personal qualities are characterised by as much diversity as is to be found in the character of English men, Frenchmen and Spainards.

In the following pages it is principally intended to describe the Bramans of Malabar, and when there is any trace of a general similitude, it must be ascribed to the analogy which may be supposed to exist between men who profess the same religion, live in the same climate, under the same form of Government, and who have so many customs in common.

All I mean by these remarks is to deprecate the violent and sweeping manner in which we pass judgment on the character of the Bramans, and the various nations of India. We class them all under one denomination, as one single order of beings, and admit scarcely of any subdivision.

It is difficult to ascribe and characterise the state of society in India. Its social morality is discordant and anomalous. We find a population mixed together in a most dissimilar civilization, they partake of nothing in common excepting the singular phenomenon that they speak the same language and profess the same religion. In the form of

their persons and complexions they are different. They are distinct races. The one is sunk into irreclaimable barbarism the other enjoy all the privileges of regular life. It is impossible to reconcile these discordant materials. It is to this heterogeneous mixture that we owe so many opposite and inconsistent accounts of the Indian character. One selects from this side, and another from that. It is not easy to separate depravity from a more improved condition - the classes are so intermixed. They have each a different character in private life, but they must both be tried by the truth of evidence, though this consists of the most contrary kind.

We may assume it as a universal truth, that every where there is an instability, and an inequality, in the human character. In the judgment itself, there is an uncertainty. In describing character it depends but too often ^{on} the circumstances, and feelings of the moment. How we all represent it? Many a traveller has described a people as rude, inhospitable and even infamous, merely from having suffered some personal inconvenience, or momentary disappointment.

In order to form a just opinion, temper is no less necessary than judgment; but what confidence can we have in those who merely pass through a country, and remained scarcely a few days or hours, in the society of its inhabitants? The only safe test of their opinions and principles, must be sought in the conduct of the inhabitants in the duties of life, and their behaviour towards each other, in their ordinary pursuits.

In every country there is a great difference between the upper and lower classes of society; In India Rank, condition in life and education have the same influence, as in other countries.

In every province almost, there are to be found races of men, evidently as different in their origin as in their state of civilization. We find the largest portion of society not only acquainted with the acts of life, but in the enjoyment of luxury and refinement. Other tribes are to be seen ignorant of the restraints of

Law, and living in a state of savage brutality. These classes associate little together, and consider themselves as a distinct order of Beings. One order reside in cities and palaces, or at least in good houses: the other in wretched huts and have hardly clothing to their bodies. It is singular circumstance that they worship the same Gods, and speak the same common language.

This great diversity and inequality in the state of society ~~is~~ exists throughout Asia. It is observed in the Eastern Islands on the Malagan Archiplago and in the more civilized country of Persia. It is found in every part of India. I believe it is to be seen even in China, where there are 4 ? (whole) tribes. We may say nations (extremely Yin L low the state of civilization, surrounded by merchants, large cities and abundant harvests. Many of these tribes are savage and intractable. Their subsistence depends almost entirely upon the spontaneous productions of the earth and by plundering their more industrious neighbours. Whence does this difference arise?

It exists amongst nations who were the first civilized and who have many of them still a high pretension to that state. What has made the character of the people so ()? One one side we find literature, commerce and agriculture diffused. On the other, we()of say in the next field, a population of savages, continually interrupting the intercourse of civilized life. The first are obliged to avail themselves of armed men for their protection, but after an incessant struggle of ages, the barbarians have neither been reclaimed nor exterminated. Th~~at~~ timeless of industry and security are never diffused. *stimulus* Has this stationary and retrograde state been the effect of()or has it been produced by the great variety of tribes()found in all the countries of which we are speaking.*

It would be evidently improper to establish one general system of laws, and the same mode of Government to this strange intermixture of nations, so differently constituted in their habits, and so unequal in

* Not very legible; hence many words are omitted here.

their advances in civilization.

A Almost all these nations have been long sunk in a state of political degradation. Their political condition must be first improved. The more enlightened classes must find encouragement and employment, suitable to their natural situation in society; and then will be the period to look for improvement in the moral character of the people of India.

Give them something that would be valuable and estimable to aspire to: Something that would be worth a good character. They will then be able to appreciate a better form of Government. This reform should not be attempted by sudden and violent measures. Any permanent change must be gradual. The men of Rank and Fortune in India have become degraded by the loss of political influence: they must have some participation in political knowledge and powers before they can be regenerated.

The Gracias, the Coolies and other wild tribes are objects of Police, and not of regular Law. They may be reclaimed by expedients, but not by the Magistrate, for whose jurisdiction they are unfit. We may keep them in order by the sword, or by compromises with their Chiefs and Leaders, after the example of the Mahrattahs. They formed an excellent Police; by taking into their service bodies of Bheels, who behaved with fidelity, and protected property against the depredations of thieves, of which their own caste are the greatest.

Thus demonstrating that confidence and employment are the best instruments of reformation.

This anomalous state of society has no example in Europe, if we except the Tribe of Gipsies who are to be found spread every where, who have resisted the influence of civilization, and retained their peculiar habits.

With such barbarians, conciliation will always do more than force. It is one of the finest prerogatives of superior civilization and knowledge, to govern uncivilized people by management, and by attending to their dispositions.

We may see what little effect our regular courts have produced in Bengal, where they have been longest established, and where the general habits of the people were the best suited to the regular administration of justice.

The disorderly tribes retain as much as ever of their wild and irregular notions. The decoity (gang-robbery) system has increased rather than diminished.

It is a frequent ground of accusation against the Natives of India that they show a disregard of truth. Be it so; But by whom has this accusation been chiefly made? The Courts of Justice at the Presidencies have been the foremost in the promulgation of this charge; but these learned bodies could only form their opinions by the worst characters, and through the imperfect medium of wretched interpreters. The Judges themselves arrive in India at a mature age; they are generally totally ignorant of the languages of the country, they have no feelings in common with the people, and have no opportunity of acquiring the least knowledge of their manners. The establishment of these courts has perhaps been one of the severest inflictions of conquest. Let us reverse the case. Suppose all the Judges and Pleaders in Westminster Hall were Hindoos, totally ignorant of the English language, and customs; and they were to form their opinion of the character of the English Nation from the transactions of that Court.

Europeans, especially those in office, have seldom a good opportunity of forming an accurate judgment of the Natives of India. Their intercourse with them is cold, distant, and suspicious. They often insult them; they seldom treat them with confidence and candour. It is hard to accuse them of a breach of integrity and veracity when they are never trusted. We leave their superstition alone, tolerating even the horrid practises which neither their religion nor their Laws authorise; but we violate without scruple their feelings of pride and independence. The Natives of India are reduced to a state of subjection; perhaps there never was exhibited a more complete system of annihilation:

the inhabitants are not suffered to exercise any political rights: they are excluded from all, but a few trifling offices; although there are many offices essential to the good of the society, which can only be administered with any advantage by the natives of the country. The Laws of Nature and Society are violated. The natural passions of men however will always remain; when they can no longer defend themselves with swords, they have recourse to the policy of dissimulation.

We seem to act as if we governed beings who had no qualities good or bad: there is no hope, or scope for ambition: there is no excitement to emulation and virtue: for the very springs and motives to excellence are destroyed. Can we expect that these men should sacrifice themselves for the good of their country? Can we blame them for telling us lies? When they see that all our researches are to end in their oppression, or to the exclusion of themselves from their natural privileges.

All our enquiries into the state and resources of the country have invariably terminated by an augmentation of Revenue. Wherever this is concerned our enquiries are minute and successful. We come into the country, and take possession of it completely ignorant of every thing. It is from the natives we derive our knowledge, and for a moment they give us their confidence. They lay open to us the state of their country, they explain the abuses and errors of the former Government, while on our part, liberal promises are made, for the relief and ease of the inhabitants.

Many taxes are discovered by their very names to be abuses, or created for a temporary purpose: but we abrogate a name and continue the impost under another title. But care is taken that there shall be no diminution in the total of the revenue. This amalgamation has invariably followed any acquisition of territory by us in India.

The natives now know what they are to expect, and evade our interrogatories:

and in concealing the wealth of their country as much as they can; they have recourse to shifts and subterfuges, the only means that are left for the protection of their property. Under these circumstances, we accuse them unjustly of tergiversation, and dishonest dealing. Without any scruple the whole body of the natives are charged with deceit and dissimulation. They are accused of fraud and falsehood, and all the most degrading vices in the grossest terms. This is the case whenever they will not bend to our purpose, whatever they may be, though their evident tendency is often to strip the native of his power, of his consequence and wealth.

By all his artifices, however, the native in the end gains nothing. The expectation of preferment and reward induces some worthless character, or needy adventurer, to disclose all the secrets of his countrymen with exaggeration. In his expectation however of reward he is generally disappointed; for there are very few instances of the British Government rewarding the services of a native with liberality, and he never succeeds in acquiring confidence or honor.

A system of suspicion and distrust is gradually destroying the moral character of the people of India, that a man may become good and useful, he must respect himself; but where there is no recompense for virtue, where neither honor nor profit is to be gained, what motive, or encouragement have the Natives of India to be honest and faithful?

Yet under all these disadvantages it is astonishing how many instances of honesty and fidelity they have exhibited. The faithful adherence of the native army in times of distress and discomfiture is a proof of this; but what I think a still more conclusive proof is, that during the whole career of our Government; it has never been betrayed by the concerted treason of those whom it employed. We have heard of open rebellions; but never of treason and conspiracy.

The same integrity we observe in private life. To know the character of this

of of any people we must reside among them: we must look into their families, and examine their domestic habits. There are anomalies in every society, and more in India than in any other; but sobriety and decorum distinguish the great mass of the people: they are frugal and industrious; I speak of the Hindoos: they are abstemious from habit and choice: they have great talents for business; and are exact in their pecuniary dealings: they are fond of their children, and readily admit them to a share of their substance.

The morality of Nations can only be estimated by a comparison with others. In this respect they are to be judged by the same rules as individuals. If we adopt this standard, and make ourselves acquainted with the manners and circumstances of Hindoo Society, we shall not find that they would lose by the comparison. Government, climate and education, will always have an influence in forming the mind: it is these that create a diversity in the characters and sentiments of nations.

It has become in short a fashion to speak evil of the natives of India. The system of detraction commences early. It begins with the education of the youngmen who are destined for India. The modern Histories, (since Orme) and the periodical press give discoloured representations of transactions in which the natives of India are depicted as models of deceit, as totally devoid of morality and of every trustworthy quality. Most of these accounts be it remembered are drawn from the relations and documents of Europeans, made as exculpatory as possible of themselves, and framed to palliate their own conduct to the people whom they undertake to describe. Every people have their failings; but their vices are usually redeemed by an intermixture of good qualities. All I contend for is, that those of India should not be deprived of this indulgence, and that they may be looked upon with the same favorable eye as other human beings. Let us not say that every thing is wrong, which does not correspond with our own habits and interests.

The European soldiers often exhibit a degree of profligacy in India, which appears

shocking to the natives. The horrors which we have lately seen in Europe, and which are at this moment*disgracing Ireland; we should suppose could only exist in a society of savages. So difficult is it to form a clear and correct judgment of the moral condition of nations from single circumstances, or even from particular periods of their History!

There is however a feebleness in the character of the natives of India that has made them always the prey of strangers. They have been constantly defeated in war as well as in negotiation, by the superior courage, address, and subtlety of Europeans. It is not to our arms alone that we owe our superiority. The Dutch established an influence almost absolute in Malabar, when they had very few forces at their disposal. Their policy is fully, and accurately described by Van Rheed. It presents a curious picture; but although the habits of the Dutch gave more order and method to the system; every European Nation has conducted itself on the same principles while the Dutch alone openly avowed the system. It must excite our indignation to observe the gravity and effrontery, with which claims were made, which trampled on all the rights of nature.*** Van Rheed was one of the most enlightned men who had ever governed in India. He was a man also of sensibility, and he sometimes ventures to breathe a sentiment of justice and humanity; but it is ~~is~~ immediately repressed by the fear of offending his Government, and its selfish system.

The history of the conquest of America and Hindostan presents the picture of an unequal struggle between Nations far advanced in arts, and others in the very lowest degree of civilization.**

* January 1822

** Humbolts Political Essay on the Kingdom of new Spain Vol: 1.V.739.

*** [crossed out in text "when they talk just claims, we may always substitute the word unjust"]

This comparison is true with regard to the Spaniards and Mexicans; but at the time that the Portuguese arrived in India they were not in a superior degree of civilization to the natives. The difference of civilization and of knowledge between the present Europeans and the Natives, is far greater than it was at the period of their first arrival in India. The progress of the arts in Europe within the last two centuries has been immense, while they have been retrograding in India,- The unhappy state of that country rendering advancement impossible.

I acquiesce fully in the following sentiment.

The inhabitant of Mexico and Peru, and the Indian of the Ganges, attract in a very different manner from the Chinese or Japanese the attention of an observer endowed with sensibility. Such is the interest which the misfortunes of a vanquished people inspires, that it renders us frequently unjust towards the descendants of the Conquerors.*

The principles that govern human conduct, and form the character of nations, are universal. The same circumstances, that have depressed the character of the Greeks, and produced the present degenerate race of the Romans, have removed the Natives of India and of Mexico from that station of moral Rank and Dignity, which were possessed by their ancestors.

We may apply the profound remark of Humbolt in his description of the latter to the modern Hindoos.

"As to the moral faculties of the Indians, it is difficult to appreciate them with justice, if we only consider this long oppressed cast in their present state of degradation."*

* Humbolts Political Essay
V.1 P.155

"We observe that even in Europe the lower people, for whole centuries, make very slow progress in civilization."*

It is difficult to see how any great improvement can take place in manners, and even morals in India from the Dominion of Europeans. The number of the White Men is small. They live secluded from the Natives, and from a society among themselves. The difference of language, the quality of Master on the one hand, of servitude on the other, form insurmountable barriers to great improvement, from such unequal associations.

The great object of each European Nation in Malabar, was to secure what they called, a free and unlimited trade in pepper, to the exclusion of all others.

For this purpose they entered into what were denominated, by a singular perversion of language, friendly contracts with the Native States; although they were often effected by force of arms, and were always maintained by artifice or superior strength.

The King or Raja of Travancore is represented to have entered into one of these friendly contracts with the Dutch, but they could not prevail upon him to extend it to pepper: it was allowed however to include all other articles. He was a powerful prince, but he was on bad terms with the Lords of his country and the Princess of Attinga. These differences Van Rheed declined to reconcile as a Mediator, to which he was invited: "as I have always, he observes, considered that a kingdom divided within itself, was least in a situation to hurt us."

The states that entered into these contracts could only trade under the Dutch passes.

* ib.

@ Van Rheed M.S.P.30

The Princess Signatie who had performed many services to the Dutch, and whose Nayrs had on more than one occasion assembled in great numbers for the defence of Cochin, had her ships plundered for trading in Areka, on pretence that it was a prohibited article. After this her subjects were refused passes to trade to Madura with Areka and cloth.

"In consequence of these measures Van Rheed observes, these people are quite altered and discontented."*

The Princedom of Signatie was divided into three parts, which were continually at variance with each other; but as they all lived in a good understanding with the Dutch, it was not thought advisable to trouble themselves with their disputes, farther than by accommodating them if possible. By this impartiality the Dutch were able to pass unmolested through the country in the midst of their wars.

Signatie was held as a balance against Travancore, because it was impolitic to allow the latter to become as powerful to the southward of Cochin as the Samoory was to the Northward.

Van Rheed concludes the account of the policy he observed with this little state, by the following remark. "In the mean time this country is ruled by women, which can do no harm, as it is certain they are not so capable of apprehending the real meaning of a thing, nor so capable as men to oppose our measures."**

The Dominions of the Raja of Travancore formerly extended from Coilpatnam, on the coast of Madura to Porca. This Prince*** was an adopted son from a Cochin family called Ramencoil.

* Van Rheed Page 31

** Van Rheed p.32 - he adds - "more especially when we consider how submissive the present Queen is."

*** i.e. was in Van Rheed's time.

The Princess of Attinga was not only the Mother of Travancore, but also the eldest of Tippaposo Dewan. She had a large territory of her own, independent of Travancore. A young princess lived with the old lady, who Van Rheed says, was of such heroic and noble conduct, that she was both feared and respected by every one. "The young princess" he adds, "knew how to turn these circumstances so well to her advantage, that she not only ruled Attinga, but Travancore itself, within whose bounds no princess may set her feet according to their Laws, nor pass the River Canimani, on pain of forfeiting their rights; but this young Amazon violated these customs, and made even the king fly before her."*

The little state of Marti or Carnapolly had likewise a contract with the Dutch, to the exclusion of all other Europeans; but he, "several times attempted to give, says Van Rheed, our English friends a free trade also in his country." He was kept however under, and obliged to deny the English at last, by the two neighbouring princes of Coylan and Calicoilan. They perfectly surrounded him, and as it was their own interest, to depress this state, they were always made to espouse the politicks and the cause[@] of the Dutch.

