

Police  
includes Madras  
petition of 1807.  
- Sir Henry Guillim affair

X

4th copy

(not for publication)

ORIGIN, PRINCIPLES AND STRUCTURE OF THE MADRAS POLICE

(1806 - 1807)

X

(Compiled : Dharampal)

1966-68



(8.1)

From Sir Thomas Strange, Chief Justice, Supreme Court,  
Madras to Lord William Bentinck, Governor: 26.7.1806

To  
The Right Hon'ble Lord William Bentinck

My Lord

The Supreme Court sitting, I have been prevented as well by the ordinary avocations of the week as by the mislaying of (6859) a particular paper connected with the subject, from complying till now with the wish your Lordship was pleased to express to me in conversation on Sunday last, for my submitting to you my conception of the fittest means to be adopted, toward the establishment of that great, and at the moment, -for obvious reasons urgent desideratum of something like an efficient system of police for this Presidency within what are usually called the limits of Madras.

I shall forbear on the occasion to do more than allude to those reasons, which seem at length to render a measure of the kind an object of something like first necessity to our personal and political existence. No one can be more sensible of them than your Lordship. Be assured however that in whatever degree you feel them you are far from singular. As many soever among us, adverting to the state of the native population of Madras, and our most exposed intermixture with it, have reflected (as none (6860) can have failed on their pillows nightly for some time past to reflect on the alarm that has been recently excited, by occurrences that have scarcely had their parallel in the history of British India) So many, it may be believed, do most fully sympathise with your Lordship in the degree of your anxiety on the occasion (as I intimated before) whatever it may. He must be indeed very callous, or very sanguine, who does not perceive to the quick the danger of the horrid example that has been so lately set at no great distance from the seat of Government, as well as the tendency of the disquiet that continues to agitate

IOR: Madras Public Consultations: P/ /



the minds of the native soldiery, by whatsoever causes excited. Whatever these may have been, they would appear, according to their respective modes of operating, to have affected at once both the Kshatriya Mahomedan and Hindu. Each appear to have expressed in too sensible a manner their resistance to legal authority; each to have been concerned in the butcheries to which I allude. To (6861) what extent the contamination may or may not spread throughout the people at large, if measures of precaution be not quickly adopted, it may be difficult to say and dangerous to trust. Not confining our attention to what has recently occurred, but looking back to antecedent events, it may be said, without risk of contradiction, that, from the Mussulman of every description, every thing is reasonable to be apprehended. This is not the place for detailing the natural causes of his discontent and disaffection. They are obvious, and manifold; and, in this part of India in particular, his wounds continue to bleed. It is also notorious, that he is, by nature, revengeful, subtle, bold, and sanguinary. He is capable of devising the most atrocious plots, in the execution of which, fatal and recent experience has shewn that he is not of a temper to hang back.

In addition to such (6862) prominent causes of alarm, is to be taken into account the number of foreigners, said to be diffused within these limits, not prisoners of war, but harbouring probably every disposition with which prisoners of war may be presumed to be actuated, of combining for dangerous purposes; with the advantage in forming and executing them of being at large. Your Lordship best knows to what extent the information of Government reaches, as well with regard to the numbers, as to the characters and pursuits of persons of the description to which I allude. The mischief of which they must be capable especially after what has lately happened must be incalculable and, in the same degree an accurate report concerning them, with a vigilant eye over so many of them as may be with prudence permitted to remain at large among us, would seem, one would think, to be a matter of no small importance.

In addressing your Lordship (6863) at present, my object is merely to suggest what would appear to be



the best practical step to be adopted in the first instance, toward interposing some system of superintendence, more adequate than any that exists, for the purpose of guarding as much as possible against the dangers with which we are surrounded, and the evils we have just reason to apprehend. It is no part of my intention, because I do not think it necessary neither am I prepared at this moment to trouble you with the universal requisites of such a system, as applicable to the whole of our local exigencies. It may be time enough even to enter upon those which may be deemed indispensable, when you shall have received their report from a committee, which, under the sanction of your Lordship's directions, I mean to propose, whenever such a report shall be ready (and it cannot be called too soon) It may appear perhaps that with regard to collateral object, and an (6864) infinite detail to be found among the theoretic writers on police, it may not be necessary or desirable to lay down in the first instance any positive instructions. Communicated by your Lordship, I am in possession of a considerable body of written information and suggestion on the subject, compiled at different times for the use of one or other of these our Indian settlements. Into these documents I have not only not as yet had leisure to look, but I have rather avoided embarrassing myself with their apparently multifarious particulars, in preparing to submit to your Lordship one or two simple propositions to begin with as introductory to the object in view. Before such general ideas can have had their effect, I shall have given to the whole a diligent perusal, so as to be prepared, should it be wished, to lay before your Lordship my mature thought, upon an examination of their contents.

In the meantime, it must (6865) strike every one, reflecting upon the subject, that much cannot but depend upon the characters and qualifications of the persons to be eventually selected for the charge that may be expected to result from the report of the committee to be proposed. To the prudence and information requisite for it, it must be made demandable of them to add unceasing vigilance, and incorruptible integrity. These qualities, like most other things, are to be purchased. The object is of incalculable ; \* and men must be stimulated to great exertions in the public service, by honors and rewards liberally disper



sed. The history of nations evinces the wisdom of this policy. Persons of the description to which I allude, animated by a generous interest manifested by Government in their labours, will be the fittest, by degrees, as experience dictates, and essentials shall be provided for, to suggest and recommend to Government an extension of the objects of their superintendence. They will (6866) become a kind of standing committee of improvement for the business of their commission, which once well established, will, I will venture to predict, not be long in vindicating the expediency of the measure, by the accomplishment of whatever may be reasonably expected from it, under novel and peculiar circumstances of difficulty and danger.

There are two considerations of no small moment in the contemplation of the object in question, which taken together, constitute the principal indeed the only embarrassment that occurs to me in the formation of such a system of police, (much more efficient than any that exists at present) as I have ventured to assume to be necessary for an immediate security.

The one respects the powers of Government to establish such a one; it being evident, that the stream cannot rise higher than the source, that the delegate (6867) cannot legally exercise any power not communicable by his constituent.

The other regards the ways and means by which Government may be enabled to provide for the expences attending such an establishment of the kind in question, as may be deemed expedient.

To dispose of the last first, being a consideration of comparatively less difficulty than the former, there will be the funds arising from the extension of the assessment, which I understand to be proposed as also from the Polygar's fees. Your Lordship probably knows their nature and extent, and if not the means of knowing them must be within your immediate command. Whatever deficiency there may be, it must, I presume, be supplied by Government.

If an establishment of the kind in question might



be dispensed with, it ought not to be proposed, at a moment especially when no one can doubt your Lordship, being abundantly occupied with other important subjects; and when it is probable that the treasury has demands upon it, not requiring to be wantonly or unnecessarily augmented. If on the other hand, in proportion to the good of which it may be productive, together with the expediency of such a measure combined with the expence that may attend it, it is not easy; as I apprehend it is not, to state one of a local nature, applicable to the seat of government, that calls more immediately for its serious attention, then perhaps the question of ways and means must be allowed not so much to signify. If Government possess the necessary funds for the purpose, no matter from what source, it will probably conclude, that they cannot be more beneficially applied; and it may be expected to apply them accordingly, not in the nature of a stinted boon to individuals, but with a liberal as well as (6869) anxious zeal to promote an important branch of public service .

With regard to the necessary powers for the purpose I cannot but observe that the Presidency is, with reference to the circumstances of the present moment especially, in a state extremely to be regretted. So far as I am aware, Government possesses no power of correction or punishment which it can legally delegate in a civil cause, within the immediate limits of the jurisdiction of the Supreme Court. It can with the intervention of the Supreme Government appoint justices of the Peace, but with much less than the ordinary powers belonging by statute to that office; less I fear, than the powers essential to the attainment, by moderate, summary discipline, of those purposes of prevention and coercion that are become so indispensable. In this respect Madras is under a disadvantage as compared with Calcutta where such power may be exercised within the limits of that town, a provision most unaccountably (6870) not extended by the act that gives it, to the two subordinate Presidencies.

The existence of a jurisdiction whose duty it is generally to keep all the legal jurisdictions at the Presidency within due bounds, I mean the jurisdiction of the Supreme Court must render the want of the powers to which I allude, so long as such want shall continue, frequently a circumstance of considerable embarrassmer



as it is in itself a palpable evil. It is astonishing how we have gone on so long without it. The exercise of it <sup>has</sup> in fact often been connived at by those by whom it might have been controuled. It was for the public good that it should be so, and presuming the trust in contemplation to be continue to be vested in persons, of a character and temper to afford every presumption against abuse, it would appear to me that connivance might become a sort of duty, till it should be possible to obtain from home, what no time should be lost in (6871) seeking, a remedy from Parliament for a defect so glaring.

At the same time, it would seem also to me, that the exercise of whatever authority it might be desirable should belong to the administration of the police exceeding what would be legal, the responsibility should be left entire with the persons to be selected for the charge. It would not be consistent for Government to be undertaking to confer powers which it might not be the strict duty of the Supreme Court to enforce. Government must or ought at least never to be found in the wrong. It is ever to be regretted when things are so circumstanced, that an obscure individual find himself warranted perhaps in calling upon the judicial to interfere against the acts of the executive, or against those whose only justification is under its orders. It will be time enough however, to consider the powers to be conferred, or the instructions to be given, when, after (6872) receiving the sort of report that has been alluded to, Government shall feel itself prepared to enter upon the final arrangement. It is certain that the basis can be no other than the ordinary commission of the Peace, to be applied in a manner the most beneficial that circumstances will admit.

For the purpose for which it is proposed, in order to prepare the groundwork of future establishment, it is of less consequence what instructions shall be given to the committee, which it may be found expedient to appoint. I mean, that it is of no legal consequence. Power here, obnoxious to legal check, is out of the question. Enquiry, information, suggestion and opinion will be alone in view. For these ends, it will I conceive be best to have one composed of persons, whose combined knowledge, sentiments, and habits would adopt



themselves to this peculiarly mixed population; competent to embrace the subject in all its relations, as modified by local usage and practice, (6873) or liable to be affected by law. The number should not be great and the persons whom I would propose to form it, being otherwise in the employ of Government the enquiry would not need to be attended with any expence. I have suggested on a separate paper\* the names that have occurred to me upon this occasion. From a committee so filled, including such other assistance as it may appear to your Lordship would be usefully added, something satisfactory on the subject might be expected to be ascertained; something consistent with as resulting from the variously appropriate information, and ideas of the several individuals composing it, probably the best collection of facts, and useful suggestions, of which the subject is capable, something that would be almost sure to attach confidence, in proportion as it would possess the peculiar advantage of combining with professional caution local knowledge and views. The report of such a committee may be expected also to (6874) become a useful, if not necessary document, as part of the foundation of an application to the legislature to supply defective powers.

Having thus, my lord, sketched for your consideration the outline of my ideas for the immediate formation of a committee, with reference to the Police of the Presidency, I will briefly state what I think should be some of the particular objects to be pointed out by instructions for their enquiry.

But before I proceed to do this, there is one matter that I would willingly propose, in the first instance as a measure of immediate execution, not as forming ostensibly any part of the plan in question tho' in the end essential to its success; I mean the removal of the Justices' office from the Fort to the Black Town.

It might be adopted, and carried into effect, as an isolated measure not (6875) connected with the objects for the appointment of a committee. It might be better that it should appear to be independent of them. It is in fact independent of them, for whether such a committee be appointed or not, and whatever



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should be its result, there can exist but one opinion as to the propriety of the removal in question, particularly after those that have recently taken place, leaving the Fort, compared with what it was, a place of order and tranquility. The time therefore is peculiarly favourable for the proposal. I shall not expatiate upon its fitness, or practicability. In point of expence, I am assured that an equally commodious building might be obtained in the Black Town, till there should be time to erect one for the purpose, at the rent actually paid by Government for the accomodation of the parties, answering also for the commissioners of the court of Requests in the Fort.

Adverting indeed to the\* (6876) peculiar population of Triplicane with its vicinity to the residence of the Governor, and not forgetting what has recently occurred in a neighbouring garrison, it had appeared to me that, causing in the mode as little alarm as possible, this suburb of the town should in prudence become an object of special attention, and my own crude notion would be, that a branch of the Justices' office should exist in Triplicane, subordinate to and dependent in any way that Government might be advised to direct, upon the principal office proposed to be situated in Black Town. Nor may it be unfit to consider, whether the object of personal security from the most alarming of all possible dangers, the prevention of crimes in general, and the preservation of peace, and good order, would not be promoted, by inducing the person to be principally intrusted under any new administration of the police, to live altogether in the Black Town, and the next to him in efficiency should the arrangement admit of it, to occupy a residence central to Triplicane, and the circumjacent villages. Whether such a (6877) distribution, would not be the means of diffusing energy and giving consolidation to the plan; of facilitating information in the local details of these jurisdictions, and furnishing ready channels for communication of whatever it might be deemed important should be quickly transmitted to Government, thro any person to be appointed by Government to receive the sort of intelligence alluded to. If a building/to/be be erected in Black Town, for the accomodation of the inferior departments of magistracy and law, the additional expence that would be requisite to fit up a suitable residence for a police magistrate at once



commodious, and respectable would not I imagine be an object, and the same observation will apply to the provision somewhere else, within the prescribed limits, of a second correspondent appropriate house, assuming always, that under the existing danger with which we are surrounded your Lordship will not consider your great trust as administered, (6878) if any thing be left undone that might reasonably be deemed conducive to secure the public safety, the first of all objects, as it is said to constitute the supreme law.

There is another matter to which it may be proper to draw your Lordship's attention, distinctly from the general enumeration of the objects of the committee, as intimately connected with the subjects of police; I mean an accurate knowledge of the details of the population of Madras, with its fluctuation from time to time, distinguishing between the several casts, and as among Europeans between their different nations. It must be admitted that this is always a delicate enquiry; and there may exist reasons why it ought not to be attempted here at this moment. That there would be an advantage in a constant inspection, and report relative to these details can scarcely be doubted; it may however be for Government to decide whether the object may not for the present at least be left most prudently to rest upon the presumption that vigilant magistrates especially (6879) if resident on the spot, will generally learn in time whatever it may be desirable they should be apprized of with regard to what is going on or projecting independently of any facilities of the kind to which I am now alluding. I content myself therefore with merely presenting the idea for your Lordship's consideration, and in suggesting a distinct attention to Triplicane, and a local residence for two at least of any future police magistrates, I am proposing only what has occurred to myself to be desirable, rather than what has resulted from any communications that I have had on the general subject with others.

Should your Lordship approve the appointment of a committee it will depend upon the view that Government shall form of the whole of the subject; what instructions might be proper to address to it. In the meantime the substance of what occurs to me, as admitting of little question would be :

1. To enquire into the present (6880) state of the



existing police establishment, their nominal and actual efficiency with the expence and means by which they are supported.

In adverting to this I am led to observe that I was surprised & at the last sessions to find the Polygar's people still acting as officers belonging to the Polygar. I had taken it, that the Polygar establishment had been superceded soon after your Lordship's arrival, and had expected to find its very name by this time extinct. It would seem however, that it continues to flourish and act. I take a diatinct power of this kind to be a sort of solecism in police and have reason to believe in the present instance that it is a source of corruption. In ascertaining the identity of property upon trials it serves to complicate the proof instead of facilitating the investigation; for it became necessary in many instances to trace the property, first thro the hands of the Polygar's people and afterwards thro those of the runners belonging to the Justices' office, to which (6881) it is almost in every instance eventually brought. Whereas proof of this kind cannot be too simple any where, and particularly where it is to depend upon credit so frail as that of native testimony. The Polygar establishment may therefore so far be said to be obstructive of public justice. But this is comparatively I believe a small evil attending its existence. It may be for your Lordship's consideration hereafter whether it should not be entirely abolished, making compensation, where compensation may be due.

2. To investigate <sup>and</sup> ~~the~~/state the mode in, and the extent to which depredations are committed upon property in and about Madras; of which it is to be apprehended that much passes with impunity; to suggest also the best means of prevention in future.
3. To enquire into and state the nature, extent and quality of those quarrels of disputes, that are the subject of continual discussion at the Justices' office and to suggest some means (6882) of deciding and adjusting them, at a small expence to the parties.
4. To suggest such improvements and alterations as shall occur to be best adopted to the present local circumstances of Madras, and for putting a stop to existing evils.
5. To state every circumstance connected with the



subject referred, adding the observations of the committee upon them, so that your Lordship in Council, and the legislature at home (should it be found necessary to resort to it for carrying into effect the whole of any plan to be suggested by the committee) may have exposed and detailed a complete view of the entire subject.

In executing the instructions to be given it may be fit that the committee to be appointed should be authorised to refer for information (should they themselves deem it desirable) to another committee which I understand to be at present subsisting for purposes of like nature, as applicable (6883) to the whole of this territory, and that the latter should be directed to attend to such application, as to every particular upon which they may be so referred to.

The committee should also in my opinion, be directed to proceed in their enquiries with all practicable dispatch, making as early a report as the nature of the reference will allow, and conducting their enquiries in a manner to excite little attention abroad as possible.

I have the honour to remain with respect, My Lord,  
 your Lordship's most faithful  
 Gardens and obedient humble servant,  
 July 26, 1806 (signed) T. Strange  
 (True Copy: signed: A. Obins, Private Secy )

Names of persons referred to for a committee for the purposes of a letter of this date, addressed (6884) by Sir Thomas Strange to the Right Hon'ble Lord William Bentinck.

Mr Hurdis: a judge of the Sudder Adawlut, and a resident magistrate at Madras

Mr Anstruther: Company's Advocate General

Mr Grant

Mr Taswell

Mr Maitland

} The three sitting magistrates

Captain Thompson: Town Major of Madras

Hon'ble K. Murray: Collector of Madras

Mr Orme: Company's Solicitor

Mr Totton : to be secretary to the Committee.



X.2

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Minute of Governor of Madras: 1.8.1806

The Right Hon'ble the President records the following minute:

The establishment of an efficient system of police as well for the Town of Madras as for the whole of our territories has long occupied my attention. Early in the last year a committee composed of some of our most experienced and intelligent servants were appointed for the consideration of this important subject. The delay in the transmission of their (5651) reports by the different collectors has prevented the committee from making their report to Government.

An ~~unhappy~~ extraordinary omission in the a act of parliament of the towns of Bombay and Madras has deprived the magistrates of these towns of the powers of punishment and coercion indispensable to an efficient police, which have been given to those of Calcutta. This and other circumstances not favourable, unnecessary here to be mentioned, have hitherto prevented the introduction of any improvement.

But recent events have also deeply impressed upon our minds the absolute necessity of a system of the most vigilant superintendence. The best arrangement which the restrictions of the act of parliament will allow, must instantly be made, without regard to the expence: I would therefore beg leave to propose that a letter be immediately written to the committee of police (5652) for the Town of Madras, repeating a direction which had been before given, but not complied with that they will without delay make a report of the present police and submit and submit for the consideration and sanction of Government such additional establishment as they may deem necessary for the preservation of order and the safety of the inhabitants.

As it is a most desirable object that the Court of Directors should be equally impressed with ourselves as to the absolute necessity of petitioning the legislature for the delegation of the same power to the magistracy of this place as of Calcutta, it is

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Madras Public Consultations: P/243/10 (1.8 to 9.9.1806; pages 5640-6318) : Consultation 6.8.1806

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my intention at a future day to recommend the formation of a committee indiscriminately composed of the most respectable inhabitants of this place to make a report of the imperfection of the law as it now stands, and of the daily inconvenience and danger to which this great community is in consequence (5653) exposed.

Fort St George August 1, 1806.

Approved and ordered accordingly.

(5678) Sent the following letter

To

George Taswell, Walter Grant, and R.A. Maitland Esquires  
The Hon'ble B. Cochrane, Harry Taylor Esq,  
Captain F. Thompson, and Lt Thomas Fraser, Committee  
of Police  
Gentlemen,

No reply having been received to the instructions contained in the second paragraph of my letter to your committee of the 1st April 1804 I am directed by the Right Hon'ble the Governor in Council to recal your attention to that subject and to desire that you will without delay make a report on the present police of this Presidency and submit for the consideration and sanction of his Lordship in Council (5679) such additions to the establishment as you may deem necessary for the preservation of order and the safety of the inhabitants.

Fort St George  
6th August 1806

I have the honour to be &c  
G. G. Keble, Secretary to Govt.



X.3

The following report from the secretary to the Committee of Police and the minutes of the Right Hon'ble the President having returned from circulation are now recorded.

To  
The Chief Secretary to Government

Sir

By direction of the committee (6820) of police, I have the honour to enclose a letter addressed by them to the Right Hon'ble the Governor in Council

Fort St George  
9th August 1806

I have the honour to be &c  
S. D. Totton, Secretary to  
the Committee of Police

To  
The Right Hon'ble Lord William Cavendish Bentinck  
Governor in Council &c &c &c , Fort St George

My Lord

We have the honour of addressing your Lordship in answer to Mr Secretary Keblès letter of date the 6th instant.

The only apology we can offer for not having answered that part of the letter of Government of 1st April 1804 which directs us, to submit for the sanction of Government the establishments which we might deem (6821) necessary for conducting the departments under our superintendence is, that having had official information in the year 1799 of the intention of Government "to introduce a thorough reform into the police of this place and to connect it with a general permanent system of police throughout the British territories" and the revival of this subject having frequently given us reason to expect that such a reform was not far distant, we delayed making any partial representation on the matter in the hope that the whole might subject would come under discussion and be arranged at the same time.

Having thus stated to your Lordship what we hope



will account for our silence on this subject, we shall now proceed to make a report on the present police of this Presidency and submit for the consideration, and sanction of your Lordship in Council such additions to the establishment as appear to us necessary for the preservation of order, and the safety of the inhabitants.

(6822) The present establishment in point of force consists of two European constables, 24 Taliars and six peons ~~xxxxxxNzixkxferrxixpizssse~~ for Madras and 20 peons and 5 Naiks for Triplicane and St Thome. And the Polygar and his establishment consisting of 133 peons are also nominally under our authority.

Supposing the whole of this force to be efficient it is far from adequate to the due safeguard of this existing population which by the most moderate calculation is equal to 5,00,000 inhabitants. But the Polygar's peons if such a force exists (which we do not believe it does to any extent) are so <sup>irregular and so</sup> badly paid that we have no controul over it and derive no assistance from it. We have even reason to believe, amounting almost to certainty, that the persons in the employment of the Polygar instead of bringing criminals (6823) to justice, protect them for their own private advantage. In confirmation of this, we might refer to the calendars for the last seven years by which it would appear that there are scarcely as many instances of a criminal having been brought to justice by the Polygar's people. On the contrary in almost all the cases that come before us we find that the culprits are either taken in the act by the persons whom they intended to plunder or are discovered afterwards when the property makes its appearance by tracing it ~~is~~ back to them sometimes thro many hands. It is true the Polygar's peons often interfere, but they never make their appearance in ~~y~~ matter until after the detection of the culprit and their future conduct, by an assumption of authority, and a want of proper regulation, in general rather tends to embarrass than to assist the course of justice.

From this statement it would follow that the only effectual assistance (6824) we have are the two constables, the 24 taliars, and the 25 peons of triplicane.



But even this is inefficient. For the police of the place having by long usage settled itself in the Polygar and his peons, these tallars can scarcely be considered as any thing more than mere messengers of the Justices, who are principally employed in summoning persons to the office, in petty quarrels between individuals, amounting scarcely to a breach of the peace. They keep no watch, they take no authority upon them, and do not feel themselves called upon even in any circumstances to interfere without the positive order of the magistrate. Accordingly we do not recollect any instance of a theft having been discovered or of a person on any account whatever having been brought to the Justices' office by a tallar, of his own mere motion.

Under these circumstances (6825) there only remains to be mentioned the peons of Triplicane, a force that was established about four years ago, and we admit that they being regularly paid, and under the immediate direction of a Cutwal residing on the spot, who regularly attends and receives his instructions at the office, they do take an interest in the regulation and safeguard of the place, and the calendar of the sessions affords many/of their active discharge of their duties./instances

From these statements your Lordship will see that the magistrates who are sworn to keep the King's Peace, and to bring offenders to justice have really no means (comparatively speaking) of knowing when the peace is in danger of being broken, and of discovering and bringing to justice those that offend against the laws. They are insulated individuals, administering justice, in those cases which accident or the exertion of (6826) particular persons interested in the events bring before them. But as to any general system for ascertaining the opinions, the circumstances and the transactions of the place, the resort of strangers, the haunts of offenders or of suspicious persons, we freely confess that they are as little prepared with the means of obtaining such knowledge as they are with the requisite force for bringing offenders to justice.

If in the year 1799 this establishment such as it has been described was insufficient, it is much more so at the present day when complaints at the Justices' office have multiplied four-fold on what they were in 1799, when insubordination from not being checked in time, has become most daring, and when depredations



on the Public are carried to an unexampled pitch. And that we are sorry to say from our daily experience in many instances with impunity. (6827) In addition to this the two last sessions furnish evidence of two atrocious murders committed in the open day in the presence of multitudes of people, and the offenders in both cases, have remained without the possibility of detection.

These circumstances alone shew the inefficiency of our establishment and the necessity of reform even for the ordinary purposes of the police. But when your Lordship considers the recent events that have taken place at Vellore, the secrecy with which they were hatched, and the audacity with which they were perpetrated; when you consider the ~~immense~~ immense disproportion between the European and native population, the barriers by which the one is separated from the other, and the consequent ignorance in which we stand with regard to all these transactions, we apprehend, that in any future establishment which your Lordship may think proper to organise, you (6828) will see the necessity of providing by every means that circumstances will admit, for the ascertaining the sentiments and opinions as well as the first movements of the people among whom we live.

We beg leave therefore to submit to your Lordship's consideration, and as the ground of any arrangements that you may think proper the following suggestions:

First That the Justices' office should be removed to a convenient situation in the Black Town.

Second That the number of paid European constables, should be augmented to 10.

Third That the Polygar's office should be abolished as connected with police, and that such compensation be given to him for the support of his family, as to (6829) your Lordship in Council, may seem just.

Fourth That in lieu of this establishment, the number of native peons should be extended to 500 (and more should be discovered hereafter requisite) including the present establishment of Taliars, whose duties should be particularly defined by instructions from the magistrates.

Fifth That a proper ~~prison~~ prison or house of correction under the charge of one or more Europeans with a sufficient number of native assistants should be established in lieu of that now under the charge of



the Polygar.

Sixth That in consideration of the great extent of the limits, a horse patrol of not less than 30 men should be appointed, ten of which should go the rounds every night, to see that the peons (6830) were at their stations and on the alert, and to render their personal assistance, when it may be necessary.

Seventh That 20 Hircarabs be attached to the office.

Eighth That an additional European clerk at the least, be added to the establishment, and that a sufficient number of native clerks and writers be employed such as may be found necessary to give energy to the system.

Ninth That a fund of not less than 50 Pagodas per month (to be augmented on any particular emergency by application to the Governor in Council) be placed at the disposal of the Magistrates which shall be applied according to their discretion, in rewards to active officers on the apprehension or conviction of offenders, as well as to those who may give any material information relative to internal or general police. An account of the appropriation of such part of this fund, as may be expended, to be laid before the Governor (6831) in Council in the Secret Department of Government every three months, shewing to whom and on what account it had been disbursed.

Tenth That two Moonshies in the Persian and two in the Malabar languages be attached to the office.

Eleventh With a view of facilitating these arrangements and for the more effectual distribution and superintendence of the force we propose that the limits of Madras be divided into Tannahs or districts.

These are the general outlines that strike us at present but as it is impossible to anticipate the effect of any arrangement of this description we beg your Lordship's permission to lay before you at a future period such observations as may occur to us in carrying the system into execution.

We have the honour to be & c  
 Fort St George G. Taswell, Walter Grant, R.A. Maitland,  
 8th August 1806 H.F. Taylor, F. Thompson, F. Fraser.



(X.4)

19

Minute of the Right Hon'ble the President: 10.10.1806

I have the honour to lay before the Board the copy of a letter (No 1)\* which I have received from Sir Thomas Strange. I feel myself called upon not less by the consideration which is due to the high office of His Majesty's Chief Justice in this settlement than by sentiments of personal respect to consult his opinion upon the subject of a more efficient police for Madras. It would be superfluous for me to attempt to elucidate the clear and comprehensive view (6842) which he has taken of the whole question. It is apparent that no time should be lost in preparing a report of the inconvenience to which this population is exposed and of the danger to which Government is made liable by the inefficiency of the law as it at present stands. Upon this representation I trust that the Court of Directors will be induced to apply for relief from parliament. For the purpose of providing the best possible information and opinion to assist the judgement of our superiors I beg leave to recommend that the advice of the chief justice be adopted, and that a committee composed of the persons named in the paper (No 2)\*\* be directed immediately to assemble. I also recommend that the instructions contained in (No 3)\*\*\* be transmitted for their guidance.

In the meantime it is absolutely necessary that no delay should take place in the establishment of the best system of police which the present limited powers of the magistracy will permit. The measures proposed in the answer of the police committee for Madras under date the 8th of August seem to be generally well calculated to the object in view. There are a few alterations which I shall beg leave to suggest.

It is indispensable to the success of the establishment that the superintendence and the responsibility of its execution should be entrusted to one individual who may enjoy the general confidence, and I beg to recommend Mr Walter Grant as the most eligible person within my observation for this office. From the length of his service as a magistrate he is well qualified acquainted with the people of Madras. His character stands high in the estimation of the Supreme Court and of the public. And his discretion combined with



his professional knowledge as a lawyer will enable him to carry to its utmost extent the exercise of the (6844) power entrusted to him without overstepping the delicate limits prescribed by law and committing the Government. I think that this office should be established in some situation central to the greater part of the population and that Mr Grant like the sitting magistrate in London, should be constantly resident. The want of power can only be compensated by increased vigilance. An European gentleman should be attached as a clerk to this office. I recommend that Mr Grant shall receive 200 Pagodas per month, in addition to his present salary, and his clerk 100 Pagodas per month. The details of the whole expence will be found in paper No 4\*.

I now come to the several recommendations of the Police Committee.

First That the Justices' office shall be removed to a convenient situation in the Black Town.

I am of opinion that there should also be a constantly resident magistrate in the Black Town. (6845) But I do not know at this moment where to find a person perfectly well qualified. I would therefore recommend that the magistrates' office now in the Fort with its present establishment shall be removed to the Black Town, and that the Duty, shall be done by Messers Taswell and Maitland.

Second That the number of paid Europeans shall be augmented to 10.

To this I see no objection.

Third That the Polygar's office should be abolished and compensation be given to the Polygar.

This measure is evidently necessary. I would recommend that 100 Pagodas a month (6846) be given to him by way of compensation.

Fourth Peons to be augmented to 500.

I have reason to think from my communication with Mr Grant that this number is more than is necessary and that 400 if not a smaller number will be sufficient. Experience can best determine this point and in the meantime I would recommend that authority be given to an establishment of 400 peons. I am in hopes that part of this charge may be avoided by the employment of t'



Revenue and Customs (6847) peons upon police duties. This will be a subject of future arrangement.

This establishment will be particularly subject to the orders of Mr Grant.

No mention has been made of Deroghas whom I consider to be an indispensable branch in the constitution of this police system. The peons will be good for apprehending open offenders against the law, for preventing affrays &c. But for political purposes or for purposes of prevention of crime by (6848) enquiry and observation, they are utterly useless. These duties must be committed to persons of better education and of character. The police magistrate ought to know what is doing in every part of Madras. Of the arrival of every stranger he should be acquainted. To effect this, the town shall be divided into different wards to be placed under the superintendence of an intelligent Derogha. These Deroghas will in their turn require to be well watched, and this part of the arrangement comes under the head of Secret Service. (6849)

Fifth A house of correction with a proper establishment.

This is indispensable. When the new gaol is finished, this expence will cease.

Sixth A horse patrol of not less than 30 men.

A horse patrol I consider necessary. But I consider this duty may be better done by a detachment of the Bodyguard. The bodyguard taken simply as a guard of honour for the Governor would be a very useless indeed. But as part of the military garrisons as calculated from their appearance, their consequence and the central position of their barracks between the (6850) Black Town and Triplicane to keep in awe a very large population, and numbers of idle and suspected persons, no corps can be superior in efficiency and effect. Their utility has been lately made very apparent.

Seventh 20 Hircarrahs to be attached to the office.

To this there seems no objection.

Eighth An additional European clerk and a sufficient number of writers.

The European clerk has been before recommended, authority must be given for an adequate establishment of writers



Nineth A fund of 50 Pagodas per month as rewards to active officers on the apprehension or conviction of offenders or for material information. An account to be given in every three months to the secretary in the Secret Department.

There can I think be no objection to the amount of the sum proposed to be disbursed (6851) in so useful a manner.

Tenth Two Persian and Malabar Moonshes.

No objection seems to occur.

Eleventh Division of Madras in Tannahs.

Evidently necessary.

Upon a reference to the paper (No 4) it will be observed that the total charge of the proposed police establishments amounts to Pagodas 47,404 and that the funds applicable to the police from the assessment and the contribution of the Company, amount to 36,000 (6852) leaving a deficit of 11,404 Pagodas.

The assessment was formerly levied upon the houses in the Black Town only. But it being the opinion of the law officers, that by a fair construction of the act of parliament, all houses within the limits of the supreme court were equally liable to the assessment, the survey has accordingly been made, and an addition to the funds under the head of "new assessment" accordingly appears in the statement. (6853)

I propose to make good the deficiency in the following manner.

It has already been determined that 2/7th of the profits of the lottery shall be appropriated to the police estimate. This at 7,500 Pagodas. It is my intention to propose, if the prospect of peace shall not be disappointed, that the fencibles may be reduced. The expence of this corps has been hitherto defrayed principally from an extra assessment on Betel and Tobacco, which upon an average has produced 1,500 Pagodas per mensem or per (6854) annum 18,000. The consumption having decreased since the imposition of this very high rate of duty it is inferable and this inference is confirmed



by the opinion of the officers of the custom house, that the rate is too high. It is my recommendation that an additional duty shall be continued for the purpose of defraying the charge of police. I think however that the rate should be lowered to one half of its present amount. As the consumption may be expected to reach its former standard, I shall estimate the (6855) sum derivable from this head at 10,000 Pagodas per annum.

I have also to propose the levy of a rupee on each quart bottle of snuff imported.

This tax is calculated by the reporter of external commerce upon an average of the importation of the two last years to produce 7,700 Pagodas. I have taken the amount at 7,000 Pagodas. It is a tax upon a luxury of life and particularly free from objections on all counts.

The total produce of these additional taxes amount to 24,500 Pagodas leaving a difference in favour of the receipts of 13,096 Pagodas.

Against these extra receipts I propose to place the expence of the new brigades over the canals.

No estimate for the repairs of the streets of the Black Town is included in the police charges.

Whoever has visited the Black Town must have seen the extreme filth that pervades every part of it, notwithstanding the very heavy charge on account of the Scavenger's department exceeding 10,000 Pagodas per annum. I am inclined to believe that cleanliness (6856) cannot be established without the introduction of a complete system of drains and a continual flow of water. This work is I understand considered very practicable by the engineers. It will however involve a very considerable expence and before a beginning is made it will be wise that the best professional opinion should be consulted. I recommend for this purpose Capt Caldwell may be ordered down to the Presidency as soon as he has accomplished the survey of the bank of the Cauvery an object of considerable (6857) importance to the revenues of Tanjore.

Upon taking a general view of the receipts and charges, it is satisfactory to observe that a very ample estimate has been made for the latter, which



I am inclined to think is very much over-rated. The introduction of drains in/the Black Town may in the first instance exceed the surplus appropriated for extra charges. But the expence once incurred, the annual heavy charge for the Scavenger's department may be expected to be on a considerable reduction. (6858) It will also be satisfactory that the increased expenditure will not bear upon the actual revenues in the country. It will fall upon the people of Madras, for whose protection conjointly with that of the Government the establishment is formed.

Fort St George  
October 10, 1806

W. Bentinck

X.5

To  
T.B. Hurdis, A. Anstruther, W. Grant, G. Taswell,  
R. Maitland, R. Orme, The Hon'ble L.G.K. Murray, Esquires

(Gentlemen)

The Right Hon'ble the Governor in Council having had reason (6885) to apprehend the police for the town and environs of Madras to be dangerously defective, and having lately received a letter from the Justices, stating the want of a considerable augmentation to the establishment of their office, which recent events appear to render highly expedient if not indispensable: his Lordship in Council at the same time wishing to possess the most authentic information attainable not only with regard to the actual state of the police within the implied limits, but with regard also to the objects to which it may be advisable to extend it, the means to be adopted for that purpose, and the sufficiency of existing powers for the providing for every desirable end in view, conducive to the prevention of crimes, the preservation of peace and good order, and, above all, security from the danger of intrigue and insurrection, and upon those considerations deeming it expedient, with (6886) reference to the subject in question, to combine the resources of legal knowledge and caution, as applicable to the state of this community, with such means of improvement and suggestion, as persons of experience in the country, and holding



particular situations in the service are likely to supply, has been pleased to name you to be a committee, to meet, and report to him, with as little delay as possible, the result of your enquiries and conferences, upon the important objects of your appointment.

That you may be apprized at once of the augmentation proposed for the actual establishment of the Justices' office, you are furnished with a copy of the Justices' letter, above alluded to, and, with a view to prepare you for entering with more effect upon the subject hereby required, it (6887) has been thought proper to communicate to you, and there accordingly accompanies a copy of a report made by a committee to the Governor General in Council a few years ago, on a like occasion, together with a copy also of a late letter from the magistrates of Calcutta to the secretary to the Governor General in its Judicial Department prepared at the instance of the Government, and for the information of the Justices at Bombay, and transmitted by the order of the Governor in Council at the time, for the use of this Presidency.

In noticing the subjects of the above report, it has occurred to the Governor in Council to think, that it may not be necessary for the committee to trouble itself at present with the discussion of several of the subordinate details that enter however, into the general idea of police, according to most practical establishments referable to (6888) this branch of civil government -- such as the management of markets, care of the public health, interference with regard to the condition of streets, lanes and alleys, and of the exterior of individual habitations or other buildings, as well for purposes of order, as for wholesomeness. The exigencies of Madras at this moment require that the consideration of these and the like, should for a time be postponed. It may indeed without material inconvenience be reserved for another occasion; while no time should be lost in preparing a report upon points of more pressing importance.

In elucidation of these points, the Governor in Council has directed me to acquaint the committee, that it is the intention of Government to establish the police upon the basis of the office of the Justices of the Peace, as they have for some years existed; applying their powers to the best (6889) advantage.



It is at the same time proposed to give to some one of them, to be selected and distinguished accordingly, an extraordinary charge in the conduct of it, exacting from him ofcourse a correspondent responsibility and it will constitute a peculiar feature of the arrangement which the Governor in Council is in this respect advised to adopt, that they shall more or less, not only hold distinct and separate offices, central as much as possible to particular parts of their jurisdiction, as referable more especially to the native population of Madras, but that they shall also reside altogether where they hold their offices, in order that the vigilance of their inspection may be the more constant, and their facility of communication the greater.

The points therefore to which the Governor in Council would wish to draw the immediate attention of the (6890) committee are principally:

1. To enquire into and report upon the present state of the existing police establishments, their nominal and actual efficiency, with the expence and means by which they are supported.
2. To consider and state their ideas upon the augmentation proposed by the Justices in their letter, copy of which accompanies, its sufficiency or otherwise, with the manner in which they think the various classes of persons proposed to be employed under the Justices should be selected, appointed, distributed, regulated and dressed; & so as to render the police proportionably efficient, by a judicious arrangement of its subordinate officers.
3. To consider and report what may be the most efficacious means of security, next to the ordinary superintendence of the magistrates, against the contingency, (6891) and consequences of domestic treachery, whether arising from the infidelity of natives, or from the baneful operation of foreign influence. How far, for this purpose, it may be fit, from time to time, and how often and in what way, to obtain lists and account of persons entering and departing from Madras, and particularly of all Europeans, whether foreigners, or British subjects not in the service of His Majesty, or of the East India Company residing within the limits, as well as entering or departing from the same. And the committee is expressly directed to procure by means calculated to excite as little of the public attention



as possible, a correct account, to be subjoined to their report, of all such Europeans living in or about Madras, at the date of it, distinguishing their respective nations, and adding such information as may be best relied on, respecting their history, (6892) character, and pursuits, with a specification of the particular place where individuals reside.

4. A horrid attack with a broad sword, upon the several persons, having been made at a late Mussulman feast, by a person formerly in the bodyguard, in the disguise of a faquier supposed to be intoxicated at the time, as appeared on his conviction upon two indictments at the last sessions, the committee will take into its consideration the subject of these, and similar feasts and processions among the natives, with a view to prevent the repetition of such dangerous outrages, and other worse consequences resulting from them; having especial care, however, in their suggestions, to make every allowance that prudence will admit for the influence of religious prejudices on these occasions.

5. There being reason to (6893) apprehend, that notwithstanding the frequency, and number of trials at this Presidency where the sessions are held twice the number of times in the year that they are held at Calcutta, a deal of delinquency is still committed, with impunity as without detection: To enquire into the fact; stating the cause of it, if it be so in the opinion of the committee with the most probable means of prevention in future.

6. With reference to the points referred under numbers 3 and 5, the committee will consider and report upon the expediency of authorising to a certain limited extent, and subject to restrictions, or directions to be specified, the remuneration of useful information by a reward of money, at the ~~same~~ discretion of the person to be principally charged with the management of the police.

7. There is also reason to apprehend that much of the time of (6894) the Justices at the office has been hitherto occupied in the investigation of quarrels and disputes, of an ambiguous kind, in which questions of property mix themselves often with suggestions of personal outrage or insult, wherein it may not be competent for parties to seek redress from the court of commissioners, and their indigence makes it impossible for them to resort for it to the supreme court. The committee will enquire into, and state the nature and



extent thereof, pointing out at the same time some means for their future decision, at a consistent expence to the Justices.