The Dutch enforced these contracts by being Masters of the Sea shore. By establishing guards at proper places, they protected all their advantages and rights, which there was a constant endeavour on the part of the Rajas, or their subjects to dispute; and evade.

The Prince of Calicoilan was the oldest Ally the Dutch had in Malabar. He entered into a friendly contract with them and granted them many priviledges. Van Rheed says "The present Raja is the last of his family, and will be succeeded by a prince from one of the five Travancore families, called Peritalie, who will then annex that territory to Calicoilan."**

* Van Rheed p.30

@ ib. p.31

** Van Rheed p. 33

Van Rheed adds - "I have made use of this Raja against Carnapolie, and have also by his means kept Porca, Carimballe and Tekkenkore under."*

This Raja made the Dutch a present of an Island situated between Coylan and Calicoilan, which Van Rheed observes, in the event of their becoming his enemy, could greatly hurt him. The idea of converting a gift to the injury of the donor, is certainly machevalien; but such was the foundation of the whole system. They formed a kind of balance of power by adroitly taking advantage of the dissensions of these little states, and by alternately opposing them to each other.

The Dutch effected an exclusive contract with Bettimime and Carimballe by open force of arms, which two were about this time united under one Raja. As a forfeit for an atrocious murder committed on some people connected with the Dutch, this Raja was compelled to cede a tract of Land. This was not brought about by the Arms of the Dutch, but with the assistance of Porca, Calicoilan and Cochin. In the language of Van Rheed: "The above mentioned Rajas keep him down."**

The Raja of Porca was brought by force to acknowledge himself subject to Cochin; but this Prince being a Braman is described to have been very tenacious of his rights, and very obstinate when any thing was forced upon him. He appears to have had some indulgence on account of this stubborn disposition; but Van Rheed makes the usual reflection: "I have always, he says, held him under by means of his neighbours of Calicoilan when there has been occasion."***

The Raja of Tekkenkore is described as willingly to have entered into a contract

* ib.

** Memoir V.34

*** ib.

with the Dutch, and being well attached to them. He is mentioned, as "a powerful Lord, by Land and or by Water."* In order to keep this and some of the neighbour Rajas "under", the Dutch whose territories were situated all around the, "great Lake", erected two or three Block Houses.**

Berkenkore and Tekkenkore were two united families, who were in the custom of receiving Princes and Princesses from one another as Heirs. They became at length united under the name of Bundenade; but one Prince murdered the other, and they were again separated, and sufficiently weakened by their dissensions, so as not to be dangerous to their neighbours. It was the custom of the Rajas of Cochin to honour the Daughters both of the one and the other, by co-habiting with them; for this reason they both stiled themselves children of Cochin; but Berkenkore was attached to the Shodilicoor party, and Tekkenkore to the Pundilicoor. This obliged them to assist the respective heads of those parties: (Viz.) the Raja of Cochin and the Zamorin. Van Rheed proposed to keep these Princes, "under", by means of Cochin; but he suggests that they should never be too much reduced, as he considered Berkenkore and Porca to be the keys of Cochin, against all the Southern Rajas.

The Raja^{of} Cochin is stiled by Van Rheed, the most noble Prince of all Malabar; this praise was natural from Van Rheed, who was Governor of the place. He is mentioned to have undergone as many misfortunes in his life, as perhaps ever any Prince experienced.*** He brought by the Dutch from the mountains and placed under their protection on the Throne of Cochin; "the assurances of eternal friendship were mutual." This Raja is described as a powerful Prince and as having many allies. If he had made a good use of his strength and resources, it was Van Rheids opinion, that he might have given Law to Malabar. Van Rheed was sent as Resident to this Raja's Court, where he neglected nothing, he says,

*ib. p.35

** ib.

*** The Memoir refers to the public correspondence for a detail of them. This must be among the Cochin records.

that could make him respectable. "I in the first place, Van Rheed observes, strove to re-establish his finances; to bring his subjects to their former obedience, that he might regain his credit and re-consideration so much lessened by domestic Wars: this I have attempted since I have been Governor; but all these endeavours have vanished like the wing."* The success of these salutary measures was defeated by many causes, such as will occur in the attempt to reform the abuses of every Government. It was against the interest of the principal people to see the Raja restored to his former splendour: in that case they must have returned to their former obedience, and lost all the advantages that they had got in times of corruption and confusion: they must have restored the Crown Lands, and the great privileges, which from weakness some of this Raja's predecessors had bestowed on the principal Lords to secure them to their interests.**

There is a curious account given of the state of this Court at that time. The principal people are represented by Van Rheed

* Van Rheed p.37. Contrast this with our proceedings at Baroda!

** This is exactly similar to our proceedings in Guzerat, where our endeavours for the solvency of Anund Rows Government and its rescue out of the hands of a rebellious soldiery were equally () and zealous, and I () have ended as ineffectually.

to have been so divided among themselves, that they were totally incapable of doing any good. The Raja had knowledge enough to be wise; but he was incapable of making a good use of advice: his amorous disposition allowed him to be governed, and consequently the Kingdom, by people who were his real enemies: at the same time he paid so little attention to the welfare of the people, and cared so little for the principal Lords, that some concluded him to be a fool; but others who were more attentive observers perceived that under this cloak of negligence he was making the fortunes of his friends and other individuals, at the expence of the country. He was also supposed to bear a "general hatred to the Nation who had often it seems banished him on account of his unworthy qualities."* This Raja seems to have been a man of an irregular life, and of undignified manners notwithstanding the high eulogium of Van Rheede, which made him incapable of maintaining his authority.

The Chief of Mangatty was the fourth Ally of the Dutch; they had no written contract with him, but he was a very good friend notwithstanding, and they reaped equally as much advantage from him as from any other. It consisted of two united families - Bettetatavitte and Careetatavite - jointly called Mangatty Paroe. Paderyaticoil, the country of Prince Rama Vurma, had long been the frontier against Cranganore, where the Samoory always stood ready to enter the Cochin territory. Near this were two other families jointly called Arrersoerivan: one of the Princes Brothers was burnt through the persecution of Rama Vurma in a house. "This young Prince, Van Rheed observes, wants but an opportunity to avenge his Brothers Death according to the

* Van Rheed P. 38

Laws of the Country, and he proposes him as an instrument of managing his antagonist, should he ever oppose himself to the views of the Dutch."*

"The Princes of this House are Fathers of the Samory, because they cohabit for the first time with the Princesses of that family."** It appears that the Fathers of the Samory had been called to the Cochin Crown notwithstanding the enmity that existed between the two Royal Houses. The Raja of Cochin however of that period was in his heart no enemy to the Samory, and therefore all the Shodelicoor party disliked him.

The Samory was the greatest help to the Dutch in the conquest of Cochin. After the total expulsion of the Portuguese out of Malabar, the Samory entered into a contract with the Dutch, but Van Rheed observes, "this being directly contrary to the interests of the people, which no Prince can command, he broke the contract."***
 "By the ancient Law of Malabar none of the Princes can enter into these contracts, without the consent of the people."****
 The friendship between the Samory and the Dutch after this slackened. It was therefore judged imprudent to let him remain any longer in possession of the Fort of Cranganore: it had been ceded to him with all its ordnance; but it was finally taken from him, and remained in the hands of the Dutch until they sold it to the Raja of Travancore in 1791, which was the occasion of the first War with Tippoo.

* Van Rheed p.42

** ib.

*** ib.

**** ib. p.89

"The Samoory now observed, but too late, that with the expulsion of the Portuguese, he had lost the name, but not the enemy."*

A new contract however was entered into between the Dutch and the Samoory: "and if the articles, says Van Rheed candidly enough, are not now more religiously observed, it is because we were not in a situation to come to cross purposes, or that the nature of things in some respects is altered; for to insist at present on the exclusion of all Europeans, our friends** must be included in the number: considering every thing, we thought it best to remain in quietness with the Samoory."***

The long hatred and Warfare of the Samoory and Cochin families, made it very difficult to establish a durable peace between them. To accomplish this was one of the objects of Dutch policy, for these Wars were hurtful to their commerce, and attended with a heavy expence. Van Rheed makes an observation on this subject which shews that the customs of the Hindoos have always bended to circumstances, and are not immutable.

"They@ think it, he says, a degrading circumstance to treat with each other about peace according to their customs; but this is no invariable rule, and we should consequently not be led by it; for I have observed they will readily deviate from those principals, when either interest or necessity induces them."@@

* Van Rheed p.45

** The English probably

*** Van Rheed p.46

@ The Samoory and the Raja of Cochin

@@ Van Rheed p.46

We find a curious instance mentioned of the feuds between the Pandelicore and Shodelicore parties, and of a compromise for supplying ~~th~~ Heirs to the two Nambiar of Bellosta and Morianatoc,* who had embraced opposite sides. It was agreed, "that the sons and nephews of Morianatoc which remained loyal to Cochin, should be taken as Heirs into the family of Bellosta, and on the other hand that the Samoory should appoint women as heirs to Morianatoc, whose children should according to Seniority rule both territories."** By this arrangement it was expected that Morianatoc would favor the Samoory's Party. In the meantime the Bellosta Nambiar, the last male of his family died: the two nephews of Morianatoc who had been long adopted were entitled to the succession, but to make good this claim it was necessary that they should pay the last funeral duty to the deceased Prince; "upon which the whole right of inheritance rests."*** The other party attempted to prevent this by force, but, "the people² interfered, and by their assistance the funeral was at last accomplished." The young men were however from various circumstances obliged to give way, and retired to Cochin with 300 Nays, where their heads, the Nambiar~~x~~ of Morianatoc supported them.

This affair prolonged the dissensions and, perpetuated the petty warfare of the Chieftains.

It is by facts of this nature that we learn the real state of society and of Government in Malabar. It seems to have been a prey to all the labyrinth of feudal disputes and its own peculiar institutions. The system by which public affairs were administered, raised and cherished intestine discord.

*The two Chiefs were supposed to have together about 12,000 men.

** Van Rheed p.47

*** ib. 51

A Treaty of Peace which was to be definitive, and to endure for ever, was often impracticable. It was opposed by the unconquerable opposition of interests and jealousies. It was more easy to agree to a truce which left something open for the future gratification of revenge, and it indulged a barbaric pride by allowing the pretensions of both parties to remain undecided, thereby assigning the palm of superiority to neither. The appearance of equality was maintained, and that of defeat avoided.

A truce was concluded for a certain number of years, which often led to a peace, and until this happened, the period of the truce was commonly prolonged. During the cessation of hostilities the minds of the parties had time to cool, and to see the necessity of submitting to a permanent reconciliation.

In this system we may recognize the policy of the Greeks, arising out of a similar form of community, which involved them in frequent wars with each other, and produced a jealousy which it was often impossible to appease otherwise than by a temporary peace. When their leaders saw that a complete peace could not (not) be effected, they endeavoured to settle a truce for as long a period as they could, sometimes extending it to fifty years, when the present passions they expected would be exhausted; but it is perhaps a fruitless anxiety to extend a compact of accommodation to a greater length, as there are few instances of states remaining at peace for half a century whose interests and passions come into collision.

It was the policy of the Dutch in Malabar to foment or adjust the disputes of the natives according to the view they took of their own interests. They had not a sufficient military force to keep the country under their controul, and it was necessary that this deficiency should be supplied by prudence and management.

The Dutch were also in some degree obliged to adopt their policy to the interests of others. Malabar was divided into two great parties, and it was necessary to side with one of them. The Possession of Cochin naturally in time threw them into an alliance with that Raja, and as his family was a counterpoise to the power of the Zamorines, the Dutch were cast into the same scale.

It is a remark of Van Rheeds, that it is an indispensable requisite in a Raja of Cochin, if he wishes to have the attachment of his allies and his people, to be an inveterate enemy of the Zamorine.*

The Dutch however had other means of extending their influence. They forced the Raja of Colastry to make peace, and to enter into an alliance with them; but after they took Cananore from the Portuguese, all differences with this family ceased. The Colastry Rajas are described** to be very poor, though the Kingdom was powerful. The Royal Lands or Domains, were insufficient for the support of the Princes: the eldest inherited the Crown, who thought it his only duty to provide for his poor relations: the interests of his subjects were neglected as every thing was effected for money: it was by this means that the Mohammedans were powerful, and that all Europeans found admittance there. As the Raja was generally an old man, the public business was transacted by one of the princes; but the substitute was not much better,

* Van Rheed p. 50

** 1b.

and was also anxious to provide for his relations. The general defence however of the Kingdom was better conducted, and not trusted solely to the King.* Canara and Mysore were its neighbouring external enemies. The circumsjacent Rajas were ever ready to unite their forces against them and the Raja of Colastria was able, Van Rheed states, to come to their assistance with about 250,000 Nayrs;** so that he observes the Southern Malabar was entirely protected from the invasion of any foreign nation, by the power of this Raja.

The Mohammedans were besides spread all over the country, in which they had four Sea ports; viz. Durmaputtum,*** Cananore,**** Balliapatnam@ and Maray.@@

Ali Raja the Mapilla Chief of Cannanore and the Maldivie Islands, is mentioned to have been the first who introduced the Dutch Merchants into the Pepper Trade of Malabar.

Such in short, concludes Van Rheed, is the situation of Malabar; its different Kingdoms and Inhabitants; their Governments and how they are connected with each other; and in particular with the Dutch. In some occurrences, he says, they may be thought to act with duplicity; but they are a people, he adds, "cautious in giving strangers any knowledge of their manners, more especially to those who they think might make use of it to their disadvantage."

* Van Rheed 51

** This number seems to be exaggerated.

*** ib. Here there is a river.

**** a Bay

@ A River

@@ A River, but where Maray is I am not informed, probably Cavoy l Van Rheed V.53

~~XXXXXXXXXX~~

The Memoir then proceeds to describe the Dutch possessions on the coast: their priviledges and trade.

We shall only notice such circumstances as may seem to have any interest at present. Some articles of trade appear to have had more importance at that time, than they enjoy at this: but it is not easy to say why they should now be entirely abandoned.

Tengapatam is mentioned as affording iron, coir, gunny ropes, twine, linen, ~~tanned~~ and raw hides, parchment, ^{L tanned} brab sugar, and different kinds of stones.

Areka was one of the valuable produces of Malabar which the Dutch prevented the natives from transporting, and selling in places, even where they had no command. The Areka was boiled for exportation. The sale of this article interfered with the profits of the Dutch on the same commodity, which they exported largely from Ceylon and Batavia. Their opposition to its exportation from Malabar produced much discontent and animosity; which Van Rheed says, "he would rather leave the adjusting of to those who have undertaken to learn the elephants to speak."* The Dutch servants were in the practice of seizing the Areka which was contrary to the interests of the natives, and the Princes were no longer inclined to continue their exclusive priviledges. A restitution was ordered, but it fell short of the alledged loss; and though from their seperate interests the Malabars were less to be feared, still Van Rheed was afraid that they might be provoked on this occasion to form a league, no ways advantageous to the Dutch.** It was impossible to prevent the exportation by Land, for there were 24*** high roads through the Mountains; viz. 2 in Travancore, 3 in Coilan, 2 in Goouder, 6 in Tekkenkore,

* Van Rheed V. 54

** Van Rheed p. 55

*** There are more passages

2 in Berkenkore, 3 in Cochin, 2 in the Samoory's Territory and 2 in the Colastry Dominions.

"It is not ~~so~~ possible, the Memoir states, for a Malabar Prince to make contracts to the prejudice of the Nobles and the people:"* "the Princes he adds, have but a limited power over their subjects, and in the event of their exceeding that; are liable to be turned out by the people: the Areka is the produce of the Lands which the Nayrs hold and for which they serve their Prince; and they cannot be burthened without occasioning disturbances in their order of Government."

Any attempt to regulate the price of an article, militates against the nature of commerce, and must have quite different foundations to prove beneficial.

The quantity of boiled Areka exported, from between Cannanore and Cape Comorin, was estimated at 50,000 Candies; each Candy weighing 500 lb, and containing about 500 Nuts.**

The Dutch were the first people who saw the necessity of qualifying themselves for an intercourse with the natives, by learning their language. They saw the disadvantage of deriving their information through the channel of 3 different tongues.*** So early as the date of this Memoir they

* 1b. 56

** This is the calculation of Van Rheed, which we may presume to be accurate. It far exceeds, I suspect, the present produce.

*** Memoir P.53. Malabars, Portuguese and Dutch?

established a school inland at Cottate in the Tekkenkore Territory, where their youth were taught the Malabar language under the direction of the Christian Priests. This school was afterwards removed into Cochin.

Cochin was the Capital of the Dutch Government in Malabar: it was twice rebuilt by them, and well fortified. It was the Headquarters or Presidency of their Government, and had under its protection all the Christians.

It was the object of the policy of the Dutch, as it had been of the Portuguese before them, to extend their jurisdiction over the whole body of native Christians. In order the better to effect this, the Portuguese endeavoured to subject them all to the Latin Church. The Syrian Christians, or those of St. Thomas, refused to acknowledge that jurisdiction; they were Nestorians, and were established in the country long before the arrival of Europeans. To force them into this measure, they were harrassed and oppressed by the Portuguese. They imprisoned and intercepted the supply of Bishops that usually came from Syria. They seized and confined the refractory Priests, and took possession of their churches. By this persecution the Patriarchs were prevented passing into Malabar from Jerusalem, and many were brought over to the Roman See who governed them by their own Bishops.

It was more difficult to seduce, or to force the Inland Churches into a compliance, and they became divided: some attached themselves to the Pope, and others remained under the Government of their own Pastoral Heads.* The Portuguese Jesuits endeavoured to retain their inspection and control after the loss of

* Van Rheed p.55 - Bishops.

Cochin; but the Dutch at length succeeded in obtaining the patronage and protection of the Christians. They were long opposed in this purpose by the intrigues of the Portuguese Priests and the inquisition. Van Rheed complains of the difficulty of the task that was imposed on him in settling the business of these Churches with propriety; a "Person, he says, can hardly expect to escape censure in such a manner as if he were even inclined to Popish Idolatry."* One of the objects of the Dutch was to secure the nomination of Pastors to the Churches: this they affected by an arrangement with the Roman See which established, that none should be appointed; but such as were agreeable to them. They endeavoured generally to exclude Europeans from the Churches of the St. Thomas Christians. "The Inland Churches continue still to be divided into two parties; of which the Schismatic are the greatest in number, and have their Patriarchs sent them."

The Carmelite Friars on the other hand wanted to push themselves into the Churches, and the Dutch to keep them out. The Jesuits had long a Convent or College at Amblicatte, 9 Leagues above Cranganore, and another about Cape Comorin.**

The Dutch and all the European Nations that traded to Malabar were in the habits of making presents to the Rulers, as a bribe generally to favor their exclusive views of trade. The Dutch carried this system farther than the rest, and they took more

* Van Rheed p.60

** Van Rheed p. 93

active measures for securing all the rights or concessions they had obtained. With this view they watched the coast, and built Block Houses to prevent smuggling.

"The greatest benefit, according to Van Rheed, that the Dutch enjoyed on the coast of Malabar, depended on the exclusion of all other Europeans, and it was a duty, he says, that they owed to themselves, to prevent others from reaping those advantages which by right only belonged to them."

In their opinion right and might were inseperable, and they were at no pains to reconcile either with justice or happiness. The good sense of Van Rheed perceived the impossibility of maintaining these contracts; but he very unjustly recommends, that, "the Rajas who break their engagements should alone be called to account, as no measures could be taken with respect to Europeans."

Most of the Rajas had agreed, or promised, that the whole of the pepper of their respective countries should be sold to the Dutch, and that they only should be permitted to import opium; and that none of the Wild Cinnamon should be exported.

This last article was to prevent any interference and competition with the Cinnamon of Ceylon; but Van Rheed observes - "this occasioned great differences with the Chiefs."*

The avarice of the Dutch made them grasp at every thing; but they aimed at more than they could accomplish, and what it was often physically impossible to attain. They claimed to be the sole exporters of pepper, and to fix its price. It was the duty they said of the Raja's to prevent any being exported through other channels, and insisted that the whole should be delivered to them.**

* Van Rheed p.63

** ib.

Van Rheed while he is laying down this absurd doctrine, candidly says, that the Rajas were of a different opinion: "they admitted having granted the (Dutch) Company a free trade; but it was necessary that the pepper should be purchased of the inland merchants at the market price as no merchants could be forced: in case of an agreement with these merchants the Rajas promised to take care that no pepper should be sold to any one else."* The Dutch found themselves in the same situation with respect to the opium: they were unable to prevent its importation. "Thus with all our contracts, observes Van Rheed, we have only obtained the choice of the first purchase to the exclusion of all other Europeans."** Even this was only to the Southward of Cochin: to the Northward all the Rajas broke and disregarded these imprudent engagements.

The Land duties and revenues of the Dutch were few and unimportant. They consisted of the taxes on some Islands and Gardens taken from the Portuguese. They gained also a little by farming the sale of tobacco and liquors.

The principal possessions to Cochin that the Dutch had in Malabar, were Cranganore and Cannanore. Cranganore served as a check on the Zamorine and was considered the key of Cochin: it commanded three Rivers.***

Cannanore was built as a town by the Portuguese; and converted into what was then considered a strong fort, by the Dutch. It commanded a Bay where all coming and going vessels were searched. This was the most northern place they possessed.

* 1b.

** 1b.

*** Van Rheed p.70

It appears by Van Rheeds account that the trade on the Coast of Malabar had not turned out to that advantage which was at first expected. The contracts could not be maintained except by a military force: this incurred a great expence, and even after all, did not make their authority respected. Their attempts to oblige the Rajas to fulfill their engagements made the Samoory their enemy, and occasioned many differences. After all, Van Rheed confesses, that the trade was in a manner wrested from them by the Europeans and Mohammedans.* They sent expeditions both by Land and Water, to protect their exclusive priviledges but without effect; this only produced a greater discontent among the Rajas; the Dutch watched the sea, but the merchants, exported and imported, every thing by Land: they were diverted at last from guarding the coast by the lost labour and expence.

Pepper was the principal commodity of Malabar, and the great object of all this trouble. It was sometimes purchased at 12 Rys Dollars the 500 lbs, though to the Northward of Cochin it was sold at a higher price. It was exported by the Mohammedans to Mocho, Mutcat, Surat and Combay; and by the English and Portuguese to Europe. The competition and rivalship among the Europeans, kept up the price. To check and regulate this, Van Rheed proposes an ingenious, but impracticable expedient: viz. "that each of the European Governments should respectively send an early estimate of the probable quantity of pepper required, and regulate the price accordingly."

This policy was too good and wise to be followed. It was the dream of a benevolent man who thought it possible to control the interests and passions of so many nations by reason.

* ib. 71

The Dutch endeavoured to defray the expence of their trade on this coast by the sales of cloves and mace, the produce of their Eastern Islands: they attempted to exchange them for pepper; but they found it more advisable at last to sell the spices for ready money. They made another attempt to exchange the copper which they obtained by their exclusive trade with Japan for pepper, and it found a better market than the spices, though it was also judged preferable to sell it for ready money.

The market however for this article was soon overstocked, and they were obliged to send a whole cargo of copper back to Ceylon as unsaleable.

It is amusing to look at these expedients of the Dutch to supply the want of Capital, and to provide an investment for Europe by bartering the produce of one part of India for another.

They succeeded no better with the opium: their contracts for the exclusive liberty of importing and exporting this article were of no avail: it was imported by the Native Merchants both by Sea and Land, and they found it impossible to keep up the price: they were obliged therefore to follow that of the market. This at length ended in an open quarrel with their oldest, and until that time, most attached ally, the Raja of Calicoilan. In 1674 in consequence of the seizure of some of his vessels that were laden with Areka, he surrounded the Dutch Factory, issued strict orders to his subjects to have no further intercourse with them, giving liberty freely to import opium and export pepper, with directions to the merchants to break off their contracts.* As a matter of curiosity I shall transcribe the extract from the letter of the Dutch Agent at Calicoilan which gives an account of this transaction. It was sent to Cochin in 1674.

* Van Rheed p.74

"This morning, the writer says, addressing the Governor of Cochin, as we were getting in some packages which lay close to the Warehouse, the Linguist came to inform us, that the King's Nayrs had directed him by the King's order, to let us know that he had prohibited all his subjects of every description to do any thing for us, or come near us, and that he would not allow our people to come near his in the Bazar; and further the Nayrs by the King's command have also given orders to the Coolies who were employed in bringing the Planks to do nothing for us, which was so strictly obeyed that they all instantly ran away: nobody comes near us, and indeed the King's Nayrs are posted all around to prevent the same. Just now Serjeant Christian Van Muckre, and Captain Adrian Gysbert came to report, that the Muchwas* were prohibited by orders from the King to do any thing for us, or to come near us: thus the five floats of planks are still on the shore: we do not know how to get them off, and there are only about 100 planks as yet sent on board."** On this subject the Raja of Calicoilan wrote to the Governor on the 1st of February 1675 in a style of dignity and moderation. After stating and complaining of the injuries he had received - he observes - "While I found myself insulted, and injured in this manner, I gave orders to all my subjects to take no more goods from you; nor to let you have any more of the products of my Kingdom. This prohibition was no more than reasonable; but I request that you will give the subject very mature consideration and settle the affair, that every thing may again shortly be re-established on its former footing."***

* Fishermen

** Van Rheed Page 75

*** Van Rheed P.75. Dutch Records Cochin.

The Dutch had also a compact and small factory near the River and Village of Barselore: it was subordinate to Cochin. They therefore called Canara the second division of that Government: they considered Canara to commence at Neliseram, the boundary of Malabar, and to end at Mirzee where Visiapour begins.* Van Rheed describes Canara to be an extensive and powerful country; but that it had lately experienced all the calamities, which tyranny and civil wars can accumulate on a nation. The Naick or King was a child; the administration was in the hands of the Widow of the late Monarch, who had been murdered. "The inhabitants are Hindoos, and the country is reckoned the granary of hither India."^c Van Rheed expresses his hope, that it "might recover its former splendour, and prove yet the support of Malabar; but new hinderances had started up from year to year and the civil commotions unfortunately prevented the realization of his expectation."^a The Government at this time wanted stability, and the internal distractions of the country obstructed its prosperity, and commerce.

The trade of Barselore^b brought but small gains to the Dutch: the principal object they wanted to obtain here as elsewhere was what they called a free trade; that is a trade independent of the Government and merchants of the country, by which they were invested with exclusive

* ib. 76

c ib. P.77

a Van Rheed p.77

b This was probably the Barace of the ancients: the Sovereign was commonly a Ranee or female: the female right of successions seems to have prevailed here, though not to the same extent as in Malabar.

privileges, and which they carried on without the payment of the customary duties. Such were the unreasonable and unjust views of all the European Nations who opened an intercourse with India. This they called a free trade.

The Dutch however derived some considerable advantages by their trade in Canara. One of the greatest was the sale of their investments, "for a price equal or superior to the Surat Market," which^a was thought one of the best in India. They obtained for this ready money, and laid it out in the purchase of pepper in Malabar: the profit or loss was placed to the account of the Government in Malabar.

The Dutch had another settlement on this coast at Vingorla which they called the third Division of their Government: like the others it was subordinate to Cochin.

They reckoned the third Division to commence at Mirzee and to join the Moguls territory to the Northward. Sevajee had taken the Cocan from Viziapour. The Dutch had at Vingorla an excellent factory protected by a Ditch and modern fortifications.^b This is mentioned as having been a very profitable establishment until the country was wasted by Sevaje's Wars, and the roads became insecure^c. Sevajee was sensible of the decay of trade, and according to Van Rheed, regretted that the people left his country, and that his Harbours were deserted. Some differences had happened between him and the Dutch, but Van Rheed did not think it at all consistent with the general tenor of Sevaje's conduct to study to injure them at his own expence.^a

a Van Rheed Page 78

b ib. 78

c ib.

a Van Rheed Page 80

He recommended that the Company's servants at Vingorla should be changed, as they had quarrelled with the native authority: their private enmity might he observes be the cause of reciprocal mistrust,^b and it would not on that account be proper that a good understanding should be interrupted, or the public interest sacrificed.

This is an important observation. The peace of nations has often been interrupted by the unfitness or misconduct of representatives; In India the national character and interest are committed into the hands of individuals without the superintendency of an authority capable of judging with impartiality, or even of seeing all the abuses which are committed under the sanction of its name.

The removal of an improper agent is sometimes prevented from a false delicacy towards the offending person, and at other times, by a vain and fastidious pride, which thinks it necessary for its dignity to defend the exercise of a vicarious power which it has given to substitute.

I have seen both these motives operating with our Indian Governments, otherwise well disposed to support the national honor and character. It too often happens that public credit is made a sacrifice to the interest or feelings of individuals.

b 1b.

I.6

Many of the details in the following pages may appear dry and tedious; but it is only by such details that we can estimate the progress of any people in the Arts of life: that we can form a just notion of their Government, and of the structure of their society. I might have omitted perhaps with advantage many minute and trifling circumstances; and many things might have been compressed and arranged in a better method; ~~but~~ I have not put in order in the best manner materials collected at intervals, and diffused through a bulky collection of dissimilar memoranda. I have been guilty of many repetitions, and I may be accused of an adventurous presumption by treating of some subjects, which much abler men have already discussed. They are perhaps too above my reach; but against the argument of anticipation and priority I could easily defend myself. The whole of the facts, and almost the whole of the reasoning in the following sheets, were committed to writing upwards of twenty years ago,* and a very great proportion were submitted in official Reports to the Governments of Madras and Bombay, when I was a member of the Commission in Malabar in 1801.

The materials were collected without much attention to order and at distant intervals. They require to be selected, compressed and arranged. I

National Library of Scotland: Walker
of Bowland Papers: 184.a.2 (pp.1.43):
Malabar: Introduction

* 1801

reserved this to a period of leisure and of undisturbed repose; but it is the fate of human life always to meditate more than it can accomplish.

I am disposed however to think that many of the details are not a little curious; or is it only a common weakness to conclude, that whatever has afforded us pleasure and entertainment will be equally interesting to others? This is a very general folly; and I am sensible that taste and even opinion have often a fanciful basis: that they are the result of habit, of particular application, and of local circumstances.

The manners and customs of the people of Malabar, are in opposition at present with the rest of India. The ordinary course of their civil life is peculiar to themselves. All that relates to them is also of great antiquity. I do not know whether I have estimated too highly the information that I have collected of this people; but I have sometimes imagined it would not be altogether indifferent to compare all the facts, and to see their operation on society. In every region we see the figure and character of man under a different aspect; but almost all this will be found the effect of circumstances and necessity. The people of Malabar inhabit a country, Woody, Mountainous, and separated from any neighbours, by barriers of a peculiar kind. In this insulated situation, they have escaped every foreign mixture; their manners, their customs, their Government, and even the formation of their bodies have remained unaltered. They are not however the Aborigines: we have the evidence of many circumstances to shew that they supplanted an earlier people, whose posterity still exist, with all the marks of a separate and different origin.

From the want of historical Records, we are singularly in the dark, with respect to the revolutions and political events, which have happened in India.

The early History of Man in every part of the Globe is brief and obscure. But those who have had an opportunity of seeing all the Nations of India must be satisfied, that they are composed of different and mixed races. This intermixture could only have taken place by colonization and conquest. It is more reasonable to conclude that it was produced by the last effect, or by the combined operation of both, and that India has been repeatedly conquered and enslaved.

The ruin and subversion of the Dominion of the Natives, came from the same hardy and indigent multitudes, who poured their colonies into Europe and China.

We may perceive the effect to be more complete in proportion to the distance of the points, from whence these hords are supposed to have issued. Hence the Southern parts of India are less tainted with the appearance of a foreign population, and have preserved more marks of an original people, than such places as were more exposed to the invaders.

The Southern people of India, and the hill tribes who also remained unconquered, have a more swarthy complexion, than those who inhabit the Northern Plains.

It is in the Mountains and among the slaves of the soil, that the Aboriginds of India are to be found. To such fastnesses perhaps all the early races of the world are now banished. These are the proper Walls and Castles of Men determined to be free. Those who could neither resist nor fly were reduced to slavery.

This distinction of colour and of figure is noticed by Strabo. "With respect to the Inhabitants of India, he

remarks, those in the South are very similar to the Ethiopians in colour, but somewhat different in their appearance and hair, for on account of the moistness of the spring,* the latter is not curled: the Northern Inhabitants are like the Egyptians.**

Sir William Jones has remarked, that we find among the Mountaneers of India, "many races of wild people with more or less of that pristine ferocity, which induced their ancestors to secede from the civilized inhabitants of the plains and valleys." "I have found reason for believing, he adds, that they sprang from the old Indian stem, though some of them were soon intermixed with the first ramblers from Tartary, whose language seems to have been the basis of that now spoken by the Moguls."^a

He remarks in the same discourse, that the branches of Caucasus, and the Northern limits of Iran, are inhabited by ferocious and hardy tribes, who have retired to these inaccessible regions for the sake of liberty. There they by degrees have formed separate Nations, and a distinct language.

In Malabar the foundation of the society is agriculture. This is their chief occupation: it is the tie of their political and social union. They have no manufactures beyond the coarse clothes which serve for the clothing of the common people. They bestow all their skill and labour on the cultivation of the earth. This supplies them with subsistence, and the vast quantities of

* This alludes to the periodical Rains.