8. It being enacted by the 33rd of His Present Majesty, C 52 Sect 159 that 'no person shall sell any arrack, or other spirituous liquors, within the towns, or factories of Calcutta, Madras, or Bombay, respectively, without a licence for that purpose under the hands, and seals, of two or more of the Justices, having jurisdiction' ~~at~~ <sup>such</sup> (6895) clause of the act in question, however imperative in effect, not having hitherto been enforced at this Presidency, but it being the intention of Government to direct that it be in future attended to, it is the desire of the Governor in Council that the committee take this subject into its consideration, with the view of reporting in what way the obligation of taking out such licences hereafter may, in its opinion, be rendered most subservient to the purposes of police.

9. To state any particular circumstances, connected with the subject referred, together with the observations of the committee thereupon, as adopted to the present local condition of Madras, and the correction of existing evils, so that not only the Governor in Council, with the Hon'ble the Court of Directors, but the Legislature also (should it be found, necessary to resort (6896) to it for carrying any particular provisions to be proposed into effect) may have exhibited, and detailed whatever is important to be ascertained, and known respecting it.

The committee that was appointed to report to his Lordship in Council their ideas for a police establishment, as applicable to a much more extended scale, will be directed to furnish you with every communication on the subject that you may require, and it remains only to add that, next to his solicitude for accuracy, his Lordship is most desirous that all practicable dispatch may be used in preparing and submitting your report upon the present reference for his information in council.

Fort St George  
11 october 1806

I have the honour to be & c  
E. C. G. , secretary to Government  
(True Copy, A.Obins, Private Secretary)



X.6

To

The Right Hon'ble Lord William Cavendish Bentinck  
Governor in Council, &c &c &c

My Lord

In pursuance of the orders of your Lordship in Council communicated by Mr Secretary Greenways' letter of the 11th October 1806 we have met and entered upon the consideration of the subject thereby referred to us: the police for thw town and environs of Madras.

This subject is so extensive in its nature that it will require considerable time and investigation to enable us to fulfill the object of our appointment and to afford satisfactory information to your Lordship on all the points suggested in our instructions.

At the same time the urgency of the subject as connected with the present circumstances of the country is so great and (6899) legislative interference so evidently necessary that we think it of the highest importance that your Lordship should be fully apprized of this necessity previous to the departure of the ships now under dispatch: so that the earliest opportunity may be taken of obtaining such powers as in the wisdom of parliament may be deemed best adapted to our present circumstances. With this view therefore and for the information of those who are unacquainted with the local circumstances it may be necessary to state some particulars relative to the extent and population of Madras and the existing police establishments.

The extent of the limits of Madras as the same were prescribed on the establishment of the court of the Recorder (and which are now the limits of the local jurisdiction of the supreme court) resembles a semi-circle described with a radius of about four miles in length, including Fort Saint George, (6900) the town of Madras and a number of populous villages.

The extent of the population of this space has never been accurately ascertained, and the various conjectures respecting it fluctuating between the extremes of 2,00,000 and 4,00,000 inhabitants give (for all general purposes) no inadequate idea of its magnitude and



importance.

The inhabitants consist of:

1. European British subjects
2. Descendants of British subjects by natives
3. European foreigners of all countries many of them French and the descendants of French
4. Natives of India of Portuguese extraction with whom may be classed native Hindoos who have assumed the dress, language and religion of the Portuguese
5. Natives of India converted to Christianity but retaining their own dress, language and customs
6. Hindoo inhabitants natives of the town or of territory subject to the British Government (6901)
7. Mussilmans inhabitants or natives of territory subject to the British Government
8. Vakeels\* from native powers with their armed followers not subject to the British Government
9. Armenians, Greeks, Chinese and Malays
10. Foreigners from Arabia, Persia and all parts of Hindoostan

Of this immense population we apprehend that, exclusive of the military, the number of British-born subjects does not exceed 300 men. But they are the only class of people who feel a sincere interest in and whose active services might be depended on, in case of insurrection, for the support and maintenance of the British Government.

The generality of the Hindoos are too ignorant and too much bigotted in their own customs to perceive the benefits that they enjoy under our Government; while the more enlightened and opulent of them feel their former consequence and influence entirely lost in a system of (6902) government which boasts as its peculiar perfection the exclusion of them from all confidence and trust.

It is impossible that the Mahomedans as a people can be attached to a government which has so lately supplanted their own, and deprived them of all influence, rank and employment. Having no industry and scarcely any means of subsistence, except the few that are employed in the service of the Company or in that of the Nabob, their minds must be, and evidently are, brooding over their situation, and they must be desirous of any change.

As to the strangers and adventurers that reside



Madras they would be active agents in any commotion that would afford the prospect of plunder.

Against the dangers arising from the state of our population our only safeguard appeared to rest on the fidelity and attachment of a well-disciplined army; but (6903) late melancholy events have at least materially shaken this confidence and prove the necessity of immediate and strong measures of protection.

Under such circumstances we do not hesitate to state to your Lordship in Council our opinion that the Government of this country ought, without delay, to have its hands strengthened by every discretionary yet legitimate power that is necessary for securing the public safety.

One of the principal engines of all civil government is a well regulated and energetic police; but it is peculiarly necessary in this settlement where the ~~disproportion~~ disproportion between the European and native population is so great, and where our comparative ignorance of the native languages renders it so difficult to obtain satisfactory information.

The inefficiency of the police of this place, even for all common purposes of individual security, has been (6904) long felt, and is too clearly proved in the facts recorded in the letter of the Justices to your Lordship in Council of date the 8th August last to admit of doubt. Its total impotence in a political point of view is not therefore to be wondered at. Indeed any superintendence or controul in this respect forms no part of the object of the existing police establishment, and it is highly to be lamented that no authority exists in this country at this important crisis to establish and arm with sufficient powers such an institution however essential to the public safety.

There is no man here of the multifarious descriptions that we have mentioned however strong the suspicions against him, however questionable his character or views, that can be otherwise dealt with than he could be in the body of an English country. His person, his house, his liberty, are protected by our laws; and any attack or infringement (6905) on either are liable to be questioned with as much strictness as



if the whole population were British-born or subjects attached to our Government by nature, education, and habit.

We therefore submit to your Lordship our decided opinion that a power should be vested in some authority in this country for the purposes of making provisionally and subject to the approbation of His Majesty in Council ordinances, rules and regulations for the good government of this place adapted to its peculiar situation.

The necessity of such a power is already recognised by the legislature in the act of 13 th Geo III C 63 S 36 which gives to the Governor General in Council a power to make such rules, ordinances and regulations as may appear just and reasonable for the good order and civil government of the Company's settlement at Fort William (such rules, ordinances and regulations not being repugnant to the (6906) laws of the Realm) and to levy fines and forfeitures for the breach and non-observance thereof.

And afterwards by the statute 39th and 40 of the king C 79 S 18 reciting that these fines and forfeitures had been found insufficient for the preservation of good order it was enacted that instead of such fines and forfeitures it shall be lawful for the Governor General in Council to order and appoint such moderate and reasonable corporal punishment by public or private whipping or otherwise as to them should seem fit and expedient for the breach or non-observance of any such rules or ordinance &c.

The same authority of enacting regulations and punishing for the breach or non performance thereof is given to the Governor General in Council and to the Governor in Council of Madras for the whole of the province under the respective governments by the statutes which established and give the power of (6907) regulating the provincial courts. This Presidency and the island of Bombay are the only two places in British India for which there exists no legitimate local authority to enact regulations of police.

Whatever may have induced the legislature to omit the settlement of Fort St George in the above clause of the 13th of the king and whatever might have been



the circumstances of this place at that time must be evident that now the power of local regulation and controul is absolutely necessary for the public safety.

As it will be necessary for obtaining for obtaining such a power to apply to the legislature we shall proceed to make some observations on that clause of the statute to which we have referred and with deference to suggest such alterations as appear to us better calculated for the purposes as intended to be answered.

First The legislature in that clause of the act seems to have proceeded (6908) on an idea that it was conferring on the Governor General in Council the power to make regulations for the good order and civil government of a British Factory, of a factory of which the greater part if not the whole of the population consisted of British-born subjects. Hence we apprehend came the six clause that such "rules, ordinances and regulations should not be repugnant to the laws of the Realm". But nothing can be more discordant than the means of maintaining good order and civil government in a British and in an Asiatic society and accordingly the regulations and penalties mentioned in the 13th of the king were found ineffectual and it became necessary by the clause in the 39th and 40 of His Majesty to adopt the penalties to the character, habits and state of society in this country.

It is far from our wish (6909) to suggest anything that should interfere with the application of the general principles of protection and justice inherent in the character of a British Government. Yet recent experience has proved that it was necessary even in the British islands to circumscribe individual liberty. And we presume to think that in the proposition which we shall have the honour to submit as to the mode of framing rules, orders and regulations for the civil government of this place there will be found a sufficient guarantee against oppression and injustice without being shackled by the clause "that such rules and c shall not be repugnant to the laws of the Realm". We see no good likely to result from that clause, and apprehend that it might be the source of doubt and as to the legality of the regulations which it might be thought necessary to enact. (6910)

Second The next observation which we beg leave to sub



is on the mode of making such rules, ordinances and regulations as prescribed by that act.

It is there enacted that such rules &c shall not be valid until the same shall be duly registered and published in the supreme court of judicature "with the consent of the said supreme court". By this clause the supreme court has the power of putting a veto on the rules, ordinances and regulations of police proposed by the Governor General in Council and can obstruct the power of Government altho charged with the maintenance of the public safety. On the other hand the judges have no constitutional means of suggesting the propriety of any new regulations. They have constant opportunities of seeing at the criminal sessions as well as in the civil judicature the infinite variety of abuses, (6911) and accordingly we have not unfrequently seen instances of those abuses having been pointed out from the Bench. This has generally been done in the charges to the Grand Jury which have frequently been re-echoed in Presentiments by that body against the acts or omissions of Government. This mode of conveying the sentiments of the judges is surely not most desirable yet may probably be expected until some better arrangements shall be devised. At present these opinions and presentiments do not necessarily lead to correction and reform, while on the other hand by the clause of the statute above recited if adopted here the court would have the power to stop every proposed regulation of Government however urgent might be the necessity that dictated it.

It has occurred to us therefore that it would be much more beneficial to the public interests that the (6912) judges of the supreme court should have a concurrent power with the members of Government in framing police regulations for Madras than that their assent should be necessary to give them validity.

The great responsibility of Government will at all times be a sufficient spur to it to propose such regulations as will be calculated to secure the public peace, while on the other hand the caution and professional habits of the judges will be a pledge that these shall interfere no farther with individual rights than shall be absolutely necessary for the public interests.



By this arrangement also the judges will be enabled to propose without offence and at the same time with effect such rules and ordinances as may deem best calculated for the reformation (6913) of abuses and the preservation of the morals of the people in this settlement and while the public in all cases where they approve will derive from their suggestions and experience the advantages of moderation, accuracy and consistency they will be enabled in matters where they disapprove to record their dissent and the reasons for the same with that aptitude and perspicuity which will be best calculated to inform His Majesty's Council of all the bearings of the subject in question.

Having thus stated to your Lordship in Council our sentiments on this important subject we propose that the members of Government for the time being and the judges of the Supreme Court should as individuals form a body (whereof the Governor should be president and in case of an equality of voices should have a casting vote) which should have power (6914) to make and issue such rules, ordinances and regulations as should be deemed just and necessary for the good order and civil government of the inhabitants of the Presidency of Fort St George within the jurisdiction of the Supreme Court and accordingly we have subjoined for your Lordship's consideration the draft of an Act of Parliament framed on the basis of these suggestions.

We have the honour to be &c  
J.B.Hurdis, A.Anstruther, G.Taswell,  
Walter Grant, L.G.K. Murray,  
Hb Orme, R.A. Maitland

Fort St George  
16 October 1806

(2.7)

(Draft of an Act of Parliament)

Whereas it is expedient that a power should be vested in the Governor and (6915) members of the Council of the Presidency of Fort St George in the East Indies and in the judges of the Supreme Court established at that Presidency on due consideration had between them to make and issue such rules, ordinances and regulations as may be necessary for the good order and civil government of the town of Madraspatnam and the Presidency of Fort St George within the limits of the jurisdiction of the said Supreme Court May it therefore please your Majesty that it may be enacted



and be it enacted by the king's most excellent majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in the present parliament assembled and by the authority of the same that it shall and may be lawful for the Governor and members of Council of the East India Company's settlement at Fort St George and the judges of the said Supreme Court for the time being or the majority of them (the Governor in case of an equality (6916) of voices having a casting vote) upon due consideration had between them from time to time to make and issue such rules, ordinances and regulations for the controul, good order and civil government of the said settlement at Fort St George within the limits of the jurisdiction of the said Supreme Court, as shall be deemed just and necessary and to set, <sup>impose,</sup> ~~inflict~~ and levy reasonable fines and forfeitures for the breach and non-observance of such rules, ordinances and regulations and also in addition to or instead of such fines and forfeitures to order or appoint such moderate and reasonable corporal punishment by public or private whipping or otherwise as to them shall seem fit and expedient for the breach and non-observance of any such rules, ordinances and regulations. But nevertheless the same or any of them shall not be valid or of any force or effect until the same shall be duly registered in the said (6917) Supreme Court of Judicature (which registration the said Supreme Court are hereby authorised and directed to make on the requisition of the Government of the said Presidency for that purpose) but not until the expiration of twenty days after the same shall have been openly published and a copy thereof affixed in some conspicuous ~~part~~ part of the court house or place where the said Supreme Court shall be held. And from and immediately after such registry as aforesaid the same shall be good and valid in law. But nevertheless it shall be lawful <sup>for</sup> any person or persons in India to appeal from such rules, ordinances and regulations to His Majesty, his heirs and successors in Council who are hereby empowered if they think fit to set aside and repeal any such rules, ordinances and regulations respectively to as such appeal be lodged in the said Supreme Court of (6918) Judicature and notice thereof be given to the Governor in Council within 60 days after the time of publishing such rules, ordinances and regulations respectively and it shall be lawful for any person or persons in England to appeal therefrom in like manner within 60 days after publishing the



same in England. And it is hereby directed and required that a copy of all such rules, ordinances and regulations from time to time as the same shall be made shall be transmitted to the Court of Directors of the East India Company; and as the same shall be received copies thereof shall be affixed in some conspicuous and public place in the India House there to be resorted to as occasion shall require. Yet nonetheless such appeal shall not obstruct, impede or hinder the immediate execution of any rule, ordinance or regulation so made and registered as aforesaid (6919) until the same shall appear to be set aside or repealed on the hearing and determination of such appeal.

Provided always and be it enacted by the authority aforesaid that the said Governor in Council shall and they are hereby required from time to time to transmit copies of all such rules, ordinances and regulations as shall be made and issued as aforesaid to one of His Majesty's principal secretaries of state for the time being and that it shall and may be lawful to and for His Majesty, his heirs and successors from time to time as they shall think necessary to signify his or their disapprobation or disallowance of all or any such rules, ordinances and regulations. And that from and immediately after the time that such disapprobation shall be duly registered and published in the said Supreme Court of Judicature at Madras such rules, ordinances and regulations so disapproved shall be null and void.

And be it further enacted (6920) by <sup>the</sup> authority aforesaid that any breach or non-observance of or offence against such rules, ordinances, and regulations shall and may be enquired into by one or more of His Majesty's Justices' of the Peace acting in and for the said settlement and Presidency of Fort St George and town of Madras which Justice or Justices of the Peace is and are hereby authorised to hear and determine the same and upon due conviction of the offender or offenders to impose and levy such reasonable fines and forfeitures and to order and cause to be inflicted such reasonable corporal punishment as aforesaid. Provided always that no such conviction, judgement or order shall be renewed or brought into my Supreme Court by Writ of Certiorari or appeal or any other process whatsoever anything in any former act or acts to the contrary thereof in anywise notwithstanding.

Ordered that copies of the foregoing letters and the



X.8

Public Department

To

The Hon'ble the Court of Directors  
for Affairs of the Hon'ble the  
United Company of Merchants of  
England trading to the East Indies.

Hon'ble Sirs,

1. We are induced to bring under the particular attention of your Hon'ble Court in a separate Despatch a subject of very considerable importance to the prosperity and good order of this settlement and generally of the territories subject to the authority of this Government.

2. Your Hon'ble Court will have been informed through the channel of our despatches to the Hon'ble the Secret Committee of the unhappy catastrophe which lately occurred in the garrison of Vellore, and of the very serious agitation which followed that event not only in your native army but in a large portion of the population of these territories (p. ).

3. The attention of this Government has been during a very long period of time called to the serious defect which exists in its constitution, from the want of an organised establishment of police, but on no occasion was this want ever so seriously felt as during the period of anxiety and embarrassment to which we have referred.

4. From the absolute want of that regular chain of combination and connection by which this Government might be enabled to exercise a salutary superintendence over the proceedings of the community of this Presidency in that important branch which relates to the duties of police, the channel of intercourse between the ruling authority, and those of its subjects whose actions it is particularly required to observe with vigilance, is in a great danger cut off, and transactions the most immoral, or intrigues the most dangerous, may be contrived and executed in the secret retreats of this populous settlement, without the means being left

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India Office Records: Letters from Madras:  
E/4/334 (1.3 to 31.12.1806: some 2000 pages):  
Public letter from Madras dated 21st October  
1806 (received 13th April 1807).



to the Government of prevention (p. ) or of punishment.

5. In the present extensive and increasing state of the community of this Presidency, the general condition of society at Madras cannot fail to have a powerful influence on the society of all the other parts of these territories, and when the stream is polluted in its origin, it would be vain to hope for improvement in its progress through the subordinate channels.

6. Under these circumstances the want of a regular system of police at this Presidency has been peculiarly felt, and during the ferment lately excited, that defect was not only a source of extreme anxiety but of extreme danger, from the difficulty which existed in exercising any control over those persons in this settlement, who had both the means and the inclination to have distributed to a serious extent, the *public* public tranquility.

7. This government has more than once had under its consideration the means of applying the best remedy to the existing evil but (p. ) the radical defect experienced in the provisions of the legislature as applicable to the Police of this settlement always opposed obstacles to an adequate arrangement for the removal of the difficulty. The mutiny at Vellore, and the other indications of public disturbance which followed that event having however placed the question in a more serious light, it became indispensable to call forth every resource that could be derived by this Government to avert the threatening danger, and to secure the foundations of the public authority.

8. With this view a minute was recorded by Lord William Bentinck at our consultation of the 6th August last, in which His Lordship recommended that the Committee of Police established at this place should be called upon to submit their sentiments regarding the means of enlarging the police establishment, to such an extent as might be necessary to provide in the best practicable manner for the public safety and tranquillity.

9. His Lordship at the same time (p. ) stated his intention of recommending at a future period the appointment of a separate Committee, for the purpose of considering the subject of the police in a more extended light, with reference particularly to the defect of the



act of Parliament, as applicable to the Police of this place.

10. Lord William Bentinck thought it proper in the meantime to consult the sentiments of the Chief Justice of the Supreme Court in this very important question, and his Lordship recently laid before us the result of the communication contained, in a letter from the Chief Justice, a copy of which, will be transmitted with this letter for your information.

11. Sir Thomas Strange has in his letter described with perspicuity and accuracy the general difficulty occasioned by the want of a well regulated police, and the general feeling of anxiety connected with that cause, during the late agitation in the territories under this Presidency. It was strongly pointed out by Sir Thomas Strange that an immediate reform was called (p. ) for, and in explaining the difficulty attending it, he at the same time pointed out the line of proceeding which appeared most proper for the attainment of the proposed object.

12. We have already adverted to the chief difficulty arising from the want of adequate authority for the formation of a Police, under the power conveyed to the Governor-in-Council of Fort St. George, by the act of 1793. On this point Sir Thomas Strange has stated the following observations:

(p. ) 13. The Chief Justice recommended that a committee should be constituted on an extended principle, for the purpose of revising the whole of the Police establishments connected with Madras and its environs, particularly the Black Town and Triplicane, and of suggesting such amendments and improvements as they might think advisable.

14. Sir Thomas Strange at the same time stated in his letter an outline of the heads of enquiry to which he proposed that the attention of the Committee should be directed.

15. Lord William Bentinck in laying before us Sir Thomas Strange's letter, recorded his entire



concurrence in the sentiments it contains, and proposed that a committee, formed in the manner proposed by Sir Thomas Strange, should be immediately assembled; and that they should be furnished with instructions founded on the suggestions stated in the letter of the Chief Justice.

16. Lord William Bentinck at the same time observed that it would be necessary that no delay should take place in the establishment of the (p. ) system of police, which the present limited powers of Magistracy would permit, and His Lordship in that view proceeded to consider the propositions which had been previously submitted by the established Committee of Police at this place, agreeably to the directions furnished to that Committee under date the 6th August last.

17. The Committee having in their report stated their opinion respecting the extent to which it will be necessary that the Police establishment of Madras should be augmented, Lord William Bentinck discussed in his Minute the different heads of proposed increase, some of which his Lordship recommended for entire adoption, and of others the partial modification.

18. It will be observed on reference to a statement which accompanied His Lordship's Minute, that the aggregate expense of the Police establishment, on its extended footing will amount to the sum of Pagodas 47,604 of which amount the sum of Pagodas 36,000 derived from the assessment (p. ) in the Black Town, is already supplied. The remainder it is proposed to provide from an extension of the assessment to the garden houses of this place, and from other sources of revenue mentioned in Lord William Bentinck's Minute. The whole receipts will with the aid of that increased revenue considerably exceed the amount of the expenditure, and it is proposed that the surplus shall be applied to objects calculated to improve the ~~salubrity~~ *salubrity*, appearance, and convenience of the Presidency.

19. His Lordship has recommended that the Police of Madras shall be placed under the control of a superintendent on an allowance of 200 Pagodas per month, to be aided by a clerk, who will receive a salary of 100 Pagodas and from the peculiar qualifications for the duty of Superintendent of Police which are possessed by Mr. Walter Grant who has long acted with great credit as a Magistrate of this place, it has been proposed that he shall be selected *that* (p. ) *to be* station.



20. We have not yet been enabled to issue the detailed orders which may be necessary on the recommendations stated in Lord William Bentinck's minute, but as they have generally received our concurrence, we take this opportunity of bringing them under your notice.

21. The Committee which was appointed in conformity to the recommendations of the Chief Justice having proceeded in the enquiry committed to them, we may expect to receive at an early period their report on the detailed points referred for their investigation: But they have at present deemed it proper to lose no time in laying before us their opinion respecting the measures which it will be advisable to adopt for the purpose of removing the legal difficulties which must attend the formation of any plan of Police at this place, until the desired relief shall have been obtained from Parliament.

22. The report of the Committee being distinct and conclusive on the subject we insert it for your immediate reference\*.

23. (p. ) Under the explanation contained in the above Report, and under the view of the question which has been stated in this despatch we encourage an earnest hope that your Hon'ble Court will be sensible of the importance of affording the means of establishing an efficient police at this place, and that feeling that importance you will be induced to take an early opportunity of obtaining from Parliament the authority which is required for fixing that important branch of the Government on a permanent, and secure basis.

Fort st.  
George  
21st Oct. 1806  
(received  
1 3th April,  
1807)

We have the honour to be/  
with great respect/Hon'ble Sirs  
Your faithful/humble servants  
William Bentinck  
Petrie  
Oakes

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\* Extracts from the report of the Committee about 11½ pages in manuscript.



(X.9)

Public Despatch to Fort St George: 26.8.1807

To

Our Governor in Council at Fort St George

Our last letter to you in the department was dated the 19th instant.

2. The subject of your separate letters and enclosures of the 21st October last, respecting the police of the town of Madras has received our most serious consideration, the result of which has been an application from us to parliament that our three Presidencies of Fort William, Fort St George, and Bombay might be put precisely upon (464) the same footing as to their powers of legislation with respect as well to matters of police as to every other subject; and also that the Governor and Councillors of Fort St George and Bombay should be at liberty to act, and have power to appoint others to act as Justices of the Peace and to hold Quarter Sessions in the same manner as is now practiced in Bengal (465) under parliamentary sanction by the Governor General and Council of Fort William. An act accordingly has been lately passed for these and other purposes, and send several printed copies of it herewith.

3. The powers of enacting and enforcing police regulations will be found in 13 Geo III Capt 63, Sec 36 and 39 and 40 Geo III (466) Capt 79, Sec 18 and 19. The provisions respecting the Justices of the Peace will be found in 13 Geo III Cap 63, Sec 38, <sup>and</sup> 33<sup>rd</sup> Geo III Cap 52 Sec 151 and following sections. It is to be observed that any commission of the Peace issued by the Bengal Government for your Presidency before the 1st day of March next will remain in force until it (467) shall be revoked by your warrant; from that date <sup>will</sup> the Governor General in Council/~~shskk~~ cease to have any authority to issue or revoke commissions of the Peace for Madras and such authority will then be to be exercised by you.

4. We trust that the powers wherewith you are now invested will prove adequate to the objects (468) pointed out in your separate letter before referred to; they have been found in practice sufficient for those objects in Bengal and therefore there appeared to be no ground for soliciting larger or different powers to be exercised at Madras or Bombay. We are your loving friends  
London, the 26th Aug 1807 ( 15 signatures )



X.10

The Right Hon'ble the President records the following Minute:

I recommend the dispatch of the accompanying drafts.

The Board will remark an alteration from the original resolution. It was determined that Mr Walter Grant should do the duty of a sitting magistrate as well as Superintendent of Police. It is now proposed that he shall be from the first of these duties in order that his whole time and attention may be given to the latter. This alteration is now recommended upon the suggestion of Mr Grant, and I am satisfied of the full occupation that the charge of the public safety at this important crisis must give to the individual by whom it is undertaken. This change will create an additional expence of 75 Pagodas per month which I request may be sanctioned.

Fort St George

November 16, 1806

( Bentinck )

X.11

(7875)

To

His Majesty's Justices of the Peace

in and for the Presidency of Fort St George

Gentlemen

1. The Right Hon'ble the Governor in Council having received from the Committee of Police for the town of Madras a report on the existing establishment of that department recommending certain measures for the remedy of particular defects therein I am directed to transmit a copy of that report for your information.

2. In considering this subject the attention of the Governor in Council has been directed to two points which appear to be important desiderata on the present system. First The defect of information so strongly pointed out in the letter of the Police Committee and secondly the non-existence of any person or body whose especial duty it should be to observe offences against Peace, to suggest remedies for existing evils, and generally as far as circumstances will admit, to follow up by regulations (7876) adapted to the exigency of the case a progressive system/permanent improvement. / (6f)

IOR: Madras Public Proceedings: P/243/13: dated 18 Nov 1806.



3. The Governor in Council considers that duties of this description although they require the authority of the Magistrate demand also such considerate and uninterrupted observation as render them incompatible with the discharge of the rotation duties at the Public Office. The attention of the Magistrate at the Public Office is too much occupied by the current business of the day various and harrassing in its nature to admit of his giving up his time to other subjects, perhaps of equal importance thò less pressing on his observation. And if it were otherwise the term of his weekly superintendance is too short for his undertaking much less of carrying into effect any general plan for improvement which his experience might suggest.

4. To remedy this defect the Governor in Council thinks it advisable to establish a separate department whose whole attention shall/be given to the superintendance/(7877) of an effective police to be founded on regular systematic principles.

5. The Governor in Council is aware that the full benefit of such an institution cannot be hoped for under the present limited powers of the magistrate. Yet a great deal may certainly be done by the ordinary authority of a justice of the peace directing his individual attention to this object, and whatever may be the effect of such an establishment at present it cannot but be highly useful in obtaining correct information and preparing means for the application of such further powers as the legislature may, under the existing circumstances of the country think it advisable hereafter to vest in this Government.

6. The duties of this department at present will be to attend principally to the public safety; but at the same time by establishing an efficient system of activity and vigilance to afford the means of preventing or (7878) detecting attempts against the security of individuals. It will communicate with Government on all occurrences in which the Public interest may be concerned, or where the aid of Government may be required for carrying any proposed measures into effect. It will attend to the general state of the police of the place and collect, both from observation and the information of others, every hint for its improvement, pointing out at the same time how far they can, in the existing circumstances, be carried into execution, It will superintend as much



as possible the resort of strangers, ascertain their characters, habits, and employments and follow up by deliberate observation any discovery which may originate either with itself or at the Public Office.

7. A committee having been appointed for the purpose of reporting on certain matters connected with the police of Madras (but without an establishment attached to it) (7879) the Governor in Council considers the department now proposed as attached to that committee and indispensably necessary to facilitate the enquiries which it may have to pursue in the course of its investigation.

8. The Governor in Council has selected Mr Walter Grant to be at the head of this department, as superintending magistrate; and the better to enable him to give attention to the subject (it) has been planned to relieve him from the Rotation duties at the Public Office.

9. The duties prescribed for the superintending magistrate are of such a nature as to require close and diligent attention and for this purpose the Governor in Council has instructed the Board of Trade to provide an office in a central situation where the superintending magistrate shall reside and be at all times accessible.

10. To fill up the vacancy at the (7880) Public Office occasioned by the removal of Mr Grant as well as to provide for the effectual discharge of the ordinary duties of Magistracy at both offices, the Governor in Council is pleased to appoint Mr Totton to be a Police Magistrate and desires Mr Totton to take the usual oaths of qualification at the earliest opportunity.

11. The Governor in Council has been pleased to dissolve the committee lately existing under the name of Madras Committee of Police and he directs that hereafter the duties of that committee shall be discharged by Mr Totton as Superintendent of Details with a power of referring to the other Magistrates in any case where he may think their advice necessary.

12. In this department Mr Totton will have the superintendence and the execution of all regulations which now exist in the Police office, together also with such others as it may be thought advisable hereafter to put under his charge.



13. This duty, the prescribed by regulations, will necessarily require Mr Totton's daily attendance for a considerable portion of the day at the Public Office and in consideration of this the Governor in Council is pleased to allow Mr Totton, in addition to his salary as a magistrate, 150 Pagodas per month as Superintendent of Details.

14. His Lordship in Council has appointed Mr Flower to be clerk to the Justices to whom his Lordship has been pleased to appoint a salary of 100 Pagodas per month and he directs that the fees formerly received by the clerk to the Justices be carried to the Public account and paid into the treasury.

15. The Governor in Council approves the suggestion of the committee in regard to the expediency of removing the Public Rotation Office of the Justices from the Fort to some central situation in the Black Town of Madras, and I am accordingly directed to desire that you will be (7882) prepared to carry the arrangement into effect so soon as you shall receive the necessary communication for that purpose from the Board of Trade who have been instructed to provide without delay, the buildings which may be necessary for your accomodation.

16. The Governor in Council has been pleased to adopt the following resolutions founded upon the recommendation of the committee of police.

17. That the number of European constables now attached to the Justices office may be augmented to ten.

18. That the office of Polygar of Madras shall be abolished and a compensation of 100 Pagodas per month be given to the present Polygar for the support of his family.

19. That the town of Madras and the neighbouring villages, comprised in the limits of the supreme Court shall be divided into districts with a Darogah and a competent number of (7883) peons and naicks attached to each, the total number of them being limited for the present to 400.

20. That 20 hircarrahs shall be attached to the establishment with 2 Persian and 2 Malabar Moonshes.



21. That a detachment of 30 men from the Bodyguard shall do the duty of a patrol to observe that the police officers are at their stations and alert and assist the civil power when required.

22. That the sum of 50 star Pagodas per month shall be at the disposal of the magistrates in reward to deserving officers and others who may be instrumental in giving useful information, an account of which is to be given in every three months to the secretary to the Government in the Secret Department.

23. That a house of correction with a proper set of establishment under the charge of a European, shall be provided in the vicinity of the (7884) Justices office in lieu of that which is at present under the charge of the Polygar.

24. That a confidential person in the character of clerk and interpreter with a salary of 75 Pagodas per month shall be attached to the office of the superintending magistrate with such an establishment of writers and office servants, as may on experience, be found necessary. The extent of such establishment with such variation as may take place therein to be certified by him to the secretary of Government in the Public department.

25. To give due effect to the power thus placed at the disposal of the magistrates it will be necessary that a close communication should be kept up between the Superintending Magistrate and his colleagues, that each office should be immediately apprized of any thing of importance that has occurred at the other. That all matters of general arrangement and the means of carrying it into effect should be well considered between the magistrates (7885) and approved by the Superintending Magistrate before they are put in execution. That no inferior officer of police should be appointed or removed without his concurrence, that the disposal and appointment of the civil force, after due consideration with his colleagues, should ultimately rest with him. That the Darogahs of districts should be immediately under his authority and in daily attendance upon him at the Public office and in short every facility should be given to the Public service by a jealous cooperation of the magistracy and a strict superintendence of their superior officers.

26. The foregoing communication is considered by the



Governor in Council to be sufficient to enable the magistrates to carry the proposed arrangement into effect and any improvements which may be suggested by experience compatible with the existing powers of Government will form matter for future consideration.

Fort St George  
19 November 1806

I have the honour to be &c  
G.G.Keble, Secy to Government

X.12

To  
Walter Grant Esq  
one of His Majesty's Justice of the Peace

Sir,

1. The Governor in Council inconsidering the present state of the police at this Presidency has adverted to the great defect of information strongly pointed out in a report of the Police Committee to his Lordship in Council on the subject of the existing state of the police and secondly to the non-existence of any person or body whose especial duty it should be to observe offences against police, to suggest remedies for existing evils, and generally as far as circumstances will admit to follow up by regulations adapted to the exigency of the case a progressive system of permanent improvement.

2. The Governor in Council considering that duties of this description although they require the authority of the magistrate demand also such considerate and uninterrupted (7887) observation as render them incompatible with the discharge of the rotation duties at the Public Office thinks it advisable to establish a separate department whose attention shall be given to the superintendence of an effective police to be founded on regular principles.

3. The Governor in Council is aware that the full benefit of such an institution can not be hoped for under the present limited powers of the magistrate. Yet a great deal may certainly be done by ordinary authority of a Justice of the Peace directing his individual attention to this object and whatever may be the effect of such an establishment at present his Lordship in Council trusts that it will be found highly useful in obtaining



correct information and preparing means for the application of such further powers as the legislature may under the existing circumstances of the country think it advisable hereafter to vest in this Government. (7868)

4. His Lordship in Council has appointed you to be the head of this department with a salary of 200 Pagodas per month in addition to your allowances as a magistrate and the better to enable you to give your attention to the subject has been pleased to relieve you from the ordinary rotation duties at the Public Office. As the duties of this department will require your diligent attention the Governor in Council has directed the Board of Trade to provide you with an office in a central situation where it will be necessary that you should reside and be at all times accessible.

5. The duties of your department at present will be to attend principally to the Public safety but at the same time by establishing an efficient system of activity and vigilance to afford the means of preventing and detecting attempts against the security of the individuals. You will communicate with Government (7889) on all occurrences in which the Public interest may be concerned, or where the aid of the Government may be required for any proposed measures into effect. You will ~~will~~ carrying attend to the general state of the police of the place and collect both from observation and information of others every hint for its improvement, pointing out at the same time how far they can, in the existing circumstances, be carried into execution. You will superintend as much as possible the resort of strangers, ascertain their characters, habits and employments and follow up by deliberate observation any discovery which may originate either with yourself or at the Public Office.

6. A committee having been appointed for the purpose of reporting matters connected with the police of Madras but without an establishment attached to it the Governor in Council considers the department now proposed as attached to that committee (7890) and indispensably necessary to facilitate the enquiries which it may have to pursue in the course of its investigations.

7. His Lordship in Council has been pleased on the suggestion of the committee of police and magistrates to abolish the office of the Polygar and to make a large



addition to the civil force which is detailed in the accompanying extract of the letter of this date addressed to His Majesty's Justices of the Peace.

8. His Lordship has also been pleased to resolve that a confidential person in the character of clerk and interpreter with a salary of 75 Pagodas per month shall be attached to your office as superintending magistrate with such an establishment of writers and office servants, as may on experience be found necessary, the extent of such establishment with such variation as may take place therein to be certified by you to the secretary of Government in the Public department. / (7891)

9. To give due effect to the power thus placed at the disposal of the magistrates it will be necessary that a close communication should be kept up between you and your colleagues, that each office should be immediately apprized of anything of importance that has occurred at the other, that all matters of general arrangement and means of carrying it into effect should be well considered between you before they are put in execution; that no inferior officer of police should be appointed or removed without your concurrence; that the Darogahs of districts shall be immediately under your authority and in daily attendance on you and at the Public Office. And in short that every facility should be given to the Public service by a (7892) zealous cooperation of the Magistracy and a strict superintendence of their inferior officers. that the disposal and appointment of the civil force, after due consideration with your colleagues, should ultimately rest with you /

10. The foregoing communication is considered by the Governor in Council to be sufficient to enable the magistrates to carry the proposed arrangement into effect and any improvements which may be suggested by experience compatible with the existing powers of Government will form matter for future consideration.

Fort St George  
19th November 1806

I am &c  
G.G.Keble, Secretary to  
Government



X.13

To  
S.D. Totton Esq

Sir

In consequence of the Right Hon'ble the Governor in Council having been pleased to relieve Mr Walter Grant from the duties of a Rotation Magistrate for the purpose of enabling him the better to give his attention to the general state and improvement of (7893) the police at this Presidency his Lordship in Council to fill up the vacancy at the Public Office occasioned by the removal of Mr Grant, as well as to provide for the effectual discharge of the ordinary duties of the Magistracy both there and at the office of the Superintending Magistrate, is pleased to appoint you to be Police Magistrate with a salary of 100 Pagodas per month and desires that you will take the usual oaths of qualification at the earliest opportunity.

The Governor in Council has been pleased to dissolve the committee lately existing under the name of the Madras Committee of Police and he directs that henceforth the duties of that committee shall be discharged by you as Superintendent of Details with a power of referring to the other magistrates in any case where you may think their advice necessary.

In this department you will have the superintendance and the execution of (7894) all regulations which now exist in the Police Office together also with such others as it may be thought advisable hereafter to put under your charge.

This duty the prescribed by regulations will necessarily require your daily attendance for a considerable portion of the day and in consideration of this the Governor in Council is pleased to allow you an addition to your salary (of) 150 Pagodas per month as Superintendent of Details.

Fort St George  
19th November 1806

I am &c  
G.G.Keble, secretary to  
Government

Decision of Governor in Council : 18.11.1806



8.14

Minute of Governor Lord William Bentinck :

(265)

Lord William Bentinck records the following letter from Mr W. Grant, in explanation of the grounds on which grounds that gentleman has solicited the permission of the Government to resign the office of Superintendent of Police, agreeably to the intimation communicated to the Board in His Lordship's minute under date the 20th instant.

W. Grant to Governor: 4.1.1807 (extract)

(266)

To  
Lord William Bentinck

My Lord

...

(276) To conciliate Sir Henry Gwillim to an arrangement which he would not look at, appeared to me to be impossible and I determined to go on with the duties of the office with all the circumspection and attention that I could bestow.

I proceeded to divide the environs of the Black Town within the limits of the Supreme Court into three districts, and over each appointed a Darogha, a Deputy or Naib, with a certain number of peons under them.

The peons performing their duty with a punctuality and diligence to be expected in a new establishment, one of them had the misfortune to meet two boys in the neighbourhood of Sir Henry Gwillim's garden with Cocoa-nuts in their hands and suspecting them to have been stolen from the garden, he detained these boys on suspicion and brought them before me the next morning. In the meantime, while they were so detained, it is stated by the peon that they confessed and pointed out to him the very tree whence they they had taken(off)the cocoanuts. The offence appeared trifling. There was inly their own confession against them and having a very good legal ground for dismissing them, I sent the boys about their business,

IOR: Madras Public Consultations: P/ / : Jan ,1807  
The full text of the Grant letter is from pages 266 to 301.



admonishing them to be on their guard in future. I communicated the matter to Sir Henry Gwillim in the Fort the same day and there I thought the matter had ended.

In the evening however I received the following note from Mr Clarke, expressive of Sir Henry Gwillim's sentiments on the conduct of the peons (278) and on the subject of the establishment generally.

Dear Grant

Sir Henry desires me to say that upon his arrival home the story of comparadore's boy appeared in a very different light from that in which it had been represented to you, and as it now stands, it convinces him (if conviction were required) of the impropriety of the kind of police about to be established. He has sent for the peons and upon the representation of the boys, he will order them to be committed to the choultry tonight and brought up tomorrow to the court house before him. It seems at present that the peons have been the greater rogues, for they wanted the boys to bribe them.

Thursday night, ½past 6.                      yours truly, R. Clarke

P.S. They were taken up at half past eight and might have been brought to Sir Henry's gardens. Sir Henry thinks it was a wanton act of authority to carry them to the choultry and not bring them to him, who was a magistrate

(279) The peon was confined all night and was the next day brought up to the Fort and he and the witnesses against him were examined before Sir Henry Gwillim in my presence. The boys affirming that the peon had agreed to receive two fanams from them and thereupon to release them. The peon on the other hand denying it. A woman came forward in support of the testimony of the boys, stating that she had lent to one of the boys while he was so in custody, two fanamson the pledge of his earjy but she did not know for what purpose he had borrowed it.

This counter accusation against the peon and the evidence in support of it, I confess made little impression on my mind. I looked much more to the results of the transaction, which was that the peon had done his duty, than to the questionable testimony of two boys, charged with an offence accusing an officer of justice who had them in custody of an <sup>(280)</sup> attempt at extortion, which giving full credit to their story, they were will'



willing to have submitted to.

Sir Henry Gwillim however thought the peon culpable. But on pleading his inexperience of his duty and expressing his regret that he did not know that these were Sir Henry Gwillim's servants which might have enabled him when he first took them to have referred directly to their master, he was allowed to go free for that time.

The first interference of Sir Henry Gwillim with the new police immediately on its establishment becomes important as showing the decided hostility which it was to expect from him in every the most trifling occurrence. It often happens that officers of justice apprehend persons under circumstances which justify suspicion, but which may afterwards be explained to the satisfaction of the magistrate, or may not amount to grounds of commitment. If on every such occasion the (281) party shall be encouraged to call in question before another power, every act of the officer and of the magistrate to be enquired into in a manner still more summary than that before a Justice of the Peace, it is evident that the magistrate or the officers of justice can never hope to have that estimation in the public mind, or to inspire that awe which ought ever to accompany legitimate authority. Every subordinate magistrate and officer of justice is responsible for all his acts in the highest courts of the King, and real abuses, rarely (if ever) escape the punishment which ought to attend them. But in all such cases, the proceedings are conducted with more than ordinary deliberation and solemnity in full court and the law has protected its officers by many guards against frivolous complaints in the conscientious discharge of their duty, affording to them every opportunity and indulgence for the correction of voluntary or unpremeditated errors. I repeat that it is impossible (282) for any magistrate to discharge the duties of the office under the summary and constant interruption of another power.