** Strabo Lib: XV. W.P.

a Sir William Jones eighth anniversary discourse 172

pepper, as well as other spices, which grow almost spontaneously, furnish the means of a lucrative commerce. It was the fame of this indigenous riches, and the odoriferous commodities of Malabar, that first attracted Europeans to its shores.

In Malabar the most complete proprietary right in the soil is established, and the people put a high value on the benefits which they derive from it. The important rights which a landed estate confers, renders the possession of it more dear and valuable.

Husbandry and the rural labours, which are inseparable from the ownership of land, must have had an extensive influence in forming the manners and character of the inhabitants.

Such occupations gave a tone to their thoughts, and were the grand springs of all their actions. They derived from them their influence in society, and even their political rank. They were thus inspired with sentiments and feelings, to which the present inhabitant of Bengal or Guzerat, is a stranger. The whole frame of the social union is therefore different in Malabar, from its state in those countries. The plan of Government by Townships and Villages, seems to have had no footing in Malabar. It was inapplicable among a people who spent all their lives in the country, who had their dwellings in the middle of their fields, who lived separate from each other, and who had no cities, scarcely a collection of houses beyond a village. The villages also are few; and it is a doubt whether they did not owe their origin to the Mohammedans. Subordination was maintained, and the Government of the country provided for by a great variety of officers, whose estates gave them authority, and an interest in the affairs of the community.

The Government was generally monarchical, but always fettered by the elements of aristocracy. The first rank was a Sovereign; then followed a train of

hereditary and personal dignities. The honour of Nobility was annexed to Land; but it might be enjoyed by birth right, or be acquired by services and the favour of the Raja. Certain dignities flowed from the Sovereign, and had their investiture from him. All these were hereditary, and passed in descent to posterity. But there was another Dignity which was derived from office, which depended on the pleasure of the Prince, and expired with his favour. The first were supported by honours and ammunities; the last by fixed wages, and the exercise of a delegated authority. The list of Nobility was numerous; we shall find I think according to the account in the following pages twenty one Ranks who were hereditary, and twelve that held from office. Each had peculiar functions and different privileges. The body of the people were not excluded from the prospect of advancement and Rank; for as low down on the scale of ~~of~~ Sooders they were ^{as} eligible to dignities. Are we sure that freedom has been always unknown in India? Arrian frequently speaks of a free people.

The Raja or King in Malabar, was considered as the head of the Army, and Courts of Justice. In general all civil and military honours were derived from him; but as no individual, after society had passed its infancy, could perform all the duties of Government in his own person, they were administered by officers of the Raja's appointment, or who exercised a hereditary right like himself. The Rajas own power and privileges were restrained by custom, or by ~~positive~~ positive regulations. He could neither deprive a man of his life, nor of his property, before he was tried and convicted. The trial was by his Peers. The Panchayet was a Jury composed of his equals, and the proceedings of the Court were public.

The deliberations of the Sovereign were assisted by a Council, partly composed of hereditary officers, and partly of his own appointment. There are even traces in Malabar of National and general assemblies. The Cootas or places of refuge, and the Maniti Yams or protectors, were singular, and original institutions. They were invented by the people for their security; the first as an assylum against injuries, and the second as a coercive check, on the manifestation of an arbitrary spirit in any of their rulers.

In these expedients we may observe the first principles of Government, and a jealous care of personal protection.

The practical effects were on the whole, I am disposed to think happy; the Government was mild, and above all, it was what the people liked and were used to. Amongst an agricultural nation, the first efforts of the Government would be directed to encourage Husbandry on which the good of the society so much depended, and the remains of embankments for irrigation testify an attention to this object. A numerous population, fields well cultivated, many enclosures, neat and commodious habitations, all bespoke the comfortable enjoyments of life.

The Government of Travancore before it was turned upside down by us, exhibited probably the last genuine specimen of Hindoo Rule in India. I am merely noticing here the practical effects without any regard to abstract principles. In 1785, I first visited this country; In 1791 I remained several months in it, and at a subsequent period, I resided and travelled over a great part of it. I had the fullest opportunities of associating with the people and of making myself acquainted with their condition. I do not believe that there were a happier race of human beings. The only real grievance they laboured under

was a Pepper Contract with the Company; but this was a trifle. In every countenance we could read health; and contentment. Every where was to be seen ease and comfort; and a charming simplicity of manners. The country was in the highest state of cultivation. The inhabitants were clean and neat in their persons. Their houses exhibited at once an appearance of domestic neatness and order. The country was divided into fields and enclosures, which were generally small. Punishments were moderate, and crimes were rare.

In describing the state of property in Malabar, and its effect upon the society, I have employed the terms which I thought the most applicable, and which were at the same time the most familiar to us. They seem to me not only the best known, but the most proper. They are necessary in order to convey corresponding ideas to the minds of Europeans by instituting a comparison with things with which they are acquainted. The term feudal, I conceive to be strictly applicable to Land, the proprietor of which, is bound to ~~perform~~ perform military service to a superior, and the term feudatory equally describes one who holds on some condition of duty, to another higher than himself. But it is not on a general definition that the analogy rests; it is confirmed by a variety of details, and by the whole structure of the society. The principles of a feudal relation seem to me complete. 1. The possession of Land conferred Nobility, and the proprietor owed warlike service to a Lord: he was obliged to furnish a quota of armed men. 2. "Whatever obligations it laid upon the Vassal of service to his Lord, corresponding duties of protection were imposed by it on the Lord towards his Vassal."* It was a mutual contract of support and fidelity.

* Hallam Vol: 1 Page 123

3. The men who went into the field, were supported, after a certain period by the Raja. 4. Those who were wounded were maintained by the Raja until they recovered. 5. The families of those who lost their lives received a stated supply of provisions a pension. 6. When there were no male heirs of age, the family of the deceased were entitled to be maintained until the male heir attained an age able to afford them protection. 7. The Land owner came into the field with a number of followers in proportion to the extent of his jurisdiction; or of his engagements, but according to a peculiarity* in Malabar always with an odd number. 8. The Vassals paid their Lords an annual fee under the head of protection money. 9. They contributed to defray the expence of his marriage. 10. They accepted investiture at the hands of the Raja, on the actual conveyance of feudal Lands. 11. A fine was paid to the Lord on the alienation of the Vassals Land. 12. For want of heirs, estates became escheats to the Raja. 13. It was a custom arising out of this system for the Lords to administer justice to their followers. These are but some of the analogies between the feudal state of Europe and India. It is possible, though the conjecture may appear bold and rash, that they had both the same origin.

The feudal system produced nearly the same consequences in Malabar that it did in Europe: it kept the authority of the Sovereign weak and dependant: it created a rebellious and insubordinate spirit: and it was probably to this system which I imagine was more general than has been supposed, that we are to ascribe the unfitness of the Hindoos in all ages for the prosecution of schemes of conquest. It cannot however be considered as an evil that they were prevented from injuring their neighbours, and if the system nourished violent passions, it also excited those of freedom and indopendance.

*I believe in India at large.

In Europe justice has always been distributed to the people by Magistrates appointed by the King. They were deputed by the King to do right by way of judgment.* When there was no King, the name of the Government was put in his stead. The names of our Courts of Justice, at this day testify their origin. The little petty Rajas, many of whom ruled over a Territory not larger than one of our counties, continued for a long time in India, as some of them do still, to preside in person over the administration of justice. It is not easy to see how they could better employ their time, and it is not likely that more impartial judges could be found than themselves among their subjects. They had no complicated political engagements to disturb their attention, and their extent of jurisdiction was not equal to our Courts of Circuit. This division into small states seems to have been the ancient condition of India; but over whom there appears frequently, if not always, to have been a supreme Head. He may be compared to the Emperor of Germany, who was the superior of a great many (p.) Sovereigns, who had each the power of life, and the settlement of disputes, in their own territory.

Ceasar Frederick one of our earliest travellers gives a curious account of an Indian Prince administering justice in person. It is the practice of the King he says to sit every day in person to hear the suits of his subjects. All were seated and heard alike. The petitioners came with presents in their hands: "but if the King thinketh their demand to be not just, or according to right, he commandeth them away, without taking of their gifts or presents." This is certainly better than making both parties pay; but it would perhaps be more equitable that those should defray the expence who instituted false claims, and gave unnecessary trouble.

* Cowell

The Indian practice had however an evid (p.) evident tendency to repress and discourage unjust litigation.

It is evident that in practice, the system of the King or Raja filling himself the seat of justice, over an extensive Kingdom, must have been a mere theory. In practice therefore the Hindoos provided Courts, in which Judges appointed by the King presided in his stead, but still in his name. They were "the Kings Courts." Some of these Courts were stationary; others were moveable: the Chief Judge had three assessors, and the King and his Judges were solemnly enjoined to beware of violating justice.* They had different gradations of Judges: some were appointed to try great, and others small causes; and finally the Neya Desh who very much resembled our Justices of the Peace, were dispersed over the country. They had territorial rights of Justice and were (p.) appointed from their property. All these officers were selected from among the Inhabitants. The powers of the Judges were of course unequal. In many cases an appeal was still allowed to be made from their decision to the Raja, and no capital punishment could be carried into effect without his expressed sanction. Almost all their judicial proceedings of any intricacy or moment were carried on through the medium of a Court of Panchayet; which bore a strict and close resemblance to our Jury. Attempts have been made at Madras and Bombay to revive these excellent Courts. It is singular that there should be any difficulty in reviving a system which has been abolished by ourselves, and to which the natives were strongly attached. But the life and vigour of Panchayets cannot be restored under our Courts. There is something (p.) free and original in their Institution which cannot exist but in the same state.

* Mens~~ur~~ on Judicature Pa: 10,16

The most respectable inhabitants will evade the trouble and duty of being members of the Native Courts, so long as they are answerable to a Jurisdiction which is foreign to their manners, and too often treats them with contempt or scorn.

In the beginning of the social union, Laws were most severe; because men were then individually most interested in the punishment; but it is remarkable, that as the severity of punishments diminish, the Judges have themselves become more disposed to pervert the principles of Justice. From some defect in our nature rather than from bad Laws, there has always been a disposition to sell justice. This can only be prevented by a respect for reputation, and a fear of shame. (p.). In England fortunately these operate with peculiar force, merely because they are subject to the voice of the country, which is popular opinion: the mind of the Judge is disposed "to a constant and perpetual readiness to render to every man his due."* It should not much surprise us that this principle should be violated in India: we should first enquire where it has been preserved pure? It is difficult, perhaps impossible, to guard against the abuses of power, and of those corruptions, which are as much owing to the nature of the Government, as to the nature of man.

We have derived some of our legal forms, and even of our judicial practice from Asia. The Hindoo Laws speak of the person of a King as sacred, and partaking of the divine nature. We (p.) have technically formed a definition not much less extravagant.** We wish that his person should be venerated, and respected:

* Locke

** See a beautiful passage in Hallam Vol.1, P.229

we wish to elevate him above human motives, and to place him above all the inducements of self interest; but language is imperfect: "Kings it makes Gods."

It is of no importance in whose name justice is administered, provided the execution of it is simple, its decrees easily obtained, and delivered with impartiality; and that the proceedings are carried on in public. The public should be the Judges of the Judge. This forms the best security for a correct and an impartial decision. In this respect the Hindoos deserve praise: all their legal proceedings were carried on in an open Court.

The penal Laws of every people (p.) are attended with unnecessary severity. We scarcely ever find a just proportion between crimes and punishments. The infliction of mutilation which is one of the earliest modes of punishing crimes is ineffectual, cruel and barbarous. It is imposed in vengeance rather than for the purpose of redressing the injury done to society, on which it in fact heaps an additional injury by obliging it to support a bad member of the community rendered useless by his punishment. He must still be fed and clothed. The punishment of mutilation was practised in the time of Clarendon, and it still stands as a legal punishment on our Statute Books, from which we never expunge any thing. A Judge* may sentence a criminal to have his hands or ears cut off, though it may be rarely, or never at present executed.

An idle notion that cutting off the (p.) ear rendered persons barren and unprolific, was what first occasioned the legislators to order the ears of thieves etc. to be cut off, lest they should produce their like.** It

* English

** Encyclopedia Britannica - v - Ear

is useful to look to the origin of Laws, which have sometimes their foundation neither in reason, nor necessity.

Sanguinary punishments do not appear to have been frequent among the native Governments of Malabar. Mutilation was seldom inflicted. This observation refers to a period previous to the Government of Tippoo. Impaling and dismembering were very commonly resorted to by those acting under his authority. These punishments are more congenial to Mohammedans than to Hindoos. But perhaps we are the last people who have any right to censure another nation for the severity of its penal Code. At this moment I have read in (p.) the Newspapers of a youth of 14 sentenced to banishment, which is a distinct species of slavery, ~~to~~ for stealing a pair of blankets to ~~we~~ protect him from storms and ~~incline~~ weather! *L incliment*

The punishment of adultery in Malabar was moderate. A Braman woman was merely degraded from her cast for this offence; those of the inferior classes were exposed only to shame and disgrace. The Law left the option of degradation or slavery; but almost uniformly the former penalty was inflicted. Both in fact were degraded: the punishment implied a diminution of respect and dignity, but in one case the criminal was left to her own freedom in the course of crime, and in absolute slavery she lost the power even of this choice.

The Hindoo Law permitted slavery, but it protected the life of a slave. Whoever killed a slave, excepting a Braman, was liable to suffer death. A Braman guilty of the crime, had his lock shorn, his face was blackened, and exposed on an ass he was disgracefully expelled. But the justice of this Law was frustrated in Malabar by the payment of a fine. (p.)

A price was put on the agrarian slave, as upon the cattle among whom, and with whom he laboured.

The loan of money is an important transaction in every society. The custom of taking a pledge was common in Malabar, as it is yet in many cases in our country: Money in Malabar was lent on Mortgage, on personal security, and under all the forms which the Commercial Nations of Europe observe.

The Laws of nature and self interest, teach the same expedients. The odious and unfair rate of interest which Menu authorises to be taken from the different casts, was unknown at least in the practice of Malabar: there was in that country no graduated scale; the Braman, and the Sooder lend and borrow on the same terms.

Menu was not the Lawgiver for the (p.) South of India. The rate of interest varies all over India: I am not sure that it is any where judicially limited: in Malabar there was no limitation, but that which custom and local practice created. During the time of the Rajas, 5 per cent was the legal or rather common interest; in the Government of Tippoo it rose to 24, and afterwards fell to 10 or 12. Here we see it taking a natural course: rising in times of danger and oppression: falling when they became regular and safe. It is worthy of remark that Land was the usual security for a loan of money, and that the mode of lending very much resembled the way in which Land is made over by a Bond to a Creditor in England and Scotland. It partook perhaps in Malabar more of a Mortgage.

The Laws of Malabar have (p.) provided no punishment against usury; but Custom or Law sanctioned various precautions, to be taken in the case of loans. A pledge might be taken or declined. It might consist of jewels, or of Gold or Silver, or of any other Personal Property; and in

such a case the transaction was not much different from the dealings of our most eminent jewellers, who still follow the practice of advancing money on pledges. The most respectable pledge however in Malabar consisted of Lands and Houses. We may compare it in this state to the Bonds which our Laws sanction when money is lent, on what is called Landed Security. The Malabar Laws equally required and provided, certain formal and legal Deeds, to make the transaction valid.

In ancient times according to the native accounts no interest was taken for (p.) the loan of money in Malabar; nor is compound interest legally admitted at present. Money is lent under forms very much resembling those which have been adopted in Europe. It is secured by a Bond attested by witnesses. Debts on Bond are entitled to a preference; this is allowed by our own Laws, and it is reasonable that those who take most pains to insure their property, should have it best protected. Various kinds of Deeds and legal instruments were necessary in Malabar for loans bearing interest. They are exhibited in the course of this work. The interest is not allowed to accumulate beyond the principal; and under certain circumstances the debt by an inverse ratio may decrease of itself, at the same rate of interest as that by which it had risen. In order to prevent this, a creditor must repeat his demand on his debtor within 20 years, and renew the Bond within (p.) the same period.

A creditor in Malabar must sue for his debts; he could not of his own authority confine a debtor: the person of the debtor was free until it was arrested by the orders of a Magistrate: I never heard of the wife and children of a debtor being made answerable for his debts in Malabar, although this may be a practice in other parts of India.

Is it in the Deccan and Malabar, the person of a Debtor was more respected than it is in Europe, or perhaps any where. He could not be imprisoned unless it was specified as a penalty in his Bond.

There was no punishment for fraudulent bankruptcy, excepting a loss of reputation.* Upon a bankruptcy the creditors got possession of the property by a judicial process; it was then sold, and the proceeds divided, according to the extent of each persons demand on the Estate. A creditor who had a pawn in his possession, first paid himself; after this whatever remained belonged to the creditors who had no pawn. The Bonded creditor had the same advantage, as he has also in England.