The next event to which I beg leave to call the attention of your Lordship, is one of much more serious moment as connected with the public peace.

Your Lordship has been already verbally informed of the riot and plunder of the grain bazars which took place in Chintadrypettah on Sunday forenoon the 28th



ultimo. But as this matter is materially connected with the subsequent events which operate on my conduct, it will be necessary as well on this account as on account of some remarks which I shall have to submit with regard to future events of the same kind, to state distinctly to your Lordship what happened on that and the subsequent day.

On the Sunday afternoon about 1'O'clock, I was informed that there was a disturbance (283) in Chintaderypettah bazar and just as I was setting out for the spot, Major Barclay, Town Major called on me to inform me that similar intimation had reached your Lordship. At the same time further intelligence was brought that the sepoys and a mob of people were plundering the bazars. I immediately proceeded to the place and there to my utter astonishment, I saw an immense multitude of riotously assembled who had broken the doors of the bazars and were plundering and carrying off without resistance or interruption, the grain belonging to grain merchants. Many of the people there assembled were sepoys, with bludgeons in their hands. No one had the inclination or least the courage to oppose them. Assisted by some peons who had accompanied from my own house, I attacked the rioters. Other peons came up at the same time and the sepoys, who had as they pretended been endeavouring but in vain to quell the disturbance, also thought it prudent to join me. A guard was procured from the adjoining barracks. The mob was dispersed and a great many of them secured; (284) and by 5 O'clock in the afternoon, the peace of the place was completely restored. A search took place, in which great quantities of grain were found in the houses of the sepoys, which proved their active interference in and contenance of the insurrection. About 1000 Pagodas worth of property was carried off or destroyed.

Before the causes of this affray could be investigated or precautions taken, by the issuing of grain, to prevent the avoid the pretence for similar outrages in other parts of the town, I was on Monday about w 12 O'clock at noon, informed that the people were plundering the great bazar in the Black Town. I proceeded thither and finding that the mob had gone to the Parchery bazar, I hastened to that place. The multitude of people assembled was immense, all the streets in the neighbourhood of the bazar being completely crowded. There the same scene



which had been acted at Chintadrypettah was going on without restraint or opposition. The mob were carrying every thing before them. The merchant had fled from his property, happy in escaping with his life. On my arrival (285) I found Captain Brown Fort adjutant and Lt Cooper adjutant of the Black Town on the spot. The mob were dispersed and many of them secured, but not before 28 shops had been broken open and plundered of all the grain that was in them. Having obtained a guard from the neighbouring barracks and a detachment of the bodyguard also arriving, sentries were placed in different stations and patrols established which effectually secured the peace of the place. Having arranged with Col Deighton and Captain Grant for the relief of the sentries and patrols, I had the pleasure of reporting to your Lordship about 6 O'clock in the evening that every thing was quiet. In this affair, property was carried off and destroyed to the amount of about 1500 Pagodas. Your Lordship will recollect that previous to my setting out for the Black Town, I wrote a few hurried lines to your Lordship, recommending a vigilant attention to Triplicane &c and meeting with the Cutwal of that place, who had officiously come to my assistance in the Black Town, I ordered him immediately to his own (286) post as being one of the greatest importance.

It seems that every thing remained quiet at Triplicane under the management of the Darogha in the Cutwal's absence, And to secure peace in St Thome, the Derogha had ordered his Naib or Deputy to proceed to that place. He went; this man on arriving at St Thome either saw or imagined he saw symptoms of insurrection breaking out there. The Bazar people were shutting up their shops and the people were gathering in crowds near them. He even states that they attempted to force the doors. He could not prevail on the bazar people to open their shops, but he thought it his duty to disperse the crowd. In this affair a boy got some stripes on the back with a rattan as I am informed. The Naib says that the boy refused to move and that therefore he took him into custody, with an intent of bringing him before a magistrate. He was delivered into the charge of an invalid sepoy. This man who had the charge of him was attacked by a crowd of people and the boy rescued from him. And the boy and his mother were carried to Sir <sup>287</sup>Henry Gwillim's garden, with a complaint against those who had been endeavouring to secure the boy and to bring him before a magistrate.



The peons were sent for. The Derogha, the Naib or Deputy, the Cutwal all were summoned to appear before Sir Henry Gwillim immediately.

This untoward circumstance was notified to me before I entered my own garden on my return from the Black Town, and soon afterwards I received the following letter from Mr Clarke, announcing the same affair:

St Thome, Monday Evening

Dear Grant

A violent outrage has been committed this evening by some of the police peons stationed at St Thome. A boy and his mother, have been attacked and the former most severely flogged. The boy states that he keeps at St Thome a little shop of powder for marking the forehead, that he sells nothing else. That at 4 O'clock he shut his ~~shop~~ bazar to go home, when he was attacked ~~by~~ and beat by six of the Tannah peons. (288) One of them ~~knelt~~ him by the arm /tied with his handkerchief. His mother came up to enquire why he was so bound, when the Deputy Derogha (Sir Henry wishes to know if you have appointed any such officer) ordered his horse keepers (Pariah men) to beat her. The men in their defence say that there was riot and an attempt to plunder a bazar and that to prevent the plundering which they are ordered to do, they laid about them, and that this boy was beat in the crowd. This you will see is false upon the face of it, for the boys arm was tied with a handkerchief which is owned by one of the peons and it appears upon enquiry that there was no attempt at breaking a bazar open or any riot and that this boy sold nothing whatever that was eatable, nothing but the yellow stuff with which the Hindoos mark their foreheads.

Sir Henry says that this confirms him yet more in the opinion that the steps taken are the most likely to produce effects opposite to those intended. That such treatment of women, persons of (289) cast, by Pariahs, directed by persons in authority (if the authority of a Deputy Derogha is acknowledged) is most likely to alienate the affections of the natives from the English. And if, he says, so many instances of misconduct come within his knowledge in so small a compass, what must be the case in Madras? He has sent the peons who beat the boy to the choultry at Triplicane in charge of the Cutwal, and he has sent for the Derogha by the Triplicane Cutwal. He expects his arrival ~~any~~ minute. He will ~~every~~ wish to have you present tomorrow morning at the



examination, and will let you know in the morning whether he will be in the Fort, or whether he will request your attendance at the gardens.

December 29,

Yours truly, R. Clarke

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(290) The circumstances that then occurred being of a nature more connected with my private feelings than with the object of this letter, I forbear to detail to your Lordship. Suffice it to say that after some enquiry, Sir Henry Gwillim gave it as his opinion that the boy was entitled to compensation for the stripes that he had met with and that the mother of the boy was entitled to compensation for the indignity that she had suffered, for it was not alledged by her that she had been beaten. Sir Henry Gwillim took time till the next morning to consider of the extent of the compensations and next morning Mr Clarke called on me and intimated that five Pagodas to the boy for the beating and five Pagodas to the mother for the indignity was the amount of compensation, which Sir Henry Gwillim had fixed. And he desired that the Naib (Deputy) of the Derogha should ~~be~~ attend him at 5 O'clock in the evening to make the compensation. The man attended him accordingly and the money was (291) paid on to the complainants in Sir Henry Gwillim's presence.

I submitted to this summary interference of Sir Henry Gwillim's from two motives. First, to avoid personal altercation with a judge, and secondly in the hope that this case having happened in the vicinity of his garden and been brought before him by the clamour of the parties, it might probably be the last interference that would occur.

In this expectation however I was disappointed. For on the 2nd of January while I was sitting in the court of commissioners and Mr Clarke sitting there as a Register, I received the following note from him, the substance of which was intended to have been delivered in a verbal communication:

I forgot to say that Sir Henry desired me to say with his compliments, that in walking about St Thome this

\*\* As soon as I addressed and refreshed myself, I proceeded to Sir Henry Gwillim's garden the same evening for the purpose of understanding the extent of the injury which had thus imperiously called for Sir Henry Gwillim's interference with the public (290) officers in a home of such extreme danger



this morning, he was very sorry to observe the sepoy standing sentry in the bazar. He is sure that you must be aware as well as he of the impropriety of this after all riot has ceased, particularly (292) when there is a sufficiency of Peace Officers. It is what he as a magistrate can not allow, but he is unwilling to act but thro you. He will be therefore much obliged to you if you will represent to Government and get them removed immediately. You must be, he says, as averse, to being under military law (more than is absolutely necessary) as he is. Should they not do so he says that in his walk tomorrow morning, he must interfere personally, let what will be the consequence.

(Recd) 2nd Jan 1807

Your &c , R. C(larke)

To explain this I beg leave to state that when your Lordship ordered the Company's grannaries to be opened and ten garce of rice to be distributed daily among the several bazars for the supply of the people, I thoght it necessary, while the scarcity continued, that the convoys of grain should be attended with a few sepoy to prevent interruption or riot. I therefore requested the Town Major to give orders for such a guard; (293) and accordingly a Naik's guard, consisting I believe of five men, accompanied each convoy of carts to the several bazars. Besides there was a guard of 12 sepoy under the Cutwal of Triplicane stationed at his choultry whence he detached a few men to prevent riot in the St Thome bazar, and I believe two were posted as sentries in the bazar.

These are the sepoy and the military law that Mr Clarke's note alludes to, the date of which is only on the fourth day subsequent to the disturbances in the bazars in the Black Town, and while apprehensions of similar putrages were entertained.

As to their being plenty of rice my opinion is otherwise. There was not a sufficient supply of rice for many days afterwards. But still to prevent things coming to extremities (which was very much to be apprehended if Sir Henry Gwillim had interfered with the sentry on his post) I withdrew ~~the~~ the sepoy, resolving at the same (294) time to rid myself of a responsibility where I could not exercise a reasonable portion of discretion.

The whole of these occurrences in my humble opinion must convince every person, as they do me, that it is



impossible to do the duties of the office which your Lordship in Council has confided to me under so decided and active a discountenance of my endeavours in a quarter of such high authority.

When your Lordship in Council was pleased to select me from my colleagues and to place me in the office of Superintending Magistrate, I felt myself called upon by a sense of public duty, in times like these, not to shrink from a service however arduous which was so flattering to my feelings and which if well performed, could not but be acceptable to my country and the Government that appointed me. Adverting to the present circumstances of the country and the limited powers of the Government as recognised by the supreme court, I had the presumption to think that one of the principal motives for your Lordship's (295) selection was a hope that my diligence and professional habits of moderation in the discharge of my duty as a magistrate, would have enabled me to keep clear of all questions relative to the powers of Government.

With this view of the intentions of your Lordship in Council and with a desire to fulfill them, I took upon me the office, notwithstanding the notice that I had received of Sir Henry Gwillim's sentiments, trusting that my experience and knowledge of my duty would have enabled me to have repressed any dangerous abuse of power in those under me; and that my character and the respectable situation that I hold in the supreme court, would have effectually secured myself against the suspicion of any attempt to carry the exercise of power further than the circumstances of the place required.

In proof of how far my conduct has been guided by these temperate sentiments, I might appeal to the facts herein stated and to the issue of these two affrays, which whether originating in necessity (296) or design, had brought together assemblages of disorderly persons and produced scenes of violence and insubordination which I will venture to say, have not been equalled here in the memory of the oldest man living. I believe it is the first instance of a Hindoo population rising in disturbance of the public peace against the ruling authority. It is a subject well worth the most serious enquiry. What is that has produced this extraordinary change in the character of the native? Were I to hazard an opinion on the subject, I should attribute it to the extinction of that controul



and summary jurisdiction which was wont to be exercised by the subordinate magistrate, which by promptitude of / the its application ensued to all public authorities that respect which in this country is so essential to their existence and which followed up any petty misconduct among the lower orders by immediate chastisement. This practice in all the minor offences prevailed from the time of our beginning to exercise any authority here, till the establishment of the supreme court, and (297) even for sometime afterwards. The very existence of it for so long a time under courts that were perfectly aware of it prove both its utility and the moderation with which it was exercised. Circumstances such as these that have been stated in the former part of this letter, have for some years almost deterred the magistrate from taking upon him any responsibility. The solemn and technical remedy by a prosecution before a British jury cannot be applied to those petty offences to that contempt for and encroachment on established authority which is daily gaining ground. Even if a trial by jury were well adopted for the purpose and if every case of delinquency were to be brought before it, their would be no end to their labours. The consequence therefore is that the lower orders of people, who are only influenced by a fear of punishment, finding that check withdrawn have really become both insolent and daring, knowing that they are sure of immediate and summary redress against all exercise of summary authority by subordinates magistrates.

(298) The general effect of this change in their condition has been gradually disclosing itself for some years past and has been felt by every master of a family, altho it never till now has broken out in open violence and outrage. In former times at Madras and now in all other parts of India the patient submission of the Hindoo to all sorts of public calamity, and to famine that greatest of all, has been a marked peculiarity in their character. It certainly therefore cannot be the effect of accident that on the first dawn of scarcity in Madras, a spirit of disobedience and contempt for all authority broke out in acts of open violence so serious as to endanger the destruction of the place.

Had the affrays where so much mischief was done in the pen day and with the eyes of the world upon the offenders, broken out at night, it may easily be imagined what might have been the consequences in this populous place abund-



ing with individual wealth, among a race of men who have (299) neither courage nor public spirit to oppose against violence and tumult. Whatever might have been the origin of the disorders, there would not have been wanting adventurers enough who would have turned it to their individual advantage. That the sepoys had an active share in these affairs (particularly that of Chindatrypettah) was evident from the great quantity of grain found in their houses. And there is no man who knows the native character and could have seen the scenes of Sunday and Monday last that would have doubted, had such occurrences happened at night, but that every house in the Black Town would have been plundered before the morning. This would have been the consequence/in the best times, but /even in the present circumstances of the country with the awful but foolish prognostics which amuse the public ear and occupy the more serious attention of the fanatic and disappointed men, God only knows what might (300) have followed.

In resigning into your Lordship's hands this charge, it behoves me to state that from the little experience which I have had of its duties, it appears to me a most important trust, requiring the undivided attention of the most able and best men whose services your Lordship can command, one who shall unite in him the confidence of Government, the confidence (at least to common intents /all) of the supreme court and the confidence and unanimous support of the Public. The scenes of Sunday and Monday perhaps may be the forerunners of still more serious events. Pretences for such disturbances will not be wanting in the impending scarcity of grain. The lenity which has been shown in the suppression of the late riots, the number that have been necessarily discharged for want of legal evidence against them, and the little effect of punishment among an inconsiderate race when not immediately consequent upon the offence, cannot fail to give such an audacity (301) to future attempts of the same kind, as will require the most prompt and decided measures of Government.

I have now my Lord by this detail discharged my duty. I have been obliged to state facts, which I apprehend admit of no doubt in justification of my own conduct. I have foreborne to state anything beyond what I have thought necessary for the purpose. But I hope your



(X.15)

Lordship in Council will give me full credit for acting bonafide in the resignation of an office, which is accompanied with a sacrifice of so considerable a portion of personal advantage.

Fort St George

I have the honour to be &c &c

4th January 1807

Walter Grant

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The President proposes that letters agreeably to the following drafts be dispatched to Mr Walter Grant and Captain James Grant:

To  
Mr Walter Grant

Sir

I am directed to inform you that the Right Hon'ble the Governor in Council (302) has been pleased to permit you to resign the situation of Superintendent of Police at this Presidency and to appoint Captain James Grant to the temporary charge of that office.

Fort St George  
23rd January 1807

I am &c  
G.G.Keble, secretary to  
Government

To  
Captain James Grant

Sir

The Right Hon'ble the Governor in Council having been pleased to appoint you to the temporary charge of the police of this Presidency, in the room of Mr Walter Grant who has been permitted to resign the situation of Superintendent of Police, I am directed by his Lordship in Council to desire that you will take charge of the office from Mr Grant, as early as may be convenient, and that you will be guided in the office by the instructions contained in the accompanying memorandum.

Fort St George  
23rd January 1807

I am &c



8.16

Instructions to Capt. J. GrantMemorandum

1. The Rt. Hon'ble the Governor-in-Council having been pleased to resolve W Grant Esq. at his own particular request from the situation of Superintendent of Police, his Lordship is pleased for the present to nominate you to that situation.
2. The duties required of you will be to attend principally to the Public Safety, but at the same time by establishing an efficient system of vigilance and activity to afford the means of preventing and detecting any attempt against the security of individuals. You will communicate with Government on all occurrences in which the public interest is concerned, or when the aid of Government may be required for carrying any proposed measure into effect. You will attend to the general state of the police of the place, and collect both from observation and the information of others, every circumstance deserving of notice. You will superintend as much as possible, the resort of strangers, ascertain their (p. 242) character, habits and employments, and follow up by deliberate observation, any discovery which may originate either with yourself or at the public office.
3. You will send any person or persons, who may be accused of theft, robbery or any irregularity meriting notice, with the necessary evidences before the sitting magistrate, who will investigate the circumstances relating to his or to their innocence or guilt.
4. In the event of any serious disturbance which may possibly occur, you will without delay convey information of the circumstance to the nearest magistrate, and request him to repair to the spot, where it is supposed you will be present and not proceed to any act of violence, unless absolutely necessary, without his orders. But in any case which endangers the public safety, his Lordship confides in your discretion; and authorises you to take such steps as you may consider best calculated for preserving or restoring order and security.
5. His Lordship considers it proper to enclose for your information, a copy of the instructions which were furnished to W. Grant Esq., which with the exception of his situation as a justice of the Peace, apply equally to you.

Approved and ordered accordingly

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India Office Records: Madras Public Consultations:  
Dated January 20, Cons. 22 January 1807



8.17

The next accusation brought against us in the charge to the Grand Jury is, that without previous communication with the two Puisne Judges, we have recommended in our despatches from the Secret Department an application to Parliament for the purpose of extending the local powers of this government in matters of police. I shall not take the trouble to enquire by what means Sir Henry Gwillim may have obtained his information, or how he may justify his disclosure of our secret counsels. In the course of ~~of~~ our discussion of this part of his proceeding heavier accusations will arise against him.

Let us first however justify our own conduct, partly by adverting to the absurdity of the charge itself, and partly by availing ourselves of the unintentional assistance of our accuser.

If our superiors had objected that in a matter of civil regulation within the (p.717) limits of Madras, we had omitted to obtain any advice which might have been expected to instruct us and them or to strengthen the proposed application to Parliament, that might have been a competent ground for their censure of our conduct; but Sir Henry Gwillim has relieved us from the possibility of that censure, having openly and distinctly stated what we well knew "that he would not advise with us on any such topics, and that he believed Sir Benjamin Sullivan not to be very desirous of that honour". But he insists that it was our bounden duty to have communicated our intentions on those topics to all the judges for the purpose of enabling them to communicate their opinion of our intentions to the King's Ministers. I know but one constituted channel of correspondence between us and the King's Ministers, and I conceive it to be our duty not to have recourse to any other. But admitting the fact to be otherwise, the conduct of Sir Henry Gwillim would (p.718) prove the inexpediency of a different management and shew the indispensable necessity of rendering our communication with the Supreme Court on all subjects connected with the safety of the state, entirely voluntary and the extent of it, subject only to our own discretion. For is that judge candid in the declaration of his reason for insisting on the propriety of such communications? Is it for the information of his majesty's ministers that he would require them, or for the purpose of enabling him the better to arraign our measures in his charge to the grand jury?

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India Office Records: Madras Public Consultations:  
Minute of Governor Lord William Bentinck: Dated  
18-2-1807: (Extract)



I am confident that such a disclosure of our counsels cannot be expected from us now or at any time. It will be time enough for such communications when it shall have pleased the legislature to constitute a colonial assembly for the better government of these territories, and to direct the king's ministers of justice to become the chief Demagogue of the place.

The strength of this expression is (p.719) justified by the fact: Sir Henry Gwillim has taken the solemn occasion of addressing the Grand Jury to give vent in public to that furious spirit of hostility against the whole present and proposed system of police, which he had before evinced so fully and effectually in detail.

The first intimation we received of any regular opposition to that system on the part of Sir Henry Gwillim was in the statement delivered to us by Mr. Grant late Superintendent of Police, on resigning that trust in consequence of the interruptions which he received in the discharge of it by the extra judicial interference of that judge.

The new establishment of police was the first effort made by Government at the Presidency, to check and counteract that rising spirit which had lately manifested itself among the people, and to interrupt the seditious communications by which it was apprehended to be secretly kept alive and disseminated. (p.720) When the massacre at Vellore roused us from that security in which the long tried attachment of the native soldiery and passive submission of the people had immemorably placed this government, we felt immediately the necessity of making this change in the public temper, by corresponding energy and watchfulness. Particularly alive to the danger which apparently threatened the existence of every European at the Presidency, we instituted a police (no safeguard of that nature having been before established at Madras) and having no authority to communicate powers beyond those which could be exercised by every justice of the Peace, we selected for the head of the new establishment, a man admirably calculated by his character and profession to keep within those bounds, and our expectations were fully answered by the correct and temperate conduct of Mr. Grant. The only difference between this establishment of police; and that of the justice's offices was the addition of a large body of peace officers, regularly arranged and sub-divided, so as to form a connected body, acting <sup>by</sup> one power (p.721)



and directed to one common object. The instructions given by Mr. Grant to the Chief officers under him, are before the Board, and are such as any magistrate in England, might with perfect propriety have given to the constables of his parish; and considering the jealous spirit with which Sir Henry Gwillim has watched every step of this body, I think that the fact of their having hitherto escaped without one case being brought forward as a charge against them, in any regular or avowed shape, must raise a strong presumption in favour of their general correctness.

Some errors must undoubtedly arise in a new establishment of such magnitude among people not acquainted with English Law. These ought to be corrected as they occur and any enormity which might be cloaked under the pretense of the process of justice, ought to be marked by exemplary punishment. By the statement of Mr. Grant and a subsequent report from the Advocate General, we see how much punishment ought to be awarded by the deliberate and dignified solemnity of (p.722) regular and judicial enquiry and judgement, tending to the punishment of the offender without degradation to the office. Subject to that regular control, a magistracy and establishment of peace officers calculated to secure the public tranquility and safety of the Lawful exercise of the ordinary powers of a justice of the peace, ought surely to have received the general support and countenance of the King's Court.

In proceeding to assert and maintain the prudence and expediency of this establishment, I cannot feel the very extraordinary shape, in which I am called upon to defend this act of Government. Had a general assembly of the settlement been a branch of the constitution of this government, as Sir Henry Gwillim seems to think it ought, this would have been a natural and consistent course of proceeding before such a body to which the government might have been responsible. But I shall not avoid the question, as I am conscious that our conduct will (p.723) stand the closest examination. The impression likely to be made in England on understanding that judge has gone<sup>out</sup> of the ordinary course of his duty in order to arraign the prudence of an act of government, would be, that the conduct of government had been so glaringly and outrageously improper as to justify any man in any situation to cry out against it. I think therefore that we have a right to answer it, and where we know that the enquiry must be favourable to us, it is rather a question of right, than of necessity; with us to confute it.



Sir Henry Gwillim has been pleased to say that the state of Madras does not require such an establishment of police; that the people although disorderly, are not depraved, and he treats the establishment as improper, because disproportioned to any necessity arising from the vices of the place. He thus views it only as subsequent to the ordinary local magistracy in the detection (p.724) of the petty thefts and irregularities of a populous town, and his objection is, that so great an establishment is not required for that purpose. From this statement of the charge against us, it is evident, that if it shall appear, that the avowed principal object of the establishment was wholly distinct from that to which he has chosen to <sup>fine</sup> his view of <sup>it</sup>, the charge against it falls to the ground; and if it shall appear that those other objects of this establishment either were in fact, or must be presumed to have been known to Sir Henry Gwillim, his statement must appear a deliberate and wilful misrepresentation. Sir Henry Gwillim knows (although by what means does not appear) and has thought proper to promulgate to the world, that after the massacre at Vellore, while the state of the troops was everywhere doubtful and precarious, and that it was generally apprehended, that extraordinary exertions had been used to seduce them in every quarter from their duty and allegiance, the (p.725) government did, in the Secret Department, immediately recommend to their superiors an application to Parliament for an increase of local powers within the town of Madras. The principal object of that recommendation was political security against machinations and cabals of secret enemies and their emissaries, and the danger to be apprehended from a numerous body of Mussulman inhabitants but too generally disaffected to the British interests. The present police was formed in the meantime to provide against the evil as far as it was practicable without additional powers and to (prepare) a magistracy and body of followers capable of acting with full effect when those powers should be obtained.

As Sir Henry Gwillim has taken upon himself to know what passed in the Secret Department, he must be presumed to know the main object of the establishment of the police (p.726). But even if he never had access to the secrets of government the occasion and time of forming the establishment must alone have pointed out to every man whose mind was open to conviction the plain meaning and view of government. I must beg leave to refer



generally to the papers noted in the margin\* in explanation of the reasons upon which the government acted as well as for the feelings and opinions which were entertained at the time not by government only, but by the most sensible and respectable individuals of this settlement. Also we then considered that the tranquility of the capital was a most essential point. The unprotected state of the British inhabitants scattered in their different garden houses or in the Black town presented an easy prey to an insurrection of the disaffected. From the event at Vellore, we saw that the intention of such an insurrection might be notorious in the pettah without drawing the attention of the Europeans, whose habits and language separate us so widely from (p. 727) free communication with the natives; and we perceived the necessity of establishing a body selected from the mass of population yet continuing to form a part of it, whose duty and whole employment, and therefore whose clear interest and sole dependence would so directly and strongly lead them to counteract and discover any attempt at insurrection or other illegal practices as to deter the seditious either from openly or secretly exerting themselves for our

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\* The President's Minute dated Aug 6th 1806  
Cons 6 Aug 1806

Instructions to the Police Commissioner<sup>Hcc</sup> of Madras  
Dr to Cons 9 Aug Aug 6

Answer of the Police Commissioner<sup>Hcc</sup> - Aug 8th  
Cons 21 Oct.

Sir T. Strange's letter to the President and  
enclosures - July 26  
Cons 21 Oct 1806

President's Minute Oct. 10<sup>with</sup>  
Answer of Select Committee Enclo. Oct. 16

Letter to Mr. Walter Grant Nov 19th  
Cons 18 Nov 1806

Instructions to Magistrates Nov 19

Statement of resignation of Mr. Grant 4 Jan  
Cons 22 Jan

Appointment of Capt. James Grant and Instruments  
ctions to him Jan 20th  
Cons 22 Jan



destruction. Every days's experience since that time has more and more convinced us of the indispensable necessity of a system of the most vigilant superintendance both at the Presidency and in all the provinces. These were the leading objects of Government in the formation of the police, and it is against these exertions of government that Sir Henry Gwillim has directed his decided and avowed opposition. I have little difficulty in finding a reason of this enmity. His objection is not merely that he himself was not consulted, or rather communicated with, regarding it. The minutes and proceedings (p.728) of Government shew that Sir Thomas Strange at my desires, did with that frankness and with that zeal for the public good which we have a right to expect from any liberal mind holding a place of high trust, communicate to me his sentiments which I have laid before the Council. I think that I can perceive in the whole of Sir Henry Gwillim's late attack, the resentment of our communications with Sir Thomas Strange and it is the only motive to which I can ascribe the decided opposition of the former to the establishment of Police as a measure upon which Government relied in a considerable degree for its safety. Had he really believed that the only object of Government in forming that establishment was the apprehension of thieves and house breakers or prevention of offences of that description, I cannot bring myself to believe that he would have made such opposition to it. He attacked it as an important object of Government and fortunately in the course of (p.729) the interpretation which he gave to it, he shewed distinctly the motives by which he was actuated. But the necessity of appearing not to understand the importance of the establishment while he endeavoured to stop its operation is obvious. He has attacked it as a mere body of constables and thief takers. He could not well avow an intention to counteract an important measure of Government for the preservation of the public peace. But such has been the effect of his conduct.

I must refer to Mr. Grant's detailed statement\* to support me in saying that from the commencement of that establishment, Sir Henry Gwillim opposed it with determined, avowed, and

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\* Mr. Grant's letter Jan 4, 1807  
Cons 22 Jan 1807



active hostility; that he has complained of not being informed of its nature, and refused to read when delivered to him the papers in which it was circumstantially explained, that he has encouraged appeals to him in his gardens upon every trifling occasion from the authority of the police magistrate and that he habitually called upon him and all the (p.730) officers of the district to appear before him on these complaints, and an summary enquiry degrading in its nature, but infinitely more degrading in the manner of conducting it, by fining some, imprisoning others and threatening the whole he has checked the operations of the establishment and effectually frustrated its object. yet it is singular to observe that while he vaunts in his public charge the purity of his judicial impartiality, which would prevent him from listening to the intentions of government, or giving to it the aid of his advice when wanted for the benefit of the public service "unless judicially upon that Bench" yet when opportunities offer by which he can thwart and counteract the measures of Government, he has no objection privately at his gardens to hear complaints against the magistrates and officers of police, to institute a summary enquiry, to adjudge to imprisonment and to fine those officers and thus fully to prejudge those cases which certainly might have come afterwards before him for judgement when sitting in Public (p.731) Court with his colleagues and which I am advised by the Advocate General never could legally or constitutionally be investigated by him in any other place, or in any other manner.

But it is not upon any point of questionable legality, upon any mistake of the correct rules of Law that I now arraign the conduct of Sir Henry Gwillim, it is indeed an aggravation of his conduct if it be found to be unwarranted by any legal authority, but had his conduct been ever so clearly within the letter of the law in each particular instance, it would have made but little difference in the general view in which I see it, as an aggregate body of opposition to the Government, in a measure intimately connected with the public safety. In this he has completely succeeded. He has encouraged the hopes of a successful opposition under the sanction of his authority to the establishment of police, has deterred the inferior officers from discharging the duties (p.732) of their stations, has deprived the establishment of all authority or awe over the public mind; has driven from it the Magistrate upon whose exertions its efficacy principally depended, and has essentially impaired and wilfully counteracted



the exertions of government for the public preservation.

(p. 735) I will only further ask whether it be possible to suggest one good reason, or even any pretence of an excuse for insinuating into the minds of the people on the eve of an apprehended famine, that their sufferings might be attributable to the misconduct of the Government. I am not surprised however that this topic should have been mentioned by Sir Henry Gwillim. It is in unison with the whole tenor of his late conduct.

It is no doubt the duty, a most imperious duty of Government to exert itself for the preservation of the people under it from famine. In the full and strong conviction of this duty and of the necessity of making every possible exertion to effectuate that purpose in this calamitous season, government has done as much as probably ever was done on a similar occasion in any part of the world. Our public advertisements\* in the Government Gazette, securing a very high price to all importers of grain, must have (p. 736) been known to Sir Henry Gwillim: The other parts of our conduct being detailed in my minute of the January and in our instructions to the Board of Revenue under date the 26 January.

I refer to these proofs that in this time of scarcity and in the dread of a general famine, we have omitted no step towards relieving it. That we have directed our public officers to consider the revenues only as a secondary and subordinate consideration and to make every possible exertion for preserving the people from this dreadful calamity.

Although I never before heard, nor can well understand the objection to a government for not providing employment for its subjects, yet it does happen that this charge also gives us an additional opportunity of drawing attention of our superiors to the means which we have taken for the relief of the poor in the approaching famine so as to avoid the example and habit of indolence by (p. 737) finding employment for them on public works. In this point also our directions to the Board of Revenue are most perfect answer that we can make to the charge against us.

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\* Dated Jan 10th  
Cons 9 Jan 1807



The time which Sir Henry Gwillim has chosen for this public gratification of his resentment, is when by an unfortunate turn of events, a spirit of disaffection and revolt among the native infantry, has broken out in one place with dreadful violence, and has manifested itself in others, in a shape so alarming, as to create the most serious disquietude attended as it has been, to a considerable degree by a correspondent sentiment among a numerous and dangerous class of the other inhabitants of these settlements. In addition to this most alarming danger, before Sir Henry Gwillim made any considerable or serious opposition to our measures of police, another heavy misfortune befell the coast in the total failure of the periodical rains (p. 738) and in the consequent certain prospect of a great scarcity approaching to the horrors of a famine, and the first sensation of that evil has shewed itself in Madras in a shape I believe before unknown in India, in two successive riots of the populace with the object of plundering the bazars in defiance of all authority and order..... (to page 745).



X.18

Law Department

To the Hon'ble the Court of Directors  
for affairs of the Hon'ble the United  
Company of Merchants of England trading  
to the East Indies.

Hon'ble Sirs,

Quadruplicate

1. We are concerned to have occasion to address your Hon'ble Court on a subject of not less importance to the public interests than it is of a nature painful and unprecedented.

2. We addressed to you a separate letter under date the 21st October, 1806, explaining the measures which had been adopted for placing the Police of this Presidency on a respectable and (p.—) (so far as was deemed possible (p.—) an efficient footing. We explained on that occasion that this arrangement was dictated by the most urgent considerations of public necessity arising from the alarming agitation which has lately prevailed, in the native army of this Establishment; from the general influence which the late events have produced in the minds of our native subjects; from the particular state of the society of this place, where there is reason to suppose that intrigues of a very serious nature have existed and still continue; and from the total want of any adequate means of precaution to avert the dangers which threatened in a very great degree the prosperity, or perhaps the exist(ence) of the British Power in this part of India.

3. In the letter which we addressed to your Hon'ble Court we expressed our extreme regret that a defect in the provisions of the Legislature as applicable to this settlement, precluded us from the benefit of such a system of Police as has been established under the Act of Parliament, at the Presidency of Bengal and which it

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India Office Records: Letters from  
Fort St. George: 33/E/4/335. Dated 6.3.1807  
Recd 6.9.1807(?)



would be an object of the highest importance to extend to the Presidency of Fort St. George.

4. In pointing out to your particular notice the steps which it appeared requisite to take for the removal of this legal defect, we at the same time explained the temporary means which we had adopted for applying the best palliative within our power to an evil which did not admit of a radical remedy; and we reported the arrangement which had been made for placing the Police of Madras and its environs under the control of a Superintendent, assisted by such an Establishment of Police Officers and Servants as the nature of his duties required.

Consultations  
21st October

5. We had the satisfaction to inform your Hon'ble Court of the zealous cooperation which we had received from the Chief Justice Sir Thomas Strange, in carrying into effect those measures. You will have observed from the papers which were laid before you that Sir Thomas Strange was impressed with the fullest sense of the nature of the legal difficulties in which we were placed, but he was not less sensible of the urgent necessity for the adoption of immediate means to provide for the public safety; and while he with great readiness suggested the best legal course to be followed for the removal of the difficulties which we have described, Sir Thomas Strange with a zeal suited to his high character and station aided by <sup>his</sup> the explanations and counsel the formation of the temporary system of Police explained our former despatch.

6. We were willing to have hoped that in the measures taken on that subject, we were fortified by every precaution that prudence could devise. We felt that we had performed a duty which we owed to the public safety and to individual ~~general~~ security; and from the concurring sense of satisfaction which the measures had diffused through this settlement, we anticipated the cordial uni(ty) and support in their execution of every individual belonging to this extensive community and enjoying the protection of this Government.

7. We lament however to acquaint your Hon'ble Court that in this expectation we have been fatally deceived. The improved



system of Police which we had established has experienced obstructions nearly insupera<sup>(ble)</sup> not from a quarter of an ordinary nature, nor from a channel where such impediments could be supposed to arise; but from a person holding one of the highest offices at this place; from one destined by his appointment to be the guardian not the Distirber of the Public Tranquillity, and from one whose example deriving the highest weight from the influence of his station, has instead of affording salutary aid to the public measures, been perverted to purposes of the most dangerous tendency. Such are the effects which we have been unhappily destined to experience in a series of counteraction of the most virulent nature, from Sir Henry Gwillim one of the Judges of the Supreme Court of Judicature at this place; and the facts which we shall have the honor of submitting to the attention of your Hon'ble Court, will evince that the opposition of Sir Henry Gwillim has been attended by circumstances of violence and aggravation probably unprecedented in the annals of any Government.

Letter of  
21st October,  
1816 Para 19th

8. In reporting to your Hon'ble Court our arrangements for the introduction of the improved system of Police, we stated our intention to appoint (Mr.) Walter Grant to the situation of Superintendent, and we observed that we had been guided in that choice by the peculiar qualifications for the duty of Superintendent of Police which are possessed by Mr. Walter Grant who has long acted with great credit as a Magistrate ( ) this place.

9. Mr. Grant accordingly proceeded in execution of the duties of that office, <sup>John</sup> with every prospect of the early and full attainment of the success and ~~which~~ which had been anticipated. While however the system yet laboring under the inconveniences, to which such an institution must necessarily in its early stages be <sup>(expectat)</sup> its advancement was seriously checked by the count<sup>(vacty)</sup> of Sir Henry Gwillim, who appears from the beginning to have resisted the reform which had been made, with determined and wanton hostility. The acts of interfer<sup>(ence)</sup> on the part of Sir Henry Gwillim with the duties of Superintendent became so vexatious and numerous with every appearance of farther violence, that Mr. Grant was at length



compelled to solicit our permission to relinquish the task which he had undertaken, and to retire from an office for which on account of his peculiar qualifications he had been selected.

Consultations  
22nd January

10. Mr. Grant in laying before us his resignation considered it to be proper for him to give a detailed recital of the motives which had compelled him to that measure, and as it is material to the consideration of the present important question, that the circumstances attending the resignation of that gentleman should be distinctly known, we request your attentive perusal of Mr. Grant's letter.

11. You will observe from that paper that from the period of the formation of the new Police, Sir Henry Gwillim (p. ) "who had before frequently complained of the inadequacy of the Civil force at the disposal of the Magistrates" without any sufficient motive expressed a great degree of displeasure at the arrangement and that the Superintendent of Police exerted in vain every conciliatory endeavour, to induce Sir Henry Gwillim to view the measure in its.....just light. The counteraction of Sir Henry Gwillim was continued without intermission by the encouragement which he gave to complaints against the officers of Police when emp<sup>(loyed)</sup> in the discharge of their duty; by the use of threats, by acts of illegal punishment inflicted on the Police Servants; and finally by every means which appeared likely to degrade and to render odious the Police Establishment, and to excite a general ferment in the public mind, at a period when a serious degree of tumult and agitation already existed in this settlement.

In Consultations  
22nd January

12. The explanation furnished by Mr. Grant in the letter to which we have referred was so (far) satisfactory, that however much we regretted the loss of services, <sup>his</sup> at a moment when they might have been ( ) with signal public advantage, we could not with regard for the interests of that <sup>due</sup> Gentleman withhold our concurrence in his request, and we accordingly resolved as soon as practicable to provide for the execution of the duties of Superintendent



of Police by the best arrangement at that time in our power. The resignation of Mr. Grant was presented on the 4th of January but the arrangement in our contemplation was not effected until the 22nd of that month.

13. On the 21st of January the Sessions of Oyer and Terminer were opened by Sir Henry Gwillim in charge of great length addressed to the Grand Jury. /a

Consultations  
22nd January

14. The Advocate General in consequence of an intimation which was stated by Sir Henry Gwillim in the early part of his charge of his intention to call the notice of the Grand Jury to certain acts of the Government, proceeded as his duty required to the Supreme Court, for the purpose of attending on the occasion of the expected address.

15. The Advocate General having been present during that part of the charge which particularly required our observation, he was enabled to lay before us a full report of the subject, and we point it out to the (attention) of your Hon'ble Court as one of the most extraordinary documents of that nature which we believe to have been ever exhibited.

16. Sir Henry Gwillim after going through the calender of offences, proceeded according to the intimation which he had given in the early part of his charge to att(ack) the measures of the Government and the Governor personally, terms the most opprobrious and ~~in~~ insulting. He complained of pretended insults having been offered by the Government to himself and Sir Benjamin Sullivan and publicly charged the Government in terms of great animosity, with a violation ( of ) its faith and honor.

17. He attacked with peculiar asperity the system of Police, and complained that it had been established without a previous communication with him, allowing at the same time that Government well knew that he would advise with it on such topics. <sup>not</sup> He vehemently denied the necessity of such an establishment, and considered its extension as a measure to be deprecated; while by the most pointed and injurious allusions he vilified the office of the Superintendent of Police as dangerous to the community.



18. It had happened about that period that two riots of a very serious nature had occurred in this settlement, in consequence of a scarcity of Grain proceeding from the calamitous effects of the present adverse season. Sir Henry Gwillim adverting to the circumstance in his charge to the Grand Jury availed himself of that solemn occasion to insinuate in terms not to be mistaken, that the misfortune might be "traced to the misconduct of the Government in not providing a sufficient supply of food for its subjects." The absurdity of such an imputation must be apparent, and we should scarcely have deemed it necessary to recur to it in this place, but for the purpose of attracting your particular attention to one of the most libellous and inflammatory harangues that was probably ever uttered in a public meeting.

19. The whole having been distinctly stated in the Report of the Advocate General, we accordingly (*refer*) you to that document, for farther detailed information on the subject of which we have given the above outline.

In Consultations  
27th January

20. As it appeared from the Report of the Advocate General that particular allusion had been (*made*) by Sir Henry Gwillim to the opinions of Sir Benjamin Sullivan the other Puisne Judge of the Supreme Court as coinciding with those which he had delivered; we deem it proper to direct the Advocate General to wait on Sir Benjamin Sullivan for the purpose of ascertaining (*by*) ~~personal~~ communication the sentiments which he might entertain.

21. The result of that interview was communicated on the same day in a letter from the Advocate General to which we request your reference. In so far *it* related to the immediate object of the communication, the explanation furnished by Sir Benjamin Sulvan went to specific denial of his having participated by his ass(*ent*) in the offensive expressions which had been uttered by Sir Henry Gwillim.

22. Sir Benjamin Sullivan at the same time expressed extreme ~~an~~ dissatisfaction at a supposed indignity which he considered



himself in conjunction with Sir Henry Gwillim to have experienced from the Government, in the case of a letter bearing their joint signatures which had been addressed to us, and which had been returned; on the grounds of its not having received the signature of the Chief Justice, according to the mode which had been always when practicable, observed in all former correspondence of the same nature. The feeling of Sir Benjamin Sullivan on this subject was such, as was stated to induce him, together with Sir Henry Gwillim to decline holding any communication with the Government, until the ground of the supposed indignity should be removed.

23. As the circumstance adverted to in the present paragraph was far as unexpectedly raised into a subject of importance, and as it appears to have been urged in some degree as a pretext (p. —) how improperly will be hereafter considered (p. —) for the late outrageous Proceedings of Sir Henry Gwillim, we deem it proper that the nature of the circum(stance) should be more fully explained, than would otherwise from its apparently unimportant nature has been requisite.

In Consultations  
17th June

24. We have the honor to state that in the month of June 1806 an application was conveyed to us in a letter from Sir Henry Gwillim, and Sir Benjamin Sullivan (p. —) Sir Thomas Strange not having at that ti(me) returned from England (p. —) stating that the Supreme Court had much felt the want of a Pundit, and a Mola<sup>(w)</sup> and requesting that we would allot a monthly salary for one person of each description.

25. We informed the Judges in reply that as they considered the above appointments to be necessary we should have no hesitation in allotting to the two officers the salaries which they might consider to be adequate and proper.

26. Before the answer of the Supreme Court was received, the Chief Justice Sir Thomas Strange, had arrived from England. But notwithstanding that circumstance the answer specifying the salaries which were recommended for the two Native Law Officers, only had the signatures of Sir Henry Gwillim and of Sir Benjamin Sullivan to the exclusion of that of the Chief Justice.



Consultations  
14th November  
1806

27. As all correspondence between the Supreme Court and the Government had until that time appeared, when practicable, under the signatures of the three Judges; and as no cause was assigned for a departure from that rule in the case which had occurred it appeared to us to be incompatible with due attention to the regularity of our proceedings or with due respect to the station of the Chief Justice, to receive the letter in question in the form in which it had been brought before us. We accordingly determined to return the letter to the Supreme Court, with an explanation of our sentiments on the subject.

28. We trust that it will be sufficiently obvious from this statement of facts that in the whole proceedings, nothing would be more foreign to our mind than the indication of disrespect to the individual or the collective authority of the Judges of Supreme Court. We had assented without hesitation in the grounds of the application and we attached no other importance to the subsequent part of the communication, than the mere desire of preserving what appeared to be the rule of Established Form.

In Consul-  
tations  
18th February

29. Lord William Bentinck having (written) received a Minute of considerable length regarding the late occur(ence) in the Supreme Court we shall have occasion to bring that paper under your farther attention; but as it is our wish that no part of our Proceedings should go before you without a full explanation of the circumstances connected with them, we are induced to anticipate the Order of our Records by requesting at present your reference to the fu(ll) explanation contained in His Lordship's Minute regard(ing) the occurrence in question.

30. We are satisfied that we need make <sup>no</sup> a farther comment, to evince how perfectly unintentional the grounds of the supposed indignity offered to the Puisne Judges of the Supreme Court, and how the slightest explanation might have sufficed to remove the misconception which had taken place. No such explanation however occurred, and the late scenes of violence and outrage were the first cause of the supposed offense being brought to our attention.



Consultations  
22nd January

31. In so far as regarded Sir Benjamin Sullivan, we were led from the general respectability of that Gentleman's character to entertain particular concern that any distrust should exist in his mind of the sentiments of the Government, and we deemed it proper to take the earliest opportunity of conveying to him an explanation on that subject. It however was our first duty, on receiving the Report of the Advocate General of the result of his interview with Sir Benjamin Sullivan to consider the best measures to be taken against a renewal of the disgraceful scenes which had occurred on the preceding day in the Supreme Court.

32. After full deliberation, we determined to address a separate letter to the Chief Justice Sir Thomas Strange and to Sir Benjamin Sullivan, informing them of the nature of the charge which had been delivered by Sir Henry Gwillim to the Grand Jury in which charge the acts of the Government were severely arraigned, the Gover(nor) personally mentioned in terms most contemptuous, and degra(ding) and the whole executive authority from the Government to the lowest native officer held forth as proper objects of (public) odium suspicion and disrespect.

33. We informed Sir Thomas Strange and Sir Benjamin Sullivan that feeling in the present state of the country the promulgation of such opinions from authority of the Bench to be highly dangerous to the public safety and having confidence in the wish of the Supreme Court that the respectability of all the constituted authorities should be preserved and strengthened by mutual (support). We took the liberty of expressing our hope and anxious, that they would if not inconsis-, (request) tent with the Constitution, the Court take their place upon the Bench during the remainder of the Session of Oyer and Terminer as essential to the maintenance of the authority of Government and of public tranquillity.

34. Sir John Cradock and Mr. Petrie having concisely recorded in separate Minutes their sentiments on the mode of proceeding which we decided to adopt, we have the honor to request your reference to those Minutes.



Consultations  
3rd February

35. Sir Thomas Strange in conformity to the request which we had stated took his seat on the Bench on the second day after the receipt of our communication.

36. In a letter which we received from Sir Thomas Strange, at the close of the Sessions, he observed that it was not material that he should state what had prevented him from taking his seat on the morning in which our letter had been received; but that the delay had proceeded from no doubt of the obligation imposed upon him by the constitution of the Court under the circumstances which we had represented.

Consultations  
27th January

37. The reply of Sir Benjamin Sullivan was addressed to the Chief Secretary of Government; and Sir Benjamin Sullivan in that letter recurred to the circumstance which he considered to preclude him from addressing the Governor-in-Council. But on that subject, we deem it necessary to add any farther observation.

38. We shall refrain also from any comment on the general tenor of the letter from Sir Benjamin Sullivan who had been long in an infirm and dangerous state of health, and who had apparently no adequate conception of the events which had occurred at the period when that letter was written. Sir Benjamin Sullivan professed belief that the line of conduct imputed to Sir Henry Gwillim had been misrepresented; that the measure (~~that~~) had been recommended to Sir Thomas Strange and (~~him~~) could answer no good purpose; and "would wound the (~~reputa~~ lity) of another Judge to whose talents, integrity and (~~reputa~~ ality) the due maintenance of the authority of (Government) and of the public tranquillity may be safely confided". Sir Benjamin Sullivan therefore observed did "my state of health allow of my taking my (~~place~~) upon the Bench at this moment, I should beg leave to decline it, but confined as I have been to my room for nearly a month, and almost exhausted for want of nourishment which I cannot take, and want of rest which I cannot procure, it is utterly impossible."

39. Previously to the receipt of the above letter, Lord William Bentinck had



Consultation  
27th January

agreeably to the intention which we have already stated, addressed a letter to Sir Benjamin Sullivan conveying such an explanation as appeared likely to satisfy his feelings with respect to the measure of returning the letter of the Supreme Court, and inviting him to a renewal of the usual mode of official intercourse.

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40. We were happy to find that this communication had with regard to Sir Benjamin Sullivan, personally the desired effect; and in a reply which in consequence of Lord William Bentinck's letter he addressed to the Governor in Council he expressed himself "highly gratified". It however appeared that in his situation of Judge, Sir Benjamin Sullivan still retained the impression what he had formerly described, and he did not appear to consider the explanation addressed to him in his individual capacity to be adequate reparation for the supposed offense.

41. As our correspondence with Sir Benjamin Sullivan is not essentially connected with the subject at present under deliberation, it is not necessary that we should go into any discussion of the arguments stated in his letter, in justification of the mode of proceeding which he had adopted. They cannot in our judgment be deemed ( ) and as a public apology to the Puisne Judges of the Supreme Court for an offence which we were unconscious to have offered, was such only as apparently would be acceptable, we considered the conduct of Sir Henry Gwillim to have opposed an insuperable barrier to such an alternative.

42. We had encouraged the belief that the presence of the Chief Justice in the Supreme Court would have been attended with the effect of preserving decorum in the proceedings of the Bench. Under this impression our application was stated to Sir Thomas Strange, and to Sir Benjamin Sullivan, and as the Chief Justice had complied with our request, we were in the hope that farther outrage would be averted. The sequel of events however evinced that our expectation was erroneous.



43. It has been already stated that Sir Thomas Strange took his seat in the Supreme Court on the second day after our application. On the same day Sir Henry Gwillim recurred to the proceedings which had previously taken place, and with the same warmth confirmed the sentiments which he had uttered on that previous occasion "declaring that he might perhaps have occasion to glory in the disapprobation of this Government." Sir Henry Gwillim at the same time conveyed insinuations of a very indecent nature with respect to the Chief Judge sitting on the same Bench in the fulfilment of the most raised duties of his high trust.

Consultation  
27th January

44. The Advocate General having laid before us a farther Report containing a particular account of those proceedings, we have the honor to refer you to it.

45. From the serious complexion which the cond(uct) of Sir Henry Gwillim had assumed, and it being impossible to foresee the extremities to which he might be hurried by the incredible violence of his animosities we considered it proper that the Reports which had been laid before us by the Advocate General should be authenticated in a formal manner. Lord William Bentinck accordingly addressed a letter to the Foreman of the Grand Jury, requesting that he would state his sentiments regarding the general accuracy of the account of the charge delivered by Sir Henry Gwillim to the Grand Jury as contained in the Report of the Advocate General. Mr. Kenworthy the Foreman was at the same time requested if practicable to obtain a similar communication of the sentiments of any other or of all the members of the Grand Jury.

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46. Mr. Kenworthy in his reply stated that the Report of the Advocate General had been perused by the Members of the Grand Jury, and that they had agreed "that (it) contained a perfectly fair statement of the speech from the Bench, and more correct as to particular expressions used, than we (could) have expected any one to report from memory, almost every ( ) of it having been recalled by the perusal of that Paper to the memory of every person present."



47. It was observed that there might be a slight variation in some of the expressions; but that there was no variation that could be considered material.

48. Lord William Bentinck in laying those papers before us proposed that Mr. Dick of your Civil Service, who was a member of the Grand Jury and to whose testimony every credit could be due, should be requested to attend at the Board, for the purpose of further attesting the accuracy of the Report of the Advocate General.

49. Mr. Dick having accordingly attended, he expressed his entire assent to the correctness of that paper. Mr. Dick adverted to the probability of there being some slight variation in some of the expressions; but observed that the account was rather softened than exaggerated, and that there could be only one opinion respecting the general effect and impression produced by the charge delivered by Sir Henry Gwillim to the Grand Jury. Mr. Dick added, "that it was impossible that he should not have been impressed with (indig)-nation at the utterance of expressions which must have been deemed by every one in the highest degree insulting to the Government."

Do ----- Do

50. Mr. Scott a Member of the Sudder Adaulut, who was also on the Grand Jury, was likewise requested to state to the Board his opinion on the Report of the Advocate General; and you will observe (on) referring to our Minutes that his testimony was generally to the same effect as that of Mr. Koenworthey and of Mr. Dick.

51. Under a particular view of the circumstances of the unprecedented (event) which had occurred, we thought it advisable to verify in a still fuller manner the (report) which we had received from the Advocate General and we determined to extend the enquiry to a large proportion of the Members of the Grand Jury, to be taken indiscriminately from those who were or those who were not in the service of the Company; and to require also the testimony of several persons who were present in the Supreme Court, on the delivery of the charge of Sir Henry Gwillim without being members of the Grand Jury.



Consultation  
2nd February

52. We accordingly assembled a special council for this purpose on the 2nd of February last; and we request your attention to the Depositions taken on that occasion, which were attested on oath and subscribed by the persons whom we examined.

53. The whole of the depositions, without an exception, went to the confirmation of all the material facts, which we have laid before you and all agreed in describing the Report of the Advocate General as not exaggerated.

In Consul-  
tation  
3rd February

54. The Advocate General has<sup>ing</sup> also requested our permission to verify on oat(h) the statements which he had communicated to us, and to rectify some particular points of an immaterial nature, to which they had reference, we beg to refer you to the Deposition of Mr. Anstruther, sworn to and reco<sup>(rded)</sup> ) in our proceedings.

55. The extreme violence which had marked the conduct of Sir Henry Gwillim appeared to leave little room for farther accumulation of the same kind ( & ) injury. We were however still destined to experience fresh obstructions, and fresh insu<sup>(ts)</sup> ).

In Consul-  
tation  
22nd January

56. When Mr. Walter Grant (having) been driven to the necessity of resigning<sup>-the</sup> office of Superintendent of Police, we appointed Captain James Grant Commanding Officer of the Body Guard to act in that situation. Lord William Bentinck's recommendation of Captain Grant for that trust, was guided by a knowledge of that officer's activity of disposition, his temper, and discretion; by his acquaintance with the Native Languages; and by the circumstance of his being in the command of the Body Guard, which has been on different occasions employed with great advantage on duties of a Police nature.

Consultation  
18th February

57. Some time previously to the resignation of Mr. Walter Grant a letter had been addressed to him by the Acting Resident at Mysore, stating that a person named Collooria a subject of the Mysore Government had proceeded to Madras, and was actively engaged in intrigues of a



nature calculated to affect the public tranquillity of Mysore. This person had been formerly an amildar of that country, and having been dismissed from his situation for peculation and oppression, he had resorted to the acts which we have mentioned for the extortion of money, and for the purp(ose) of acquiring an imaginary importance.

58. The person of Collooroia was distinctly described in the Letter of the Acting Resident at Mysore; but he could not at the moment be traced, and he was not apprehended until after the appointment of Captain Grant - so soon (a) intelligence was received regarding Collooro(ia) orders were issued to that officer for recalling him and for despatching him to Mysore.

59. The apprehension of Collooroia took place on the 13th February, and on the ( ) he proceeded to Mysore; but before he had been many hours in the custody of the Superintendent of Police, accounts of the circumstance had been conveyed to Sir Henry Gwillim, who appears on receiving the intelligence to have created an unusual degree of interest in the case, for the apparent purpose of effecting the emancipation of the prisoners.

Consultation  
20th February

60. The Superintendent of Police having submitted a particular account of the subject, and of the obstruction which he experienced from the agents employed under the direction of Sir Henry Gwillim, we have the honor to refer you to Captain Grant's Letter for a further explanation of the circumstances which occurred. On the 17th February, a Writ of Habeas Corpus was issued by the Supreme Court, and delivered to Captain Grant, to give up the person of Cullooroia; but before that period he had departed for Mysore; and a corresponding return was given to the Writ in the manner advised by the Company's Law Officers.

61. In so far as we have yet stated, the trans<sup>l</sup>ation presents no particular subject for consideration further than one proof of many others of the benefit of



the new Police Establishment, and one of many old proofs of the eager solicitude with which its progress has been resisted by Sir Henry Gwillim. It remains however for the subsequent part of the transaction to exhibit the conduct of that Judge in a light still more impressive and still more astonishing.

In Consultation  
20th February

62. The Advocate General having submitted to us a Report of the circumstance connected with the application which was made in the Supreme Court for a Writ of Habeas Corpus, you will observe on refer<sup>(ence)</sup> to that Report that Sir Henry Gwillim from the zeal with which he urged the application for the Writ, evinced much more the warmth of a partizan in a que<sup>(rel)</sup> which he had studiously agitated, that the impartiality of proceeding which was demanded by his station. But not satisfied with that indecorous mode of procedure, Sir Henry Gwillim again took occasion to break forth into the same scenes of violence and outrage of expression, as he had already exhibited on the Bench of the Supreme Court.

63. We should be unwilling to introduce in this Despatch the indecent and scurrilous expressions which were uttered by that Judge on the occasion in question. They have been fully detailed in the Report of the Advocate General to which we request your reference. We shall only observe that Sir Henry Gwillim again attacked the System of Police with the utmost asperity; again insulted the Government, and personally the Governor in a mode the most virulent and outrageous, and again endeavoured by a strain of abuse, to excite among all orders a spirit of disaffection and opposition to the constituted authorities. In stating however the particulars, we deem it proper to notice that they convey a very faint outline of the (actual) events.

Do.....Do

64. We deemed it proper on the recommendation of the Advocate General that the recent Report which he had communicated to us should be verified in the same manner as his preceding Report had been. We accordingly required the attendance at Council of Mr. Neale an attorney of the Supreme Court who had applied for the Writ of Habeas Corpus in the case of Collooroia; and his depositions having been taken on Oath, you will observe that they entirely confirm the statement which we had received.



65. The statement was (*again*) verified by the Oath of the Advocate General agreeably to his request.

66. We have in this letter submitted to your Hon'ble Court a detail of facts which we are satisfied cannot fail to attract your earliest attention, and we anticipate your concurrence in the conclusions to be drawn from the documents which we have laid before you.

In Consul-  
tation  
18th February

67. Lord William Bentinck having considered it to be his duty to record a full explanation of His Lordship's sentiments with respect to the conduct of Sir Henry Gwillim, we have the honor to request your particular reference to the Minute of Lord William Bentinck on that subject.

68. His Lordship has established on principles which we think cannot be denied that Sir Henry Gwillim by introducing in his charge to the Grand Jury a discussion of the measures of this Government violated both the letter and the spirit of the acts of the Legislature applicable to the Administration of the Affairs of India, by which the acts of the Government and of others obeying the written orders of the Government are excluded from the jurisdiction of the Supreme Court ( *it* ) is observed in the Minute of Lord William Bentinck that the intention of the Legislature, and of the King is plain and obvious. "It is to preserve the dignity of the Governments in India undiminished in the eyes of their subjects and dependants, by precluding the probability of their acts from being *crá*( ), and made the object of discussion and eventually of censure in this country."

69. The Advocate General in his Report of the 18th February to which we have referred, adverts to the possible case of the measures of the Government coming in the course of other legal enquiry under the notice of the Supreme Government. But the Advocate General observes in such case, that "it is the bounden duty of all who are employed in the course of judicial enquiries in India, to keep in mind, in those discussions, that principle of delicacy towards the local Governments,



which the legislature has prescribed, and to push them no further either in Matter or Manner, than is absolutely necessary for those purposes of Justice which introduce them."

70. In this distinct principle therefore Sir Henry Gwillim was not justified in introducing in his charge to the Grand Jury, in the mode which he adopted, the question of the Police, nor any supposed offence which he may have imputed to the Government in regard to the Judges of the Supreme Court; and ( *he* ) departed not less widely from the correct meaning and object of all charges of that nature in the general tendency of the charge delivered to the Grand Jury on the occasion in question. It has been justly observed <sup>by</sup> Lord William Bentinck that the object of<sup>(a)</sup> Judge in addressing a Grand Jury is generally to direct them in their investigation of those matters, in which they are called by their duty to enquire and present. If the Judge at any time goes further, it is for the purpose of leading the attention and feelings of the country in the direction most beneficial on the occasion; recommending for example the suppression of sedition, the defence of the Constitution, preparation for defence against an invading enemy."

71. We have stated those observations as applicable under the general supposition that the acts of impropriety which Sir Henry Gwillim was induced to impute to the Government had been true; but that the assertions of Sir Henry Gwillim were far from true, and on that account still more criminal, will we hope be sufficiently manifest.

Consultation  
27 & 28

72. One of the grounds of complaint allged by that Judge in his charge to the Grand Jury was the measure which we had adopted of returning a letter addressed to us by the two Puisne Judges of the Supreme Court, without having included the signature of the Chief Justice. We have in a preceding part of this despatch explained the nature of that transaction, and how entirely divested of the idea of disrespect or of any other desire than



that of facilitating the duties of the Supreme Court, our whole proceeding had been. Yet to this proceeding did Sir Henry Gwillim in terms unqualified impute to the Government a breach of its promise, and the violation of a sacred pledge.

73. The expense which would have attended the establishment of Native Law Officers which had been proposed for the use of the Supreme Court would not probably have exceeded the sum of 120 Pagodas per month but for that object does Sir Henry Gwillim appear to have supposed that the Government was prepared to incur the obloquy and degradation of having violated its honor. This is a feeling which that Judge must have known could not have existed in the mind of the Government. He must have known that our assent to the additional establishment was withheld exclusively on account of the informality of the application which ~~we~~ had received. Letter <sup>our</sup> of the 15th November, 1806 to the (judge) of the Supreme Court, conveyed a sufficient assurance that we were prepared to accede to the recommendation of the Supreme Court so as soon as it should reach us through the channel which we had been, until that time, accustomed to observe.

74. It has been stated by Lord William Bentinck that the truth of the charge would not have justified the indecency of advancing it in the manner chosen by Sir Henry Gwillim, but want of truth is a serious aggravation of the offence.

75. With respect to the system of Police which has been the peculiar object of attack by Sir Henry Gwillim, we have already explained the more than ordinary precaution which was observed in framing the rules of that salutary institution. The whole arrangement was made under the advice, and with the cooperation of the Chief Justice, (p. ) to whose conduct, actuated by the purest motives of public spirit and honorable zeal, we consider our warmest acknowledgement to be due (p. ); and every case was taken to regulate the department with legal precision, which we were at the same time abundantly sensible of the necessity of pursuing the necessary legal measures for extending to the department of Police more adequate powers.

In Consul-  
tation  
14th November,  
1806



76. The Gentleman whom we selected for the station of Superintendent of Police was not vested with farther authority than is confided to any Magistrate, and when Mr. Grant had been compelled to relinquish this station, the instructions which were furnished to his successor Captain Grant, were regulated on the same guarded principle. The control which the officer was authorized to exercise was only general in its nature, and intended for the prevention not the punishment of offences. Captain Grant was directed to find any person or persons who may be accused of theft, robbery or any irregularity meriting notice, with the necessary evidences before the Sitting Magistrate who will investigate the circumstances relating to his or to their innocence or guilt.

77. We had taken no measure that could be construed to violate any Law, or to innovate any prerogative of the Supreme Court. We know not therefore on what ground we could be supposed to be guilty of disrespect towards Sir Henry Gwillim (p. ) as inferred by him (p. ) in not holding an immediate communication with him on the subject of the Police previously to its establishment. We asked and obtained advice from those whom we knew to be most able, and best disposed to give it; and we could be bound by no tie to the observance of a different course; while on the contrary the conduct previously observed by Sir Henry Gwillim during a long period of time must have rendered such a communication at once unavailing in its object, and repugnant to every correct feeling.

78. Sir Henry Gwillim with a degree of inconsistency, for which it would be difficult to account publicly avowed that the subject on which he had professed it to be proper that we should communicate with him was a topic on which we knew that "he would not advise" with us. We therefore feel ourselves justified on most obvious grounds in imputing the vehement declarations stated by Sir Henry Gwillim from the Bench relative to the Police, to no sender of public duty, to no conviction of impropriety in the Police, to no desire of redressing grievances; but to a determined spirit of opposition inflamed by motives of personal cancer and malevolence.



79. Lord William Bentinck in the discussion of this subject has observed "I have little difficulty in finding a reason of this enmity. This objection is not merely that he himself was not consulted, or rather communicated with, re(garding) it, the Minutes and Proceedings of Government shew that Sir Thomas Strange at my desire did with that frankness and with that zeal for the public good which we have a right to ex(pect) from any liberal mind holding a place of high trust, communicate to me his sentiments which I have laid before the C(ouncil). I think that I can perceive in the whole of Sir Henry Gwillim's late attack the resentment of our communication with Sir Thomas Strange, and it is the only motive to which I can ascribe the decided opposition of the former to the Establishment of Police as a measure upon which Government relied in a considerable degree for its safety."

80. If Sir Henry Gwillim had been actuated by such sentiments as would have been becoming his station, and would have been conformable to his duty as a Judge and as a Member of this community, the influence of the high office would have been excited in giving countenance and protection to that establishment, not in vilifying, degrading, and to the extent of his means defeating the salutary purposes for which it is intended.

81. We have already adverted in a preceding part of this letter to the unjustifiable obstruction which was opposed by Sir Henry Gwillim to the duties of the Police, at the period when an infuriated mob stimulated by the pressure of want threatened extensive destruction to the property and safety of this place; and we have called your attention to the still more unwarrantable circumstance of that misfortune, and of the general calamity incidental to the present period of scarcity having been imputed by direct implication to the "misconduct of the Government in not providing a sufficient supply of food for its subjects."

Letter to England  
Dated 6th March,

1807 Para 77 to 95 4 (i) 12-13

82. Our despatches from the Public and the Revenue Department, by the present ships, will fully attest the full extent of this misstatement your Hon'ble (Court) have been informed in those despatches



of the measures which we adopted on the first appearance of scarcity in the territories for the purpose of averting the consequences of such an event. The most liberal encouragement has been given to the importation of Grain from the most distant parts of India; and we have given authority for the employment in different public works of all persons who may not have other means of subsistence, and also may be desirous of obtaining occupations in that mode. Th(ese) measures have not been confined to the limits of the Presidency; but have been extended to every part of the territories under this Government, which have suffered from the late unhappy failure of rain.

83. This explanation cannot fail to ( *place in* ) its just light the nature of the dangerous attempts (which) have been practised by Sir Henry Gwillim to excite a spirit of discontent and commotion by language the (most) inflammatory, and by assertions the most unjust. The period too chosen for this purpose has been that in which a serious degree of agitation prevails, in the minds of the Native Inhabitants of this country when we are menaced both at home and abroad with dangers of an unprecedented nature and when a convulsion has taken place that has shaken the foundation of established order and threatens to reduce to indiscriminate ruin the fabric of civilized society.

84. Lord William Bentinck has stated in the Minute to which we have requested your reference that "under this impression I should have thought that if ever there was a time when the state of the British Interests, and the safety of every individual, called upon us to lay aside all private resentments and to unite in the common cause, in which Government might have looked with confidence to the zealous and cordial support and cooperation of all good men, and more especially of all entrusted with any portion of public authority, the present state of affairs would have been felt to be such a crisis. But such is the moment which Sir Henry Gwillim has selected for his attack upon the Govern- ment, and that the very points in which the Government has been endeavouring to exert itself to meet the dangers which surrounded it."



85. Lord William Bentinck for the general reasons contained in His Lordship's Minute stated that ( *he* ) "deemed it our bounden duty to submit the conduct of Sir Henry Gwillim with all its circumstances to our Sup(erior) in England, for the purpose of being laid before the ( King in ) Council; by which power or by impeachment in Par-(liament) the King's Judges in India can only be legally controlled."

86. His Lordship at the same time obs(erved) that he considered the conduct of Sir Henry Gwillim to be hostile to the great ends of the British Government, and that his longer continuance in India with apparent (im)punity, is dangerous to the British interests. Lord William Bentinck under this impression stated that "no superior authority were *if* at hand to whom we ( *could* ) apply for instructions for our guidance, I should d(eem) (it) my duty to propose, or even on my own responsibility, charged as I am more particularly with the safety of these territories, to order the immediate arrest of Sir Henry Gwillim for the purpose of sending him for trial to England by the first ship; trusting to the Justice of the King in Parliament to indemnify me against the consequences of that proceeding. But as the Governor General in Council is our immediate superior in India; and equally responsible with ourselves for the safety of these possessions, it appears proper in order to avoid all appearance of personal resentment, to submit this latter recommendation for the final decision of the Supreme Government."

Consultation  
24th February

87. We have the honor to ~~acquaint~~ acquaint you that entirely concurring in the reasons which induced Lord William Bentinck to recommend that the conduct of Sir Henry Gwillim should be submitted to public investigation, we agreed in the expediency of directing the Advocate General to frame charges against that Judge on the general grounds exhibited in this despatch and in the Papers to which it refers.

88. Those charges being nine in number having been framed according to our desire have been laid before us by the Advocate General, and are transmitted to your Hon'ble Court, for the purpose of being submitted to the King in Council, subject to such modification as they may in the judgment of your Hon'ble Court appear to require.



89. We have also the honor to state that it is our intention to bring the conduct of Sir Henry Gwillim under the cognizance of the Hon'ble the Governor General in Council in the manner recommended by Lord William Bentinck; but we earnestly request that <sup>no</sup> delay may occur in the prosecution of the charges (now) preferred.

In Consul-  
tation  
18th February

90. We deemed it proper to take the earliest opportunity of apprizing Sir Henry Gwillim of the (mea)sures which we had taken. We informed him (that) if he should think it proper to communicate with us, <sup>we</sup> should be ready to furnish him with all the exa(mi)nations, and to arrange in the shape of charges the ( <sup>result</sup> ) of his conduct for the purpose of enabling him to explain it before His Majesty. We at the same time stated that we should be ready to receive from him any proposal or suggestion relative to further examinations if he should think them necessary, or any other communications which he might choose to make on the subject in question.

91. We stated it was intention to forward <sup>our</sup> the papers intended for transmission to England by the first ships.

In Consul-  
tation  
24th February

92. Our letter to Sir Henry Gwillim was dated the 19th of February; but we did not receive his reply until the 22nd. The answer of Sir Henry Gwillim was addressed to the Chief Secretary of Government; and it contained an expression of his regret that the proposal for a communication with Government had not been made at an earlier period, as Sir Henry Gwillim expressed his belief that he should have the means of satisfying us that there was no foundation for the charges which we had announced our intention of preferring against him. Sir Henry Gwillim at the same time stated that if properly applied to, he would have had no hesitation in furnishing to us a copy of his charge to the Grand Jury.

93. On this point We deem it proper to notice that the Advocate General had in his Report of the 26th January informed us that Sir Henry Gwillim had used an expression on the Bench, which though not ( <sup>an</sup> ) (adequate) offer of a copy of his late charge to the Grand Jury, yet seemed to be intended as an intimation that he would refuse to give it if desired.



94. The reasons which were stated by the Advocate General regarding the inexpediency of such an application appeared conclusive. We had not at that (time) taken the depositions which we afterwards took; but ~~(con)formation-~~ the (in)formation which we had received regarding the ~~(know)ing~~ of Sir Henry Gwillim having been supported by concurring testimony; there could be no doubt of its (ac)curacy; and it must therefore have been in the ( ~~last~~ ) degree improper to have made application to Sir Henry Gwillim for a paper which could not contain a true statement without attaching to himself the deepest ~~crimination~~.

95. Having stated this explanation, we have the honor to acquaint you that Sir Henry Gwillim proceeded in his Letter to inform us that as it was now too late for him to ask for temperate discussion, or to object to the course of proceeding which we had been advised to take in order to criminate him he would only ask copies of the examinations which had been taken; copies of the Reports made by the Advocate General in which Sir Henry Gwillim stated that every thing that had been done against him originated; the specific charges intended to be preferred against him, reduced in the form in which they were to be presented, and an extract of so much of the letter from the Government to the Court of Directors, as might have relation to the business in question.

96. In the reply to the above letter which was transmitted by the Chief Secretary, it was stated that the course of proceeding which had been observed by us with regard to the late events in the Supreme Co(urt) being such as was required by our public duty, it appeared to be unnecessary to recur to any particular discussion of (that) part of the question. Sir Henry Gwillim was therefore in(~~form~~)ed that it was in our judgment sufficient to reply to that part of his letter, which related to the papers with which he had requested to be furnished.

In Consul-  
tation  
24th February

97. In communicating to Sir Henry Gwillim a statement of the Papers of which copies or (extracts) had been prepared for transmission to him, it was obser(ved) that those papers contained all the facts connected with the subject under deliberation. We expressed regret that we were not at liberty to communicate a copy of the (~~dispatch~~) to your Hon'ble



Court regarding the late events; but Sir Henry Gwillim was informed that the substance of the communication was comprized in the enclosed charge.

98. It was stated that the charges which were transmitted were those which it was our intention to lay before your Hon'ble Court; but it was observed that it would be understood by Sir Henry Gwillim, that the (Charges) must be liable to such modifications as the authorities in England shall consider to be expedient.

99. It was judged proper in making this communication to state that the advanced period of the season would render the early despatch of the Hon'ble Company's Ships now under orders of sailing, of considerable importance. Sir Henry Gwillim was informed that this circumstance was stated, in order that he might regulate accordingly the explanations which he might be desirous of furnishing.

In Consul-  
tation  
23th February

100. A subsequent letter was addressed to Sir Henry Gwillim informing him of the precise period when we expected that the ships would be despatched, but at the same time stating that there will probably be an opportunity of transmitting despatches to Ceylon in sufficient time to overtake the ships before their final departure for England.

101. Our request has been communicated to Sir Henry Gwillim that he will reciprocally furnish us with such documents as it may be his intention to lay before His Majesty.

In Consul-  
tation  
23th February

102. We have recently received a letter from Sir Thomas Strange, enclosing for our information the copy of a correspondence which had taken place between himself and Sir Henry Gwillim at the period when Sir Thomas Strange took his seat on the Bench at our (ur)gent request. We have in a preceding part of this despatch adverted to the insulting language which had been used on the Bench by Sir Henry Gwillim with regard to the Chief Justice; and we shall only therefore observe with the correspondence communicated to us by Sir Thomas Strange was of the same indecent tendency (-as) and ) directly charging him with being swayed by an undue influence on the part of the Government.

Do.....Do

103. A Minute which was recorded on the subject by Lord William Bentinck, together



with an explanatory paper from the Advocate General contained a full statement of the circumstances connected with the application addressed to Sir Thomas Strange, ( ) evince that the injurious aspersions which had ( ) were without a shadow of foundation, and that Sir Thomas Strange had not the remotest knowledge of the events which had occurred in the Supreme Court until nearly the period when our letter reached him.

In Consul-  
tation  
28th February

104. We informed Sir Thomas Strange in reply to his letter, that we need not repeat the concern which has been impressed upon our minds, by the circumstances which led to our application. We considered it sufficient to say that we entertained the strongest sense of the zeal for the public interests, and for the public safety, which had induced him to accede to the request which we expressed on that occasion.

Do.....

105. We transmitted for the information of Sir Thomas Strange a copy of Lord William Bentinck's Minute, and of the explanatory paper of the Advocate General, and we expressed our hope that he would consider them to contain a satisfactory elucidation on the subject of the reference which he had made to us.

Do.....

106. In consequence of the personal reflection and injurious imputations which have been repeatedly used by Sir Henry Gwillim with regard to Lord William Bentinck, His Lordship has considered it proper to reco(mmend) in a separate Minute a particular explanation of the general principles which have regulated His Lordship's public conduct. To that paper Lord William Bentinck begs to refer as the best justification of his actions, and as the best reply to unfounded calumny.

We have the honor to be with  
great Respect

Hon' ble Sirs  
Your faithful humble servants

Fort St.  
George  
6th March, 1807

William Bentinck  
*evadock*  
William Petrie  
William Oakes



7.19

Port St. George March 9, 1807

Sir,

A despatch from the Governor-in-Council dated the 6th of March addressed to the Hon'ble the Court of Directors transmits a statement of the conduct of Sir Henry Gwillim one of the Puisne Judges of the Supreme Court, accompanied by a draft of charges, which, subject to the advice of the *Company's* counsel at home, this Government has recommended may be laid before His Majesty-in-Council.

As that despatch has given in detail a complete explanation of the whole transaction, and of the circumstances to which allusion has been made, I shall not here trouble you with a repetition of them.

(p.128) The object of this address is solely to impress in the most solemn manner on your attention, the necessity of the earliest possible transmission of His Majesty's commands upon this reference. You will perceive in the perusal of our proceedings, that the Council of Port St. George consider the conduct of Sir Henry Gwillim to be fraught with danger to the State, as well in counteracting those measures which are deemed essential to the Public Security, as in holding out to public odium the Government of the country, and thereby degrading its authority in the minds of our native subjects. It is in consequence (p.129) our opinion that the welfare of these possessions requires the immediate suspension of this officer from his functions.

The adoption however of such a measure has appeared to us to be of the most delicate nature. We should transgress the limits of our powers, (if), we should interfere with an authority which the legislature has evidently intended to make independent of the Government: While at the same time it made the Government independent of the Supreme Court. The arrest therefore of one of His Majesty's judges would be in direct opposition to the intentions of His Majesty and of the legislature. But it has (p.130) appeared to us at the same time that no consideration whatever can weigh against that of the possible hazard of all our lives and of the empire, if we are

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India Office Records: Home Miscellaneous:431  
Letter from Lord William Bentinck to Mr. Tierney.



really convinced that this may be the effect.

The events of Vellore have caused a general and unexampled agitation of the public mind. A simple mutiny accompanied with whatever bloodshed, would have soon passed away, would have made little impression on the apathy of the Indian character. But the circumstances, which according to the general belief of the Natives were the occasion of the Mutiny, interested (p.131) every man. He believed in an intention to convert the sepoys to christianity and he felt that their case might be his to-morrow. The feeling would not be otherwise than attended with sentiments unfavourable to British Government, and of course every dissatisfied mind would be, and has been, in immediate activity. Such a state of things and of opinions, necessarily requires great precaution, the most constant vigilance and a steady determined cause, and I may add in allusion to the present communication, demands for the support of Government the united efforts of all British subjects in these possessions.

Convinced however as we (p.132) are of the necessity of removing this source of opposition and counteraction, we are unwilling to adopt a measure of such extreme responsibility, without having previously consulted with the Governor-General-in-Council, who is vested with the general control and superintendance. Independent therefore of the obligation always imposed upon the subordinate governments, to refer in cases of difficulty to their superior authority, it is peculiarly gratifying to me to have that resort upon an occasion, where personal offence may have given an undue bias to my judgement.

You will observe in the (p.133) course of our proceedings that the other Puisne Judge Sir B. Sullivan ~~Strange~~, is in great measure implicated in the attack made by Sir Henry Gwillim upon the Government. He was only not a party to the language in which that attack was conceived, though he must have well known the ungovernable temper of his colleague, and intemperance with which such a Commission would have been executed. I am sorry to say that the subsequent part of Sir Benjamin's conduct, has not been marked with much conciliation or moderation. I think however, and I have so expressed myself in my Public Minute, that Sir Benjamin ~~Strange~~ stands very much excused for all his acts, by the very infirm state of his health. A residence of upwards of 30 years in India has visibly impaired both his body and his mind. I have had an opportunity of seeing lately how feeble his memory is. In the last year

/(p.134) Sullivan



when he was obliged to leave the Presidency for Prince of Wales Island, his recollection had quite failed. His health was much improved by the sea voyage, but since his return he has again been very ill. His constitution is gone, and will I fear not be able to struggle to the Term in September (p.135) 1808 when he becomes entitled to his pension. I therefore consider Sir Benjamin as the innocent tool of his colleague, and deserving rather of compassion than of censure. Considering him at the same time perfectly unfit for his station, I would beg leave to suggest that leave might be given to him to retire upon his pension, which would be very much for the advantage of the Public Service, and I believe very grateful to the feelings of an individual who during a long Indian residence, has been uniformly respected for his integrity, his friendly and amicable manners.

(p.136) I cannot close this letter without again urging the importance of an early decision upon the present reference. I ask this in behalf of the publick interests only. With respect to my own feelings and character which have been outraged with unexampled insult, I rely with confidence in the justice of the superior authorities to whom I have appealed. Forced as I have been into a recapitulation of some of my own measures, I venture to entertain the sanguine expectation that my conduct so far from deserving Publick shame will be found to have had constantly in view the happiness of (p.137) the natives of India, the true interests of the East India Company, the justice and honour of the British character.

I have the honour to be/with the  
greatest respect/your most obedient  
servant.

(signed) W. Bentinck

The Rt. Honble  
George Tierney



X.20

Madras  
5th March, 1807

To the Right Hon'ble George Tierney  
President of the Board of Controul  
etc. etc. etc.

Sir,

1. Having learnt that this Government is by the Ships under despatch transmitting to his majesty in Council a representation of some sort in consequence of a charge reported to have been delivered by Mr. Justice Gwillim to the Grand Jury at a Sessions held for this Presidency before that Judge on Wednesday the 21st of January last, I deem it indispensible for me humbly to submit through you, Sir, to His Majesty the circumstances under which, pursuant to what I conceive to have been my duty. I joined Mr. Justice Gwillim, on the Bench on the Saturday following; notwithstanding an arrangement early adopted by the Judges of the Supreme Court at this Presidency, according to which the Sessions have, in point of fact, been held from quarter before one Judge only, each taking his turn in rotation, ever since the first Sessions, subsequent to the publication of the present Charter.

2. Of the representation allowed to as from the Right Hon'ble the Governor in Council, I have no knowledge, except from public report whatever it be that is intended, it is the act of the Governor in Council with which I shall have had no manner of concern. It has never been proposed to me by Government or any Member of Government, that I should have any; nor whether publicly or privately, has any distinct communication relative to it been hitherto made to me. I have as little knowledge of the charge to the Grand Jury which, I understand, will have given rise

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to any proceeding that may be in contemplation on the part of the Governor in Council except as parts of it were detailed to me by the Company's Advocate General, and as it is referred to in a letter addressed to me by the Governor in Council, which I shall immediately have occasion to transcribe.

3. The Sessions alluded to having commenced as already stated on Wednesday the 21st of January. I had no notice of any thing particular having occurred till the Thursday evening following; a circumstance for which I can only account from the delicacy of the subject. In the course of that evening, being at a public entertainment to which I had been invited, I heard for the first time, from the Company's Advocate General, that a charge had been delivered by Mr. Justice Gwillim (p. ) of which the Advocate General had thought it his duty to make a report (to) Government and that I might expect a letter from Government on the occasion. Accordingly, on my return home, I found waiting one letter (copy of which follows) from the Right Hon'ble the Governor in Council dated Fort St. George, the 22nd of February, 1807 - a copy of it is also inserted in the Appendix A. No.1.

"Public Department

To the Hon'ble Sir Thomas Strange  
Knight,  
Chief Justice of the Supreme  
Court at Madras.

Hon'ble Sir,

1. We have received information that an address to Grand Jury was yesterday pronounced by Sir Henry Gwillim, in which the acts of Government were severely arraigned. The Governor personally mentioned in terms most contemptuous and degrading, and the whole ( ) authority from the Government to the lowest native officer, held for as proper objects of public



odium, suspicion, and disrespect; and late arrangements of Police, which Government felt it to be its ( ) to establish, pointedly reprobated, with the evident intention to con(trol) and check its operations.

2. "Feeling in the present state of this coun(try) the promulgation of such opinions from the authority of the Be(nch) to be highly dangerous to the public safety, and having (full) confidence in the wish of the Supreme Court that the respect of all the constituted authorities shall be preserved and streng(thened) by mutual support, we take the liberty of expressing our ho(pe) and anxious request, that you will, if not inconsistent with Constitution of the Court take your place upon the Bench during the remainder of the present Session of Oyer and Terminer as a measure essential to the maintenance of the authority of Government and of the public tranquility.