Should the bankrupt recover his circumstances, he was not obliged to make (p.) any payment to those creditors who shared and seized his property. Here we see the cessio bonorum. But to those creditors who did not avail themselves of the penalty of the Law, he was liable to repay the full extent of their demands. A long process was necessary before a debt could be recovered. It was first necessary that a creditor should go in a formal manner to the House of his Debtor, and demand the payment of his debt. This is the same way in which a debt is endeavoured to be recovered in England. When a man is not able to satisfy his creditors, he shuts up his house, he is not at home, and upon this an act of bankruptcy is inferred. A refusal or an evasion to answer the demand of the creditor had the same effect in Malabar. The creditor might pursue

*Capt. J.S. Grant's Reports

the course of Dherna, which may be explained a kind of mutual coercion; (p.) but in Malabar it was usual to lay the complaint before the Raja, or a Magistrate. The first thing was to lay an injunction on the Debtor, and if this failed, he was apprehended in the name, or by order of the Raja. The process then went on; the property was sold and divided. A debtor might be confined until his debts were paid; he might even be thrown into prison a second time for the same debt, provided his property had not been previously all exhausted and sold. A Debtor guilty of fraud might be confined, and punished by stripes. What is the punishment of a fraudulent Bankrupt in this country? A Bankrupt in Malabar was liable to the payment of his debts after he again became rich; but only to those who had not divided his substance. A Creditor could not make a Debtor his slave; but it was in his power to make him very wretched. (p.) The Laws concerning Debtors are every where cruel: they have been dictated by personal revenge. The Romans gave up insolvent debtors to their creditors to be bound in fetters, and cords: they were in actual slavery, and often treated more harshly than even slaves themselves.**

In an ascending scale a Malabar was answerable for the debts of his father and grand father: but this obligation did not extend to the maternal relations. There is a mixture of injustice and caprice, in almost all Laws. The whole of the children were jointly answerable for the debts of an insolvent parent; but when there was an estate to inherit, the eldest was singly responsible. The Leignourial rights belonged solely to

* England

** Adams Roman antiquities P.45

the first born; but after having discharged the debts of his parents, he must out of that which is left (p.) provide for his brethern.

This was the principle of equal inheritance; and had it been strictly observed, it must have divided the Lands equally amongst all the sons. This custom was not however rigidly enforced; it was superceded by the ties of family and the claims of the first heir in succession. The dismemberment of Landed Property was also guarded against, by the difficulty which the Law established before it could be divided. The sanction of the Raja was necessary, and all the parties interested were required to be unanimous. The same unanimity is required in Great Britain before the rule of descent settled for an Estate can be ~~be~~ broken. The females only inherited in default of male heirs - in this respect resembling the Jewish Law - which in many cases is the foundation of our own. (p.) "If a man die, and have no son, then ye shall cause his inheritance to pass into his daughter."* Some of the Hindoo Laws were vaguely expressed, and others admitted of a dangerous latitude; but what Laws are free from those defects? The Laws of no people are sufficiently settled and defined. This is the greatest evil of civilized society. At present it requires 50,000 lawyers to interpret (locus?) the Laws of England.

Although Laws are one of the most important objects of society, they have been seldom the fruits of deliberation. They have been rather the result of a particular feeling, than of that faculty which looks into the Book of futurity, and the consequences of the progress of knowledge.

When the duty of framing Laws was conferred on one person, it was natural for him to (p.) mix up his

* Numbers C XXVII-V.8

own peculiar precepts and views of human nature.

This was perhaps worse than the first Laws, which were those of nature, and which perhaps have contributed more to the happiness of society, than any other.*

It may be said in general of the Hindoo Laws, that though they contain the defects of primitive society, they discover a strong desire to administer justice, according to the peculiar rights and manners of that people. Custom and Law are continually associated together. Litigation is discouraged. "Neither the King nor his officers must promote litigation; nor ever neglect a Law suit instituted by others."** A most wholesome rule.

The usages which had been long established were made the foundation of Law. (p.) Accordingly the King or the Judge is directed to enquire into the particular customs of classes, the Laws or usages of districts, the customs of traders, and the rules of certain families, and to establish their peculiar Laws, "if they be not repugnant to the law of God:"*** the Judge is enjoined to investigate the true point of justice by deliberate arguments. The following ordinance breathes a spirit of benevolence and kindness to the whole human race. "Since all men, says the Legislator, who mind their own customary ways of proceeding, and are fixed in the discharge of their several duties, become united by affection with the people at large, even though they dwell far as under."@

* This is contrary to the opinion of Goguet who says that they have contributed the least to the happiness of society.

** Menu on Judicature Pa: 41

*** Menu on Judicature Pa:43

@ -do-

It is not however from their Laws alone that we should form our judgment of national character. These are generally (p.) composed in a rude and barbarous age, and before the qualities good or bad, had time to develop themselves. It is also very difficult to form a correct estimate of the character of a people under the circumstances of the Hindoos, who are stripped of all their rights, and in whose society we never mix with any cordiality. It is remarkable that those few who have lived in habits of intimacy and of intercourse with the natives of India, are disposed to have a favourable opinion of their moral qualities. I am disposed to trace their peculiar vices to a political degradation. (p.)

(17)

(548) ... The spirit of persecutien among the fellewers of Mahemed has abated in India. Tippee was the last fanatic prince who deselated his deminiens in order to prepagate the faith.

But althe time and association have produced this change, and even operated a kind of indulgencefer the fellewers of Brama, the Mussulmans still assume the (549) privilege of reviling the Hindee wershup. I have witnessed very gress instances of this from men who were in the service of a Hindee prince. I never saw this behaviour to offend a Hindee, or to prevoke an angry or rude reply from a Braman. From the number of ages however in which these two religionists have been connected and engaged together in the affairs of civil life and government, there is at present something more than a mutual forbearance and teleratien existing between them, without the parties being (550) sensible of it. The professed sentiments of Meesulmans continue hostile to the Hindee religion; but they have nevertheless adepted many of the most superstitious practices of that religion. Their attention to feed and aversien to killing cows may be traced to this source. The practice of divination, and some of their marriage ceremonies have the same origin. They celebrate the Heely and other Hindee festivals.

In like manner the Hindees have adepted many of the Meesulmans notions, (551) and habits. Their inclination of dress and feed, and other customs in domestic life are numerous. They have adepted the principles and forms of their government. In some cases they have chosen their laws. The seclusion of women was derived from the Mahemetans. They fellow in some places the fasts of the Meesulman Eedes, and assume the habit of Fackeers in Nghurru. This practice is followed by Hindee children, and encouraged as an amusement by their parents. I have seen the sons of Bramans and of (552) Rajas, assume this habit. On such occasions they visit their friends and generally receive a present of money.

It may however be remarked that in this mutual adaption of each others ideas, neither the Hindees nor Mahemedans, have departed from their own principles. Penance and fasting, and a belief in omens are common to both religions. In some cases the Mahemetans admit the system of transmigratien, and confide like the Hindees in Destiny.

Walker of Bowland Papers: 184b 10: essay headed 'Persecutien': pages 545-52. indication of being written in 1808.

(18)

The right of collecting a (1) Meelukgeery tribute is founded on the an imperfect conquest. It is a collection of a military nature, which one party does not conceive itself obliged to pay unless the demand is accompanied by a force sufficient to ensure compliance. In its origin therefore the Meelkgeery tribute is an arbitrary exaction, imposed at the head of a military force on an inferior power, but being sanctioned by time and usage, it becomes annually due with as much regularity as any other revenue.

The states of Kattywar were tributary to the Subahdary of Ahmedabad, and the Meelukgeery collection devolved to the Paishwa (2) and to the Chikawar, by the right of conquest, in consequence of the fall of that city to their united arms.

The collection of this tribute does not deprive the parties from whom it is exacted, of the exercise of the interior rights of government.

The superior state expects no military assistance from the inferior. The tributaries may make war, or peace, and may contract any engagements which do not interfere with the right of Meelukgeery, and exercise every kind of authority among their own subjects. They were however so far restrained, that out of respect to the superior, they were not suffered to carry on hostilities against (3) each other in his presence, or when the Meelukgeery army entered Kattywar. The forces of the contending parties were then obliged to retire from the field, and to suspend the prosecution of their quarrels until the Mahrattah army left the country. This was a salutary regulation, and produced a species of truce, which might lead to a reconciliation. This it any rate relieved the country for a time from warfare, and in this respect resembled the general armistice which always accompanied the solemnisation of the Olympic Games.

Although in its origin the Meelukgeery tribute was an arbitrary impost, its amount was (4) restrained by custom, and regulated by principles.

A certain proportion of the revenue was paid into the treasury of the sovereign; a sufficiency being left with the tenant, to support a degree of authority, dignity and rank, to enable him to govern, protect, and ensure the collection of the territory, which he was permitted to enjoy.

In this view of the subject, the Rajas, Thacoors and Bheemas of Kattywar, are no more than semihdars in the more extensive acceptance of that term.

It was difficult to guard against the abuse of the extensive powers, which must be delegated to the (5) offi commanding troops on a Meelukgeery circuit; but the

Walker of Rowland Papers (No 18403): Preface (unpaged) †
'Historical Notes of India' (5 vols- 18403-7) dated
St Helena 1824.

amount to be collected was determined by usage and a reference to former years. It bore a certain relative proportion to the produce of the country, and when more was exacted it was commonly as a punishment for contumacy, or unavailing resistance. The chiefs had it in their power under this arrangement, by a prompt payment to prevent this oppression, and they were understood to possess the option, which they sometimes availed themselves of, to negotiate and adjust the payment of their tributes beforehand, in which case the Guicawar army did not enter their territories. These privileges (6) however in a great measure depended on the degree of power and inclination of the parties. Force was the only real standard of right and wrong.

The amount was generally discharged by instalments, and in failure of ready money securities were assigned. This arrangement was calculated for the convenience of the tributaries; but from the singular nature of these deeds, which will be seen afterwards, they were the fruits and effects of conquest and distress.

But the chiefs of Kattywar had the inclination common to all tributaries, and seized every opportunity of strengthening themselves (7) against the power of the Mahrattas. The same spirit excited them to offer resistance, whenever they saw the least chance of success; and they had embraced the occasion which the late distractions in the Guicawar government afforded, to fortify themselves.

In the six years that the Guicawar demands were suspended, they acquired a degree of strength and confidence, which had very much increased the difficulty of an amicable adjustment of their revenue.

It was under these circumstances, that the British Government were induced to interpose an (8) armed mediation, and to direct that a body of troops should act in conjunction with the Guicawar army, in Kattywar. The necessity of the collection being ensured by the presence of troops must however always prove a subject of regret to the friends of humanity, who are acquainted with the undisciplined and predatory habits of a Mahratta army.

Arrangements therefore for the regular periodical payment of this revenue, without this ruinous necessity, was an object of desirable attainment; but serious obstacles were opposed to this plan in a country, where everything was subservient (9) to force, and where a principle of honour existed, which made it disgraceful to yield unless by compulsion.

To eradicate the force of habit, and the prejudices of education, was a difficult undertaking. To require from the states of Kattywar, a regular and punctual payment to their superior, would be requiring them to relinquish some of their strongest prepossessions. Because these prepossessions appear absurd and injurious to the parties, we shall not find them the less difficult to destroy. While we were therefore only consulting the interests of this people, it was evident that we should run (10) the risk of offending their prejudices.

.....

The spirit of violence which the chieftains of Kattywar exhibited in their continual mutual aggressions was not less to be deprecated, than the annual Meelukgeery excursion. These mutual aggressions were the effect of many () separate and contending governments, among a people, who but imperfectly understood the rights of civil society, and where there was no power sufficient to maintain subordination.

It was under these circumstances, and in the face of many other disadvantages, that the British Government undertook to reform the government and policy of Kattywar. It was anticipated that the progress of this salutary reform would be slow, and that it would not be accomplished without difficulty; but a reasonable hope of success was entertained by pursuing a systematic course of measures () and above all by persevering in them. We were released about this period (1805-6) from a general state of warfare with the Mahratta co-estates, and as it had been successfully concluded, the circumstances of the armies were become favourable for entering on these arrangements.

It was evident however that the permanency of any arrangement would be uncertain in a country where power and right are synonymous, unless an ascendancy was established in Kattywar sufficient to enforce engagements, and maintain that degree of local authority sufficient to afford protection.

It was clear in fact that an () established authority in Kattywar would prove the only security on which the British Government could with confidence rely for the punctual payment of the Meelukgeery tribute into the treasury of their ally, or from which any improvement in the state of society in that part of Guserat could be reasonably expected.

.....

On the other hand the measures recommended by the British Government had many advocates, and these in the end proved superior in the contest. The men of family and influence, all those of property, and in general the members of the administration were in our favour. The old Mahrattas, and those whose () establishment in the country was coeval with the settlement of the Guicawar family in Guserat, were friendly to its interests, and ready to support any moderate reform of the existing abuses. These men were Mahrattas, and some of them of a very advanced age. They always acted with good faith and sincerity.

The mental weakness of the Raja, made a reference to him, only a matter of form; but Futteh Sing who was his acknowledged heir and successor, concurred in the plan of the British Government.

The Sir Suba of Kattywar, Babajee Appajee, about this time came into our views, and his () powerful influence at once, and completely, turned the scales in our favour. The appearance of opposition from this moment disappeared.

A plan was soon arranged. It was agreed that the Guicawar army, and their officers of every description in Kattywar, should be placed under the authority of the British Resident; that their claims and accounts with the different chieftains should be strictly examined; that they should be fairly canvassed in the presence of both parties; and that the Resident should be the umpire and judge of every matter in dispute. The odious practices of Meeluckgeery were to be () abandoned, and arrangements were to be made, if practicable, for the future collection of the revenue, without an annual recurrence to military force.

On these terms, the Governor General of India consented, that a respectable body of British troops should march into Kattywar; they were placed under the command of the Resident. His instructions were dictated by a spirit of liberality, justice, and humanity. Their object and scope will appear in the following pages. These consist of short essays, which were drawn up in the shape of official reports, and transmitted to Government. () They describe some of the principal states and customs of Kattywar.

.....

It was unfortunate that these (natural) advantages were enjoyed by a race of men, whose habits of life, confirmed by education, have since our first connection with India, only more contributed to strengthen a propensity for rapine and plunder, so prevalent in the peninsula of Guzerat.

() There cannot be a greater proof of the little progress made by the inhabitants of Kattywar in the arts of civilised life, which can only prosper where principles of good government and subordination are firmly established, than this inveterate propensity to pillage and rapine. This spirit is not less strongly exhibited in their mutual domestic aggressions, than in the frequent plundering excursions, which they make into the territories bordering on their own.

This vicious propensity of the inhabitants of Kattywar, was however exerted, in a manner still more detrimental to the essential () interests of the Company, in the injury sustained by the commerce of Bombay from the piracies by the small vessels and boats, which issue from the numerous creeks and little harbours of the coast of Kattywar, and the Gulf of Kutch.

These piracies were probably not less hurtful to the trade of Bombay by their immediate consequences, than by repressing the spirit of enterprise, and shutting up some channels by which an extension of the sale of European staples, and manufactures, were prevented from finding a market.

.....

This fertile source of injury to the most valuable concerns of the Company, could only be stopped by establishing in Kattywar an ascendancy sufficient to deter the turbulent and needy from the commission of crimes, and to give security to the merchant.

The official reports, from which most of the

V.9

Bhandery

Bhandery is a word of Sanscrit derivation of Bhahu, a hand in Sanscrit and Dherna, to place - to seize. The term itself is applied to an engagement of an extraordinary nature, that prevails in, and is apparently peculiar to the province of Guzerat.

It may be difficult to give an English term sufficiently expressive of the word Bhandery; but guarantee seems to approach very near it.

The use of this security is very extended xxxxxxx in Guzerat. It pervades (174) every department and measure in the official duties of its Government, and continues in a chain downwards throughout their subjects in all their translations of any consequence.

No body w Cooley will leave his village without the Bhandery of some person on whom he can rely, and it is sometimes exacted from the Chief of a place by Individuals, before they venture to take up their residence.

A Bhandery is either personal or for property; as it relates to the former, it partakes of the nature of a safe conduct, as it regards the latter is a species of (175) security.

As it affects the acts of Government, it may be considered the result of weakness, originating in experience of repeated breach of faith, or an apprehension of inability to perform engagements.

It also exhibits a want of confidence in the party requiring the Bhandery.

National Library of Scotland: Walker of Bowland Papers: (182.a.7) pp.173-183: Gujarat Dhurna: Ext

The difficulty of reconciling this term with the meaning of the English word Guarantee, arises from the Bhandery to the acts of Government being given by people in the situation of subjects, and it is not easy in our European ideas to conceive the power by which the person (176) giving the Bhandery in a Government apparently despotic, is enabled to controul it, and enforce an observance of its engagements. It may be useful therefore to investigate the power which the Guarantee possesses.