We have the honor to be,  
Hon'ble Sir  
Your most obedient humble  
( )  
(signed) W. Bentinck  
" J. Cradock  
" W. Petrie  
" (T) Oakes"

Fort St. George  
22nd January, 1807

4. Upon receipt of the above letter on the morning of the 23rd it was not long a question with me what it was my duty to do. The letter was urgent in its form, and the matter of it, if credited, such



as, in my opinion, could not admit of my declining the request which it conveyed, I gave credit to the letter as coming from Government. It would have been to no purpose for me to have endeavoured by a previous reference to Mr. Justice Gwillim, to ascertain the reality of the statement contained in the letter from the Governor in Council. I appeal to the report from the Advocate General Append D No.3 of what passed in Court, upon my actually joining Mr. Justice Gwillim on the Bench, as I did on the 24th of the month, as a proof that he would not have permitted the enquiry. My whole experience of him had taught me, that I should only have committed myself by the attempt, without advancing my purpose. Not to mention that, from the time of my resuming my station at this Presidency, as hereafter explained, on the 23th of June, 1806, after an absence of sixteen months all communications by Mr. Justice Gwillim's own act, had ceased between us, (see Append. E) excepting what our relative duty, in the strictest sense of the word, had rendered unavoidable.

5. Such was the relative state of our intercourse when I received the letter of the Governor in Council of the 22nd of January. The other Judge, Mr. Justice Sullivan, was at the time confined through indisposition. Having stated this, I beg leave to refer to the notes immediately addressed by me to my brother Judges respectively, copies of which will be found in appendix A numbered 2.3. The bearer of the Note No.3 brought me back an immediate reply from Mr. Justice Gwillim, a copy of which is also inserted in appendix A numbered 4. It was late in the day before I got an answer from Mr. Justice Sullivan, without which I was unwilling to proceed to carry into effect my intention of joining Mr. Justice Gwillim on the Bench, having learnt from Mr. Justice Gwillim, in an interview which I had with him at my Chambers, after receiving his reply, that I might expect one, for which he expressed his wish that I should wait. Mr. Justice Sullivan's answer reached me in the course of the day; but his reason for dissenting from (p. ) the opinion I had formed, not satisfying me, I proceeded



according to opinion to join Mr. Justice Gwillim on the Bench the following ( ) I shall hereafter have occasion to refer to what passed upon taking my seat Nos. 5. 6 Appendix A on copies of Mr. Justice Sullivan's answer, and of my reply. I continued sitting with Mr. Gwillim during the remainder of the Sessions, which ended on Tuesday the 27th. A copy of my answer dated the 28th to the letter (received) by me from the Right Hon'ble the Governor in Council, dated the 22nd of January, will be found in Appendix A numbered 9.

6. Mr. Justice Sullivan having in his Note to me of 23rd of January (Appendix A No.5) objected to the measure (placed) by me for his sanction, that it would be in "violation of our ( ) which, in an official letter to the Chief Secretary of Government of the same date (since communicated to me) he states to (have) been "laid down for our guidance," and to be "laws binding upon the Court, as much as general laws are binding upon the Court at large." I have deemed it consistent, not only by reference to officers of the Court to meet so strong a position with their ( ) but to offer to His Majesty the most authentic information. Such an arrangement, as the one alluded to came to be adopted by which, presuming that it will not be approved by His (Majesty). I have thought it proper to give to the other Judges notice, that shall not consider myself as any longer bound. The certificate alluded to will be found in Appendix A numbered 10, 11. For account of the rise and adoption of the arrangement in question (I) take the further liberty of referring to copies of the correspondence on the occasion commencing the 19th December, 1801, from 13 to ( ) Appendix A; to which is prefixed an explanatory Memorandum.

7. From the correspondence, it will be for His Majesty to collect the circumstances under which I acquiesced in a ( ) which it will be seen that I did not approve. The certificate from the Register and Clerk of the Crown will shew that ( ) has existed as matter of private arrangement merely not particularly in the slightest degree of the nature of law.



Subject to ( ) violated by the Chief Justice, acting upon a conception of its his duty to disregard it, notwithstanding the want of the concurrence (p. ) of one of the Puisne Judges, and the express dissent of the other.

8. Whether it was not the duty of the Chief Justice, in the instance detailed to disregard it, and to act as he did, advertng to the nature of that arrangement, and to the circumstances as stated in the letter from the Right Hon'ble the Governor in Council of the 22nd of January (Appendix A. No.1) is now humbly submitted to His Majesty.

9. Having, as has appeared to me, this indispensable occasion of troubling His Majesty with the above explanation of the conduct of the Chief Justice of Madras, on the presumption that it will be referred to by the representation about to be transmitted from this Government, in consequence of late occurrences in the Supreme Court, it has appeared to me not unfit that I should take this opportunity of submitting to His Royal consideration certain other points of a nature not indifferent to the relative consequence of the Judges of the Supreme Court, its necessary intercourse with Government, and the practice of the Court in Native Suits, upon which the Chief Justice and Puisne Judges have differed; in consequence of which, improper courses, in the opinion of the Chief Justice, have obtained, and all intercourse between the Government and the Court as a court remains at a stand.

10. I allude particularly to the form of corresponding with Government; to the use of the Seal of the Court in matters extra-judicial, to the relative equality in Office of the Chief Justice and Puisne Judges; and to a question as to the propriety of the appointment of Pundits and Moulavies for the Supreme Court. To begin with the subject of the correspondence with Government upon which Government and the Puisne Judges are at issue; and which has not only, in consequence, been at a stand ever since the 20th November last,



but the question upon which remaining unsettled, has been already mended with every serious consequences, as His Majesty will, from the discussions of the Puisne Judges, and other representations that will probably be before him, have occasion to perceive.

11. In introducing this subject, I should observe to you, Sir, that having, in consequence of circumstances which this letter will explain, quitted my station at this Presidency to embark for Europe the 5th of February, 1805. I returned to Madras, and, on landing, resumed (p. ) it, the 28th of June, 1806. The question of correspondence originated in letter addressed and sent by the Puisne Judges to Government on the subject of salaries for a Pundit and Moulavie. Subsequent to my return, a copy of that letter dated the 13th of October, 1806 ( ) be found in Appendix B. No.6., there had been a previous one the same effect said to have been dated in July, which, though for(warded) to Lord William Bentinck, if ever received, had been mislaid: the ( ) one therefore of the 13th of October had been substituted.

12. The expediency of the appointment of a Pundit and Moulavie for the Supreme Court having been agreed upon, by the Puisne Judges ( ) my absence, had been made the subject of a previous letter to Gov(ernment) some short time before my return. The reply from Government, referring to the Judges themselves to propose the necessary salaries, appears from the subsequent letter of the Puisne Judges (Appendix B. No.6), to have been dated the 13th of June. I returned to Madras, as already stated, on the 28th.

13. On the 15th of July, within about a fortnight after return, I received from Mr. Richard Clarke, Clerk to Sir Henry Gwillim, by the directions of Sir Henry Gwillim, a Note accom(panying) a Draft of a proposed letter to Government, specifying the salaries to be allowed. The Note



stated that, if it met with my app( ) as it had already received Sir Benjamin Sullivan's, it would be copied, and the copy sent for my signature. A copy of Mr. Clarke's note is inserted in Appendix E.

14. Under the circumstances existing between me and Justice Gwillim at the time (see Appendix E) deeming ( ) communication through the Judge's Clerk improper, I returned the ( ) objecting to the channel through which it had been forwarded. (N ) still inadmissible, though a different one, was then attempted, and met the same fate. For the causes which occasioned my so resisting these (objec(tionable modes of correspondence at the particular moment, I ( ) Appendix E. The proposal for my concurrence coming at length a letter addressed to me by Mr. Justice Sullivan, dated the 22nd ( ) 1806 (Appendix B. No.1) it was duly attended to. (p. )

15. I shall, in a separate paper (Appendix B. No.16) have occasion to state my reasons why I have long thought that no such appointments as those of Pundit and Moulavie for the Supreme Court ought to take place. His Majesty will readily believe that I can have no interest in the question, the one way or the other. I am ready to make the same concession in favour of my two brothers. It is a question upon which the most learned and the most upright may differ. Of the particular reasons that weighed, in submitting the proposal of such appointments to Government, I have been left ignorant. The measure having been adopted in my absence, it would have been but natural for my brothers to have communicated them to me upon my return; especially after I had declined concurring in the proposal of salaries, on the express ground of my mind not being made up to the appointments (Appendix B. No.2). Their not doing so struck me at the time as indecorous as I have since taken the liberty of intimating, in a note addressed to both the Judges dated the 25th of February last (Appendix F. No.4). Instead of a frank communication with the Chief Justice on the subject, His Majesty will have occasion to perceive how much a



contrary temper appears to have actuated the Judges toward him (without reason will be for themselves to explain) by reference to the letters from Mr. Justice Sullivan of the 24th of July, and the 22nd and 25th of November 1806, written in the name, and expressing the ( ) of Mr. Justice Gwillim, as well as his own. Mr. Justice Gwillim having, as will appear by Appendix E declined from the time of his return to his station in June 1806, corresponding with the Chief Justice. Copies of the letters last referred to are inserted in Appendix B Nos. 8 and 10. In point of interest, if interest could be supposed to affect the question, it is in favour of the appointments in proportion as they would increase the patronage of the Court acconomy toward the funds of the East India Company has, I confess, uniformly opposed itself with me, as a counteracting principle. In this I have the less merit, as, in the ~~parte~~ patronage of the Court, from the period subsequent to its establishment, it has not happened to me to have had the (p. ) smallest participation. In the administration of its justice, which I ( ) prefer, I have had, in all time, my abundant share. But, certainly neither interest on the one hand, nor acconomy in favor of those who ( ) pay on the other, have the most remote influence upon my mind in the consideration of the appointments in question.

16. Doubting their expediency, and considering that my joi(ning) in a proposal for salaries would imply my assent to the princip(le) one asure, I declined adding my signature; requesting that, in the ( ) of the Puisne Judges sending in their proposed letter, it might be stated that I had been applied to since my return for my con(currence) and had declined it. I refer to the copy of my letter of the 2( ) ( ) 1806, Appendix B, No.2.

17. To this request the Puisne Judges refused their ( ) by letter dated 24th July following copy of which is also inserted (in) the Appendix B, No.3 and finally forwarded to Government ( ) their letter of the 13th October 1806 already referred to (Appendix No.6) purporting to be a repetition of a former one addressed to Government in the month of July preceding.



18. During the three years of the existence of the ( ) of the Recorder, the correspondence between the Court and Gov(ernment) had been carried on through the Recorder. A similar course ( ) without objection for a considerable time subsequent to the ( ) of the Charter of the Supreme Court all letters from the Court to Government being prepared, signed, and forwarded by the Chief (Justice) after having been previously submitted to and received the assent (of) the Puisne Judges.

19. All Writs and Process bearing the attestation of Chief Justice only, as they formerly bore that of the Recorder, and resting with the Chief Justice, as it does with the President of ( ) other Court in the British Dominions, similarly constituted, to and pronounce the final sense of the Court in all cases, there appears to have been at least nothing incongruous in his being al( ) to be the organ, as between the Court and Government. It was ( ) before it was objected to. At length, however, some time in(180 ) Justice Gwillim thought proper to lay in a claim for the joint ( ) (p. ) of the Puisne Judges; which for the sake of peace, and concerning the point in itself not to be of any consequence to the public was acceded to.

20. A letter from the Puisne Judges alone, upon a matter concurring the establishments of the Court the Chief Justice present and the want of his signature not accounted for, being now the Governor in Council though proper to return, the letter in question..... of the 13th of October.....unanswered, enclosed in a letter addressed to the Chief Justice and Puisne Judges, dated the 15th November 1806 alledging as a reason, the wish of Government to have it authenticated, in the manner that had been customary and copy of the letter from Government returning the letter from the Puisne Judges, is inserted in Appendix B No.5.



21. The letter from Government having been brought to me in the first instance as Chief Justice, I instantly circulated it to the other Judges, with a Note (Appendix B No.7) proposing a Conference on the form of corresponding with Government. My proposal was rejected. It was repeated a second time; and a second time rejected. The sentiments of the Puisne Judges on the occasion will be found in their letters to me of the 22nd and 25th of November 1806 copies of which are inserted in Appendix B Nos. 8 and 10. The conduct of Government in returning their letter unanswered and addressing the letter in which it was so returned to the Chief Justice and Puisne Judges instead of to the Puisne Judges only, was discussed in a meeting that took place in consequence of a letter addressed to me for that purpose, dated the 20th of December 1806, a copy of which is inserted in the Appendix B No.11. What passed at that meeting, together with my sentiments upon the question of correspondence, forms the subject of a private letter from me to Lord William Bentinck, dated the 24th of December 1806, a copy of which is also inserted in the Appendix B No.12.

22. To this letter I solicit particular attention, evencing, as I trust it will, to the satisfaction of His Majesty, my anxious solicitude to bring about an accommodation, without committing the principle upon which I now most humbly request His Majesty's permission to submit the subject to his royal attention. From that letter it will appear that for the sake (p. ) of accommodation I was content to assume as a fact that the whole of the measure in question, including the question of salaries had been determined by the Puisne Judges previous to my return. I wished his Lordship ( ) consider it in the nature of transiit in rem, judicatoum; and, in this ( ) it took the liberty of suggesting to him the consistency of answering the letter from the Puisne Judges, as if it had had my signature, or as if it had been sent in during my absence. My sentiments upon the (given) question are repeated and urged in a different form, in a note addressed by me to both the Puisne Judges themselves under date



the 26th of ( ) last, a copy of which is inserted in Appendix F. No.4. In latter note also, I take the liberty of soliciting particular attention as connected with all the subjects of this letter, in which both Puisne Judges are concerned.

23. What was the issue of my letter to Lord William Bentinck of the 24th of December 1806 will be seen by reference to copies of letters from his Lordship to me under the succession dates of the ( ) of December 1806 and 1st January 1807 inserted in Appendix B No.13 and 15.

24. That, with regard to the ultimate question, the (signature) of the Chief Justice in all correspondence with Government respecting the Court and not concerning the Puisne Judges ind( ) is essential, and ought to be required. I humbly avow to be of opinion in opposition to the opinion of the Puisne Judges as ( ) in Mr. Justice Sullivan's letter to me of the 22nd November 180( ) (Appendix B. No.8) and repeated and insisted upon by the Judges in their separate Notes to me of the 24th of February ( ) copies of which are inserted in Appendix F Nos. 2 and 3.

25. By the Charter, no fee can be given to any officer of the Court, nor can any existing fee be augmented or varied without a previous reference to Government for its concurrence. If a ( ) office be wanted, the Court must look to Government for the ( ) salary. The correspondence with Government, since my arrival ( ) 1798, will best evince the extent and variety of subjects upon which there may be occasional reference from the Court to Government vice versa and of course, the probable inconvenience of this intercourse being entirely suspended. It has not hitherto been (p. ) consistent with the relative dignity of the Court and Government to correspond by their respective officers.

26. Upon these considerations, and the intercourse between Government and the Court being for the reasons that will appear in



actual suspense and in danger of continuing so till His Majesty's pleasure on the subject shall be known. I have deemed it my duty to transmit for his information copies of the whole of the correspondence in my possession to which the question has given rise: humbly submitting the question to His Royal Wisdom and direction.

27. By the Royal Charter, establishing the Supreme Court, the custody of the Seal of the Court is specially given to the Chief Justice, the legal use of it, as directed by the Charter, is to give authenticity to all "Writs, Summonses, precepts, rules, orders and other Mandatory process to be used, issued or awarded." The actual charge of the Seal is in a Gentleman deputed and appointed for the purpose by the Chief Justice, by whose hand it is affixed wherever it is required; nor did it ever enter into my mind to doubt that, as a Warrant to the Sealer for Sealing any of the process so described or referred to, the signature of either of the Puisne Judges is equal to that of the Chief Justice.

28. In addition to this judicial use of the Seal, it is common where papers of consequence are to be transmitted to be made use of eventually in the Courts or public affairs at home, after having been reduced into the form of Notarial acts, to apply for and obtain a certificate under the Seal. Certifying that the person purporting to have signed such act is a Notary public entitled to faith and credit, such certificates are extra judicial. The papers referred to by them are of various descriptions commonly Deeds, Wills, Securities, Memorials and the like, not acts of the Court, in any sense of the word. Whether therefore the Seal of the Court, strictly speaking, is with propriety fixed to them, may be doubtful. The practice has not occurred to me to be pregnant with harm. I found it existing upon my arrival here as Recorder. The Seal of the Major's Court, which preceded that of the (p. ) Court of the Recorder, had been constantly resorted to for the same purpose. It prevails I believe, and has always prevailed in all



the Indian presidencies. What additional authenticity results from Seal, added to such certificates, upon their being produced at home, not the question.

29. The question is to be whom it belongs to grant or to ( ) it upon such occasions. The Till the Puisne Judges of the Supreme Court after the publication of the present Charter expressed, and insisted upon opinion, my apprehension had constantly been that it could belong alone to him to whom it had pleased His Majesty to entrust its exclusive custody.

30. Were the certificate in question an act of the Court, or of those acts out of Court, which for convenience, the Judges are in the practice of performing at their Chambers subject to the revision and controul of the Court such as issuing "Writs, Summonses, etc." I have already stated my opinion, that the act of any one Judge would (be) as competent as the act of any other.

31. The application to the Seal for the purpose in (great) respects an act not in the contemplation of the Charter. No appl(ication) of the kind could be made with effect in Court. The Court would listen to an application of the kind. It would as soon listen an application for the Seal of the Court to be put to a (previous) letter in the ordinary course of private correspondence. This (appears) to me to be decisive of the question who in such cases, is to ( ). The application is not to the Judge; for it is not a judicial act is requested. It is to the Seal. If it was to the Judge, and he would, upon a consistent application, be bound, to comply with the request; whereas I apprehend there exists no right in any ( ) demand the granting of such a certificate, no complaint could consistently be made in any quarter, under any circumstances, the Seal had been wanted to attest the fact of a particular person being a Notary, and that it had been refus(ed). It is not even a discretionary act in the sense in which discretion is understood in reference to a Judge. It is (purely) voluntary; the application is made where the



Seal, by (p. ) express and solicitous appointment of His Majesty happens to be. It is incident to the peculiar, exclusive possession of the Seal; and, if I am right in my principles and reasoning, it would seem to follow that the application can only be made to the Chief Justice. I found myself upon the nature of the thing and not upon the practice in other presidencies of which I profess to be ignorant.

32. When the question arose here in February 1802, as the Puisne Judges and I differed upon it, it occurred to me that it would be an consistent course to refer to His Majesty's Supreme Court, at Bengal and Columbo, as well as to his Court of the Recorder of Bombay, for information as to the practice in these several jurisdictions; and, in the event of the returns to such references not being satisfactory and of its being thought worth while to pursue the enquiry to submit the matter finally to His Majesty himself. From the correspondence that took place on the occasion, His Majesty will perceive how this proposal on the part of the Chief Justice was treated and from the temper of that correspondence, combined with that of other discussions existing about the same time, evidence of which will also be before His Majesty upon the present occasion. His Majesty will have an opportunity of collecting the principle upon which the Chief Justice finally acquiesced in the demand insisted upon by the Puisne Judges, causing the Chief Justice to put the Seal to an extrajudicial certificate whenever either of the Puisne Judges should think proper to grant one; viz. principle of conciliation, where it did not appear to the Chief Justice that any individual interest or right was concerned; a principle which, with reference to the point in question, in the actual state of the Court, and of the existing discussions among the Judges at the time, in the apprehension of the Chief Justice, superseded every other in importance. As Recorder he had been but recently the occasion of substituting for the court of the recorder the Supreme Court which succeeded; and was not willing for it to



appear upon any representation of his that the gracious intention of His Majesty in the substitution of the Supreme Court, would not completely answering His Royal and benevolent purpose. (p. ) The same principle dictated from time to time the same acqui( ) upon other like occasions, where his judgment was in direct/avowed (and opposition to that of the other Judges of which a consp( ) instance is submitted to His Majesty in the discussion that terminated in the arrangement for holding the Sessions before Single Judge.

33. Not that at the time I deemed the question ( )ting the Seal to be unimportant. My respectful proposal ( ) the Puisne Judges in February 1802 for a reference demonstra(ted) the contrary.

34. Compelled at length to address His Majesty respec(ting) other matters of importance, which can only be adjusted and settled ( ) His Royal interference. I have deemed it a duty due to the ( ) I have the honor to hold, to include the question upon the Seal ( ) humble reference. The respect I owe to the Puisne Judges, who ( ) thought differently with me upon the question, has induced me to submit my sentiments upon it at large to His Majesty; influenced by the same consideration. I shall continue to put Seal to their certificates upon all subjects, as I have hitherto since the period of February 1802, as often as caused by them, His Majesty's pleasure relative to it shall be made known (see Appendix C).

35. About the time of the discussion respecting the ( ) which was soon after the publication of the Charter, the Puisne Judges ~~seve~~ severally took occasion to advance a principle of co-ord( ) between the Chief Justice, and Puisne Judges, having a tendency to ( ) the efficiency of the Court, in proportion at it is avowed and actu( ) upon in a manner not warranted by the Charter, and still less by practice of any of those Courts to which, as to a standard, the Supreme Court of Judicature at Madras is, by the Charter, referred.



36. Mr. Justice Gwillim in his letter to one of the 19th December 1801 (Appendix A No.13) discussing unnecessarily (will be for His Majesty to judge with what temper) the consequence of the Judges states that he "came out here with of co-ordination, and co-equality;" observing that he could not quite shake them off and put on (what he calls) "asiatic notions.

37. Mr. Justice Sullivan in his letter of the 13th of February 1802 (Appendix C No.5) in which the same topic is again unfortunately agitated, admits to the situation of the Chief Justice "a certain superiority in title, rank, and salary," denying any in judicial acts. The observation occurring in the discussion respecting the use of the Seal, with deference to that learned Judge, was little to the purpose, if as I have assumed, the act in discussion was in extra-judicial, and not a judicial act. As applicable, however, even to judicial acts, the position is untenable. The Charter, in a particular instance, of every frequent occurrence, giving a marked preponderance to the opinion of the Chief Justice upon the Bench over that of either of the Puisne Judges. Extracts from the Charter, in the parts alluded to are, for the facility of reference, inserted in Appendix C No.10. This at once refutes the idea of perfect co-ordination, as contended for by the Puisne Judges in a manner and with a frequency, that at length determines me to submit the point distinctly to His Majesty, as one affecting, in my opinion, the efficiency of the Court depending, in an important degree, upon the relative dignity of the office I have the honor to hold. Of this, however, it is undoubtedly for His Majesty to judge. That the ideas of the Puisne Judges continue to be at this day the same with those severally avowed by them, soon after the publication of the Charter in 1801, is evident from the style and sentiments of their recent letters, already referred to, on the appointment of a Pundit and Moulavie, and on the form of corresponding with Government (Appendix B. Nos. 1. 3. 8. 10). In fact, they have never ceased to act upon these ideas, ever since the establishment



of the Court to the present day, with infinite prejudice in my opinion to the interests of the public, and contrary as I apprehend to the intention of the King, as it is to be collected from the Charter, and from the known constitution of the other great courts both at home and in India upon the plan of which the Supreme Court of Judicature at Madras professes to have been formed. To such (p. ) a length have they been carried by Mr. Justice Gwillim, that he has for a long time past discontinued meeting at the House of the Chief Justice the first day of term to proceed attended by the Gentlemen of the (Board) and officers of the Court, to open the Term with the accustomed solemn ( ).

38. For the fact, I refer to the certificate Appendix C No. 11 by which not only the absence noticed will appear on the first day the several Terms to which the extract refers; but from the attendance in Court of the learned Judge on the second day of every one of those ( ) one only excepted, (in which his attendance will be found certified on third day) the presumption is rebutted of indisposition having been the cause of his non-attendance on the preceding days of each of the respective Terms in question.

39. By such his absence, I have no doubt but he ( ) in the eyes of all, European and native, form his own dignity; ( ) in truth, is not properly speaking his own, but the dignity of the ( ) which every Judge owes to it to His Majesty to maintain. I add ( ) the circumstance therefore, not as one by which I am personally affected ( ) but as marking the spirit that actuates the Judge in question, at the same time, it probably defeats its own purpose. In my official capacity, I presume that it is a point about which ( ) consistently with my duty to the King, be for ever indifferent. I have hitherto troubled His Majesty upon the subject, having for the reasons already stated, been content rather to temporize; enduring almost any degree of personal inconvenience, rather than obtrude ( ) upon His Majesty with a subject of a nature so very incidental ( ). But pondering finally the importance of every thing upon which consequence and



efficiency of the administration of His Majesty's ( ) at this presidency may depend, and assuming the untenableness ( ) the ideas entertained on the subject by his Puisne Judges, as are to be collected from their letters, and acts, influenced by ( )deration other than that of a sense of duty, imperiously exe( ) by existing circumstances, it is with all humility that I ( ) reluctantly submit to His Majesty the observations I have ventured to make upon it, for His Royal consideration.

40. In furnishing the proofs, upon which I found this humble appeal to the fountain of justice and order, I offer (p. ) apology for extracting them from the letters of the learned persons to whom it principally refers; having been taught that all such letters, under whatever form, not professing to be private, are in their nature common and liable to be considered as official. I take the liberty of referring for this opinion to a letter to me from Mr. Justice Gwillim dated the 17th of February 1802, Appendix A. No.10. In fact, the whole of our late correspondence, relative to the recent dispensation between Government and the Puisne Judges, has without any communication with me, been forwarded by Mr. Justice Sullivan to the Chief Secretary of this presidency, for the information of Government.

41. I proceed, with increased reluctance, to the treatment received by me from Mr. Justice Gwillim in the execution of what I have submitted to His Majesty to have been my duty in complying, as I did, with the request conveyed to me in the letter of the Right Hon'ble the Governor in Council of the 22nd of January 1807, Appendix A No. 1. Unwilling to repeat either the fact or my sentiments upon it, I beg leave to refer for both to copies of the Notes Nos. 1a. 2a under 3 letter D to the Extract from a Report made to Government, under the signature of the Company's Advocate General No. 3a under 3 Appendix D; and to a paper signed by myself No.3 Appendix D. The latter contains those sentiments as I thought proper to submit them at the time to our common brother Mr. Justice Sullivan, with express permission to communicate them to Mr. Justice Gwillim



himself. The result of that permission, as well as of the communication made by me to Mr. Justice Sullivan, will be seen in the copy of the note received by me the following day from Mr. Justice Sullivan No.4 Appendix D.

42. For the degree in which the insult resulting from what appears by the papers referred to was founded, I beg leave further to refer to the letter from the Right Hon'ble the Governor in Council, dated the 28th of February with its enclosures, in reply to mine of the 25th Appendix D Nos. 5 and 6. (p. ).

43. Such are the documents upon which constrained as I at ( ) find myself by every consideration public and private, I solicit permission to submit the conduct of one Judge toward another to August and common superior.

44. Of what passed on my taking my seat, on the 2( ) January last, as detailed in the Report of the Advocate General took no notice at the time unwilling to increase the indecorum of scene, not often paralleled in a British Court of Justice. ( ) like discretion governed me in subsequent instances in the ( ) of the same Sessions, and of the ensuing Term, when topics and characters, not before the Court, were discussed in a strain of personal invective, to which it is never easy, seldom prudent ( ) attempt a reply. The indignant silence with which I (thought) it my duty to receive the contumely offered to myself. I observed with augmented difficulty in the instance of others, not present( ) protect themselves and whose conduct not before the Court as I apprehend liable to its direct jurisdiction, it was imp( ) so to animadvert upon at large, in the face of an Indian without danger to the public interests. I deprecated, without risking the consequences of a vain attempt to repel sentiments and reflections, which I could not at the time but cons(ider) as pregnant with public mischief; having been emphati(cally) and most unnecessarily warned by the learned Judge, "that should not stop his mouth."

45. Deep and unmerited as was the insult received by ( ) through the note from the learned judge of the 23rd and in what ( )



afterwards upon the Bench, it was long before I formed though in( ) of troubling His Majesty on the subject. It has already been stated, that I submitted my sentiments upon it in writing (Appendix D. No.3) to the learned Judge himself through the medium of Mr. Justice Sullivan. The result has also been ref( ) to (Appendix D. No.4). The Judge concerned declined perusal of them; the other availed himself of my verbal ( ) to be silent on the subject.

45. That it was only my ultimate intention to ( ) His Majesty on the occasion, and that, in the first instance, (p. ) have been satisfied with any consistent explanation. I refer for the proof as well to the paper itself of the 31st of January (Appendix D No.3) delivered by me to Mr. Justice Sullivan, as to a letter addressed by me to the same Judge, on the 28th preceding, a copy of which is inserted in Appendix D No.2. It will be seen that my endeavours to avoid the last extremity have been fruitless. An intimation that what passed in Court, on the morning of the 24th of January had, by means of the Report of the Advocate General, become a Record of this Government, to form (I take for granted) part of the representation, understood to be in the course of transmission, on the part of the Governor in Council, finally relieved me in some degree from the Delicacy I might otherwise have felt, in thus representing the conduct of a brother Judge. Whether, under the complicated and peculiar circumstances of the case, it has not become my duty to do so, must be for His Majesty's determination. For myself, experience since the publication of the present Charter affords me no possible security that I can perceive, against a repetition of similar outrages, in what place next, to what extent, and under what circumstances. I can form no idea. I feel no longer any security, but in the refuge which I am taking to the throne. I respectfully trust His Majesty will approve the forbearance I shall appear to have practised, both in and out of Court, as well as sustain the appeal I am now presuming to make, to His Royal protection.

46. In what degree the temper of Mr. Justice Gwillim is of that practicable,



consistent kind, so important in Judicature, His Majesty will have an opportunity of judging from the correspondence, and other evidence that will be before him. Of the difficulties which it has accumulated upon me in the execution of my office from the first moment of our connection, His Majesty, from the accompanying papers, will be able to form but an inadequate idea. In addition to those which have already been particularly referred to, I request to be enabled to draw His Royal attention to a copy of a letter received by me from (p. ) Mr. Justice Sullivan, dated 6th July 1806 Appendix E..... It ( ) a meeting at which Mr. Justice Sullivan was present toward the ( ) of 1804. From that date, it was scarcely to be any longer ( ) the consequences of a domestic misfortune, in the embarrassment ( ) the affairs of an older brother, about the same period, rendering me probably in some degree the less capable of sustaining official conflicts, to which I had been but too long exposed protection here there could be none. I had not then, as I (had) none, a public occasion of transmitting a case to the King. The influence of the two causes to which I have alluded, by ( ) it in some degree an act of necessity, rendered it next to ( ) question of duty, whether it was not expedient for me to ( ) though without permission, my solution of this question, under a pressure, which may be more easily imagined, than described brought upon me in October 1805, the Royal Displeasure. For proof of the operation of these causes, I beg leave to refer to the concluding part of a charge to the Grand Jury, ( ) by me at a sessions held soon after my return in June ( ) a copy of which forms for this purpose Appendix F..... It was occasioned by information of the circumstance of my departure having been very improperly noticed upon a similar occasion by Mr. Justice Gwillim, soon after it had took place. Other proofs to the same effect are appealed to a joint note addressed by me to Mr. Justice Gwillim, and Mr. Justice Sullivan, dated the 25th of February last; Appendix G No. 4. For the manner in which I was, under these circumstances, received by Mr. Justice Gwillim, on my ( ) in June last, I refer to a narrative upon that subject, Appendix.....



47. The Displeasure of His Majesty, upon the ( ) of a Chief Justice from a distant establishment, without Royal permission, wholly unexplained, was to be expected.

48. Having been appointed to my station in ( ) upon the recommendation of the then President of the Board of Controul, I laid my account, on quitting it the beginning (p. ) of 1805 with finding in the same noble person, a ready and obvious channel for explaining the occasion. By the time that I reached England in September 1805, that facility together with every other, had failed.

49. To the protection of my residence in India, after years of service in America: to the loss of income for above sixteen months, the terms of my absence: to the expence combined with all the inconvenience and ordinary vexation attendant upon, and incident to the measure to which I have alluded to these consequences of it. I have long since made up my mind under the Royal displeasure, no subject can live and be happy.

I trust Sir, that, through your means His Majesty may be graciously pleased to declare, that the cause, which led to it, has been satisfactorily explained.

I have the honour to be,  
Sir,  
Your most obedient  
humble servant

Thomas Andrew Strange

P.S.

Extracts of this letter from paragraph 1 to paragraph 45, inclusive, have been this day forwarded to Mr. Justice Gwillim, and Mr. Justice Sullivan. For other notices to them of my intention thus to address His Majesty, forwarded to them some days ago, I refer to the copies inserted in Appendix G No. 4. 6. 7.



(X.21)

Charge delivered to Grand Jury by Sir Thomas Strange on the opening of a Session held on the day of being the next Sessions after resuming his station, the Chief Justice Madras, on his return from Europe the 23th of June 1806.

Gentlemen of the Grand Jury,

You are assembled, in the ordinary, stated course, to investigate, with a view to prosecution, upon the Oath you have just taken, the several cases that shall be brought before you, or upon which, independently of the interposition of particular prosecutors, you shall see reason to institute an enquiry, during the present Sessions.

Experienced, as you most of you are, in the general duty of the trust, with which you are thus invested, I need scarcely tell you, that every description of crime, including of course every break of the peace, is within the sphere of your inquisition; or that probable evidence, that of compleat proof, will be sufficient, to warrant you in finding Bills, that shall have the effect, not of convicting, but of bringing to trial for the detection of guilt, or vindication of innocence, as the facts shall, upon a more mature examination; on either side, turn out, the party, to whom such presumptive proofs shall be found to apply: - the Law of England, herein, prudently attacking, in some degree to the subject, the celebrated sentiment of an illustrious character of antiquity, pronouncing upon the condition of his companion, "that the must not be so much as suspected."

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Appendix F

Charge to the Grand Jury of Madras, delivered by Sir Thomas Strange, on the opening of the Third Sessions of Oyer and Terminer for 1806.



It is my duty, Gentlemen, (if inspecting the Calendar, it appears to require me) to prepare you for the discharge of yours, by such statements of its contracts, accompanied with such pertinent observation; as may afford you an idea of the nature of the matters, upon which you are about to act, and facilitate the conclusions it may be your province to draw.

It will be my purpose to do this, on the present occasion, sufficiently I trust, - but yet shortly - as well because I see nothing upon which I feel myself required to dwell, as from the distraction of other objects, that have, more or less, pressed themselves upon, and unavoidably, in some degree, occupied my attention, during the short period since I have been enabled, by the blessing of God, and under the considerate, permission of the King, to resume among you these my solemn functions.

The Calendar (as usual) contains the specification of a number of felonies upon property, for which natives of the lowest order stand committed, unattended with circumstances of particular aggravation. Upon these, it is impossible that it can be necessary for me to say a word - the crime is a prevalent one, demanding, of course, to be checked, by the intervention of justice; but in no instance of it, that I am instructed will come before you, in solving difficulties, which you, Gentlemen, unaided by judicial assistance, are not abundantly more than competent to unravel.

He is more than competent, whoever brings with him to the performance of your office an understanding, capable of appreciating evidence, as applicable to the most ordinary transactions and characters of life; -



attention, to prevent mistake; that jealous concern for the public safety, which ~~is~~ stimulates enquiry, combined with such an anxious fellow feeling for others, as will not, upon surmises merely, much less upon corrupt, or (p. ) vindictive views, expose to the peril which must ever, before the very best constituted ( ) attend a trial, a being however inferior in rank or nature, yet, still, of the same ( ) and conformation with ourselves, - the workmanship of the same creator, endowed ( ) facilities and propensities for the enjoyment of those invaluable dispensations, that law secured to us, liberty, and life.

That all, and each of you, possess these indispensable qualifications charge upon which you are about to enter, I confidently believe; nor can one finally altogether regret the ravages of self defensive conquest, that, in the end, submits of interesting, yet helpless fellow creatures, to the dominion and protection of laws to their peace, preservation, and prosperity; and administered upon those ( ) humane principles, which, operating with vigour at the Presidency, are beginning, one in thinking, to diffuse their salutary influence throughout the whole extent of its dependen( ) territory, to the honor of our country, and the unspeakable benefit of this remote, and ( ) of its empire.

Gentlemen, should unforeseen difficulties arise, in the course of any ( ) investigations, you are aware that you have, in every instance, a ready resort to the ( ) opinion and advice, under the circumstances as they shall be stated to it by your ( ).

Beside the ordinary matters of charge, to which I have referred, you ( ) called upon to exercise your attention upon two, that will be found respectively to impa( ) parties in custody the deaths of others that will be described.



One of them embraces a case of an extremely serious complexion, perpetrator of the act that has been committed could be ascertained - the case of ( ) to our laws and Government, but not, so far as appears, offending against ( ) consequently entitled, during his temporary residence among us, to their full ( ) protection; - a native of Pegue, acting here upon a trading Commission from Government, destroyed in the face of day, and when upon the eve of his return whom is not as yet known; but justice and policy alike cry for the discovery.

These will be brought before you, meanwhile, as answer ( ) share in this enormous offence, a person charged on the Coroners inquest ( ) been present, aiding and abetting; - which, if true, would constitute him ( ) law a principal in the second degree, liable to the same penal consequences his had been the hand that struck the blow. There appear to have been ( ) of persons present, as yet unknown; and the general question upon the evidence will hear, as applicable to the person so charged, will be, whether there suffere( ) to have been a confederacy for an illegal purpose, in the prosecution of which ( ) ensued; and whether the person charged, being present, was privy to such ( ). The affirmative, in your judgment, of these two propositions will, very ( ) subject him to a trial.

Another case, which, so far as I have been able to ( ) may perhaps prove to have been an unhappy rather than a criminal one ( ) a mother the wilful, malicious destruction of her two infant children. I will ( ) anticipate the circumstances. You will exercise your judgment upon them: (p. )



incline to the opinion, that they will be found to be at all events such, as may make it fit for you to leave the final disposal of it to the enquiry of the petty Jury.

~~Knowing-thus-~~ Having thus surveyed the Calendar before me, in a manner calculated to prepare you for entering upon your charge, it can scarcely be doubted, as a general proposition, but that this address to you ought here to stop.

If definition, in general, be dangerous, it is hardly possible to define the limits of a charge to the Grand Jury. There is little worth reading to be found about it in the numerous volumes of our profession; and, resting, as it does, upon practice, what is not a little curious is, that (for what good reason, I am ignorant, but, I believe,) throughout most, if not all of the circuits in England, it is not the custom of the Bar to be present at its delivery. This may account for the diversity to be found among Judges, in the execution of this part of their duty: While, from a conformity in studies, and a constant attendance in the same Courts before their promotion, in the discharge of every other province of Judicature it may be said to be rather the office, than the man, that presides.

An author of repute, who wrote in the time of Queen Elizabeth (Sir Thomas Smith) speaking of it, says quaintly, that "one of the Judges briefly telleth the cause of their coming, and giveth a good lesson to the people."

This would confine it pretty much to an exposition of the Calendar; which I take, indeed, to have been its original purpose. However, in modern times, at least, we every now and then witness upon occasions like the present, excursions into matter, extraneous to this strictly official bound; Sometimes brilliant and captivating, always, it is to be presumed,



useful and consistent. But, if ever a Judge can be prompted to travel (as we call it) out of the record, it is when from something which he has reason to apprehend has occurred, he finds it incumbent upon him to endeavour to ractify himself in his place.

Gentlemen of the Grand Jury, - in quitting my station for a time, now above a twelve month ago, though I exercised no right, it might be a nice and difficult question, whether I violated any duty; for, of every duty, the obligation and performance must be allowed to depend upon circumstances. I gave to the King, and to the public, perhaps, - but, to no individual, a right to complain - at all events, of any competent complaint, could the real cause be made known, whether it is I that should be liable to be considered as the object, remains to be determined. I continue, meanwhile, satisfied, myself, that it was, under the circumstances attending it, one that led, with some thing like inesistible operation, to the effect which it produced. It remains unknown at this moment to His Majesty. Before it could be made known to him, the facilities for communicating it had failed. Whatever may be his conjectures on the subject, it is as much unknown to the noble ruler of our Presidency, as to yourselves. It had, mixed with it, nothing of levity, nothing of sordid gain. Whatever results might be in contemplation, I went out upon no party of either pleasure, or interest; as little, upon any speculation, private or public. My (p. ) departure was, in the determining upon it, a reluctant election of evil, upon public.



Servatus ad eum,

Iuatis ab incepto processu\_\_\_\_\_

My main end will, I believe,  
under immense ( ) indeed, have been  
answered - If it be, - the public will  
reap the benefit -

But I have wandered how long  
from our Calendar making myself the subject;  
- but, it is myself, confirmed, by the  
grace of the delicate and affecting  
character of his principal judicial  
representative of British India -----  
This may be my apology!-----

I beg leave now, Gentlemen, to  
remit you to for which we are assembled.

Thomas Andrew Strange



X.22

To the Right Honorable  
George Tierney  
President of the Board of  
Commissioners for Affairs of  
India

etc. etc. etc.

Sir,

Having received information on the 5th instant from our Chief Justice Sir Thomas Strange that he had addressed a letter to you for the purpose of appealing to His Majesty on certain points in which we have the misfortune to differ from him in opinion, and on others, in which an adherence to the regulations of the Court has been our error, if any we have fallen into; we beg leave to submit Sir through you for His Majesty's consideration the reasons by which our conduct has hitherto been influenced.

The points referred Sir to your consideration are, as we understand, five in number viz. the ( ) mode of holding the quarter Sessions. The ( ) corresponding with the Government of this ( ). The directions of the seal of the Court to give ( )ty to papers in Europe. This His own peculiar ( ) as contradistinguished from ours and the ( ) of having native law officers attached to the ( ).

On the first three he concurred ( ) in opinion almost immediately after the ( )-ment of the Court. He then thought with the charter authorizing any one Judge to exec( ) powers of the Court, it would, in this oppress( ) climate greatly relieve us if the Sessions were ( ) in rotation before one Judge; as it would ( ) other two that degree of intermission from ( ) duties which the excessive heats of the country. He then agreed that the most respectfull ( ) corresponding with Government was for the ( ) Judges to sign all letters addressed to them ( ) thinking with us that the use of the seal ( ) (p. ) purpose we have mentioned, though irregular was useful. He agreed that the direction of it should, for the sake of public convenience, be vested alike in all the Judges. To this indeed he agreed with reluctance; but unless he sought

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permission preeminence in error, we know not to what that reluctance ought to be imputed. As to the fourth point - He admits that we allow him superiority in rank, station, and salary; and he may also admit that we recognize his casting voice when sitting with one Puisne Judge only - for that we have never contested: But still not contented he has wished to invalidate the powers which the charter has vested in the majority of the Judges, and to assume a controul when he does not think proper to announce his assent. We have resisted pretensions so inconsistent with the constitution of the Court, and hence arises the grievance of which he would here complain.

In regard to the last point - Bound as we are to administer justice to the natives according (p ) to their own laws, and conscious of our ( ) to acquit ourselves of the trust reposed in ( ) out the aid of native lawyers, we applied ( ) Government for that assistance. One of us ( ) under peculiar difficulties in a cause then ( ) before him; and no private remuneration ( ) procure the regular attendance of a Pundit ( ) enough for any useful purpose. All were ( ) looking to situations in the Adawlet courts, ( ) could find none who would forego their ( ) of employment in these courts for any ( ) short of stated salaries in the Supreme Court.

We knew that by epistolary correspondence) we might here and there glean some little (in)formation, but thought we could not justify the ( ) which such a correspondence might occasion ( ) the suits. That it was unseemly and ( ) the King's Court should be driven to such ( ) and having no check on the Pundits, or ( ) (p. ) from whom our correspondents must derive the information, that very little confidence could be placed in it when received. We conceived it therefore necessary to compleat the



establishment of the court, by the appointment of one person of each description and this we endeavoured to do while the whole trust reposed by his majesty in the Court, had ( ) upon us by the then unaccountable departure of Sir Thomas Strange from India. Having first apprized the Governor through the Court stood in want of aid obtained his concurrence, we wrote respectfully to his Lordship in Council to request it. Our application was immediately acceded to, and the quantum of salary obligingly referred to us. Before however we could satisfy ourselves as to the amount of the salaries they should respectively receive, the Chief Justice arrived from Europe, and resumed his station.



As all letters to Government were ( ) regulations to be signed by the three Judges ( ) communication was made to Sir Thomas Strange the day after his arrival of the application ( ) made, of the acquiescence of Government, and final letter which it was necessary to ( ) he was then with due attention asked whe( ) the previous communications had passed ( ) has absence, the letter about to be addressed ( ) Government should be subscribed by the ( ) or by us only who had made the application ( ) communications were made to him by Mr. Clarke, who is not as Sir Thomas Strange ( )timate, a common clerk, but the near ( ) of Sir Henry Gwillim, a young gentleman ( ) Sir Thomas Strange has frequently expressed ( )cular regard, and who acted on this occasion ( ) Sir Henry's confidential representative. Sir Thomas Strange on this occasion expressed his conc( ) (p. ) in the propriety of our application and desired that the letter should be written as from the three Judges, declaring he would affix his signature to it: But when the letter was sent to him for signature he thought proper to refuse it.

Forced by this refusal either to send in the letter without his signature, or to leave that from Government altogether without an answer, we determined on the former. We had already paid all the attention in our power to Sir Thomas Strange, and wished not to be thought deficient in respect to the Government, who had hitherto treated us with civility. That civility however was shortly to be exchanged for rudeness: and a letter bearing the signature of the majority of His Majesty's Judges, was objected to as informal; and returned to us for authentication from the Chief Justice.

Sir Thomas Strange who til now had expressed no desire of a conference, chosen this moment to (p. ) propose one -



we need not say that, as he ( ) cause, by with-holding his signature, of the ( )nity we had just received, we felt the pro( ) an aggravation of the insult and this the ( ) the reason, assigned by Government for the ( ) of our letter, was an obvious inference from ( ) opinion - "that no judgment of the Court ( ) pronounced, with legal effect, by either of the Judges, or by both together," a position which ( ) apprehension, is subversive of the Cons-(titution) (of) the Court: in as much as it would enable ( ) Chief Justice to controul the proceedings of ( )jority of the Judges by refusing to announ(ce) concurrence, whenever they might differ ( ) in opinion. But as another position ( ) of this, "that nothing can be done out of ( ) cannot be done in it," the inference was ( )ing, that a letter from the Puisne Judge ( )out the authentication of the Chief Justice ( ) (p. ) informal and improper.

The proposed conference however offered no question on which we could deliberate. The mode of corresponding with the Government had long been determined. And in regard to the native officers, it was now too late to deliberate on the propriety of doing that which was already done. It could not have been expected from us that we should agree to any alteration in that which was deemed the most respectful form of addressing the Governor in Council: and stil less that we should trace back the steps we had taken; by departing in any thing, from the sentiments we expressed. He could not expect after the communications which had been made to him on his arrival, and his conduct on that occasion, that we should submit to his review an act which had passed while he took no concern in the Court. Had he been present when the question was discussed (p. ) whether we should apply for ( ) assistance of native officers, and differed ( ) in opinion; by his own admission, he would ( ) been bound by the concurrent sentiments ( ) puisne Judges. Our opinions



would have ( ) the rule, had he remained at his station ( ) did not think his withdrawing himself ( ) could justify greater pretensions. He could ( ) surprized, Sir, at our declining the conference proposed. Individually he was aware ( ) possessed no claim to extraordinary Court ( ) us; and officially he must have known ( ) not acceded to a measure that would bring ( ) rights of the majority of the Judges into (question) and give rise to doubts, whether the offici( ) of the Court were vested in them, or in ( ) dissenting Judge.

In proof that the communications have stated were made to Sir Thomas Strange ( ) (p. ) immediately after his arrival, we have the honor to inclose the deposition of Mr. Richard Clarke (No.3) and that Sir Thomas Strange was himself conscious that the Court wanted assistance in determining native suits appears from the correspondence he found himself under the necessity of holding, whilst Recorder of Madras, for the purpose of obtaining information. One instance we take from the Records of the Court; and another from letters obligingly communicated to us by Mr. Greenway, who held the office of Collector of the Jagheer when he received these letters from Sir Thomas Strange (No. 4. 5. 6).

It is not for us to appreciate the matters brought forward by Sir Thomas Strange, nor to judge whether they are of sufficient importance to be laid before his Majesty. But we doubt whether we are altogether regular in offering any thing by way of answer without his royal permission and trust that the remoteness of our situation, with (p. ) the length of time we must otherwise remain exposed to unfavorable impressio(n) ( ) should any of the matters complained of ( ) to require explanation, will in some degree ( ) the intrusion.



We need not observe that the refer( ) not a matter of concert, nor made with privacy or consent: it comes forward in ( ) of accusation, and proves that we were not ( ) on the occasion. We have been forced into ( ) vindication of our conduct, and at great disad(vantage). We expected, if not from the candour at ( ) from the promise of Sir Thomas Strange ( ) of his appeal, and of the documents it referr(ed) but we have had from him only an extr( ) the one, and the number of the other - these circumstances we have of necessity ( ) brief, but have omitted, we hope, nothing ( ) nor been in any thing wanting in the ( ) (p. ) we owe to the high authority to which we have presumed to address ourselves. We have entered perhaps too early on our defence and with the disadvantages we allude to, but, ~~cease~~ conscious of the rectitude of our intentions, we humbly submit our motives and our actions to His Majesty's gracious consideration.

In this defence we have confined ourselves, Sir, to these matters in which we are jointly concerned. There are others which more particularly respect Sir Henry Gwillim, but on these he will have the honor to address you in a separate letter.

We have the honor to be with ~~reg~~  
great respect

Sir

Your most obedient  
Humble Servants  
Henry Gwillim  
Benjamin Sullivan

Fort St. George  
( ) March 1807



X.23

East India House

10th September 1807

My Lord

The Court of Directors of the East India Company beg leave to submit to the consideration of your Lordship the accompanying statement relative to certain extraordinary conduct on the part of Sir Henry Gwillim Knight, one of the Puisne Judges of the Supreme Court of Judicature at Fort St. George, who holds that office during His Majesty's pleasure. The statement is extracted from and verified by a voluminous mass of papers just arrived, which, as soon as they are copied, shall be laid before Your Lordship. The Court of Directors feel it their duty to say that they are ready to pledge themselves to the prosecution of Sir, Henry Gwillim in such course as they shall be advised that he is liable to answer for the conduct in question, unless His Majesty's Ministers shall be of opinion that a prosecution ought to be carried on by the King's Law Officers.

In the present stage of this business, the Court of Directors will not enter fully into the observations which suggest themselves from the facts, but they cannot forbear to notice that in the state of the public mind under the Government of Fort St. George, as described by late accounts, they are very apprehensive that the conduct exhibited by Sir Henry Gwillim, invested as he is with a public character, must have a direct tendency to foment dissent and encourage contempt of and resistance to Government; and as there are ships now under dispatch for India which will carry out on account of the first ~~im~~ impression the intelligence of that conduct has made here, they are fearful the appearance of hesitation as to the line to be pursued with respect to it, would add to the injury already done; and being well assured that if His Majesty's Ministers shall view the subject in the same light in which it appears to them, His Majesty' will be advised that the peace of the settlement of Fort St. George, if not the public

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Public Record Office: PC/1/3822: East India House,  
10th September 1807 From Chairman and Deputy Chairman  
to Right Hon'ble Lord Viscount Castlereagh



safety requires the transmission of orders by the first ships which sail, for the removal of Sir Henry Gwillim from his office. The Court therefore solicit the immediate attention of your Lordship to this important affair, on which we have further to intimate that if it shall be thought fit to resort to the more formal mode of bringing the subject before His Majesty by petition to the King in Council, the Court are ready to prefer such petition.

We will not intrude further upon your Lordship than to state that Lord William Bentinck (3) the Governor of Fort St. George, considered the conduct of Sir Henry Gwillim to be so hostile to the great ends of the British Government that his longer continuance in India with apparent impunity was dangerous to the British interests, and therefore if no superior authority had been at hand to whom the Government of Fort St. George could apply for instructions for their guidance, he would have deemed it his duty to propose or even on his own responsibility to have ordered, the immediate arrest of Sir Henry Gwillim, for the purpose of sending him home for trial, by the first ship, and His Lordship would have trusted to the justice of the King in Parliament to indemnify him; but to avoid all appearance of personal resentment the method of proceeding was submitted for the final decision of the Supreme Government of Fort William.

We have the honour to be,

My Lord,

Yours Lordship's

Most Obedient Servants,

Edward Parry

Cha Grant



X.24

white Hall 11 Sept. 1807

My Lord,

I have the honour to lay before your Lordship a letter addressed to Mr. Tiernney by Sir Thomas Strange, Chief Justice of the Supreme Court of Judicature at Madras, to which I am desirous of attracting your earliest attention as the differences which have arisen among the members of that Court appear to me to be an ~~end~~ of an alarming nature in the <sup>land</sup> present state of India and to require the immediate notice of His Majesty's Government.

I have the honour to be/My Lord,

Your Lordship's/most obedient  
humble servant, Robt Dundas

The Viscount Castlereagh

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India Office Records: Home Miscellaneous 431:  
(p. 333)



Dunera 3rd October 1807

My Lord,

I had the honour on the 11th ultimo of transmitting to your Lordship a letter from Sir Thomas Strange (with its enclosure) relative to a dispute between him and the other judges of the Supreme Court of Judicature at Madras. I now take the liberty of communicating for your further information a copy of a letter from Sir Henry Gwillim to Mr. Tiernney upon the same subject.

I have the honour to be etc.

(signed) Robt Dundas

Lord Viscount Castlereagh

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India Office Records: Home Miscellaneous 431.

(p. 379)



7.25

Draft Paragraph proposed by the Court of Directors to be sent to their Presidency at Fort St. George.

Sir Henry Gwillim,

We have with equal surprise and concern, received your letter in the Law Department of the 6th March, 1807 containing a recital of most extraordinary conduct on the part of Sir Henry Gwillim Knight, one of the Puisne Judges of the Supreme Court of Judicature at your Presidency. We should hardly have conceived it possible that a person placed in so eminent a situation would have demeaned himself in the manner described in the documents you have transmitted us, and yet on the other hand we know not (p.376) how to question the authenticity of statements vouched by such clear and respectable evidence. It must be our business in this case to endeavour to bring the affair as speedily as possible into a regular course of investigation. For although it would be a cause of extreme regret to us to find that a person in so high a judicial situation, and to whom we ought rather to have looked for the support of legal government, should have so far deviated from the obvious line of propriety as to have suffered himself to utter sentiments from the Bench having a direct tendency to foment dissensions and encourage contempt of, and resistance to that Government, to whom, it is\* his bounden duty to have afforded every necessary degree of aid; yet feeling it to be indispensably obligatory upon us to uphold our respective governments in the exercise of their just authority and in the due administration of our affairs, we have submitted to His Majesty's ministers a representation of the conduct of Judge Gwillim formed from the materials you have sent us, and accompanied with your memorial on the subject, and we have requested that the conduct of Sir Henry Gwillim may be forthwith investigated before His Majesty-in-Council. The result of this application we shall communicate to you by the earliest opportunity.

30th sept., 1807

White Hall 7th October 1807

Approved by order of the Board of Commissioners for the affairs of India  
(signed) George Holford

\* "was" in Volume 40.

India Office Records: Home Miscellaneous 431; (also Vol. 40 (E/4/900)pp.523-8): (Approved by Committee of Correspondence 30 Sept. 1807; Ct. Ditto; Board 7th October): No 146 Public Dept



X.26

Memorandum for Lord Castlereagh of the  
Disputes at Madras between the Government  
and the Puisne Judges.

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The accusations against Sir. H. Gwillim are contained partly in a Memorial to His Majesty on the part of the Government of Fort St. George; charging the Judge with attempts to counteract the exertions of Government to preserve the public tranquility at Madras, and with having used ~~the~~ very offensive and dangerous language in regard to the Government in a public (434) address from the Bench to the Grand Jury on the 21st January 1807, and partly in a letter from Sir, Thomas Strange, the Chief Justice, submitting, thro' the President of the Board of Control, to the King his own reasons for having complied with a request from the Madras Government, that he would take his seat with Sir Henry Gwillim in Court, in consequence of what had passed there on the 21st January, and at the same time referring to His Majesty's decision certain (435) other matters in dispute between himself and his brother Judges. As the differences between the Judges themselves will probably occupy but little of your Lordship's consideration, except as they may have reference to their conduct in Court or towards Government, I shall confine myself in this regard to the charges prepared against Sir H. Gwillim in the Memorial of the Governor in Council of Fort. St. George.

Upon some of the acts there stated, it seems hardly possible to form a correct (436) judgment without more compleat information than the papers transmitted hence by the Madras Government can afford of this nature are various alleged instances of misconduct in regard to a new system of Police Established by Government which Sir Henry is supposed to have endeavoured to counteract by encouraging complaints against the officers employed under it, and by illegally imprisoning such officers when complained of,

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India Office Records: Home Miscellaneous. 253 (pp. 433-476)  
Dated 5th November 1867

- \* Note: Sir Benjamin Sullivan, the other Puisne Judge is represented by the Madras Government as having been in some degree involved in some of the acts of Sir H. Gwillim, but there is no regular charge made against him.



and inflicting summary punishments upon them contrary to (437) Law, manifesting by acts of this nature so decided a spirit of hostility to the system of Police in the opinion of Mr. Grant, the Magistrate placed at the head of it, that he resigned his office; giving as the reason of his resignation the opposition which he had met with from Sir. H. Gwillim in the execution of it. The claims of the system of Police to encouragement and the propriety of the Judges' conduct in the several cases alluded to seem to be questions not easily to be decided without hearing Sir H. Gwillim himself upon those points; but the (438) language used in Court (if the fact is proved, and of the sufficiency of the proof adduced it seems impossible to doubt) appears to be such as no circumstances, hereafter to be brought forward by the learned Judge in his defence, can justify nor any explanation render innocent.

It appears, that Mr. Anstruther, the Advocate General having been told that Sir H. Gwillim had set out in his charge to the Grand Jury by premising, that "Govt. had lately conducted itself in so arbitrary a manner, that it would (439) be dastardly in him, and a want of attention to the dignity of the Court not to take further notice of it, before he closed that address", went into Court, while the Judge was speaking and was so struck with the ~~xxxx~~ tenor of the part of the speech, which was delivered after his arrival there, that he thought it his duty to make a Report of it to Government. The following account of the speech is taken from that report"; (441) "I found Sir Henry

\* Note.-That a proper estimate may be formed of the degree of dependence to be placed upon the accuracy of this Report, it will be proper to state the circumstances which attended the formation of it, and the manner in which it is supported by collateral evidence.

It was not prepared from notes, but Mr. Anstruther states himself in an affidavit it made (440) to verify the Report to have called immediately after he came out of Court on Mr. Orme, Solicitor to the Government, who had also been present at the delivery of the speech, and to have availed himself of the



Gwillim addressing the Grand Jury from a paper before him in a speech appearing from the texture of the sentences to have been deliberately prepared. After going through to the Calendar, the Judge returned to the subject with which he had began, the conduct of Government. He commenced this part of his address with great solemnity of manner, and considerable apparent agitation, he said, that he felt it his duty to notice to the Grand Jury the repeated insults offered to himself and to Sir Bengamin Sullivan (442) and in their persons

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(from pre-page of Foot Note)

assistance of that Gentleman in aid of his own memory in drawing it up; Mr. A then carried the Report to Mr. Dick, one of the Grand Jury and read it to him, examining him at the end of every sentence to his recollection of the particular expressions contained in it. The Report having received the sanction of Mr. Dick's testimony to its accuracy was submitted on the same day to the Governor and by his direction laid before the Council the next, viz. on the 22nd January. In order to ascertain the pretensions of the report to credit still further the Governor in Council consulted the Grand Jury thro' their foreman upon that point and received from the foreman the fullest attestation of its accuracy in the names of himself and his brethren. We agreed says that Gentleman (in his letter to the Government on the subject) "that it" (viz. the report) "contained a perfectly fair statement of the speech from the Bench, and more correct, as to the particular expressions used, than we could have expected any one to report from memory, almost every word of it having been recalled by the perusal of that paper to the memory of every person present." In this letter, as well as the affidavits of several of the Grand Jury and other Juries present when the speech was delivered in Court, whose depositions on the subject were taken on oath, some doubts are stated whether certain additional expressions were not used, and some slight difference of opinion appears as to the sense or application of particular paragraphs, but there is nothing to impeach the Report as far as it goes and all who speak of it, agree in stating, that it is not an exaggerated statement of what passed.



to the Supreme Court by this Government and (to use his own expression) by "the very ill advised young Gentleman now at the head of it" he said that "Government had pledged itself to the Court to supply it with a sufficient establishment of Native Assistants, but having afterwards from some motives which had not come to light for (he observed) weakness cannot bear the light that pledge had been violated, \*that when Sir Benjamin Sullivan and himself, forming a majority of the Court, had addressed a letter to Government (443) claiming the performance of its promise, this ill advised young Lord evaded it by insulting them. That Government had returned to them\*\* the letter as wanting the authentication of the Chief Justices signature, Government appearing not to know that the majority of the Judges not the Chief Justices constituted the Court, Sir Henry Gwillim contained at some length complaining of this as an insult to His Majesty's Court, he said that he was authorised to state these as the sentiments of Sir Benjamin Sullivan, as well as his own, and lamented the occasion which deprived the Court of the assistance of that Judge.\*\*\*"

"He then said that another (442) no less gross insult had subsequently been offered to Sir

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- \* Note.- Mr. Anstruther afterwards adds from his collection assisted by communication with another witness, that Sir H. Gwillim spoke of this not only as a violation of the faith of Government but of private honour and as a breach of the Governor's engagement as a Gentleman.
- \*\* Note.- Mr. Anstruther afterwards corrects this expression, Sir Henry Gwillim stated the letter to be returned to the Chief Justice (as the fact was) and noticed this as an aggravation of the insult to the Puisne Judges.
- \*\*\* Note.- It appears from Lord Wm. Bentinck's Minute of the 13th February that Sir. B. Sullivan knew that Sir Henry Gwillim meant to \_\_\_\_\_ on the conduct of Government respecting the letter and had (444) even written to him to state that he expected



Benjamin Sullivan and himself by the acts of Government in regard to the intended system of Police without any previous communication with

(From prepage of Foot Note)

him to do so the conduct of Sir Benjamin imputed to mental infirmity by Lord Wm. Bentinck who represents him as borken by illness and infirmity. His letters however are not those of a man whose mind is impaired. The circumstances of the supposed indignity which produced so violent a degree of resentment in the minds of the Puisne Judges were as follows; During the absence of Sir T. Strange, the two remaining Judges applied to Government for the addition of two Native Law Assistants, a Moulavie and a Pundit to their Court. Government acceded to their application and referred it to them to state the quantum of salary to be allowed. Before this reference had been answered, Sir. T. Strange returned from England and they sent the proposed answer for his signature. Sir Thomas thinking the appointments unnecessary declined to sign the letter and requested that if the letter was sent, it might be accompanied with an intimation, that "he had been applied to for his concurrence and had declined giving it." With this request, the Puisne Judges declined to comply, and sent the letter without taking any notice therein of the Chief Justice. The Governor had no direct<sup>ment</sup> communication with Sir T. Strange upon this subject, but Lord Wm. Bentinck states ~~the member of Council~~ <sup>it</sup> to have been well known by the Governor in Council that Sir. H. Gwillim had refused to be on terms of civility with the Chief Justice, and that the Chief Justices' request (445) had been made as above mentioned, and had not been complied with. Under these circumstances the Governor in Council returned the letter of the Puisne Judges to the Chief Justice with a letter from themselves dated 15th November 1806 in which they observe, "that in all correspondence between the Court and this Government it has been usual that the letters should be authenticated, when practicable by the signature of the Chief Justice, and that from their general desire to preserve regularity in their proceedings, they should be happy,



either of them, that he was wholly ignorant of the object and of the whole principle of the intended system. That it was the bounden duty

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(From prepage of Foot Note)

that the adoption of this mode should be observed in the present case." They then go on to mention that, "they have returned the letter for the purpose of being authenticated in the manner stated."

On the receipt of this letter, the Chief Justice proposed, that the Judges should meet and settle amongst themselves the form of correspondence with Government but this was declined, in the name of both the Puisne Judges, by Sir B. Sullivan, Sir H. Gwillim having before refused to have any direct communication with Sir T. Strange. Sir Benjamin says that the act of the two Judges was the act of the Court, the Chief Justice being no integral part of the Court. The offence of the letter from Government of the 15th November was considered as so heinous that the Lord Wm. Bentinck on being informed that the word "authenticated" had been termed offensive as impeaching the veracity of the Puisne Judges, apologised in a letter to Sir B. Sullivan for the use of that word, disclaiming any doubt of the genuineness of the letter, Sir Benjamin still refused to communicate with (446) Government, unless the exceptionable letter was removed, a demand to which Government did not think fit to accede. The application, however, of the Puisne Judges to which this correspondence relates, seems to be of a very different nature from a Judicial Act, it was a recommendation to the discretion of the Governor in Council, who might reasonably expect to be informed whether the Judges were unanimous in their sentiments in regard to the fitness or necessity of the measure proposed, or who might without impropriety assist their own discretion if they chose by weighing the value of contending opinions. It is stated in Sir Thomas Strange's letter to the President of the Board of Controul, that "for a considerable time after the



of Government to have communicated to all the Judges every measure which might be in contemplation regarding those subjects, not for the purpose of their consulting with Government, for he said that Government well knew that he would not advise with it on such topics nor would give any opinion (448) except judicially when sitting in that Court but that the communication ought to have been made to the Judges for the purpose of enabling them to state to the King's Ministers at home their opinion on the proposed measures.

He said that he understood that a letter had been sent home by Government recommending material changes in the administration of Justice and particularly suggesting the propriety of establishing a local legislative authority in certain particulars; that if it were so he must publicly declare his total ~~dis~~ disapprobation of it, that in this country the habits and notions of (449) men were too arbitrary to trust them with such a power and that there was wanting that honourable independence of mind which should be required in those who hold the high trust of legislation, that where all are interested all ought to be consulted. That if the proposed alterations were intended to interfere with the jurisdiction of that Court, the insult to himself and to Sir Benjamin Sullivan in not communicating it to them was still further aggravated. That he understood it was proposed to give summary jurisdiction to the stipendiary magistrates with their numerous body (450) of followers in questions between masters and servants and stated strongly his objections to such a measure, he repeated frequently the term stipendiary Magistrates turning himself at the same time towards Mr. Grant, the Chief Magistrate of Police (and who in his situation as a Magistrate is ordered by Sir Henry Gwillim to attend in

(from prepage of Foot Note)

publication of the Charter of the Supreme Court all letters from the Court to Government were prepared, signed and forwarded by the Chief Justice after having been previously submitted to and received the assent of the Puisne Judges." but that, "some time in 1803 Mr. Justice Gwillim had thought proper to lay in a claim for the joint signatures of the Puisne Judges," which had been acceded to.



Court at Sessions, and was accordingly in his place (reprobating in strong terms, evidently pointed at Mr. Grant the vesting any discretionary powers as in such stipendiary Magistrates, and observing emphatically and (451) pointedly good men will not desire such powers, bad men ought not to be trusted with them."

"He then said that from what he knew by experience of the effects of the present establishment of Police, he considered its extension as a measure to be deprecated that instances were not wanting even in his own family of the abuses to which such an establishment in such hands was liable, that he considered the numerous followers of Police as a body most dangerous to the community, that they had already repeatedly stopped persons in the public roads and (452) streets upon the most idle pretences; and had without any other authority than their own unfounded suspicions, broken into the houses of innocent persons. That while he sat there he never would permit such illegal practices that he would teach them that the hut of a native in his castle as well as the house of an Englishman, that such a Police acting upon every foolish suspicion resembled more the bands of the inquisition than the regular officers of Justice; and that he apprehended more evil to the public from one legal inquisition than from ten (453) thieves. That there was nothing in the situation of this place to warrant such an establishment; that the people were fraudulent but not depraved; that there were rare instances of that deep malignity which constitutes the depravity of a society; that there had indeed been some late commotions arising from the public distress. That if the offenders in those cases should be legally brought before that Court whether the mischief might appear to have originated merely in the distress of the individuals, or whether it might be traced to the misconduct of Government in not providing (454) a sufficient supply of food for its subjects, still if the delinquents in the late disturbances should be brought before the Court, it would be its duty to punish them. He then returned



to the subject of the Police Magistrates, and their followers, expressing his regret that there is not here a King's attorney General to prosecute offenders of that description by the same course as in England, but intimating that there are not wanting other means of proceeding against them."

"In some part of his address on the subject of Police, Sir Henry Gwillim stated, as he had before done on the former (455) ground of complaint against Government that he had the authority of Sir Benjamin Sullivan to declare these to be their common sentiments but I am not certain whether that was intended as applicable to every part of his address or only to the general statement of the resentment of the two Judges against this measure of Government."

In consequence of this proceeding on the part of Sir Henry Gwillim, the Governor in Council addressed letters to the two other Judges on the 22nd January stating the manner in which the Government had been spoken of in Court on (456) the preceding day, and requesting them ("if not inconsistent with the constitution of the Court to take their places on the Bench during the remainder of the session as a measure essential to the maintenance of the authority of Government, and of the public tranquillity.

Sir Thomas Strange took his seat on the bench in compliance with this request, but Sir Benjamin Sullivan refused to comply with it giving his reasons\* in a letter addressed to the Secretary

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\* Note.- He adverts in this letter to the state of his health which would not admit of his going into Court, but he rests his refusal upon other grounds. He says, "that having been favoured with a sight of three sheets of the charge alluded to before it was delivered in Court, and having perceived nothing offensive in it," He was "inclined to doubt the fact as stated in the letter" from Government, and imputes the accusation of aggression on Government to prejudice on the part of the person from whom the Governor in Council derived



(458) to Government, and stating as an objection to his corresponding directly with the Governor in Council the circumstance of the letter returned for the Chief Justice's signature alluded to in Sir Henry Gwillim's speech. In the course of the proceedings in Court, Sr. H. Gwillim took occasion to address Mr. Anstruther, who had been stating the reasons, which induced him to bring certain offenders to trial in the following terms; "I am no abettor of tumult. I am as much a friend to order and the peace of society as any man whatever and have the satisfaction arising from the internal consciousness (459) of the rectitude of my conduct. Government mistakes the man it has to deal with, and it also mistakes the means in the ill judged course it is now pursuing. I am not to be intimidated either by Government or by the Judge they have sent down to controul me, I am not sorry to find myself thus placed, perhaps I may hereafter have reason to

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(from prepage of Foot Note)

their information, it appears however from what passed afterwards that the 3 sheets which Sir Benjamin had seen were precisely the part of the charge which preceded the part complained of as offensive, it appears moreover that Sir Benjamin admits himself to have seen the expression stated to have occurred at the commencement of the charge, viz. "that it would be dastardly in him (Sir Henry) not to take notice to the Grand Jury of the conduct of Government," on introduction which ought to have led Sir B. to entertain less confidence in regard to the tone and temper in which the conduct might have been noticed than appears in his letter.

Sir Benjamin goes on to contend that the presence of the other Judges on the Bench and could answer no good purpose would give publicity to the disagreement between the Court and Government and would be a violation of those rules which they have laid down for their own guidance, and which are laws binding on the country at large" the propriety of the Rule among the Judges to sit by turns instead of all being present at each sitting of the Court, and the circumstances under which that practice was adopted are among the points submitted by Sir T. Strange to His Majesty.



glory in the disapprobation of this Government." When Sir Henry Gwillim said he was not to be intimidated he raised his voice to a very high and loud pitch which he continued with great vehemence of manner and delivery during the remainder of this short address.\* (461) It is impossible for any

\* Note.- On the same day Mr. Anstruther having adverted to the \_\_\_\_\_ delivered in the preceding day to the Grand Jury, in the \_\_\_\_\_ of the trials, Sir H. Gwillim said to him, "you were (460) present and heard these directions, it is not very usual indeed for Counsel to attend, while a Judge is delivering his charge to a Grand Jury. I do not wish any act of mine to be unknown; I should have no objection to your having a copy of the charge which I delivered." Mr. Anstruther did not think fit to avail himself of this opportunity of asking for a copy of it, in explanation of his conduct upon this occasion he states himself to having considered the Government as having at this time by its letter to the ~~xxxx~~ other two Judges brought a solemn accusation against Sir Henry Gwillim and as pledged to proceed to put such accusation in a train of inquiry before a proper tribunal. He thought it therefore too late to receive a disavowal or explanation of the expressions in the Judges' address by way of apology, if therefore the copy given should not have contained the exceptionable matter, Government would be placed itself under the necessity of denying and disproving its authenticity; if it had contained it, there would have been an appearance of unfairness in soliciting a paper from a Party accused which was afterwards to be brought forward in support of the complaint against him. These reasons considering the stage in which the business there was, seem to have great weight. Sir B. Sullivan intimates in his letter above cited, that Government ought to have called upon Sir H. Gwillim for a copy of his charge in the first instance, and express his belief that Sir H. "would not have hesitated to lay it before them," it is however highly improbable that a Judge so jealous of his dignity and so much irritated against the Government as Sir H. Gwillim appears to have been, would have listened to a requisition from the Governor in Council for a copy of a charge delivered by him in Court to a Grand



person, who has at all considered the state of India to be insensible to the danger of the language above stated, delivered from the Bench of the Supreme Court at one of the Presidencies. The apprehension of the consequences of the line of conduct pursued by Sir H. Gwillim appears to have been so strongly felt by Lord William Bentinck that he has actually referred the question of sending him home to (462) the consideration of the Governor General in Council, conceiving his removal to be justifiable, tho' it could only be effected by an unauthorised act of power, which nothing but a case of necessity could justify and His Lordship's words at the conclusion of his Minute of the 28th February are as follows: "Under this impression, if no superior authority were at hand to whom we could apply for instructions for our guidance, I should deem it my duty to propose or even on my own responsibility, charged as I am more particularly with the safety (463) of these territories, to order the immediate arrest of Sir H. Gwillim for the purpose of sending him for trial to England by the first ship, trusting to the justice of the King and Parliament to indemnify me against the consequences of that proceeding. But as the Governor General in Council is our immediate superior in India and equally responsible with ourselves for the safety of these possessions, it appears proper, in order to avoid all appearance of personal resentment to submit this (464) latter recommendation for the final decision of the supreme Government."

It appears not impossible from this Minute that Sir H. Gwillim may now be on his way home, but should that not be the case, whatever allowance may be made for the personal feelings with which

(from prepage of Foot Note)

Jury on the ground of its having been reported to contain matter which had offended them. He would unquestionably have treated such an application as a fresh Insult and it is curious to find Sir B. Sullivan giving an opinion that his brother Judge, confessedly the more intemperate man of the two, would have been willing to communicate a copy of his charge in Court to Government, which he himself refused to communicate thro' Mr. Anstruther to Government, whether he had or had not authorised Sir Henry to use his name in that charge giving Mr. A. at the same time private information upon the subject.



this question is naturally considered by Lord Wm. Bentinck, and in whatever degree the ~~changes~~ danger of a marked hostility, between the Government of Fort St. George and the Supreme Court there, may be supposed to be diminished by the accession of Sir George (465) Barlow to the situation of the late Governor since these transactions happened, it can hardly be doubted that the continuance of a Judge in India with the dispositions imputed to Sir H. Gwillim, or who has uttered the words of which so much testimony has been produced, may be highly detrimental to the British interests.

If a Magistrate in any Court belonging to any of His Majesty's colonies should display such contempt for any of the King's Governors, the proceeding would be highly indecorous and must (466) render the Governors' residence in the colony more or less unpleasant, or the affairs of his Government more or less troublesome: but the state and condition of India admits of no comparison with the situation of any of our other distant possessions. We have neither numbers to influence nor physical strength to controul the population of that country, while we can never sufficiently conform to their habits, customs and prejudices to become in any great degree the masters of their affections. The tenure by which we (467) hold India in possession and our possession is supported by the awe and reverence with which the natives habitually look up to those who hold the reins of Empire. If an authority derived from the King of England can be brought forward to degrade the Company's Government if Asiatics whose minds have never yet received any other idea of power, but that it can do what it pleases, and are to be taught to with the Company as a ruler limited and circumscribed, who cannot take measures to quell or prevent a tumult without the sanction (468) of a Judge, and whose system of Government can be brought into discussion and animadverted upon in the ordinary Courts of Justice, it is in vain to think of preserving our dominion in that quarter of the Globe. Whatever checks and guards it may be necessary or proper to place on our Government, they must not be ostentatiously brought



forward and displayed to its subjects. If it is to be proclaimed by His Majesty's authority that "every Indian's Hut in his Castle", we shall soon (469) find that every such castle has for its Lord a rebel to the authority of the Company. It is moreover worthy of remark that the evil stated by the Governor in Council of Fort St. George, is not confined to the conduct of a single Judge. It is the authority of the Court by which the Government has been arraigned and its measures impeded. It appears that the other Puisne Judge conceives in general with Sir H. Gwillim that they assume themselves as a majority to constitute the Court and that the Chief Justice (470) is become a cypher being actually excluded from the Counsels of his brethren.

I shall only observe further upon the expediency of the recall of Sir. H. Gwillim, that if the learned Judge ought not to be deemed guilty while he is absent, as little can he be cleared in his absence; and the charges preferred against him are of too serious a nature, and come from too high an authority to be dismissed without a solemn investigation.

The proofs of part of the accusation seem irrefragable. It cannot however be necessary that (471) a body of evidence of weight enough to produce conviction should precede the recall of a person in a high official situation abroad; it is a sufficient ground for such a proceeding if such presumptive proof shall appear of misconduct as may afford a reasonable ground of apprehension that his continuance in office will be attended with great public inconvenience, the proceeding being in its nature rather precautionary than vindicative.

If after the arrival of Sir H. Gwillim in this country it should turn out, on proper enquiry that (472) he is free from blame, the favour of the Crown may recompense him for the suspension of his judicial functions, but should any material injury arise to the British interests from his continuance in India, it is obvious that the evil may not be so easily reparable.



(473)

P.S. In regard to the time of Sir Henry Gwillim's being officially informed of the offence taken by Government at his conduct, it appears, by a letter from Sir Henry that he was made acquainted with the intention of submitting his conduct to the consideration of His Majesty by a letter from the Governor in Council, on the 19th February 1807 in which they offered to furnish him with copies of all the examinations taken, and professed themselves willing to receive any proposal or suggestion relative to further examinations or any other communication on his part. Sir H. Gwillim observes in his answer dated (474) 22nd February, that had the proposed communication with Government been made at an earlier period His Lordship (Lord Wm. Bentinck) would have saved himself much trouble and would have been satisfied that there was no foundation for the accusation. He states that if properly applied to, he (Sir Henry) would most readily have furnished his Lordship with a copy of his charge and would with pleasure have communicated with any member of Council upon the subject; it is however observable that at the end of this very letter, he states it to be "impossible for him to have any direct communication with the Governor in Council" until the letter of the 15th November abovementioned (475) returning that from the Puisne Judges to Government shall be recalled and upon this ground addressed his present letter to the Secretary to Government, instead of writing to the Governor in Council.

Sir Henry in this letter points out the papers with which he wishes to be furnished which are accordingly sent to him on the 25th of February with the exceptions of the letter sent him to the Directors upon the subject. The Secretary to Government mentions that the Governor in Council regrets his not feeling himself at liberty to communicate that paper stating at the same time that the substance of it is comprized in the charges enclosed. Sir H. Gwillim is further informed that "the advanced period of the season (476) will



render the early dispatch of the ships (then) under the orders of sailing, of considerable importance" etc.

It appears that another letter to Sir H. Gwillim was written on the 27th February by the Secretary to Government mentioning "that it is probable the ships will not be dispatched before Thursday the 5th March, and as it is further probable, that they may be detained for some days at Ceylon, there will be an opportunity of transmitting dispatches to that island in sufficient time to overtake the ships before their first departure for England." Upon enquiry at the India House, it appears that the ships sailed from Madras on the 8th March and left Ceylon on the 24th. The last Government dispatches from Madras, in the Office, are dated on the 6th March.

Signed G. Holford

5th November 1807



(X-27)

To

George Holford Esq.

Sir,

Having yet received no answer to the letter we addressed to Lord Castlereagh as acting President of the Board of Commissioners on the 10th of September last, and the Georgiana Packet being now on the eve of departure for India, we must request that in the absence both of the President and Lord Castlereagh, you will have the goodness to state to the Board the great solicitude of the Court of Directors to be able to convey to Fort St. George by the present opportunity the determination of His Majesty's Government on the case of Sir Henry Gwillim one of the judges of the Supreme Court at Madras.

There never was a period in our Indian history, in which it was more critically important to uphold the just authority and respect of Government than the present is. With regard to Fort St. George, symptoms of insubordination never before manifested have shewn themselves in that quarter among the natives. To see our administrators there divided among themselves, and especially the judicial (p.384) department publicly arraigning and vilifying the conduct and character of the executive government is, at such a time especially, most unhappy and most alarming. The fact of such conduct in a judge delivering himself from the bench seems too well established and too notorious to admit of any doubt. What personal provocation he may conceive himself to have received; what extenuations he may be able to plead, it is not in the first instance necessary to enquire. For Government has been openly and officially insulted in a way incompatible with the respect and subordination due to it; and this having passed publickly, a public separation is necessary.

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India Office Records: Home Miscellaneous 431:  
Letter from Edward Parry and Charles Grant,  
Chairman and Deputy Chairman, East India Company,  
East India House to George Holford Esq.,  
Secretary to the Board of Commissioners for  
the affairs of India.



It is the more necessary because Lord William Bentinck, the Governor at the time, having since been recalled, his removal may, if Judge Gwillim remains in his place, be considered by the people as a triumph, and it may not be easy to say what effects such an example may have.

The dishonour shown to the Government requires as we have (p.385) observed immediate reformation; and if there should hereafter appear circumstances of mitigation in the case of Sir Henry Gwillim, His Majesty's Government will be able to make up to him the inconveniences of which it cannot be denied he will himself have been the cause.

We have the honour to be, Sir,

Your most obedient servants

(signed) Edward Parry  
Charles Grant

East India House  
November 7, 1807



X.28

Downing St., 12 Nov. 1807

Sir,

I am directed by Lord Hawkesbury in Lord Castlereagh's absence to desire you will inform the Commissioners for the affairs of India that yesterday an order of Council was issued signifying His Majesty's pleasure that Sir Henry Gwillim Knight, one of the Puisne Judges of the Supreme Court of Judicature at Madras do repair to England in order that a Memorial of the United Company of merchants of England trading to the East India, complaining of the conduct of the said Sir Henry Gwillim may be investigated.

And I herewith enclose to you a letter addressed to the Governor of Madras enclosing to him a letter from Lord Hawkesbury, which transmits (p.388) a letter to the said Sir Henry Gwillim with His Majesty's order in-Council enclosed therein, which I am to desire, that you will move the Commons to take the earliest occasion of forwarding to Madras.

I have the honour to be, Sir,

Your most obedient and humble  
servant

E. Cooke

To

George Holford Esq.

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 India Office Records: Home Miscellaneous 431:



X.29

White Hall 12 Nov. 1807

To

William Ramsay Esq.

Sir,

I am directed by the Commissioners for the Affairs of India to transmit to you a copy of a letter received from Lord Castle-reagh's office together with a packet alluded to in said letter, which the Board desire may be forwarded to the Governor of Forst St. George without delay.

I am, Sir,

Your most obedient humble  
servant

(signed) George Holford

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India Office Records: Home Miscellaneous 431:  
Letter from George Holford to William Ramsay  
Esq., Secretary, East India Company.  
(p.399)



X.30

White Hall 12 Nov. 1807

To

The Chairman and Deputy Chairman  
of the East India Company.

Gentlemen,

I am directed by the Commissioners for the Affairs of India to inform you on the subject of your letter to me of the 7th instant that a communication has this day been made to the Board from the Secretary of States office of His Majesty's intention that Sir Henry Gwillim should return to England in order that the charge preferred against him be investigated.

I am Gentlemen

Your most obedient  
humble servant,

(signed) George Holford

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India Office Records: Home Miscellaneous 431:  
(p. 403)



X.31

Sir,

I am directed by the Chairman and Deputy Chairman of the East India Company to transmit you for the information of the Hon'ble the Governor-in-Council of Fort St. George copy of a letter from Edward Cooke Esq. Under Secretary for the War and Department to George Holford Esq. Secretary to the Rt. Hon'ble the Board of Commissioners for the Affairs of India dated this day acquainting him that an order of Council has been issued signifying His Majesty's pleasure that Sir Henry Gwillim one of the Puisne Judges of the Supreme Court of Judicature at Madras do repair to England and ordering a packet from Lord ~~Henry Gwillim~~ <sup>Hambro</sup> the Governor of Madras.