As far as the Bhandery relates to the due payment of money, the person giving it thereby invested with the power of enforcing payment. It is his duty to prevent the ~~trends~~ intended for *hundi* this purpose being otherwise appropriated, the creditor must suffer with patience these temporary misfortunes known by the name of Sultanee*
 **Asmanee which his Guarantee (177) has not the power to controul; but in the strict interpretation of this extraordinary engagement he is responsible to the utmost extension of his means to cause due redress to be afforded to the party in whose favour the Bhandery is given in the event of the ~~trends~~ being destroyed. *hundi*

Should the ~~trends~~ assigned be misapplied, *hundi* or infringed by the party making the assignment, the person who guarantees the engagement proceeds from remonstrance to every means in his power to enforce its observance. He cannot however be required to use more than those means, nor is he answerable for any (178) loss that may arise should his means fully exerted prove difficult.

The breach in the engagement by the Government absolves him from his duty as a subject as far as relates to the performance of the duty of the Bhandery and violence would be justifiable in obtaining the ends of Justice. The Arabs presented many instances of this nature, when to enforce their Bhanderies they filled the Durbars of the Raja and the Minister, and held their persons in a rigorous confinement.

* The accidents of War, etc.

** The accidents of the Elements, etc.

If the person giving the Bhandery should be removed to a situation where his influence cannot (179) be exercised, he demands a release from his obligation: it then becomes the duty of the Government to provide for this circumstance by giving another Bhandery sufficiently satisfactory to the party ~~re~~ receiving it.

It is not usual however to demand a Release from this engagement without some extreme cause. As the responsibility is little, from the care taken to ensure the appropriation of adequate funds, and as it gives a considerable degree of consequence and influence to the party who gives his Bhandery, it is a desirable engagement. Were any leading man (and the observation (180) will be more applicable to the Company) to withdraw his Bhandery without some extreme cause, some serious apprehensions would be excited and public confidence endangered.

Generally speaking, and considering the extensive power conferred by giving a Bhandery, which necessarily implies a power of enforcing a due performance of the obligation, and the control acquired thereby in many important affairs of the Government, it may rather be considered as a beneficial engagement, and the risk must be trifling, as generally adequate funds are provided for its liquidation. (181)

This last circumstance is what distinguishes the personal from that Bhandery which relates to property.

Although the circumstances first stated may be the strict interpretation of the engagement, yet in ordinary language, it is nothing more than a declaration of a person of credit, of the degree of confidence which he himself places on the engagement entered into, as it relates to money it is an assurance of solvency, united with a power to prevent abuse, and may be compared to the associations which are occasionally made among English merchants to receive the (182) notes of the Bank, and thereby quieting the apprehensions

of those who are alarmed at a scarcity of specie - Khater Jumma and Khater Hiksli, being almost synonymous with Bhandery.

In fact a Bhandery is very seldom, or never broken. It is the support of a weak Government, and a breach would threaten a dissolution of it.

From what has been said, the Bhandery will be found to have many advantages.

In the case of the substitution of the Company's for the Arab Bhandery, the Hon'ble Company became possessed of a very extensive (183) influence, and at the same time deprived the Guicawar Sultans of a powerful means, by which they derived a right of controuling their Government.

V. 10

..... received the homage of his brothers for the remaining part which they divided."*

This is certainly an extraordinary case of resemblance between the customs of people living so remote from each other, and who had no communication that we can discover. The affinity however of Nations is preserved in their institutions after all traces of their origin have been lost. Original customs are indelible. They are perpetuated by hereditary descent.

The whole of the Bhyad being Rajputs by caste, they are also soldiers by profession, and disdain (15) every employment but that of arms. They in consequence perform the military services of their own villages, which consists in defending them, their lands and their cattle from the attack of robbers, and Katties, but for the most part, their time is spent in idleness, and dissipation.

Those who possess larger estates engage the services of their poorer relations for the same purposes.

Generally speaking however, independent of considerations of obligation of family, and of duty, the influence of the superior Chief is usually sufficient to enforce obedience from the Bhyad, and they are accordingly bliged to participate in the quarrels of the Chieftains (16)

From this description of the Bhyad, we may observe the natural tendency of each descent, or generation, to lessen by division among the descendents, the original partimony, and hence arises, a fruitful source of weakness, enmity and animosity.

National Library of Scotland: Walker of Bowland
Papers: (184.c3) Gujarat Village Organisation :pp.14-19

*Hallams History of Europe during the middle ages,
Vol.1, Pa:132

When a village becomes the joint property of a number of proprietors, much unanimity cannot be expected in the management. The shares being guided by the number of children, are unequally proportioned among those of the same descent, for some it is insufficient for their livelihood, and they seek the means of present support in mortgaging or (17) selling their shares, to the Chieftains who are most able to afford protection, or who have the most ready means of annoying them.

By the successful exertion of those means, have the Chieftains of Wudwan, Ldniree, Sylah, etc. risen to their present superiority, and the same cause will also account in some measure for the number of communities, into which the country is divided.

In this state of family connection we may observe, some of the rude principles of the early stages of society. A great degree of personal independence characterises all the Rajput tribes, and produces all the effects (18) which are common to men possessed of rude sentiments of personal freedom, unconstrained by the refinements of civilised life, or of regular laws.

The right, or the practice of revenging personal wrongs, is maintained by all, and where the parties from their infancy imbibe all the prejudices of their caste, we may expect it is often exerted.

The right of affording protection to fugitives and criminals, is also another remarkable feature in this society. It is a principle of honour which induces them to afford protection and that protection is seldom or ever violated. (19)

The certainty therefore of finding protection wherever they may take refuge, joined to the dishonour to their caste and profession, of submitting to any personal wrong or injury without revenging it, are powerful incitements to the Rajputs, or Grassias, to resort to the practice of Bharwattee.

This term is derived from Bhar, outside, and Watt a road, and implies a person acting improperly; it consists in making their Ryots and dependents quit their native village; which is suffered to remain waste, and the Grassia with his Brethren then retires to some assylum, whence he may carry on his revenge, and depredations, with impunity. Being.. (30)

..... The Ourteea tribes have multiplied from the same cause.

Wadsoor of Jhusdum is a descendent of Katchur, the son of Wala, and of the tribe Lakanee. He is addressed Wadsoor Katchur Lakanee. The other Katties, whether Shakayuts or Ourteeas, are distinguished in the same manner.

All the sons of a Katty succeed equally to the patrimony of their father.

The daughters are incapable of inheritance.

The Katties marry any number of wives, but they are generally limited to two.

The women of the Katties are (316) proverbially beautiful and graceful.

The Katties are much under the authority of these women who often incline their husbands to moderate the harsh treatment which they sometimes pursue to their captives, in order to extort from them large ransoms.

Kattyanees are at liberty to marry again, after the decease of their husbands.

In case an elder brother dies leaving a widow, the widow invariably becomes the wife of the younger brother, altho', she has had children to her first husband. This rule is never broken through whatever (317) may be the age of the parties, unless the widow positively refused to form any future connection in life.

National Library of Scotland: Walker of Bowland Papers: (184.c.4) pp.315-319: Gujarat Katties' Customs

The wife of the younger brother is never married by the elder; when therefore younger brothers die, the widows are at liberty to marry whom they please.

When a Kattyane, the mother of children dies, the nearest relations of the deceased take away the children from their father, and carry away the whole of his moveable property for their use.

The Katty is not at liberty to complain, or to make any effort whatever to prevent this removal of his (318) property. They carry off every thing that is moveable leaving him only a mare. The father is deprived of his children. They are withdrawn from his house, and brought up and educated by the family or relations of their deceased mother.

When a Katty bridegroom proceeds accompanied by his friends to the village where his bride lives, the Katties of the village, and the friends of the woman; come without the village, where they oppose with stones and brickbats, the progress of the procession of the bridegroom, who is not permitted to enter the village except he forces (319) his way, which is always attempted and often performed, or until he acknowledges himself unable to accomplish his entry by force. After this they only admit the bridegroom and one or two of his friends. The remainder of the attendants continue without the village till midnight and until they have in the most humiliating manner solicited admission.

Once admitted, the marriage ceremonies go on with the utmost conviviality and order.

The ceremony of opposing the bridegroom's procession may be equally a cession to the young Katties to defend their property, and that they.....

(V.12)

.....which are gilded or mounted with silver which is generally suspended in a short sling, over the left shoulder, and hangs nearly horizontally a little above the elbow. When they sit down, the sword is placed on the ground before them. Very hot coffee in small cups, without either sugar or milk is sometimes introduced, as is also the tincture of opium, which they call Koosumba. The tincture is not taken in sufficient quantities to intoxicate, nor to make any sensible difference, either in the speech, or appearance of the visitor. On very particular occasions, I have witnessed, the Raja and his friends, pledging their faith of friendship, and (214) sometimes of reconciliation, by drinking the tincture from each others cup-formed right hands. The Raja first washes his right hand, and hollowing it, has it filled with the tincture; the friend takes hold of the hand, and drinks the friendly pledge, from the cup of nature. He then, in his turn, washes his hand from which the Raja, in like manner, drinks the potent draught.

The levee breaks up about an hour after the plambeaus are introduced. These lights are the only ones used in the hall of audience.

The Law of this Government is (215) the will and word, of its Chief, or, more properly speaking, of his Minister.

This despotic and arbitrary Law, has, however, several useful checks, which preserves it in a wholesome state. Ancient customs, usages, and the precepts of the religion, of the various sects, or castes, of the community, are strictly attended to; and, can never be infringed with impunity, where their observance is required. The inhabitants are so tenacious of these

National Library of Scotland: Walker of Bowland Papers: (184.c) Laws and Police: pp.213-7: Extract

privileges, particularly those regarding their religious observances, or prejudices, that were these not observed, they would remove to a less arbitrary, and to a more tolerant (216) Government. They would take with them, their trade, and consequently injure the revenues of the state, they left. Hence the Chief is cautious, not to give such offence, as would tend to the injury of his own finances.

Almost every crime and misdemeanor is punished by fine, or where that cannot be exacted, by solitary confinement. During eleven years, I have known but of one capital punishment, amongst a population of 55,000 souls. The fines are heavy, and almost, in every instance, disproportionate to the crime. As crimes and misdemeanors are thus a source of revenue, the Minister (217) is cautious to establish a strict system of Police. The most secret crimes and misdemeanors, both great and small, are known to him, even from the inward recess of a family.

The Police guard with a watchful eye, over the honour of the marriage bed; and the Minister fines with a heavy hand, those who offend against it, whether male or female. Hence a great degree of decorum and morality is preserved.

It may be remarked, that the system of fining, as a punishment, for most crimes, is that generally adopted by all Asiatic Governments; both of Hindoos, and Moossulmans.. (xiix). (217)

V.13

..... It was considered that the surest guarantee of the permanency of these arrangements and of securing the fidelity of the parties, was to ensure to them the means of employment and of subsistence.

Some improvement was also attempted at this time in the Judicial system of the Guicawar; but very little progress was made. Circumstances were not yet sufficiently favourable to introduce all those improvements which it was desirable to establish.

This important object was not however lost sight of. The Executive Government was prepared to appreciate the advantages of a regular administration (179) of Justice, and it was supposed that the period of tranquility which might be for some time to come anticipated, would be favourable for introducing this amelioration.

It is probably not irrelevant to this subject to remark on a gradual improvement what has certainly taken place in the society and Government of Guzerat of late years.

In the periods when the Moghul power was most firmly established, bands of robbers infested the road, and rendered travelling impracticable, unless in large caravans, and the Hon'ble Company's investment (180) from Ahmedabad to Broach, required a powerful guard to convey it in safety.*

This reform has however become more manifest within the period that the Hon'ble Company have interferred in the concerns, and acquired interests in Guzerat.

National Library of Scotland: Walker of Bowland
Papers: (184.c.7) pp.178-90: Guicawar Justice: Extract
*Vide Ormes Historical Fragments (circa 1801)

At the time the British Troops proceeded against Kurree, the country was in a state of anarchy and confusion, and violences were daily committed; but as the authority of Government became consolidated and re-established, crimes and disorders became less frequent, and single persons now proceed with (181) confidence and security.

Altho' the establishment of a court or Tribunals distinct from the ordinary civil duties of those entrusted with authority may be considered as a great improvement in the administration of Justice, yet it is by no means to be inferred therefrom that the native governments are destitute of modes of administering justice; both creditable to themselves and satisfactory to the parties concerned.

It is but within these very few years even in the advanced stage of civilization to which our own country has attained, that the officers of Law have (188) been emancipated from their dependance on the executive branch of the Government. Another observation is that different stages of society, require a different mode of Government; and probably no tract of country in the Universe, exhibits a more remarkable gradation of civilization than the Peninsula of India.

Occasions happen in our own European dominions where necessity forces us to suspend the natural progress of Law, and substitute the more summary process of military jurisdiction; but it would be wrong from this circumstance to conclude that justice was denied, or badly administered. (183)

In the Guicawar dominions, and I believe the remark will apply to the native governments in general, the modes of administering justice, deserve attention as being at once simple, and with some modifications and attention extremely well suited to the people for whom they are intended.

In trifling cases involving neither the loss of life or limb, the circumstances of the crime or dispute are investigated by the Cutwal and

punished by the levy of a small fine, seldom exceeding 100 rupees or by corporal punishment. The Courts of the Cutwal are open to all, and the proceedings are public and the (184) amount of the causes decided in his Court, offer no opportunity for peculation; while the facility of appeal to the person of the sovereign in open Durbar, is a check on irregularity.

The Cutwal ^a daily reports his proceedings to the Durbar, as well as the apprehension of any criminal whose crimes are too enormous to come under his cognizance. In this case the sovereign or the Dewan in open Durbar examine into the case; the Prisoner is confronted with the evidence against him, and his own is heard in his defence; and the sovereign assisted by his Ministers, or (185) the Deewan by the Durruckdars,* then decided on his case. If innocent he is immediately released; and if guilty carried to punishment.

The same proceedings take place in the districts, with the difference that they are committed to writing and transmitted to the presence for approval; when orders are dispatched to the Camavisdeer** accordingly.

In civil suits, recourse is had to a Panchayat, and the prevalence of deciding disputes by this tribunal may be justly noticed as an excellent system. (186)

There probably can scarcely be a more equitable mode of deciding disputes than by referring them to the decision of impartial men uninterested in their issue. It is a mode of all others that assimilates most to the invaluable institution of a Jury. The Peers of the party are generally the arbitrators. If the dispute concerns land the Amin***, Patells@ and Desoys£ decide; if money it is

- * Manager - Generally the Quarter of the Revenue and Manager of a District.
- ** The Civil officers of Government.
- *** The Head and Managing.
- @ Patells of a Village.
- £ This a higher office: He is the Head man of the District, or of some considerable town.

referred to the consideration of Shroff; if the dispute is between two parties of opposite persuasions, each of them choose two, and the Government appoint (187) a fifth. The practice of resorting to a arbitration cannot be too strongly encouraged; it separates completely the judicial power from the executive; it ensures the administration of Justice in the most speedy manner, and without any expence; and obviates the greatest objection to our judicial forms, in the unavoidable delay they occasion. The surst proof of the impartial manner in which justice is administered by arbitration, is the general satisfaction which the decision by this mode affords.

Under the preceding considerations the amelioration best calculated under the circumstances of this country to insure the administration of Justice, would be to add some consideration to the station of Cutwal*, to associate with him in the execution of his duties a Furnaveese** /execution a Moonshee***, a Pundit@, and a Moolavy£; and to cause the emoluments of their office to be fixed and determined, and equivalent to the situation. An establishment of this description in the principal Pergunnahs%, and Cusbehst, and their proceedings subject to the (189) confirmation of the sovereign, with the liberty of appeal, would probably realize every thing that the constitution, habits, and laws of India Governments would admit.

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- ** A Minister whose business it is to keep an account of the finances of Government.
 - *** A letter writer or Secretary.
 - * The Chief Officer of Police. He also superintends the Markets.
 - @ A learned Braman.
 - £ A learned and religious Mahomedan. An interpreter of the Law of Mahomed.
 - % A District.
 - & A town and its Hamlets.

Upon this subject however it may be generally remarked that altho' the sentiments natural to our countrymen, occasion us to revolt at the idea of any individual having a power over the life, or property of another, and it must be admitted that this power exists in every despotic Government; yet it is extremely moderated by the sentiments of the public, but more particularly from the manners of the people. It would be difficult (190) for any crime of magnitude, in Guzerat at least, to escape ultimate punishment; and the reflection that they seldom occur, is some comfort; and it may be remarked that our own country is probably the only one in the world where individual justice is superior to power, and where the personal safety of the subject, or of his property does not depend on the voice of a despot.

I shall proceed to offer some remarks on the present state of the Guicawar administration, which are now however more a subject of curiosity than of any use. Most of the personages since the ¹⁹¹²...