I am also desired to transmit you copy of Mr. Holford's letter to me of this date together with the Packet which accompanied it.

I am Sir etc.  
William Ramsay

East India House, London  
the 13th November 1807

The Chief Secretary to the Rt. Hon'ble the Governor-in-Council at Fort St. George

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India Office Records: Despatches to Madras:  
Vol. 40 (E/4/900) (sent per Georgiana):  
p. 603



X.32

Mr. Dundas presents his compliments to the Lord Chancellor, and has the honour to send for his Lordship's information, copy of a letter from the Government of Ford St. George to the Court of Directors of the East India Company, dated 14th March, 1807; copy of a letter from Sir Henry Gwillim to Mr. Tierney dated 13th March, 1807; and copy of a letter from Sir Henry Gwillim and Sir B. Strange to Mr. Tierney, dated 14th March, 1807, together with copies of the enclosures in the said letters.

India Office  
7th December, 1807

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India Office Records: Home Miscellaneous 431:  
(p.407)



X.33

White Hall 8th Dec. 1807

To

Sir Thomas Strange }  
 Sir Henry Gwillim } Knights  
 Sir Benjamin Sullivan }

Gentlemen,

I have the honour to acknowledge the receipt of the following letters addressed to Mr. Tierney:

1. From Sir Thomas Strange Knight dated the 5th March, 1807 with an appendix.
2. From Sir Henry Gwillim Knight dated the 5th March, 1807.
3. From Sir Henry Gwillim Knight dated the 13th March, 1807 with 8 enclosures (No.9 not received).
4. From Sir Henry Gwillim and Sir Benjamin Sullivan, Knights dated 14th March, 1807 with six enclosures.

The Court of Directors of the East India Company having presented a memorial and humble petition to his Majesty-in-Council praying that Sir Henry Gwillim might be removed from his situation as one of the judges of the Supreme Court of Judicature at Madras and His Majesty having been pleased to direct that Sir Henry Gwillim do repair to England (p.412) with all convenient speed in order that the matter of the above mentioned memorial and petition may be fully investigated I do not feel it necessary to enter at present into any discussion of the various points referred to, by you for His Majesty's consideration nor of the complaint against the conduct of Sir Henry Gwillim which are contained in several despatches from the Governor-in-Council of Fort St. George.

Whatever may be the final result of the proposed enquiry, I cannot refrain from expressing my sincere regret at the occurrences which have given rise to it, and which cannot have failed to produce on the public mind impressions highly injurious to the dignity and character of the Court.

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India Office Records: Home Miscellaneous 431:



I take this opportunity also of acknowledging the receipt of a letter from Sir Henry Gwillim to Mr. Tierney dated the 14th March, 1807 with a sealed (p.413) packet addressed to the Secretary of State for the Home Department, containing a recommendation of a convict to His Majesty's mercy, and which was accordingly transmitted to Lord Hawkesbury.

I have the honour to be gentlemen

Your most obedient humble  
servant

(signed) Robt Dundas

P.S. Enclosed is a duplicate letter from Lord *Hawkesbury* ~~Henry Gwillim~~ to Sir Henry Gwillim with a duplicate also of His Majesty's order in-Council requiring Sir Henry Gwillim to repair forthwith to England, the originals of which were transmitted by the Georgiana Packet.

(signed) Robt Dundas



X.34  
Walter Grant Esq.

Dear Grant

In these days of conspiracy I will trouble you with the Governor's permission to rid Madras of one active personage.

Cullooreia a bramin was an aumildar in Mysore and dismissed for pefulation and oppression in 1803. He left Sringapatam to seek his fortune to the Eastward soon afterwards and has lately been trying to raise money by a fabricated correspondence which is now before me.

The object of the correspondence is, to persuade certain persons in this country that he has succeeded (by (trying) persons in high situation at Madras and the promise of farther (donceurs) in subverting the present order of things in Mysore. He demands pecuniary aids for completing his purpose, but if he should fail in this, his messenger is furnished with fabricated letters from persons here addressed to himself, (p.687) promising to answer his bills, on the strength of which he of course expected to raise money in Madras. L. Brinsford

If the correspondence were credited it would shew some of the most eminent at Madras to be very unworthy of their situation, and some of the most trustworthy persons under this government to be conspiring for its subversion. There is however not a word of truth in the whole of these compositions. But it seems not less proper that Monsr Cullooreia should be treated according to his deserts, which I imagine may most conveniently be done by sending him to Mysore, where he would be tried and punished by a jury of (his) Peers.

Cullooreia is rather tall and thin and moderately black; of the Smarta sect (the face marked horizontally with powdered sandal and a circular red mark above the nose). Two months ago he usually divided his time between the house of (p.688) Narsim Achary, who lives not far from the thieving bazar near the Pagoda of Cunda Swamy; and an agaram established by Paupia near his large house, named Soolaclose to a Pulleyar Pagoda, where this mighty subverter of empires lived upon the bounty of three charity houses established in the vicinity. Veera Swamy havildar of invalids,

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India Office Records; Madras Public Consultations;  
Dated 18-2-1807: Letter from M. Wilks to W. Grant.



(X.35)

172

formerly an orderly at the Town Major's office,  
is well acquainted with the neighbourhood of  
Soolbo.

Yours faithfully  
M. Wilks

P.S. Cullooreia wore wiskers when he left this  
place, which would distinguish him if he  
still continues that unusual practice. Be  
good enough to give my Salam to Mahomed  
Ibrahim. I have read his letter and am  
very happy that he is placed in a situation  
for which he is so well qualified.

To

Capt. James Grant,  
Superintendent of Police

Sir,

You are hereby directed to deliver the  
body of Cullooreia (the person mentioned in the  
orders (p.690) conveyed to you yesterday) to  
the Havildar who will attend you with a guard  
for the purpose of receiving him, and you will  
communicate to the Havildar, the orders of the  
Governor-in-Council to convey Cullooreia without  
delay to Mysore, where he will received further  
orders. You will also give proper directions to  
the Havildar for supplying Cullooreia, who is a  
Bramin, with necessaries according to the customs  
of his cast, and you will furnish him with what  
many you think necessary for that purpose.

Dated in Fort St.  
George 14 Feb 1807

(Signed) G. Buchan  
Chief Secretary to Government

By order of the Rt. Hon'ble the Governor-in-Council

The Board entirely approve the measures  
reported in the foregoing minute.

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India Office Records: Madras Public Consultations:  
Dated 18-2-1807.



X.36

To

The Rt. Hon'ble Sir Henry Gwillim Knight,  
Puisne Judge to the Supreme Court of  
judicature.

The Humble Petition of An<sup>a</sup>apa late a  
peon under the authority of the cutwal  
of Triplicane.

Your poor and distressed petitioner begs  
leave to lay at your Lordship's humane consider-  
ation his deplorable case. That on the 15th  
instant, Mr. Clarke came to the cutwal choultry,  
and enquired the cutwal. The Deputy cutwal  
answered, that he is gone to the garden of William  
Patrie Esq., upon which Mr. Clarke wanted the  
Darogah of Tanahdars, newly established, and  
directed your petitioner to call him; your  
petitioner went to the house of Tippoo Saib,  
the Darogah, and called him and Mr. Clarke also  
came there. Tippoo Saib came on from his  
house, and was speaking with Mr. Clarke, when  
your petitioner returned to his duty at the  
cutwal's choultry. That on the 20th instant,  
the cutwal of Triplicane, snatched the belt  
from your petitioner, and dismissed him from  
the service. Where your petitioner asked him  
the (p. 22) reason, he said that because your  
petitioner has shewn Mr. Clarke the house of  
Tippoo Saib, Darogah, he was ordered to be  
discharged from the service.

Your poor petitioner has served there  
upwards of 5 years, and has acquitted himself  
very carefully in his duty. Now without any  
fault committed by him, he was discharged on  
account of obeying Mr. Clarke, by calling a  
man he wanted. Therefore your poor petitioner  
most humbly entreats your Lordship will be  
pleased to take the foregoing case into your  
Lordship's serious consideration, and see  
justice done to your poor petitioner and his  
distressed family, shall, as in duty bound  
ever pray

(a true copy) signed G. Keble  
Secretary to Government

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India Office Records: Home Miscellaneous: 691



X.37

## Memorandum

My reasons for discharging Adi, a police peon, were as follows.

On Sunday morning the 15th February he thought proper to neglect his duty on a police peon; having left the cutwal's choultry where, he was posted, without authority or permission to do so; and so far from attending to what was required of him; he acted apart directly opposite, by readily accompanying Mr. Clarke, whose orders he had no right to attend to, and offered Mr. Clarke every assistance in his power to try, and discover where a prisoner who had been taken up by the police was confined, and to gain every information possible regarding him, for the purpose of having it conveyed to Sir Henry Gwillim through Mr. Clarke.

I considered him to be disqualified for the situation in which he was placed and undeserving of confidence, for having used his (p. 58) best endeavours to give information which it was his business to have concealed and for having neglected his duty ~~of~~ quitting the cutwal's choultry *by* without orders.

(signed) J. Grant  
Superintendent of Police

(signed) G. G. Keble  
Secretary to Government

Madras 7th March, 1807  
(A true copy)

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India Office Records: Home Miscellaneous: 691  
(From Madras Public Proceedings)



7.38

## Law Department

In consequence of the petition enclosed in Sir Henry Gwillim's letter, addressed to the Chief Secretary under date the 4th March I directed Capt. Grant to give me a Memo of the circumstances which led to the dismissal of the peon. It is almost unnecessary to remark that Capt. Grant being responsible for the general efficiency, and conduct of the department over which he presides, has the same authority as is given to every other head of department in the selection and dismissal of his subordinate officers. In the exercise of that power in the present instance Capt. Grant appears to me to have acted with the greatest propriety. In respect to the conduct and interference of Sir Henry Gwillim, it has been consistent throughout. The present petition shows the impression which is received of Sir Henry Gwillim's power, that he can control the acts of Government.

(signed) William Bentinck  
(signed) G.G. Keble  
Secretary to Government

Fort St. George  
8.3.1807

(A true copy)

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India Office Records: Home Miscellaneous: 691 : Page 61  
From Madras (Law) Proceedings.



X.39

My Lord,

I have the honour to send accompanying information regarding Sir Henry Gwillim ~~to~~ which may hereafter be of importance to your Lordship, should his future conduct correspond to it.

As this office is intended for secret information, which is generally obtained through channels which cannot be disclosed, I request your Lordship may not lay my letter of this date before Council otherwise it is possible that Sir Henry Gwillim may receive some intelligence on the subject.

Your Lordship's most  
faithfully

J. Grant

14th March, 1807

(p.4173) My Lord,

I beg leave to report to your Lordship such information as I have received regarding the attempts which have been made and are probably to be hereafter persisted in, to oppose by every means possible the new system of police, which will in a day or two be introduced into the Black Town of Madras by the orders of Government.

The Polygar of Black Town wanted a short time ago, upon Sir Henry Gwillim and solicited his support, as he understood it was the intention of Government to remove him from the situation he then held.

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India Office Records: Madras Public  
Consultations: Dated 21st July, 1807:  
(p.4172)



Sir Henry Gwillim is said to have called him into a private room and asked him of the principal natives in Black Town were favourably disposed towards him and if they wished him to continue in his present employ. The reply made by the Polygar was that all the principal natives disliked the new system of Police and were particularly anxious that he should remain (p.4174) in his situation.

Sir Henry Gwillim said the Dubashes were all fools for not unanimously addressing a petition to Government, expressive of their objections to the new system of police and in support of the Polygar. That Government acted like fools for attempting to introduce the police, which was contrary to law and unauthorised by any orders from the Government at home. That if the principal Dubashes would address Government on the subject and furnish him with a copy of their petition and also a copy of the reply made to it that he would fight government and give every aid in his power to the Polygar and Dubashes. That even if the Police was established for the present, he would procure orders for annulling it from home. That he had already written on the subject and soon expected an answer. He desired the Polygar to rely on his assistance and to use all his interest with the principal natives to forward the petition immediately.

The Polygar's Delairy (or head servant) has for some time back been busily employed in visiting the (p.4175) principal natives, from whom he expects support and is urging them to present a petition in the Polygar's favor to Government.

I have considered it my duty to make your Lordship acquainted with the above information as it appears to me to be calculated to produce the most serious opposition to the orders of Government.

It is almost impossible to anticipate what may result from the deliberate and determined support which is in a manner volunteered on this occasion by one of His Majesty's Judges.



I have already observed during the short time I have been in office, that Sir Henry Gwillim's house is the refuge of the most disaffected, turbulent and dangerous natives who live at this Presidency.

I have the honour to be  
etc.

J. Grant  
Superintendent of Police

Madras  
14th March, 1807

Approved and ordered accordingly.



X.40

## Law Department

To the Honorable the Court of Directors  
for Affairs of the Honorable the United  
Company of Merchants of England trading  
to the East Indies.

Honorable Sirs,

1. In the despatch which we addressed to your Honorable Court under date the 6th Instant, we communicated to you a particular account of the late extraordinary proceedings of Sir Henry Gwillim one of the Judges of the Supreme Court of Judicature at this Presidency.

2. We informed your Honorable Court that we had deemed it proper to apprise that Judge of the course which it became our duty to adopt for the purpose of bringing the circumstances of his conduct before His Majesty; and that we had made an unreserved communication to Sir Henry Gwillim of the principal papers connected with that subject. The mode of proceeding which we followed that occasion, appeared to be consonant to that spirit of candor and of truth which it has been our study to observe and we considered it to be suited to the gravity and importance of the question.

3. We felt ourselves at liberty on the same ground of explicit proceeding, to request from Sir Henry Gwillim's copies of such communications as he might think proper to transmit to England (for) his vindication.

4. We had understood from the ( ) of Sir Henry Gwillim's letter dated the 22nd February in ~~resp~~ reply to the first letter of the Chief Secretary (to) the Government of the 19th of that month, it was in his contemplation to lay before the ( ) ties in England such an explanation as appea(red)

/Duplicate/

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India Office Records: Letters from Fort  
St. George: 33/E/4/335.



to be demanded by the charges which we had (pre)ferred. It may apparently with that view ( ) Sir Henry Gwillim stated an application for papers which were furnished to him; and under the impression of such being the inten(tion) ( ) Sir Henry Gwillim that we were particularly ( )ful to remove the objection which he had fra(med) on a supposed insufficiency of time for ( ) discussion, previously to the departure of the ( ) this season.

5. We had not failed to afford reasonable ground for the temperate discussion Sir Henry Gwillim professed to seek and might have been justified in expecting from correspondent mode of proceeding. Such however being the course which Sir Henry Gwillim deemed it advisable to adopt, it remains for (us) ( ) submit to your Hon'ble Court the copy of a ( ) which was received from Sir Henry Gwillim a lapse of several days, in reply to the ( ) conveyed to him in the letters from the Chief Secretary of this Government of the 25th and 26th February.

6. It will be observed that Sir Henry Gwillim has in the fan of irresistible evidence, confined himself to a bold denial of the charges brought against his conduct; and that faithful to the spirit by which his proceedings have been so conspicuously actuated he perseveres in the original strain of abuse, unprovoked and void of all foundation.

7. We cannot but be disposed to believe that had Sir Henry Gwillim any argument to produce, or palliation to offer, he would not have delayed to urge them to the full extent his ingenuity could suggest that his present silence is the mere subterfuge of inability to meet the charges against him, and that he places his best hopes of Defence on artifice of representation; But we conceive the weight of the several documents we have laid before your Hon'ble Court to be such as to render further explanation to support their strength, unnecessary.

8. After the perusal of the verified statements presented by us to your Hon'ble



Court it would appear superfluous to press further the crimination of the conduct of Sir Henry Gwillim, and we shall only add that the authority of Government has received a wound admitting of no cure, but in the most signal vindication, which can only be accomplished by your Hon'ble Court under the ( ) knowledge of the authenticated facts now before you.

9. From the particular nature of letter from Sir Henry Gwillim we deemed it to (be) proper to afford to the Advocate General an opportunity of stating such observations as that paper might appear to require and we have the honor to refer (you) to a letter received, in consequence from the Advocate General which exposes with much perspecuity judgement the fallacy of Sir Henry Gwillim's statement.

10. Your Hon'ble Court will observe that Sir Henry Gwillim has in the concluding part of ( ) letter emphatically referred to the case of one of the servants of the Police Department, whom the Superintendent of Police found cause to dismiss for (im)proper conduct and neglect of duty. We sub( ) the papers now transmitted the copy of a memorandum which has been received from the Superintendent of Police on this subject with the copy of a sheet( ) recorded by Lord William Bentinck and we shall add that we should scarcely deem it necessary to adduce stronger proof of the nature of the un(au)thorized and illegal interference which Sir Henry Gwillim has unceasingly exerted in the affairs of the Police than the fact to which he has ( ) appealed, in the instance before you.

11. In concluding this Despatch we are induced to call your particular notice to a late letter from the Advocate General, representing the terms of menace which had been publicly used by Sir Henry Gwillim with respect to that officer, from which it may be inferred that it is in the



contemplation of the Judge to proceed as far as may be in his power, to measures of personal extremity with regard to the Advocate General, by an appeal to the highest legal authorities in England.

12. We can have no doubt that the facts attested on Path, will be sufficient to invalidate any counter assertions by Sir Henry Gwillim, but as it is apparently material that the situation in which Sir Henry Gwillim now stands, should be made known to the legal authorities alluded to by that Judge, we beg to recommend that you communicate such instructions to your Law Officers, and you may deem necessary to protect the Advocate General of this Government from the effects of injurious representation.

13. It is unnecessary for us to enter into any particular explanation of the meritorious conduct of the Advocate General. His anxious vigilance in the cause of His Hon'ble Employers, is amply testified by the Proceedings, while it must be apparent that through the channel only of that officer, we had the means of arriving at a ( ) knowledge of facts or of repelling the injury, which had been sustained by this Government with a just ( ) of promptitude and firmness.

14. You will have observed that we (fi ) to be proper in all material points, connected with the subject, to recur to the legal advice of our Advocate General, whose opinions and conduct we doubt not ( ) be recognized by your Hon'ble Court, as by us, in a zealous and faithful discharge of duty to His Hon'ble Employers for the purpose of resisting dangerous violation of their public interests, and we condier it due, in justice, to recommend him, in an especial manner, to the ( ) and protection of your Hon'ble Court.

We have the honor to be, with great respect.

Fort St.  
George  
14th March,  
1807

Honorable Sirs,  
Your faithful,  
Humble Servants  
William Bentinck  
Cradock  
William Petrie  
Oakes



(X.41)

To

Capt. J. Grant  
Superintendent of Police

Sir,

The Rt. Hon'ble the Governor-in-Council of the Presidency of Fort St. George having read information implicating Chiryedi Sherogar in treasonable transactions which have recently occurred in the Zillah of Tinnevely has judged it expedient that his person shall be placed under restraint until a full investigation shall be made of the (p.1385) circumstances connected with his conduct. You the above named Capt. James Grant are accordingly hereby authorised and commanded to arrest and detain until further orders the body of the said Chiryedi Sherogar for doing which this shall be your authority.

Given under our hands and the seal of the U. Co. of Merchants & England trading to the East India this 25th day of April in the year of our Lord 1807.

William Bentinck etc. in  
Council  
E. C. Greenway,  
Secretary to Government

By order of the Rt. Hon'ble the  
Governor-in-Council

Fort St. George 25.4.1807

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India Office Records: Madras Judicial  
Consultations:



X.42

7183  
1

(4082) Received the following Petition

Translation of a Malabar Petition addressed to the Right Hon'ble Lord William Bentinck, Governor in Council of Madras by the whole collective body of the inhabitants and merchants residing in the town of Madras called 'Peddoo Naicks Pettah' and 'Mootleal Pettah'.

First That it is ordained by our Darma Sastras or Hindoo law books of human judicature, that a king or governor should be furnished with or complete in these six lines or members as inhabitants: corn, army, fortification, friends and good council and particularly in the first, who if duly protected by the king, or magistrate, can establish charities of diverse kinds, which would be agreeable to the divine will of God, who may in consequence bless the earth with seasonable rains, which can render the country productive of plenty of corn, whereby the king can have his treasures full of money, wherewith he can keep a numerous army, whereby the fortification can be strong, in which case every one may become friend and then the President may be glorified or surrounded by worthy (4083) council or ministers. Therefore the inhabitants either cultivators or merchants themselves are reckoned as treasurers both to His Britannic Majesty and to the Hon'ble Company, who do gain money partly from cultivation and partly from traffick carried on by the said inhabitants. Hence Hyder tyrannised such inhabitants, killed some of them, and took some as captives, and altho they have done him no mischief. So he did in hopes of weakening the English and making conquest of them. Then Tippoo Sultan followed the example of his said father in destroying many inhabitants. In this manner during the hostilities of the said Hyder and Tippoo Sultan, for a period of 25 years, we are plundered of our cows, bullocks and sheep and also of our joice and effects and many of us were slain. So that we were far from cultivating our fields in fear of the Loozee horses and consequently a grievous famine happened, when many died of hunger (for want of victuals) and the dead bodies were carried

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IOR: P/ / (Pub Cons 17.7.1807) signed by some 1040 persons (pages 4101-27, 2 columns per page with 40 to a page). Para 11 signed sparately on page 4129 by 24 persons.



in carts and buried undergorund abroad. So we have been subject to a train of misfortunes in course of these 25 years past, but we found no (4084) manner of safety or comfort. It has been customary that if any accident or calamity should happen to the inhabitants, the magistrate should forthwith give them such an encouragement or safety. Therefore and as the Hon'ble Company made conquest of Mysore &c countries and accumulated a vast deal of riches in different ways it is incumbent upon your Lordship and Council to think of doing/<sup>to</sup> good your petitioners, who are the principal object of your protection and who do survive after having suffered such a train of troubles and calamities as aforesaid.

Second Being formerly unable to pay a quit rent of 30 fanams\*percent upon value, the inhabitants suffered in consequence, and addressed a petition to Lord Macartney, upon which an order was issued that a quit rent of 10 fanams to be levied which 10 fanams were also out of the power of several persons to pay. Afterwards during the Government of Sir Charles Oakley, the collection opent at 30 fanams % was commenced for the construction of the Batteries without the Black Town walls, and consequently we had presented a (4085) petition stating our grievance. On the perusal whereof he was pleased to stop the collection of such rent, as will appear by the record if a reference being had thereto. Afterwards during the administration of Lord Hobart it was published in the newspapers that the assessment was temporary which assessment we the inhabitants were unwilling to pay: notwithstanding which, the committee of police collected from us from the year 1795 to 1806, a sum upwards of 100,000 pagodas upon the same footing with the rent of ground. Most part of us are poor, but ~~subsit~~ subsist upon the rent of their houses and gardens, which they are unwilling to dispose of, as being the property acquired by their ancestors, and in case of non-production of rent from their said houses they suffer much distress for want of means of livelyhood, and be unable to pay the assessment. Yet the sepoys and conicopies enter into the houses and take away the brass potts &c furnitures to answer the payment of the rent and so we are unable to pay a double rent. The usual collection of 10 fanams upon the valuation being the rent of ground amounts to Pagodas 6,000 or upwards which is more than sufficient to defray the expences attending the employment



of (4086) carts and peons for the purpose of cleaning the roads and streets. In such case the inhabitants shall not suffer loss and inconvenience, but it will produce fame and esteem to the Hon'ble Company.

Thirdly From the establishment of this settlement, it has been customary to issue bills of sale for our houses and gardens, specifying therein the amount of the valuation of the ground and materials: the measurement of the ground and the amount of the price under the signature of the disposer thereto, witnessed by two of his neighbours and after the same was examined by the chief engineers, the councillors should subscribe their signatures thereto, by which the inhabitants their heirs had a right to sell or mortgage the premises, but now as the Madras Collector issues grants or certificates under a new form and under his signature, without stating therein the name of the seller or the amount of the price, it appears that we do occupy the Company's grounds by paying the rent but it does not appear to be our own property. So that we wish that the bills of sale may be issued under old form. In case of your kind (4087) compliance therewith, the Hon'ble Company will gain fame and esteem.

Fourth In order to have a family estate, we have purchased either varapattoo (arable lands) or ~~hazz~~ baramboo (lands which lay uncultivated for a long period of time) and having employed workmen and manured the said lands rendered it fertile at the expence of a considerable sum of money. Yet your Lordship and Council have issued grants for the Government's share of the said lands and do also receive from us the annual quit rent for it. Whilst the matter stood thus, a taxation under denomination of gallon-money has been levied on toddy, collected from the coconut trees which we have planted on the aforementioned grounds. Hence the persons who have purchased the said lands, ~~whixh~~ ~~taxinsuffkientxtsxdfrayxiks~~ upon troubles in hopes of keeping it as their family estate, can get no profit from the revenue of the said land, which is insufficient to defray the expences for watering the coconut trees, paying the workmen's wages and fees for obtaining the annual quit rent, which in all amounts to more than the income arising from the produce of the said lands, which induce the proprietors to dispose of it, (4088) but then nobody will purchase the said property on



account of the loss owing to the toddy rent. Therefore we request your Lordship and Council will please to abolish the taxation on toddy and only collect the annual quit rent. By complying with this our prayer, His Majesty and also the Hon'ble Company may gain a fame and glory.

Fifth Shortly after the appointment of the Hon'ble the Governor and Council at this Presidency, they came to know that the beetle and tobacco are material articles for our consumption and have fixed a permanent price for the same, reserving certain emolument to themselves and they have accordingly purchased from the gardeners at 25 or 30 cash per bundle and caused the same to be sold to us, at 110 cash per bundle both at the time of contract and of amauny. Then it was the order of Government that the gardeners should not sell to any other person or persons; but to the Government, either at or above the same price. You have purchased tobacco at 7 or 8 Pagodas per candy and sold to us at 25 $\frac{3}{4}$  per candy, inflicting at the same time condign punishment on the person who sold the beetle and (4089) tobacco, either at an over-rate or in a bad quality. But now by the late introduction of new system you levy a duty of 110 cash, being the price at for which ~~a bundle~~ a bundle was sold by the Hon'ble Company formerly. The beetle gardeners sold formerly each bundle at 25 or 30 cash but now they sell a bundle at 70 or 80 cash which the purchaser bring (from) them and sell here at the rate from 180 to 400 cash. They sold the tobacco formerly at 7 $\frac{1}{4}$  fanam per viss inclusive of the custom, but now they sell each viss at rate from 11 to 15 fanams. As the Hon'ble Company made a new regulation for levying an increase of duty, we the inhabitants suffer a great loss. We request that an order may be issued for sale in amauny at a rate of ~~12 $\frac{1}{2}$~~  1 3/8 fanams per bundle of beetle and at 7 $\frac{1}{4}$  fanams for a viss of tobacco. In case your kind compliance herewith, the inhabitants will obtain relief and the Hon'ble Company will acquire reputation and esteem.

Sixth Many of us the inhabitants of this settlement being of different casts of people and being pure or religious, are abstemious from using the intoxicating things which is reproachable. It is improper to continue the (4090) arrack bootlicks throughout our streets, because several bad persons and some persons of low occupation and mean extraction do drink arrack in



~~arrack in~~ bootlicks, when they please and from intoxication, they attack and abuse in most scandalous language. The Bramins, persons of purity and honesty and also the women who pass and repass in the streets, the people of occupation are liable to ruin. And moreover a person accustomed to drink is obliged to commit theft, if he had no money in his hands for to buy arrack and he also obtains pardon from magistrates or justices & c for commission of murder, under a plea that he committed it thro intoxication. The ancient kings as well as turbulent Hyder and his son Tippoo thought the emolument derivable from arrack is objectionable and with that view they ordered the arrack bootlicks not to be kept in the Presidency, but in the outside. So that if you will please to order the removal of the arrack bootlicks (which are within the bound hedge) to the outside, it will preserve our religion and ceremonies from injury and the Bramins, the persons of purity and merits and of every description and also the women from oppression and disgrace by which the king and the Hon'ble Company will merit great fame and esteem.

(4091) Seventh At the first arrival of choyerroot lace, cotton and thread &c you levy a double duty on~~x~~ them and after the merchants buy them and weave cloths, turbands you take again custom upon them, which the merchants attempt to sell setting thereon the said expence also and consequently they can have no demand for their articles. As the cloths are sold at a high~~x~~ price, the poor suffer inconvenience, being unable to purchase. Hitherto, you continued to levy duty both in the Fort and Parea Mittoo on all piecegoods and other articles, by which the inhabitants and the merchants suffer much inconvenience and expence, wherefore we have presented petition to Sir Charles Oakley & Governors and also Lord Cornwallis, stating the above circumstances, who thereupon were pleased to dismiss the land custom duty, but ordered that the duty of 2½ % to be levied on the goods into the Black Town wall, which continued for a long period of time. But a few days ago you levy duty at 6¼ % upon the goods imported within 6 miles round the Presidency wherefore we request that you will levy only one duty in the usual manner, that it may procure relief to the inhabitants and the merchants by which the King and the Hon'ble Company will obtain fame and esteem.



Eighth That there are nine temples here for the gods Haree and Hara, that is Vistnoo and Seva, for our religious worship: to defray the charitable expences attending the gods in the said temples, the merchants did execute or grant donation deed, promising a certain fees (called Mahomas) on purpose to continue the said charity for ever. Accordingly the merchants continued to allow fee at the expence of which the daily and periodical ceremonies or festivals were celebrated in a pompous or magnificent manner; lately when George Parry was the Land Customer, the Hon'ble Board of Revenue having inspected into all the above-mentioned donation deeds of Mahomas were pleased to order the said Mahomas to be collected (in conjunction with the Company's duties on goods) and to be distributed among the said temples proportionally according to Mamool. So the Mahomas were fully collected and divided among the temples, agreeably to the said orders, for a short time. But it is now a long time since the said (4093) Mahomas have not been fully paid to the said temples according to Mamool. Therefore the Hon'ble Company may be pleased to order the said Mahomas to divide in full which the merchants pay for the performance of the charitable purpose at the abovementioned temples according to Mamool. It would be a great charity and would also create a fame to His Majesty and the Parliament.

Nineth The salt was formerly sold in countries without Madras at rates from 3 to 5 Pagodas per garce of salt while it was sold at Madras at rates from 6 to 12 Pagodas per garce and that salt is useful to us and particularly more useful to the poor among us. Yet the Hon'ble Company being desirous of acquiring some advantage from salt have been pleased to engross the inhabitants share of salt (besides the Government's share) and also to sell it at 20 Pagodas per garce of salt, which the retailers purchasing do sell it by retails at 30 Pagodas per garce. Therefore the price of salt is equivalent to that of paddy, the principal aliment.

When Government rented out the salt pans (4094) for a long period of time and when the same kept the salt pans under amauny, salt was sold at rates from 14 to 8 measures of salt for a single fanam both at Madras and abroad, and now salt is sold at rates from 3 $\frac{1}{2}$  measures to 2 $\frac{1}{2}$  measures of salt per fanam, which



being sold dear at Madras, the poor inhabitants do suffer troubles, as their indigent circumstance will not allow them to purchase it at so dear a price. Therefore if your Lordship and Council would please order salt to be sold as formerly according to Mamool His British Majesty and the Hon'ble Company would gain a great reputation and glory.

. Tenth That your Lordship and Council having abolished the mamool or ancient Cavalgery abroad have lately established Tannahdars, so that if any person or persons commit murder or robbery and if the inhabitants complain of it to the Tannadars, they the latter do require inhabitants to produce to them the murderer or the robber and also witnesses upon that subject saying that they would carry the parties to the zillah court. How can it be that a murderer or a robber should be taken and how (4095) can it be that a witness could be had in such a case.

In time previous to the establishment of the Tannadary ~~at~~ abroad, it was customary with the inhabitants to complain of murder or robbery to the Cavalgar of that village where it happened. And then the said Cavalgar having been long experienced of the business could without delay find whether the robber or murderer was a resident of the said village or of a neighbouring one and could forthwith apprehend the robber or murderer and carry them put in company with witnesses and deliver them to the Circar. And so the cavalgars continued to be responsible to the inhabitants for their property without creating troubles or loss of money to them. And now your Lordship and Council have at the expence of a good deal of money instituted Zillah courts and Tannadars abroad, but we derive therefrom no safety in the same manner as we had enjoyed before: a circumstance well known to your Lordship & Council, yet we have been informed that your Lordship and Council are resolved to establish Tannadars at Madras. That this kingdom is not like that of Bengal, because the (4096) people residing in the latter are brave, valiant and armed with weapons and are not afraid of Tannadars there, altho they be perhaps troubled by the Tannadars. Nor do they look upon it as a dishonour to the people. That country is of such a nature and circumstances. But the people residing in this wountry of Hindoos are divided into classes, such as Bramins, Tehatrias,



Vyseeas, and Soodderas and these classes are subdivided into several tribes and sects or religions. Hence we are not armed with weapons but are partly husbandmen, partly merchants and partly managers serving with Gentlemen: reposing confidence in the Hon'ble Company and partly in the British laws and enjoying ofcourse safety and tranquility. Here it is observable, that the streets in which we do reside be established by Tannadars as guard, then their sirdar peons &c may in hopes of gaining favours from the Gentlemen, misrepresent something to them (that they may be displeased with us) if we may not treat the Tannadars kindly and respectfully altho we have gained esteem from Gentlemen in many respect. Then the Gentlemen not being eye-witnesses of matters passing abroad, may give credit to (4097) what they may hear and so they may entertain displeasure with us. Besides this the Tannadars may hurt any one of us "who is there" \* when passing or repassing at night and so stop him. If two women quarrel with one another at night, the Tannadars may keep them in their guard and disgrace them. The poor people having no servants their wives are accustomed to go out every day and night, either to bring fresh water or to buy stuffs and c. in the bezar. Moreover women are accustomed to go out from one house to another both day and night or to attend the celebration of festivals or marriages. The Tannadar peons may stop or detain such women in their guard till next morning, a circumstance very shameful to us. Besides this, if a pregnant woman be in travail at night a midwife may be requisite; or if a man or woman be in pangs of death, a doctor may be requisite; in such cases their friends and relations may be also sent for. Then the people going out to fetch the midwife and the doctor &c may be stopped (either at the time of their going out or coming back) by Tannadars in their guard and release them next morning (4098) in which case the midwife and the doctor &c cannot attend the pregnant woman &c who may be of course in danger of their lives. Moreover on certain festival days and also on some days of periodical ceremonies, it has been customary to send oblations, calations, victuals &c in plates covered with cloth &c from our temples and from any other place to the houses of some individuals. Then the Tannadars may uncover the cloth and see the oblations &c under pretence of searching it. Hence the said oblations &c may be of no use to us. If any person or persons may



require a loan of gold and silver joice, cloth &c at the time of their marriages and or festivals and if their people may bring the said joice and cloth or if any person may bring money collected from his money dealings the Tannadars may stop them as robbers, entertaining a suspicion of robbery in them, in which case the said joice and c cannot be carried for the use of marriages or festivals which may be finished before we can remove the said suspicion. In like manner may occur many other inconveniences which cannot be committed to writing: Moreover we think that the (4099) intended Tannadary is a similar case to the Dutch people having restrained their inhabitants on the island of Ceylon &c who like slaves underwent the tyrenny which the Dutch had exercised over them . Upon hearing of the instituting the Tannadary here, we are all alarmed.

The former Governors of Madras being content with letting this Madras remain under custody or cavalgary of the Pooligar Peddoo Naig gave him sanction and Cowle, authorising him to receive Mahoma or allowance from the inhabitants and merchants so that he was he was responsible for their property if lost or stolen by robbers. But now if your Lordship & Council think of establishing Tannadars here, who is or may be responsible for property that may be stolen? Formerly we had enemies on four sides and the Gentlemen then in power never thought of instituting Tannadary here. And now all the enemies being destroyed by you we are fearless and consequently there is no necessity for thinking to establish Tannadars here. Nor do your Lordship and Council derive any profit from doing so. But such establishment is prejudicial to all of us in every respect and is also disagreeable to us. We being (4100) without service are suffering distress. But as far the former Gentlemen continued to keep us in safety thinking us to be the inhabitants subject to the British Government. But some time since the Gentlemen, without taking notice of our welfare began to introduce such things as are disagreeable to us. If one Governor did such a thing, another Governor succeeding him should enquire into the Mamool and do good to the inhabitants. In hopes (of) this we continued to suffer troubles waiting opportunity. In the meantime Lord Cornwallis being charitable and equitable, was well informed of all our sufferings upon his Lordship's arrival here and was in consequence inclined justly to enquire into all the matter of Mamool (after his going to and returning from Bengal)



and establish such things as might be prosperous to the inhabitants which his Lordship, if be alive, might have done so by this time. In which case, we would not prefer this petition to your Lordship and Council upon the foregoing matters. It is incumbent upon governors to secure that which is prosperous to the inhabitants according to Sasters or laws of the Hindoos. Besides this ever since the exaltation of the (4101) English standard here we were the first inhabitants of yours, but afterwards the English had new inhabitants and territories. Therefore we are daily wishing for the welfare of His Britannic Majesty and also of the Hon'ble Company, your Lordship and Council themselves. (in consideration ~~that~~ that their prosperity has increased day by day) may be pleased to peruse the preceding matters and comply with our prayers, that we may find safety hereafter; or in case in any part of the foregoing matters should be recommended either to His Majesty, Court of Directors, or to the Parliament your Lordship and Council may be then pleased to do so, that these poor inhabitants may enjoy safety as we humbly hope.

( some 1040 signatures on pages  
4101- mid 4127)

Eleventh According to our custom, money lent altho for upwards of 20 years past, should be recovered with interest equal to the amount of the bond money, striking off the interest exceeding that amount. If a debtor make any objection to the payment a complaint may be preferred before the Circar, who will thoroughly examine the matter and direct payment to be made of the amount justly due. But if the debtor makes yet further difficulties, his estate and effects will be sold for the discharge of the debt. If the Pooligars, Zameendars make any difficulties in discharging the debts due by them to us upon application to the circar, the amount will be recovered. When Mr Powney was (4128) collector of the Pooligar Pashkish, in consequence of the bad conduct of Satoopatya the Zameendar of Ramnad, the Hon'ble Company undertook his debts upon themselves, executed their bonds to his creditors and removed him from his situation. Some of the Pooligar Zameendars delayed for long time the discharging of the debts due by them to us, upon which we made a complaint to the collector of that place but obtained no redress. We then address'



a petition to the Board of Revenue, who informed us that they had given directions to Mr Lushington to examine the case and that he would enable us to recover our debts; accordingly our people carried the bonds and delivered them to the collector and waited upon him. But he made no enquiry into the matter but afterwards in consequence of the Pooligar Zameendar's bad conduct they were hanged. Afterwards Mr Lushington said that the Hon'ble Company were going to establish zillah courts, that if we made our complaint against the Zameendar who succeeded the former one, we would be able to recover our debt. And he afterwards (4129) returned to Europe. The zillah court were soon established in the country and we made our complaint in these court but the zillah judge informed us that according to the regulations, no action could be brought against a zameendar and that debts due for upwards of 12 years could not be recovered. We now inform your Lordship that our demand is very small. If your Lordship will peruse the petition which we presented to the Board of Revenue, it will so appear. We are anxious to know whether your Lordship will discharge the said debts or recover us the amount from the aforesaid Zameendar. By doing which we can be able to receive money which would create honour, fame and glory to your Lordship and Council and also to His Britannic Majesty.

( 24 signatures )

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The petition is undated but seems to have begun in March 1807 and finalised in early July. A similar petition was perhaps also presented to the Supreme Court at Madras and should be available in the Court's archives. The original version of the petition (probably in Tamil) also needs to be located as it may substantially differ from the English translation in language, style and perhaps content too.



7.43

Sir Henry Gwillim's Charge to the  
Grand Jury, at Madras

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Gentlemen of the Grand Jury,

Two Bills will be presented to you for homicide, both of them from the interior parts of the country, and both of them, of course, charges against Europeans. I am not aware of any circumstances in either of the cases that require observations from me to assist you in your inquiries. The depositions in the case against the three soldiers have not yet been laid before me. Should I find any thing in them different from what has appeared upon the proceedings that have been had before the regimental Court of Inquiry, any thing of novelty or difficulty, I shall take the liberty of addressing, a few words to you when the bill is presented.

There is, Gentlemen, a charge, I believe, of the first impression in this court. It is stated in the calendar as a charge of rape; but it is essential to the crime of rape that it should be committed against the will of the woman, by force; and in this case it is immaterial whether she consent or not. The prisoner is charged with having (308) carnally known and abused a woman child under the age of ten years, which by a statute passed in the 18th year of Elizabeth is made a capital offence. A child of those tender years is incapable of consenting for she is incapable of judgment and discretion. It is to be regretted, that the period at which consent should become material had not been fixed later, that it had not been carried down to the age of twelve years, the age of female discretion by the common law. Before that

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India Office Records: Home Miscellaneous:  
Sir Henry Gwillim's Charge to the Grand Jury  
at Madras, 10th July 1807, Published at the  
request of the Grand Jury.



time of life the powers of the mind are not sufficiently strong to enable a child to judge of the nature of the act, or to protect her from the arts of profligacy. You will look into the case, Gentlemen, with the greatest caution that the child has been abused there is, I fear, no doubt; but before you find this charge, you will examine her very strictly, you will see that her story is consistent with itself, and consistent with the evidence of the other witnesses. Cases of this sort are not to be made the subject of publick inquiry but upon very strong grounds.

The two charges in the calendar for stealing Bank Notes will not be brought before you, such securities not being the subject of larceny at common law, and there being no statute in force here that makes them so.

The remaining cases are all of them simple, unaggravated larcenies, and should seem to need no observations from me, particularly as upon a late occasion I went so ~~far~~ fully into the law of larceny. I hope I had the good fortune to be better understood in that part of my charge, than I was in another part of it. (309)

To the subject of that part, I feel myself under the necessity of drawing your attention upon the present occasion. I was in hope that the voluntary act of the Governor in Council would have relieved me from the talk which now presses upon me. To oppose the wishes, or to animadvert upon the acts of Government, is indeed, Gentlemen, (I speak with all sincerity) much more painful to me, than it can be offensive to them; and I have often taken occasion to tell them so. But I am not at liberty to select from among my various duties; to take those only which are easy and pleasant, and to eschew those which are painful and difficult. I will do my duty, however severe it may be, and whatever may be the consequences to me personally.