(D. 14)

Statement of the Revenues of Dawarka,
being an Extract from Voucher No.1 to
the Letter to Mr. Chief Secretary
Warden - Dated the 23rd December 1807

Kur or fine levied from every pilgrim of a caste inferior to a Braman for permission to bathe in the Goomptee ...	14 Cories
-do- from Bramans -do- ...	11 -do-
Cheela or Passport fee ...	1 - 2 - 18

Moond or Shaving

The Thakore derives 12 Reas from the
shaving of each person. The other 12 reas goes (65)
to the Barber.

Many exemptions take place owing to
poverty, and several people fast till they are
admitted for nothing, or until abatements are
granted.

The number of pilgrims to Dawarka may be
Wittoba Pillajee's computation be estimated at
17,000 who pay 10 cories each, at an average.

Cories 1,70,000

Rupees 56,666-2-40

Mansur Chankon an inhabitant of Dawarka
states, that the expences of Manick Mooloo may
amount to about 50,000 cories; the whole of his
revenues arises from jatras and plunder; but that

National Library of Scotland: Walker of Bowland Papers:
(184.c.8) pp.614-9: Revenues of Dwaraka

these sources do not supply his expences, and he is consequently at present greatly in debt. He states that a great jatra seldom exceed 5,000 men, and that his number come but very (676) seldom; that there has not been one of any consideration since Babajee was there, now three years go; that the greatest concourse of people repair to Dawarka at the Deewalley, when they do not exceed in number 1,000, and that the whole yearly average does not exceed 12,000 who do not all pay; that therefore those paying may be computed at 8,000 paying at the average

6 cories 48,000

Rupees 16,000

Statement exhibiting the various sources of Revenue enjoyed by Suddaram Adekaree and the Temples of Bate; and distinguishing the receipts which properly appertain to each.

	C. Q. R.	<u>Revenues of the Adékaree of Bate</u>	<u>Revenues of the Temples of Bate</u>
Kur or fine for each Pilgrim	13-3-0		
Freight " "	0-0-12		
Daston " "	<u>0-0-12</u> 13-3-24		
Which yield annual according to the Estimate of pilgrims that Wittoba Pillajee supposes pay taxes 17,000 annually			
		Cories	2,37,150
Deduct $\frac{1}{10}$ for the Thakore of Aramãa according to the statement of Sunderjee Sewajee			
		<u>23,715</u>	2,13,435
Kur on Muha Pooja 19-0-24			
Wittoba Pillajee supposes that one thousand persons perform this Pooja on an average yearly, which number will yeild.....			
			19,200
Average price of kas cloth presented by devotees performing Muha Pooja, at 600 cories each.....			
			60,000
Carried over:		<u>2,13,435</u>	<u>79,200</u>

	<u>Revenues of the Adekare of Bate Continued</u>	<u>Revenue of the Temple of Bate Continued</u>
Brought forward	2,13,435	79,200
Kur on Dosur Pooja - 7 cories 1,500 of the 17,000 pilgrims are supposed to perform this Pooja, which at the above rate will yield.....		10,500
Average price of cloth presented by the 1,500 pilgrims estimated to perform the Dotur Pooja at 45 cories each		73,500
14,500 estimated to perform Cherun Pooja to 4 temples 1 corie each.....		58,000
The payment of each Pilgrim to Chobdars is...corie 0-0-1		
To Khavass or slave of the temple 0-0-1		
To Sewakar, servant of the temple 0-0-1		
Total 0-0-3		
At which rate 17,000 pilgrims will yield		51,000
	XXXXXXXXXXXXXXXXXXXX	
Carried Over	2,13,435	2,34,900
Pilgrims performing Muha and Dasur Pooja pay for incense, etc. 1-2-0		
2,500 pilgrims performing these Poojas, will yield at the above rate.....		3,750
Total Cories	2,13,435	2,27,950
Total Rupees	71,145	75,983-1-20

15

Public Expenditure in India (341-4)

(341) The expenditure of the Company in India has generally exceeded than income. This has been owing very much to the increase of the establishments and liberal allowances to their servants; but the great expenditure does not arise from large salaries and fixed allowances.

It is occasioned by contracts, an indifference to public expenditure among their servants, (342) extravagant depots in times of war of stores and provisions. The half of these depots are never applied to use, and are either condemned as unserviceable, allowed to rot, or destroyed at the end of the campaign. This expensive system proceeds from an over anxiety for security, which will trust nothing to the resources of war, and the want of just calculations. The first embassy to Persia cost 12 and the second 7 lacs of rupees.

The feeding of the publick bullocks is a heavy expence, and the source of much abuse. It is a regulation that a (343) bullock shall only be allowed so much grains a day. Many bullocks eat no grain. The Commissary instead of giving the surplus to the bullocks who will eat it, or carrying it to the account of the Company puts it in his own pocket.

The purchasing of bullocks is equally a source of fraud. The provisioning of the tropps is liable to the same remark.

The Madras Government sent Europe salt beef in casks across the continent for the supply of the troops in Malabar. The feeding of the bullocks for a small detachment at Baroda (344) amounted to 1,500 rupees daily, 45,000 p.m. and annual 5,40,000.

The large hall of the New Governor's House at Calcutta contains 96 chandeliers. To light this palace for one night requires the sum of 2,500 rupees.

National Library of Scotland: Walker of Bowland Papers: (181. d. 11)

College at Fort William 271-7 (Extract)

(276) Almost every young writer leaves the College in Debt. In this situation he looks immediately for a wife. He is sent into the interior with this additional incumbrance, and is attended by his creditor, or some one on his part. This creditor never loses hold of his victim: he manages the business of his debtor, and obtains an influence which he makes use of for his own interest, and for that of the person who owes him money, now his most confidential friend. The consequences require not to be told.

But have we done nothing (277) for India? We have meant to do a great deal. It has been the earnest wish of the Br. Govt. to make the people happy and that they should be governed by able and enlightened Judges. But it cannot be denied that justice has often been neglected and ignorantly administered, sometimes maliciously. Judges have not always remembered that their office was created for the society and the convenience of the inhabitants.

Impedimentum Exercitus (290-300)
(294)..... Asiatic armies have always (295) been reproached with their numerous attendants.

It is however a fact that the English armies in India have more attendants, than those of the native ~~forces~~, and that our camps are ^{h. powers} more filled with whatever belongs either to Europe or more peculiarly to the country. The baggage of an European subaltern officer generally occupies more bulk, than that of a native prince, or a sardar of the highest rank. A detachment of 5,000 men will contain a greater number of Pallanquins than an Indian army of 50,000. *

National Library of Scotland: Walker of Bowland Papers: (181. d. 11): Embassy to Candia (Ceylon) pp. 1-195: India (Baroda etc.) pp. 197-722: Vaccination 429-34, Native view on Justice 417-25: Consideration on Employing Negroes as soldiers in India pp. 345-404: Walker Reply 20-6-1805 to the query of G. G. Query

*New para on page 296: These remarks particularly apply to the Bengal army.....

V. 16

Remarks of a Native of India on the Company's Courts of (Justice) Adawlet.

The natives of this country are sensible that the Company have established these courts with a good intention, but they are generally disliked; especially by people of any respectability. The tediousness of their processes, and the length of time, that must pass before any suit can be determined, is considered as a grievance (418) by the poor as well as the rich.

Men of rank are disgusted from the contemptuous treatment which they often receive, and a total neglect of attention to their condition of life. There is no place allotted for their reception in our courts, and they find themselves ~~not~~ crowded into an open room, where they are obliged to mix indiscriminately with Dheres, and other degraded casts. Rather than submit to this humiliation and degradation, many respectable (419) and honest men will sooner submit to an injury, than apply to the Company's Courts for redress. On the other hand the low, and often the most worthless part of the community, are encouraged to complain, to insult and to triumph over their superiors.

The manners of the Magistrate also, are not always calculated to ensure respect, and "sometimes his seat is filled by young men who have not attained "the age of Manhood."

N. B. There is but too much (420) truth in the preceding remarks. That principle of the English Law (which by the by is even in England more a principle than a practice) which considers all men to be equal, is not adapted to the habits and sentiments of the natives of India. That justice should be equally administered to every class of Mankind they readily agree to, and admit; but they conceive that the mode of conducting the

National Library of Scotland: Walker of Bowland Papers: (181. d. 11) pp. 417-25: Company's Courts of Justice (written 1807)

proceedings should respect persons. I believe in the English Courts of Justice (421) at home, that more attention is paid to a man of rank, and of education, than the ordinary criminals. Those who are emphatically called gentlemen are supposed to possess more acute feelings and to be less capable of guilt than men of inferior condition. This may be generally true, tho' false in many instances. We may ask when it is not the case, of what use is their superiority in knowledge? In India every endeavour should be made to render the proceedings of our Courts (422) of Justice popular.

It is of no use to enact the best laws, if they are not agreeable to the people. The effect of the procedure of our Courts, is to inspire the natives with notions of equality, and with notions little compatible with a reverence for Government itself. They dispise rank which they see disrespected, and they repose all their consequence in money, which enables them to support a Law suit. Such a disposition of mind is more likely to loosen than to (423) secure the ties of society.

These observations were suggested by a view of our provincial courts, but they are applicable to those which have been established under acts of Parliament at the Presidencies.

It might be useful to enquire what effect the great importation of Lawyers has produced within the last 25 years in India. I do not believe that they have improved the happiness of the people, or exalted the character of the British (424) Government. As the institutions however of the Provincial Courts are founded on the written laws and usages of the country; and are meant to respect even the prejudices of the natives, their forms should of course be conducted as much as possible in conformity with their ideas. They cannot be useful unless their administration is agreeable and acceptable to the people.

A distinction in favour of casts in India and attention to rank, or respectability, is as essential as integrity in judging, and for reconciling the natives to a regular system of justice.

It is to be observed that their objections are not to the impartial administration of Justice, but to the mode in which it is administered.*

*1807

V.17

Judicial Error

An anxiety to detect errors is so sometimes the means of increasing them. This is often the case when we draw general conclusions from single facts. An ardent mind and a love of truth, may excuse error originating in these sources; but it is less pardonable when wrong opinions are propagated from prejudice, negligence, or indolence and under the sanction of high authority. It can be no excuse to (626) say that the means and opportunity of enquiry were wanting. I shall relate an instance of this method of producing false impressions which occurred on a trial before the Recorders Court at Bombay, and which was embodied in an eloquent speech.

A female evidence, a native of Ahmedabad, was questioned on a case of murder, to which she was supposed to have been privy, and she was accused of having concealed her knowledge of the crime. She excused herself by pleading that in her country every person was forbidden (627) to speak of murder and that those who talked of it were severely fined or otherwise punished. That it was a common crime, and no body thought of punishing it. This absurd ascertainment of an infamous woman was believed, and I was requested by the Governor of Bombay; being at that time the Resident in Guzerat, to enquire into the subject, and to express the strongest disapprobation of the British Government at the prevalence of such a disgraceful law. It was found that there was not a word of truth in what the woman said. (628) On the contrary it appeared that no fine (which she insinuated to be the case) was levied for giving testimony in a case of murder, but that those who concealed what they knew or gave a false testimony were fined or otherwise punished. In Mahrattah Governments however it is not uncommon to sell even justice and a bribe may serve a murderer.

National Library of Scotland: Walker of Bowland Papers: (181. d. 11) pp. 625-28: Judicial Error

V. 18

The Regulations

The attempts to introduce into our Indian dominions a regular system of administration and of Justice were for a long time confined to Bengal. It was from that Presidency that we appeared to derive all our knowledge of the natives and of the country. Everything proceeded from thence.

Money gained respect and wisdom. The superiority of Bengal in both was not questioned. (302) It was there where the idea of dominion was first conceived, and where we boldly and directly assumed the authority of sovereigns. Was it necessary that we should become legislators? The Laws of the country were sufficient to keep men in order. They were authorised by custom and familiar to the people. They were perhaps too numerous, and they were contrary in different parts of India. We began too soon to legislate, and before we were sufficiently acquainted with the laws and customs of the country, the regulations therefore which (303) issued from Bengal had not their foundations in experience;— and were less suited to the habits of the natives than to their foreign rulers. They related more to forms than to law and custom. The fame and reputation however of these regulations spread to the other Presidencies. It was sufficient that they came from Bengal. No man called in question their adequacy and fitness for every part of India, however dissimilar the manners, habits, and civilization of the people. They were like a French constitution to be adopted in every situation. This prejudice has now in some measure (304) been overcome. Long repose and the Regulations themselves have blunted the energies of the Bengal Gentlemen. The enquiries, the exertions, the practice and experience of the other Presidencies have collected a vast mass of information. The customs and manners of the people have been more completely laid open. Nature and long custom are the best foundation of Law. We begin now therefore to see the propriety of adopting our judicial regulations to the various condition of the inhabitants of India. This is the real commencement (305) of a regular system.

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National Library of Scotland: Walker of Bowland Papers: (181d11) pp.301-6: The Regulations

The form and essential convenience of every Government depend upon custom.*

The people of Bengal were the first who began to give Laws to India, and they were perhaps better qualified than their countrymen at Madras and Bombay at the time they had certainly more knowledge of the country; but it was a state still of precocity, and the attempt was made too soon. The other Presidencies who have begun later will probably succeed best: they have the advantage of more experience. They are now for the (306) first time making the experiment, and will avoid the errors of their predecessors. They will take nature and custom for their guide, rather than theory, and refrain from an attempt to introduce what they may consider the best form of Government. The saying of Solon should be the golden rule: when asked whether he had given the Athenians the best laws, "Yes," said he, "the best they could bear."

*Montaigne

V. 19

Government of India

The Government of foreigners must always be odious to those they conquer and govern. It can never be conducted with the genial feelings of natives. Hence the conquered are ever desirous of changing their masters, even when they cannot aspire to free themselves entirely from same (the?) yoke. But they hope for some improvement by a change, and they wish to punish or revenge themselves on their old rulers. This gratification is but short: it is only (670) so long as the new conquerors require assistance that they show the natives kindness and fill them with assurances.

It has always however happened, that the inhabitants of a country in the possession of foreigners have united to expel their present masters, and the fresh invaders flatter them at first that they are less oppressive and more humane, but this inspires a false hope; the same avarice, tyranny and arrogance will prevail. These are the eternal laws of conquerors, however they may be softened by the humanity of individuals (671) and the ordinances of Governments.

The most effectual way of ameliorating the condition of a conquered people, is by colonizing amongst them. This is exemplified in the history of all nations and particularly in that of our own. The tyranny of the Norman conquerors had no bounds, until they were softened into a part of the people. We can then only feel as they do, and act honestly by them. It is then that conquerors acquire the feelings of the natives by really becoming so. The English Government in India (672) is peculiarly liable to this defect and it is truly unpleasant to hear from our own pens and mouths the frequent praises of our own administration. It is a species of egotism of which an individual would be ashamed, and so ought a nation. It is the administration

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Papers: (181. d. 11) pp. 669-704: Government of India
(circa 1805)

of a few foreigners totally separated from the natives by manners, religion, customs and language. The numbers are too few for the various purposes of Government, and it is a cruel mockery to tell the natives, that the white men scattered thinly over the extensive Kingdoms (673) of India can shield them from oppression, and perform for them all the simple but extensive duties of a Paternal Government. We form no part of their society. We dispise their company, and treat them on every occasion with marks of disdain or inferiority. They hold neither honourable nor lucrative employments under us. We engross every thing ourselves, and employ the natives only in mean and subordinate stations. They are never associated, tho' they are sometimes called in when their assistance is necessary and then discharged. This exclusion is neither justified (674) by a want of capacity, nor of integrity among the natives; but how can we expect honesty and truth from men who are never trusted and always suspected?

The youths whom we send to administer the most solemn functions of Government are frequently unfit for their tasks. Their years, their want of experience, and education are disqualifications which deprive them of the respect and esteem of the natives.

There is no official European who looks to end his life in India. This is a misfortune to (675) that country. The object of every man is to acquire wealth, and to return to his own. Philanthropy and good intentions which many of our countrymen display in an eminent degree, will do something, but a stimulus for the permanent weal of the community is wanting; and the temporary efforts of a few men are insufficient for the prosperity of such a vast population. The intentions of the Company's Government are benevolent, and honestly meant for the advantage of the people; but the benefits of thdr regulations under the circumstances I have mentioned (676), can be but imperfectly realized. Many of the duties of Government are entrusted, tho' indirectly to natives; but this is from indolence and incapacity.

Almost every European servant has a favourite native, and it is astonishing what power and ascendancy he soon obtains. These native favourites are generally men of low origin, tho' of great shrewdness without much education, but possessed of much art and strong natural endowments. This kind of agency is not at all interested in the welfare of the country, and forms in many cases an odious (677) species of oppression. Through this medium the European Gentleman is never well informed, and the inhabitant who has no other channel of justice, or means of obtaining redress for his injuries, soon gives up the pursuit and submits in silence.

It is only at the three Presidencies, or at a few of the principal settlements, where a considerable number of Europeans reside, that the inhabitants enjoy a tolerable share of the advantages and evils of an English Government. In these situations our connections are more (678) permanent, and the rights of colonies, in which light such places may be considered, are regarded. From this slight sketch it will be evident, that the benefits of our Government are not so considerable as the intention of it is good. The professed principle of it is impartial justice, and as far as the Company's servants are capable, that is in general honestly administered; but they are too dilatory in their proceedings, and the vexations and delays that attend our Courts exhaust the patience of the natives who would rather that they were accessible to a bribe. It is (679) but just to observe that the Company's servants cannot now be reproached with corruption, and that peculation which was so frequent formerly does not exist at present. The chief Governments have been for many years in the purest hands, and but little mercy is shown to persons convicted of dishonest practices.* The transactions of Malabar may be brought in proof of this assertion. But the

* This requires some qualification. The public is still plundered by Commissaries and contractors; but as they would be punished if discovered they are obliged to carry on their operations very secretly. This necessity for concealment occasions perhaps no new crime.

essentials of Government are still wanting. There is no link, nor any connection sufficiently binding between the Government and the people. We have transported (680) the treasures of the country and undermined its commerce. How many chances are against an Empire founded on such foundations, and can its overthrow be much regretted by the natives? Who would rise in its support? What state or Government is there who would voluntarily shed blood and treasure in its defence? On the first reverse of fortune our allies, enemies and subjects would be equally hostile. This cannot be doubted. Our empire then in India is not established on a durable basis. The people cannot feel any veneration for our (681) laws and institutions. As we have acquired their obedience by force, so we retain it. This is the hold, the bond by which we possess India. It is supported by the charm of a long series of success, but like other charms it may be broken and the vision would then vanish in an instant.

Where the natives are unchecked by the presence of Europeans, or rather where we have not begun to controul them, we can alone view their characters in a true light. We shall find them in those situations gay, mirthful, living together apparently (682) in great harmony and maintaining with each other a friendly intercourse. They are glad to see the stranger and he is received with hospitality. They are not abashed with his appearance amongst them; they invite him to their shows and entertainments. They are delighted and amused if he should seem to relish them. Their pastimes are innocent joyous and childish. This is the opinion and which a European is most likely to form, but before he condemns he ought to reflect on the force of customs and how various they are in different countries. The mode (683) of life of a Hindoo is not easily altered. His passions and taste are quite different from those of an European. Nothing can be stronger than this contrast. But he is less fond of glittering show, numerous attendants and processions than the Mohomedans.

He has however fallen into them from long intercourse and they agree very well with his taste. The Hindoo shows are perhaps less orderly, less gaudy and splendid, but he enters into them nevertheless with all his heart, ceremony and etiquette have a high degree of importance attached to them. It is only by (684) this kind of association by meeting a Hindoo in his own country, by familiarly observing his domestic habits, that the manners and character of the people can be known. We must see him at home with his family; we must see him in public; join in his nautches and amusements. We shall then be less disposed to despise his enjoyments and rather become desirous of partaking of them. We have at present very little of this kind of intercourse with the natives of India, and it is daily diminishing.

We are ashamed of native habits, and consider their acquaintance (685) even as beneath us. We endeavour to destroy the ancient feelings of the people; but this will never be affected by treating them with contempt. Their nobility, their men of rank and family are gradually falling into poverty and ruin. This is the effect of our system of Government. They are not employed in any office of the least confidence; they are not admitted into our society, or they are admitted on such degrading terms that men of merit and spirit keep aloof from an intercourse from which they have no advantage to expect. (686)

But why should we attempt to destroy their ancient habits? We shall only introduce in their place vague and heterogenous notions. We shall break the attachment for old things, without producing an attachment for new. The subversion of old feelings is the surest way of demoralising the people. This is true every where.

Besides we offer the natives of India nothing in return for this sacrifice. They can never aspire to any office of profit and respectability; but are doomed to languish ~~to~~ ⁱⁿ poverty and obscurity. There is no hope of power (687) and splendour; not even of confidence. We wish

to destroy the usages of the people and to level them with the earth.

This is a picture different from the common representation of the state of our Government in India. But the scene is before me and the description is taken on the spot. I might have hesitated had I not seen it, and I own myself at the same time to be a sincere well wisher to the Company.

It has been assigned as one reason and almost given as an apology for extending our government in India, that it (688) is the only means of affording protection to the inhabitants and of reforming the abuses of the native system. It is said, therefore to be more agreeable to them and that they prefer ours to their own Government. We must take care not to be deluded by this language from men who see themselves firm under our power. Plutarch observes that the pretence of civilizing barbarians formed a very plausible colour among the Romans for their lust of new acquisitions.*

It may be remarked, that the Moguls, the extent of whose empire scarcely equalled the British (689) dominions in India, were incorporated with the people. They were a colony sufficiently numerous, including the rest of the Mahomedan inhabitants, with whom they were confounded, to fill the offices necessary to discharge the details of a great Empire. They associated however many of the original inhabitants with them, in these great labours. The finances were generally in the hands of Bramans who were connected by similarity of dress and language with their conquerors. These were often connected by marriages with the principal Hindoo families, (690) and a Hindoo Raja might see the offspring of his daughter seated on the throne. Hindoos often commanded armies, and held not only the first offices, but attained to the highest ranks of

* Life of Pompey.

nobility. They were proud of these honorary distinctions, and all the Mahrattah Chiefs, from the Paishwa downwards, affect these at this day; a strong proof of the deep hold of the Mahomedan Government and of the impression which its institutions had made on the minds of its Hindoo subjects. Would it be advisable to create an order of nobility for (691) the natives under the British Government? Ought this order to be derived from a native source as the Emperer, or from the King and the Company? The titles ought to be in Persian. They have been used to this language and it seems peculiarly adapted to honourary rewards, which Hindoos and Mahomedans are equally inclined to hold in veneration. It may be mentioned as a proof of the incorporation of the Mahomedans with the natives that their language was used by the latter in much of the common business (692) of life. Many Bramans still write it with elegance and continue to study it in places where the Musselmans authority no longer exists. I shall only remark that honorary rewards would be a cheap way of rewarding services and merit. It would also probably be an effectual way as we have seen its influence with every ancient and modern nation. Such rewards however must be given sparingly and only to men of worth and excellence, otherwise they would lose their chief value.

Notwithstanding the supposed (693) effeminency and unwarlike character of the natives of India, and the facility with which they have been overthrown in battle, the conquest of their country has not always been easily accomplished. Their History affords another to the numerous examples of the difficulty of overcoming and of extirpating the aborigines of a country after they have advanced in civilization and population. They are like the weeds or plants of the soil inextirminable.

We may carry this position farther and observe from the History of India that the conquests

and settlements of foreign (694) nations in this country have been durable in proportion as they have approached the state of a colony. It was only by numbers that they could make a lasting impression. The Pattans, the Dutch and the Portuguese are examples whose History will serve, to illustrate this proposition; while the Persians, the Moghuls and the English will establish its reverse. The Persians carried on many bloody wars for the sovereignty of India, but although they were victorious, their numbers were too few, to establish a permanent and national interest. They consisted (695) only of the soldiers of the Army. When the Pattans conquered India they came in Tribes or nations with their families. By a terrible persecution they endeavoured to destroy everything belonging to the ancient people, and by conversions to their own faith, they spread their name and power. The Pattans soon became a considerable part of the population of India, and although inferior in point of numbers to the Hindoos, they established in every part of the country colonies which were a counterpoise to the original people; (696) they were sufficiently numerous to connect the soil, if the expression may be used, with the Governing power.

The Government of the Moghuls succeeded that of the Pattans and although it was administered for a long time with ability, and with much humanity, yet it has had less stability, and now that the power of both nations is extinguished, the Pattans still survive as a people. Some of their ancient dynasties or petty principalities remain, and they compose at this day a very great proportion of all (697) the Armies in India.

The fierce battles which the Moghuls for ages fought with the Pattans to acquire the supremacy in India will illustrate another part of these remarks.

The Moghul armies only settled in India and many of these were Military adventurers without families.

They never assumed the form of a nation, and with the fall of their power their importance disappeared. They seem to have followed a policy something like the present system of the English, and to have maintained (698) their Government by the force of the natives themselves.

It is something remarkable that we have spread our colonies into many of the most sterile and forbidden regions of the Earth; but we have retreated from India as if it were an unhallowed unfruitful and barren land. It is true that colonization into India has been discouraged by the British Government, but it has never been forbidden, and had any of the numerous families who have gone thither settled themselves in that country, who (699) would or could have prevented them so doing? Men of all ranks are allowed to go there with their wives, many remain until they have large families, and until they are overtaken by old age; but none think of remaining there for life and of leaving their posterity in the country. I do not recollect at present of two generations of European blood in any of the Company's settlements. This is not the effect of any positive law of Government. Neither does it proceed from climate or any natural cause. We have colonized in the West Indies (700) and other tropical climates less pleasant and less congenial to European life than the East Indies.

Whence has it been proceeded? Habit and the force of custom have had great influence in this determination. The idea of making a fortune and returning with it has been the sentiment of our countrymen invariably since they first visited India. This has a powerful hold in their imaginations, and nothing certainly can be more fascinating. We found India full of inhabitants, and with manners so contrary to our own (701) that we probably in the beginning acquired a dislike to remain in the country. This prejudice had no influence with the Portuguese who from the very commencement adopted a different system. They encouraged and almost forced men to settle. Every European nation has done this more or less but the

English. We have by this neglect deprived ourselves of the most natural tie with India. It was the policy of the Romans to secure their conquests by colonies. A great number of families were selected and sent abroad (702) where they founded cities and camps, and raised soldiers. These were retreats sought for by the people who spread the Roman name and language, and supported their dominion. They became the cultivators as well as the conquerors of the land.

The situation of the capital of the British Empire in India is more favourable for its connections with the mother country than to maintain an authority over extended and remote regions. The capital of an Empire should not be fixed at its extremity. It seems requisite that the chief seat of Government should (703) be in the midst of its provinces in order that it may be properly connected with the people, that its orders may be promptly circulated, and that the influence of its authority may be universally felt and diffused.

The two other Presidencies in India have the same defect as Calcutta and tho' subordinate to the Supreme Government may be considered as the capitals of separate states.

This accidental arrangement of power, tho' at first it appears an objectionable anomaly in Government, has been one of (704) the chief causes of our success in India. It excited emulation, gave opportunity for ambition and exertion. In the hands of able men it even gave vigour and support to the general authority. The energies of government were collected at three distinct points, and while the whole acted in concert, the military spirit had a more various field, and vibrated with more force and efficacy. It was the individual interest of each to increase its own power, and the interest of all to support the general influence.*

* Baroda 1805

V. 20

(71)

Native Troops

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It has been found more difficult of late* years to recruit the native forces in the Company's service than formerly. This difficulty has been experienced every where but in Bengal. The men also who enlist are more disposed to desert, of an inferior quality, and less animated by a Military spirit. It might have been expected that the facility of obtaining soldiers would have kept progress with the (310) reputation of our Arms; the extension of our Empire, and power. That it has not followed this progression must be owing to some unfavourable circumstances existing now which did not prevail formerly.

It may be useful to consider those circumstances, as it is a remarkable fact that European Regiments who have been ten years in the country, are nearly as complete as some of our native crops.

The natives of India who enter our service are mercenaries, but extremely sensible (311) of good usage, kindness and humanity. The regularity of their pay is undoubtedly an object of great consideration to them; but they value still more a gentle treatment, a courteous and even a familiar conduct.

This system was much more observed by European officers towards the sepoys formerly, than at present.

Our system has also been counteracted by the native powers. They have of late years entertained large bodies of regular troops, officered armed, clothed and better paid than (312) Company's sepoys.

The fluctuation, and incommodiousness of dress, are great causes of discontent to the sepoys at present. The deviation from the modes of the

National Library of Scotland: Walker of Bowland Papers: (181. d. 11) pp. 309-24: Native Troops (enica 1806)

*1806

country excites a dislike, and is inconvenient. The turban of the English sepoy, and the cumberband, may be cited as strong examples of this remark. The covering for the head should be easy, light and clean. The turban of the English sepoy is heavy, and made on a frame of iron or copper, or according to some of the latest improvements, cloth sewed over a (313) cap or basket of canes. The inside is stuffed, or filled up with rags. It cannot be taken to pieces and washed. It is consequently filthy.

The cumberband as the name implies is a wrapper for girding up the loins, a practice universal in this country, and essential for preparing the body for fatigue or exercise. It is evident that this part of the dress should be pliant and fitted to the body. The cumberband of the English sepoys is made of leather, covered by a simple piece of cloth, which is intended to give it (314) an appearance of softness, and contrived to buckle behind. The cumberband has been discontinued in the Bombay Army* and the native soldiers is deprived of a national and useful article of dress.

These changes are also expensive to the sepoy, and together with the ornamental part of his dress have become a considerable tax on his pay. The cholna is another article of the native cloathing which is frequently rendered very inconvenient and even useless to the wearer.

At one time, they were worn so (315) short as scarcely to come half way down the thigh, and bound so tight as to lacerate the flesh. In this casing the sepoy had but half the use of his person. He could stoop with difficulty, and was incapable of any violent exertion. At the same time his turban was so little fitted to his head, that in charging, running, and in any other ordinary action, he was obliged to keep it on with one hand, and to poise his body with care lest he should split, or disorder some other part of his dress.

* 1804

The cholna was next extended into a Pantaloons and this was afterwards (316) curtailed to a drawer which reached below the knee. These changes took place in the course of a year on the Bombay Establishment. It is not argued that the dress of a soldier, is not an object of great importance, but this should be suited to his habits, the climate in which he acts, and should be proportioned to his finances.

Uniformity, the principal military object is easily attained. Exclusive of this the essential qualities of a soldier's dress in India are ease and cleanliness. He is himself supposed to be cleanly and his comfort is to be consulted (317) by means which would afford an opportunity for a full display of his natural activity.

The sepoy would readily adopt any fashion which would improve the comforts of dress. The highest cast, amongst them, would prefer a Scotch Bonnet to the cumbersome turban which they are obliged to carry on their heads at present.

The natives of India are incapable enduring the utmost rigour and tedious frivolity of German discipline.

A Corps which falls into the hands of one of these furious tacticians is in a short time frittered (318) into a skeleton, and it soon loses its spirit.

We should only aim to introduce amongst these people a moderate state of discipline. Ought we not to be satisfied that a corps of sepoys moves with precision, knows the use of the firelock and is obedient to command?

With proper attention and instruction, they very soon acquire a respectable proficiency in these most essential objects of discipline. It is not necessary for this purpose to fatigue and harass them with long parades. This practice indeed is the ruin of the service (319) For what

desert. Neither are furloughs easily granted, and I have known men who have been 40 years present with their Corps.

The force of these remarks will appear now strongly, when we advert to the state of Corps at the same station; where one will be complete, and find no difficulty in procuring men, while another is disgraced (323) by perpetual desertions, and without half its complement. This arises entirely from the difference of treatment and conduct of the officers.

In the etiquette of dress some very injudicious attempts have been made to change the habits of the sepoys by making them cut their hair in a particular form, to cue it, and to wear black leather stocks.

Besides the childishness of these attempts, they are directly contrary to the religion and prejudices, of the most respectable natives. It is a direct attack upon cast and (324) we have seen the consequences. We ought to be guided by experience and example.

V.2

(pp.13) It is mistaken to conceive that the nations of India are insensible to their present degradation. All the native governments feel this unquestionably and the people frequently partake of the sentiment. The Rajpoots and the Mahrattahs are interested for their national honour and independence; of which they entertain high spirited notions. The distinctions of Toppa Wallaha (pp.14) and Pugga Wallah have their origin in a strong national feeling. These terms have more than once been made the signal for the recovery of their liberty. They may be compared to those of gulph and Giletteni. They are meant to distinguish the true Indian patriots who are ready to assert the freedom of their country from its (pp.15) conquerors, and their partisans, whether natives or strangers.

(pp.22) Much has been said concerning our early mistakes and errors and bad government in India. The tyranny, venality and oppression of the native governments have also afforded a fruitful theme for declamation; and have been adduced as the grand arguments for assuming the administration of a country where we possess no natural rights.

Without entering into a (pp.23) formal examination of these questions, it may be observed, that the faults on both sides have been exaggerated by ignorance, prejudice and interest.

The Company's servants were neither to an extraordinary degree corrupt nor cruel.

The population of the country, its numerous manufacturers, the state of cultivation and the multitude of wealthy and populous cities and ought (pp.24) to be

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evidences that the native governments were not so abominable as we have described them, and that they afforded a tolerable share of security. But what are the obligations that the Company have incurred in superceding their governments? They are bound to act towards them justly and to guard them from oppression; but the duty like every other duty is limited, and the Company (pp.25) may be satisfied to improve the condition of their subjects commensurate with the means of the country. They are not bound to extract debts to secure them in a better government.

Whatever they suffer less and whatever danger they may be more free from than under their native governments are positive gains and advantage derived from the Company.

(pp.31) This subject must be resumed in Europe.....