Had the Police Establishment been continued just as it was at the session to which I have alluded, I would not now touch upon it. I had brought it before my country with such observations as it seemed to require, and I should have considered myself acquitted from the necessity of any further interference, than merely to correct any particular evils that might from time to time arise from it.

But the Police since that time has assumed a very different character. It has raised itself above the civil power; it is headed and directed by a military man; and it retains in its service a military force. Under the system in its present state your laws and your liberties seem to be laid at the feet of a military despot. Captain James Grant the leader of (310) this band of soldiers, and of five hundred Tamah Peons, clothed himself with no character which the law acknowledges, invested with no legal authority of which I am aware, putting himself forward under the stile and title of Superintendent of Police, summons whom he pleases, detains where and as long as he pleases, and hears and determines what he pleases. He judges, as I am informed, whether the law shall be permitted to act; it is with him to say, whether the Magistrates of ordinary jurisdiction shall take cognizance of the parties and the cases that by his orders are brought before him. I have heard, I hope it may not be true, that this unlicensed trooper has audaciously told his Majesty's Justices of the Peace that he is armed with powers beyond their reach, which they cannot control. It was not long after his assumption of this office, that a party of his followers in the broadest of light of day entered the houses of two of our native fellow subjects in this place, tore them from their respective families and carried them to a Bungalow, I am sorry to say, close



to the Government Gardens, where they were confined in separate apartments, and all access to them denied to their friends. In the dead of the night one of them was released; the other after having been confined some time longer was sent into a distant country, where, I believe, he is yet a prisoner. I say this not from mere hearsay, the facts I have related were sworn to on an application to this Court for a writ of Habeas Corpus. That the man was taken by Captain Grant is, I believe, admitted by Government; for their Solicitor (311) I am told, has written to the Solicitor who applied for the writ, and informed him that Captain Grant has made a little mistake, that the man whom he has taken is not the man whom he was directed to take. He was directed, it seems, to take a man of the name of Colooriah-- He took a man of the name of Ca lloo-- He was directed to take a stranger to this place, who had just then left the Mysore. He took a long settled inhabitant of Madras. He was directed to take a native of Guzerat, he seized a native of Tanjore. He was directed to seize a man who had embezzled, as it is reported, about two lacs of pagodas. He seized a poor Singing Bramin who had never seen perhaps more than six rupees at any one time in his life. All that his honorable employers got by the notable exertions of this bold Officer was, an old song. I state this at length to you, Gentlemen, to show you the folly as well as, in my opinion, the illegality of this appointment, to show you, that this man is an unequal to the trust, as he is incompetent in point of Law.

When I was told that this portentous novelty in Government had not been noticed either by the Judge or the Jury at the last session, I was struck with astonishment. I have since however brought myself to account for it in this manner. I know the patriot zeal which animates the learned Judge who then



presided. You must full well remember the spirited language which he delivered from this seat in Captain Wilks's case. Before I will admit, said he, the military despotism that was then attempted to be imposed upon us, "fifty bayonets (312) shall pierce this heart that warms me." It is not to be supposed that such a Judge would not feel indignation at such proceedings. It must have been the magnitude of the evil that withheld him from speaking of it. He must have thought, that it was unnecessary to direct the attention of the Jurors to it, as it seemed impossible that it could escape their notice. The Jury on the other hand not having it pointed out to them by their Judge must have thence fallen into some wrong conclusions respecting it; and have supposed, that the evil from its magnitude, relations and bearings, was beyond the grasp of their power. A conscientious Jury, (and that Jury consisted, I believe, of some of the most conscientious men in the settlement), who had just then asked Almighty God to help them, as they should fulfill the oath they had taken, could not otherwise have failed in so important a part of their duty.

I have now done my ~~best~~ party, Gentlemen, in bringing the matter before you; you will do yours in addressing yourselves to it. Examine it fully, freely and temperately; act not upon my representations, but inquire for yourselves; let what you do be the result of your own inquiries. That a military man is at the head of the Police is notorious; that our Choultries are guarded by a military force, is notorious.

Suffer not yourselves, Gentlemen, to be drawn from this part of your duty by specious arguments. It is said, "would you obstruct (313) the efforts of Government for



the public security?" When a Government pushes its efforts beyond the Law, and assumes powers which the constitution does not invest it with, it becomes as sacred a duty to oppose it, and it is only in a court of law that it is to be opposed, as it is to obey it while it proceeds within its just limits. In such an opposition the best subjects will be found among the foremost. Arbitrary power cannot in the nature of things last long; slavery may endure - it has unhappily for mankind endured - for a great length of time, but not under one and the same master. Though men cannot break their bonds, yet they will find the means of ridding themselves of their tyrants. Why have the countries of this part of the globe so often and so easily been transferred from one power to another? Because they have been the property of tyrants. Why have the natives of India clung to the English in preference to the other Europeans? Because they have felt themselves more at liberty with them. Why has the population of this place increased so much as it has done within these few years? Because people live in it under the protection of equal laws.

But it is said, "the laws of England are not calculated for the meridian of this place"; the Court, and particularly the ~~india~~ indiscreet Judge who now addresses you, "have done infinite mischief, they have excited a spirit of insubordination, which has lately actually broken out into riot". (314)

In the first place, it is not true that mere English law is administered here. In questions of a civil nature between Hindoos or Moosoolmans, we are bound to decide according to the codes of India or Arabia. It is only the English criminal law that is here administered. The Hindoos, who form the great



body of the people, have, I believe, no practical system of criminal jurisprudence in their Sastras, and the law of England is in this respect as applicable to them as that of Arabia, which obtains in the provincial courts, and they are, I am persuaded, quite as well satisfied with it.

That the people of these parts were greatly oppressed cannot be denied. That upon a change from a state of oppression to a state of freedom, there should be some excesses, some extravagances, is not to be wondered at; the language may be a little too high at first, the mind cannot immediately attemper itself to the tone of its new condition. But this cannot be of long continuance, men will soon discover the true limits, and when they find that the power which protects them in the enjoyment of their liberties and property is able to punish those who transgress the laws, they will feel the necessity of observing and respecting them; they will soon learn that their interest and their duty are indissolubly bound up together. But suppose, Gentlemen, that there were some danger in admitting the natives to this regulated freedom, in giving them the benefit of equal laws, we are bound to do it, bound by the laws of God and of man. They are our equals by nature, our brethren; and the good policy of the British legislature has fearlessly acknowledged their common right. (315)

But even if there were a somewhat greater danger in it, than I am sure there possibly can be, still I should, speaking for myself, prefer it to continuing them in a state of depression. To me potior periculosa libertas quieto servilio\*.

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\*Sallust, Eragm, Lib.



But how has this spirit of insubordination manifested itself? Where are these acts of riot? When I look into the calendar I find no crime that bespeaks any danger to the state, no robbery, no putting in fear, no act of violence, no attempt of the just authority of Government. A few simple larcenies, as usual, constitute almost all the offences committed in this place. I have had the experience of now hard upon six years in this court, and in that time I do not recollect that I have been called upon to inquire into any one daring robbery; the offences have almost uniformly been of the description I have stated.

But it is said there was a riot in the Black Town at the time of the scarcity of grain, a little before the first session of this year a riot in Madras! a thing unheard of in the annals of the country and imputable to the mischievous operations of the Supreme Court! Whether there was ever in former times a riot in this place, I shall not now stay to inquire. The negative should seem to be somewhat bold. But be it that this was the first riot - it was of the most extraordinary kind I ever heard (316) It was stated to have lasted several hours - the Magistrates were present, a military force was called in, and yet in all that time, with all the vigilance and activity of the Magistrates and of the military force, no evidence could be acquired to fasten guilt upon any one individual. Many persons were committed for trial; the justice of this court at the following sessions was enforced by the attendance of another Judge; the Chief Justice himself took his seat on the bench; yet of all the cases brought forward, the Honourable Company's law officer, who is not restrained in the execution of his duty by any troublesome delicacy of feeling, could select but three that he could propose to the consideration of the grand jury; and the jury in a few minutes threw out every one of them. These were charges



larceny; there was indeed one case which imputed to the party actual riot; but the poor wretch was such a starveling, such a seemingly insulted being, that the magistrate who committed him could not for his heart press the prosecution. He was discharged by proclamation, and that was the fate I believe of about twenty others.

I can now state with more certainty than I could at the beginning of the year, that plans for important alterations in the system of Judicature have been sent to England; and I can also state that they have been enforced upon the consideration of His Majesty's ministers by arguments drawn from the conduct of your Judge at the session at which he last sat. The introduction of a summary Jurisdiction (317) and the abridgment, if not the entire abolition of the technical trial by Jury, as it has been stippantly and ignorantly termed, is among its more prominent parts. Upon that subject you have had at a former session my sentiments. I will not detain you with recapitulating them: suffice it to say that I still abide by them: they are formed upon principles which I will freely declare, and from which I hope in God I shall never swerve. Not a word which I said at that session would retract, though much of what has been imputed to me I cannot admit that I said.

I will dismiss you, Gentlemen, in the words which one of the wisest sovereigns that ever sat upon the throne of England, I mean, Queen Elizabeth, addressed to the University of Oxford at her departure from them. I call her one of the wisest of our sovereigns because her servants were the most able men of the time - the wisdom of a ~~sovereign~~ sovereign is manifested in the wisdom of his ministers; the prince alone, however great, cannot be



equal to all the complicated affairs of Government. The counsel of this glorious princess was, that "they would in the first place serve God, not with the novel and fantastical devotion practised by some, but according to the laws of God and the land; that they would not outrun the laws, but follow them; not dispute the fitness and authority of them, but sincerely obey those that were already in force, and submit to their superiors; in the last place, that they would preserve peace, union and good agreement among themselves."\*

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\* Camb: Eliz:



X.44

The Rt. Hon'ble the Present lays before the Board, the following report from the Advocate General, and His Lordship recommends that a letter agreeably to the following draft, be immediately despatched to the Chief Judge and second Puisne Judge of the Supreme Court of judicature.

To The Rt. Hon'ble Lord William Cavendish Bentinck

My Lord

In obedience to the verbal (p.3879) commands of your Lordship, I attended in the Supreme Court this day to hear the address of Sir Henry Gwillim to the Grand Jury, the leading subject of which, the intended repetition of the attack upon Government, I understand from your Lordship to have been intimated to you by his directions. I found Sir Henry Gwillim, the only judge upon the Bench.

Before the Grand Jury was sworn, Sir Henry Gwillim, upon perceiving me among the crowd in the Court, addressed me, as nearly as I can recollect, to the following effect.

"Mr. Anstruther why don't you take a chair in the middle of the Court and make yourself as conspicuous as possible. If you had any sense of the delicacy of your profession, Sir, or any of the feelings of a Gentleman (p.3880) you would not again attend in Court to insult the judge. You know you could not do so in England, there you would have your gown stript off your back by the members of your profession, if they saw their judge insulted. I shall insist with the judges here to suspend you, Sir. After what has passed, either you or I must quit this Court. I have received assurances from the other judges that, as far as rests with them, I shall not again be subject to such insult as I experienced at

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India Office Records: Madras Public Proceedings:  
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the January Sessions, and I will not permit myself to be insulted by you. What other motive can have induced your attendance here? Is it to take notes and to represent falsely my words? I have prevented that pretence by communicating indirectly to Government my intention to furnish them with a copy of what I am about to say. I am not to be intimidated from the conscientious discharge of my (p.3881) duty by your attendance, although I can feel the insult which you meant to convey by it. Why do not you come forward like a man (pointing to the centre of the Court) stand forth before your country. If you had any sense of decency, you would leave the Court, but you are destitute of all proper feelings. You deserve to be kiclt out of your profession, you are a contemptible fellow."

To these observations I made no reply. Soon afterwards Mr. Orne, the Company's solicitor, coming into Court, he addressed him thus.

"Mr. Orne, are you come too, to assist with your memory? No, I am sure you are too much of a gentleman to do so, none but the lowest of mankind (fixing his eyes upon me as he spoke) would act in such a manner."

Upon the jury being sworn in, Sir Henry Gwillim began his (p.3882) address with some short observations upon the calendar after which he turned to the subject, of which he had given notice to your Lordship, the Police.

As Sir Henry Gwillim has pledged himself to give a copy to Government of his address, I shall confine myself at present to a very short sketch of such points of it as seemed to be subject to observation, unless I shall understand that it is the wish of your Lordship-in-Council that I shall state it more fully.

He described the Police, as now conducted, by Capt. James Grant, to be an illegal military power, in the hands of an unlicenced trooper, exercising unlimited authority over the natives in Madras; He represented it as the instrument of a military despot, and as an attempt to overawe the civil authority but as being not less inefficient and inadequate to its (p.3883) object than illegal; He called upon the Grant Jury to make enquiries into all its abuses. He particularly instanced the arrest



of Colarayah in February last, as a proof of the military tyranny which the police exercised, and commented upon the mistake which then occurred as a proof of incapacity in addition to the professional unfitness of Capt. Grant.

He then adverted to various specious arguments which might be ~~addressed~~ adduced to prevent the Grand Jury from entering upon such discussions, and amongst others the danger of disseminating too enlarged notions of liberty and their rights among the natives. He insisted that the principal danger to all governments arose from their own tyranny and that the safest course for the permanent government of British India was to render the natives conscious of their liberty and happiness under it; but if any slight (p.3884) irregularities might possibly attend the introduction of the principles of equal law among people, hitherto unacquainted with them, these evils would be amply compensated. But whatever might be the political consequences, he reminded the Jury that it was their duty ~~to~~ only to administer the law as it stands "fiat justitia neq̄ colum" and be applied to the state of the natives here the Roman principle "potior perienlosa, libertas quam tutum suviturm."

He commented at some length upon the omission of the Chief Justice to bring this abuse, a military police, under the notice of the Grand Jury at the preceding Sessions. But in order to shew that the omission could not have proceeded from want of zeal in that judge for the liberty of the subject, He recalled to the (p.3885) recollection of the Jury and repeated with emphasis the energetic expression of the Chief Justice in 1803, upon a former unfortunate dispute between the Government and the Supreme Court, the circumstances of which had at that time been agreed by all parties, and by both these judges, to be buried in oblivion, as the measure most conducive to the public welfare.

He also informed the Jury that he had now ascertained that Government had made an application for a parliamentary change in matters connected with the judicial establishment, founded not only on the former arguments,



but also upon the events which occurred at the last January Sessions, and upon this consideration he reprobated the idea of lodging discretionary powers in any hands here, or of depriving the people in any case of trial by Jury.

(p.3886) The whole address was free from those personalities against your lordship, which I had occasion formerly to report. These were on the present occasion principally directed against Capt. Grant and myself, but were too numerous to be recapitulated in this short statement.

In an early part of the address, Sir Henry Gwillim pointed me out to the Grand Jury as attending in Court to insult their judge and referred to my report of his former address in January as a gross misrepresentation. He also pointed out to Mr. Strachey, one of the secretaries of Government, then standing in the crowd, whom he supposed to have come for the purpose of reporting his words and he said that he trusted he would do it fully. That he was not ashamed or afraid of anything that he had (p.3887) said if fairly, and truly stated, and he expressed his hope that Government would not again put men upon their oaths and torture their consciences to support statements similar to the former. This and a few other occasional observations seemed to arise at the moment and not to form a part of his prepared address.

After the Jury had retired, I left the Court. I have ascertained that upon their returning into Court, Sir Henry Gwillim renewed the subject of the address, commenting upon the various duties of Capt. Grant, as being at the head of the body guard, charged with the safety of the Governor, and at the head of the Police, charged with the custody of the thieves and rogues and adverted with jocularly to the alternate discharge of those duties in guarding these several persons. He also informed them (p.3888) that charges against him had been transmitted home by Government, and he treated them as a confused unintelligible mass, a jumble of nonsense.

It may be proper here to remind your Lordship-in-Council, that the case of Cola-



rayah, above referred to, is already before you, having been the subject of an application for a habeas corpus. Upon reference to the papers it will be found that, that arrest did not proceed upon any authority assumed or claimed by the police, but upon the express orders of your Lordship-in-Council, which the legislature has declared to be a sufficient justification to all who act under them.

As Sir Henry Gwillim has threatened me with suspension, in Court, I forbear from making any (p.3889) comments upon his address to me, until I shall see the result of that threat.

Madras  
10th July 1807

I am etc.  
A. Anstruther



(X.45)

To The Hon'ble Sir Thomas Andrew Strange,  
Chief Justice and Sir Benjamin Sullivan,  
one of the Puisne Judges of the Supreme  
Court.

Gentlemen,

We are extremely sorry to feel ourselves compelled by our public duty and a regard to the preservation of the authority of Government, to address you upon the subject of Sir Henry Gwillim's conduct at the present session of Oyer and Terminer, in the opening of which we were concerned to find that the public had not the benefit of the whole of the judicial wisdom which His Majesty's (p.3890) charter and the legislature(have) provided. Sir Henry Gwillim having intimated indirectly his intention of attacking one of the measures of Government in his charge to the Grand Jury, our Advocate General received orders to attend in Court. But in the execution of that duty, has been insulted and threatened by Sir Henry Gwillim, the only judge upon the Bench, in such terms as we cannot but feel to aim at destroying the independence of that officer, as the confidential representative of this Government and the Guardian of the interests of the Hon'ble Company in the Supreme Court.

Sir Henry Gwillim in his charge to the Grand Jury, represented (p.3891) this Government as having established an illegal military despotism in Madras and has called upon the Grand Jury to direct their enquiries to that point.

Under these circumstances following those which are already sufficiently notorious and which are in the course of being submitted to His Majesty, we think it necessary to state to you our conviction that the public welfare requires the attendance of all the judges, and as we are confident that you will feel that any arrangements which the judges may have adopted upon ordinary occurrences, should give way to superior objects of public interest, we take the

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India Office Records; Madras Public Consultations;  
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liberty of suggesting our hope that the public may have the benefit of a full Court; and while we claim on behalf of our counsel that (p.3892) independence which is essential to the exercise of his profession and to the interests of his Hon'ble employers, we beg leave also to suggest for your serious consideration, whether it is not proper that the Grand Jury and the Public should have the benefit of the opinion of all the judges upon a subject so important as a charge of illegal and arbitrary despotism against a department of Government.

We are too much impressed with the constitutional principles of judicial independence to be capable of calling upon you for any particular judgement or opinion, but we feel it to be not only our right, but, our duty, to claim for the Public interests and tranquility, the protection provided by the constitution of the supreme Court: Of (p.3893) the collected wisdom and authority of the whole bench, more particularly in a case in which the Governor-in-Council has a second time been obliged solemnly to declare that in their deliberate judgement, this protection is necessary for securing the public tranquility and the just authority of Government.

We have the honour to be

William Bentinck ~~etc.~~

*and Council*

Fort St. George  
12th July 1807

Approved and ordered accordingly.



(X.46)

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We the Grand Jury impelled by duty, the love of our country, and reverence for its invaluable laws and constitution, do upon our oath present,

That it has come to our knowledge that a system of police has recently been established within these limits under the superintendency of a military officer, Capt. James Grant, who is not in the commission of the Peace, or holds any other civil office, connected with the administration of justice.

That it has likewise come to our knowledge, that several individuals entitled to the protection of the law, have at different times been apprehended without warrant or authority from a legal magistrate, by the orders of the aforesaid Captain James Grant, or others acting under him, and not sworn. Also, that individuals so apprehended have been detained in custody, for a longer or shorter period of time, before they were sent to a magistrate.

That we hold it to be an inviolable maxim of our most excellent laws and constitution, that military force cannot legally be employed, excepting <sup>keep</sup> in aid of the Civil power, and then only, when called for by a legal magistrate (p.324) under whose direction they must act.

That we the Grand Jury aforesaid, do therefore present the existing police under the superintendency of a military man as contrary to the usages and as we apprehend contrary to the laws of our country.

By direction of the Grand Jury  
(signed) A. Scott, Foreman

Grand Jury Room  
Madras 15 July 1807

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(8.42)

To the Rt. Hon'ble Lord William Cavendish Bentinck  
Governor-in-Council

My Lord

I attended on Saturday in the Supreme Court before Sir Thomas Strange, when the Grand Jury returned the bill of indictment, found against Capt. Grant. He soon afterwards appeared in court and was arraigned upon it. I attended with him and heard the Bill read.

It consisted of three courts, but not materially differing from one another. It charged Capt. Grant with having for a considerable period been in the habit of stopping and arresting, by means of armed peons in his employ, divers of the King's subjects in the highways and of keeping them in confinement to the general nuisance of the inhabitants of Madras.

Immediately upon the hearing this indictment read, before pleading to it, I moved to (p.4137) quash it. I insisted that as it did not specify any one definite act of alleged criminality, it was radically and substantially bad. That the color attempted to be given to it by calling the offence a common nuisance could not alter its nature. That a nuisance is that which in its nature is a general inconvenience, as stopping a public road or the like and that no number of separate injuries to different individuals however similar, can change the nature of the offence from particular to general wrongs. That the universal rule of law is, equally in all courts, whether civil or criminal, that the complaint or offence must be set forth with sufficient certainty to inform the party against what charge he has to prepare to defend himself. That in this case if there really had been many persons unjustly seized and imprisoned, there could have been no difficulty in framing indictments for assault and false imprisonment, for so many of these cases as might be thought necessary. I reminded the court that upon the presentment being read, I had on the part of Capt. Grant declared his readiness to meet every charge (p.4138) against him and had demanded to have them put in a train to be tried for the purpose and in the full confidence of refuting them I insisted that the preferring this indictment which specified no one offence was a mere evasion of the trial, which Capt. Grant had demanded and which under the decision of the court he was entitled to have expected and that it amounted to an admission on the part of the prosecution, that no one definite offence could be

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India Office Records: Madras Public Consultations:  
Dated 21-7-1807: P/



brought home against him. I therefore moved to quash the indictment.

I made the same motion with reference to the presentment. I reminded the court that I had before demanded on behalf of Capt. Grant, that the accusation should either be put in such a shape as to enable him to clear himself before his country, or that the Presentment should be quashed. That he had been ready to overlook every objection to the presentment so far as to admit an opportunity of his being tried; that as that benefit (p.4139) was in effect refused to him by preferring a more nominal indictment so radically bad, as to give no possibility of the trial which he demanded, he had now a right to apply to the court to quash the Presentment as the only remaining shape in which he could discharge himself of it. That the presentment as well as the indictment, was void of any charge of a specific offence. That by quashing it Capt. Grant would be relieved from an indefinite accusation, which would otherwise hang over his head untill the next sessions. And that if any specific offence should ever be discovered, another Grand Jury would of course be ready to present it or to indict him upon it.

Mr. Marsh was heard on behalf of the prosecution upon each of these motions.

Sir Thomas Strange deferred the decision of the court upon these motions for the purpose of considering the indictment and Presentment.

Whatever the decision of the court upon these motions may be I have no doubt in saying that this sort of indictment is essentially bad. It is contrary (p.4140) to the first principles of criminal Law of which our leading rule founded in plain reason and justice is that the prisoner must see distinctly upon the face of the charge against him what it is against which he is to defend himself so as to prepare to meet it by evidence. This is not a technical rule of one code of Laws. It must pervade all, and even in courts' martial, from which all technical nicety is anxiously excluded, no such general charge is ever entertained. All charges are required to be drawn up with sufficient specification of the general circumstances of each offence. The omission of that necessary certainty in this indictment seems to me to be as I stated it in court. An evident evasion of any further



enquiry into the facts of this accusation, the flagrant and notorious oppression recommended to the notice of the Grand Jury and held forth to the indignation of the people, thus vanishes from examination. No one oppressed man has come forward to complain, nor has even been traced by the activity of the prosecution to support the charge.

It is notorious and avowed that Capt. Grant has seized natives under orders of the Governor-in-Council; if specifically charged on those arrests, he has only to produce (p.4141) his orders and is entitled to an acquittal by the provision of the legislature. His peons have also by his orders, served several felans and have carried them before the magistrates for examination and to be proceeded against by course of law. These arrests also he is ready to justify. Perhaps in some instances his peons may have made irregular arrests in violation or misapprehension of his orders. If any of these were the subject of a specific charge against him, the production of his orders to the peons would bear answer to it. But if he were tried upon the present indictment, it is manifest that the proof of two or three arrests by his peons, of which Capt. Grant might never have heard, and might be at the moment unable to prove, the cause or the particular circumstance, might lead to a verdict against him, the full value of which in the Public mind, as well as of this presentment is well understood on the part of the prosecution and could be but imperfectly corrected by the decision of the court or afterwards quashing the whole proceeding. I cannot therefore permit Capt. Grant to go to trial, without the slightest intimation of the facts to be tried, or of the evidence (p.4142) necessary for his defence. If the motions for quashing the indictment and presentment shall be refused; it is my intention to demur to the indictment. I cannot with certainty anticipate the judgement of the court upon such demurrer. But I now feel relieved from all solicitude about the final result of the prosecution.

Under this impression and having understood that an opportunity is likely soon to be presented for forwarding a Despatch for Europe, I shall proceed with the permission of your Lordship-in-Council, to take a short review of the occurrences connected with the Police and of its present situation, in doing which, I trust that your Lordship-in-Council will see that I am in a great degree relieved by Sir Henry Gwillim's conduct to myself as well as to Government, from that restraint of respect for his situation, which I might otherwise be expected to observe.

When Sir Henry Gwillim commenced his attack against your Lordship and the Government at the



January Sessions, the existing police formed a casual branch of the hostility which he avowed, and which had its roots in a (p.4143) supposed insult to two of the judges. I did not therefore think it necessary then to direct particularly the attention of your Lordship-in-Council to his observation<sup>Δ</sup> concerning it. Since that time, Sir Henry Gwillim has changed the shape of his attack and instead of appearing to endanger the Public repose merely from resentment of the injuries done to the two Puisne judges, he now stands forth the champion of a great Public principle, involving what he treats as the dearest rights of his fellow subjects. How far he is instilled to credit for sincerity in this character must be collected from his conduct and it has fortunately been too unequivocal to admit of any doubts.

The principle of his present opposition is that a military man is put at the head of the Police, not being invested with any civil character or office, and he views this appointment in itself without reference to any illegal acts done in consequence of it, as an insult to the liberty of the people, and an avowal and display of military despotism. But it must be remembered that his opposition to the Police began before any such objection (p.4144) to it existed, when it was in the hands of a Magistrate and of a Lawyer. If therefore the present objection of a military Superintendent were removed and the Magistrate were restored to it, we must expect that Sir Henry Gwillim would still oppose it as at first. His opposition is thus permanent and uniform, the principle of it shifts with circumstances.

But it is of inferior consequence to consider the principle or motives of his opposition. The effect of it is the most important consideration and the question of the validity of his objection is more particularly the subject to which I feel it my duty to turn my principal attention.

It appears but too clearly that Sir Henry Gwillim has succeeded in raising up a spirit of opposition to this measure of Government, among at least a part of the native population of Madras: and the protection of his authority, has encouraged them to come forward in a shape, which certainly never was before attempted or thought of by any body of natives in (p.4145) India against the Government. Upon Tuesday last a petition, purporting to be signed by a long list of names of natives, I believe not less than 1200, was presented by two or three of their leaders to the Judges in the Supreme Court. I have not yet seen a translation of it, but it is understood to contain their objections to the police and to almost every other regulation of Government. The Superintendent of Police has from time to time reported to your Lord-



ship the means and the cooperation of interests, all hostile to Government, by which this petition has been circulated and carried through and although those who are understood to have signed it are not of the first respectability in any point of view, and although I am fully confident that a very great majority of the native inhabitants of Black town are sensible of the benefits and security which they derive from the police, yet this petition is worthy of serious notice. It shews the interest which some at least of the natives take in the projects of Sir Henry Gwillim, and it is but too likely to produce in England in some degree, that effect which is evidently intended by it, an opinion (p.4146) that the natives feel the Police to be a real oppression.

The presentment by the Grand Jury of evils of which they have failed to specify any one, may tend to produce the same effect and the charge which led to it evidently proceeded upon that expectation of its probable effects. It is an unfortunate proof that Sir Henry Gwillim's continued and authoritative denunciation of the Police has been successful in raising a dislike of this establishment, even among some of the British subjects here. I shall therefore consider with attention the merits of his objections to it.

Until the establishment of the present police about 10 months ago the only semblance of an effective police in Madras, was that carried on by the peons and in the name of the Polygar, an hereditary Hindoo office. This system had continued during all the former courts here and under the present Supreme Court, and in every criminal trial, the Polygars' peons were recognised, without the least question or doubt, as a regular body of police adapted to the habits and usages of the natives. No objections was ever stated by any judge or even by the counsel for any prisoner that these peons of (p.4147) the Polygar were not constables, nor watchmen, nor other known officers of the English Law. Their office exerted no personal feeling in any quarter capable of creating uneasiness, and they probably might still have proceeded in the same cause, if circumstances and long experience had not rendered the benefits of their services more than doubtful. The office of the Polygar was by its nature confined to the protection of the natives against thieves and robbers. Even as to these it was a very general idea that his people were more frequently the authors than the detectors of depredation. To all other purposes of police he did not even pretend to give the least attention as he was not responsible for them. The circumstances attending and subsequent



to the massacre at Vellore having pointed out the necessity of a vigilant police to watch the machinations of the enemies of Government, it was evident that the Polygar could not be entrusted with that department. Indeed the connexion and correspondence by which all the Polygars under this Presidency were more or less united from the ties of common feelings and interests, pointed out the danger of vesting power at that time on any of that body, with some of (p.4148) whom almost constant warfare has subsisted. Your Lordship-in-Council in forming the police, proceeded upon much abler advice than mine and I can see no possible objection to the measure which was adopted, of substituting the Mahomedan names of Darogas, in place of the Gentoo Polygar and of vesting the controll, in an officer appointed by Government. After going on for about 5 years perfectly satisfied with the Polygar and his peons, not one of whom had the least pretension to the character of English Magistracy or office it seemed not competent to the same judges of the same Supreme Court to find any flagrant offence in the substitution of Darogas under better regulations and regular superintendance to do the same duties. Indeed the objections to the police under the superintendance of Mr. Walter Grant at the January Sessions, seemed rather to have been a more ebullition of spleen than to have pretended to the character of a systematic objection upon any legal or constitutional principles.

My first knowledge of the Police was at the time of the resignation of the office of Superintendent (p.4149) by Mr. Grant a few days before the January Sessions. The appointment of Capt. J. Grant to succeed to so much of his duties as could be discharged by one not being a magistrate was an act of necessity not of choice. It was felt how essential it would be to the efficiency of the Police that the whole establishment should have had in all its branches and operations, if possible, only one head to resort, to and if any magistrate fit for that trust could have been found to accept it, after Mr. Grant's resignation, I clearly understood that your Lordship's wishes and the evident interests of the establishment would have led to his appointment. But no such magistrate was to be found. Your Lordship-in-Council has not the power of commissioning justices of the Peace and it became a question whether the establishment, upon which at that time your Lordship-in-Council placed a considerable portion of your reliance for the public tranquility, should be abandoned, or whether the principal part of its duties should be entrusted in hands not capable of discharging any of those connected with Magistracy. The selection of Capt. Grant, so far as (p.4150) his individual character is in question, has been admitted



by Sir Henry Gwillim himself (in the discussion upon issuing the Habeas Corpus in February last) to be unexceptionable. The instructions which were given by your Lordship-in-Council to Mr. W. Grant and the modification of them afterwards sent as instructions for Capt. James Grant, are already I believe included in the papers upon this subject transmitted to England. They are precisely the same which would be given for the regulation of anybody of constables and watchmen in the cities of London or Westminster, and while this is the substantial effect of these regulations, in whatever language the designation of the officers may be given, whether they be described as English constables, as Gentoo Polygars, or as Moorish Darogas, I cannot see that the people of Madras have any right to complain, nor that they ought to be taught to consider it an oppression that they are, for all practicable purposes, under precisely similar restraints of Police with our fellow subjects at home.

It did indeed occur to me upon or soon after the appointment of Capt. Grant, that it was possible that the want of any officer known to the English Law in (p.4151) the establishment, might be made the subject of cavil. I accordingly suggested the expediency of swearing in the Darogas as constables, and of giving regular nominations as watchmen to the peons and am in some degree sorry that this arrangement, which was ordered by your Lordship-in-Council some time ago, has been delayed to be carried into execution. However trivial this may appear, I still think it possible that it may be the means of avoiding objections, and humbly recommend it to be carried into effect. It will not be necessary to drop the names of Darogas and peons. These are fair translations of the offices of constables and watchmen. I should also recommend that in place of the orders of the Superintendent under which they now act, the same directions should be given to them by the authority of your Lordship-in-Council, under the name of Instructions in the duties of constables or Darogas and of watchmen or peons. They will then appear to act upon their own authority and this simple change will make the present a perfectly legal English Police. If it shall continue to be found necessary to vest the superintendence (p.4152) of it in the hands of any one not being a Magistrate, there can be no possible objection in Law to it. Capt. Grant has not exercised nor does his present office necessarily require that he should exercise any one power of a magistrate. He is merely to see that the officers of the establishment do their duty as



was fully stated to the Grand Jury by the Chief Justice. The whole power consists in having in his department the salaries of many officers which he may recommend to be withdrawn from such as do not discharge their duty to his satisfaction.

The objection to Capt. Grant as a military man, is in many respects very extraordinary. Is it meant to be insisted that a military officer either cannot be, or ought not to be a magistrate. The reverse is the case in practice in every part of the British territories and for several years past, one of the three magistrates of the rotations office in Madras, whose constitutional authority Sir Henry Gwillim has upon all occasions upheld in opposition to the military superintendent of the Police, has been Lt. Col. Taswell (p.4153) commanding until very lately, a Battalion of sepoys stationed in the Black Town.

But the objection appears sometimes to assume a different and almost the opposite aspect, as conveying a charge that Capt. Grant has executed the duties of Magistracy without being clothed with that character. So far as this has been advanced as a distinct charge, it has been denied and refused, as a loose and indefinite complaint. The only answer to it is that it is totally unfounded in truth. It is certainly hard that while Government has felt the exertions efficiency of the Police to be materially shackled from the superintendent's inability to act in those departments of it which require reference to a magistrate, the establishment should by the bold assertion and active circulation of falsehood, be charged in the exercising not only all the powers of magistracy, but a great deal more.

One mode in which this impression has been propagated has been by obstinately continuing to confound all the different characters in which Capt. Grant may at different times have acted. Thus, although when the (p.4154) case of Colooroyah was before the Supreme Court in February last upon Habeas Corpus, it was avowed and notorious that his arrest took place under the written orders of your Lordship-in-Council, which are a legal justification of it. Yet, Sir Henry Gwillim brought this case forward in his late charge, as an article of crimination against the Police. And even after Sir Thomas Strange had expressly informed the Grand Jury that that arrest was wholly unconnected with this establishment and that it had proceeded upon other and legal powers, yet the Grand Jury in their enquiry upon Saturday last, immediately before finding the bill against Capt. Grant, examined the Chief Secretary and many other officers of Government and of the police and called for the production of all the public vouchers upon this subject. And I do not think that I ever state the probability of the truth in supposing that this case which has nothing to do with the Police, may have been a



principal reason of a bill being found against it. As it is always of importance to deprive the ~~establishment~~ disposed of every facility <sup>will</sup> of imposing upon the credulity of those (p.4155) who mean well, I submit to the consideration of your Lordship-in-Council, the expediency of directing in future all arrests intended to be made under the orders of your Lordship-in-Council to be executed by some other officer. Formerly the Town Major was usually employed in such matters and perhaps he may be <sup>on</sup> that account, the most eligible.

But Sir Henry Gwillim has taken upon other ground also in which he seems to abandon all charge of direct illegality in Capt. Grant; he does not even consider him personally the object of prosecution, but views the appointment of a military man as an insult to the civil authority.

If any establishment were attempted in England, which without actual violation of any existing law might fairly be viewed as presenting an unnecessary and therefore an unconstitutional display of military interference in the civil government it would be the pride and duty of every free man to join in repelling it by the regular channel of all political discussions, an (p.4156) application to Parliament. The vigilant jealousy which guards the outskirts of our liberty at home, is one of its most important defences. Even its extravagancies and the abuses to which it may at times be perverted, are only exuberances which can never be repressed without danger. But in India the whole is radically different.

We are a handful of Europeans scattered amongst an immense population, whose whole feelings proceed upon principles different from our own. It has been the policy of the legislature and of our superiors at home to prohibit in every shape, those discussions which might tend to raise political animosities and party spirit. It has been foreseen, and the petition presented on Tuesday, proves the reality of the danger that the natives would immediately be admitted as associates in the views and coveted to cooperate in the plans of the contending parties. Until the practical lessons of political independence should rouse in them the first principle of national spirit the rejection of a foreign yoke, however lenient. To prevent those consequences (p.4157) it has been found necessary to refuse to the Britishiers, those political liberties which are engaged by our countrymen in all other quarters of the Globe. We have no house of assembly. Duties are raised by the



mere authority and discretion of Government and the Supreme Court is prohibited from all enquiry concerning them. The liberty of the press is controlled and all meetings and assemblies of the people are subject to the previous licence and regulation of Government. Even the Court of Justice is forbidden by his legislature to hold cognizance of the acts of Government and so far as regards even the civil rights of natives, the orders of government are justification of any act done under them. While the security of the British Government requires these sacrifices which may almost be said to include the whole of our political liberties and to extend even over the civil rights and personal liberty of the natives, which we all admit and feel the necessity of submitting to those privations of solid and substantial rights, I cannot enter into nor understand the feelings displayed by the (p.4158) judge and the Grand Jury nor with them startle at the danger to those liberties from the employment of a military man in functions from which he is not disqualified, except by the constitutional jealousy of a standing army.

If any real grievance existed, the British Parliament is open at all times to representations from all the king's subjects. If that cause had been adopted, it would have been a question whether the nomination of a military man were fairly chargeable against your Lordship-in-Council, who have adopted this measure from mere necessity; or whether any possible objection to it ought not rather to be added to the weight of the accusation against Sir Henry Gwillim, now pending before the King. As his illegal private interference and his indecent insults from the bench, have driven from the establishment, the Magistrate whom your Lordship-in-Council had selected to arrange and conduct it, and rendered it hopeless to prevail upon any other magistrate fit for the situation to accept it, he is the person responsible for the necessary consequences of that conduct, and if there be any (p.4159) thing incorrect in the appointment of Capt. Grant, the blame should fall upon him who drove the magistrate from the situation.

It does not belong to me to enter into any discussion of the political dangers likely to arise from the late acts of Sir Henry Gwillim and the former despatches of your Lordship-in-Council, have anticipated any observations upon the subject, as well as upon the peculiar duty of Sir Henry Gwillim, as a judge of the Supreme Court, under the legislative restrictions of its authority with respect to Government, to avoid all subjects tending to raise any question of the acts of your Lordship-in-Council.



I did intend to have stated to your Lordship-in-Council some observations with respect to the mere cloak and color of the pretended prosecution of an individual for personal criminality under which Sir Henry Gwillim has introduced before a Grand Jury a question which he has afterwards avowed to be in reality unconnected with any serious intention to proceed against the (p.4160) party nominally accused and I meant to have adverted to the unconstitutional and dangerous practice of converting our Courts of Justice into the theatres of political struggles and of making our juries, the organs of political and factious discontent, unconnected with any object of real prosecution or complaint. A practice which must evidently tend to destroy the purity and the respectability of our judicature. But the arrival of the *Indus*, while I have been writing this report, enables me to transfer all these discussions to the much abler advisers of the Hon'ble Company at home.

The reported threats and insults thrown out against me by Sir Henry Gwillim, under a charge of my having violated my duty as a member of the profession of the Bar, will I hope excuse my adverting very shortly to this subject.

I have before, in my letter of the 27th February last (which is already before the Hon'ble Court of Directors with the other papers relative to the January Sessions) stated my impression that the custom of the bar not attending while the judge delivers his (p.4161) charge to the Grand Jury is merely adopted to the circuits at home to avoid the repetition at each circuit town of a great part of the same charge before the same bar. Another reason perhaps may be that the members of the profession seldom have any inclination to attend in Court when they are not wanted. I have no idea that it is considered as a binding rule even at home. Here it certainly has not been so considered and in one very memorable case, it was deputed from by every member of the profession. At the delivery of the charge to the Grand Jury by Sir Thomas Strange, recommending a prosecution against Capt. Mark Wilks for a libel against Sir Henry Gwillim, at the January Sessions 1803, every gentleman at the Bar attended in court and I believe the report of the charge will be found among the papers of Government. I have reason to remember it well, for while I was attending in court and hearing the charge delivered, I received the official notice of the distinguished favor which the Hon'ble Court of Directors had conferred upon me, in appointing me their Advocate General here. If I do not much mistake, that (p.4162) report must have been my first official communication to Government. No objection was made by Sir Thomas Strange nor suggested by Sir Henry Gwillim, the then prosecutor, that our attendance was improper.



But if the rule of customary report to the judges had been ever so clear in ordinary cases, it would not have applied to this. He who threatens another and assumes the attitude of hostile aggression, is not entitled to expect that his adversary shall lay himself open to the attack from respect to the assailant. When Sir Henry Gwillim avowed his intention of attacking your Lordship's government he relieved your Lordship-in-Council and all the officers of your government from at least all those punctilio of respect which might obstruct your watching and ascertaining his proceedings and taking measures for your defence against his aggression. This is too clear to admit of my dwelling longer upon it.

But if the obligation of customary respect in this particular had been indisputable and in full force against me, I cannot think that that would (p.4163) afford any excuse of Sir Henry Gwillim's conduct. He must have supposed that I was acting under the orders of your Lordship. As between him and me that was a sufficient answer to any objection as to want of respect to him in what I did. I was, under your Lordship's commands, exercising the clear right of every British subject, in attending to hear what passed in the public open court of the King. To insult me in such gross terms of scurrility for exercising that right and to repeat the insults to me when attending in my place at the bar upon every subsequent occasion, is an abuse of authority, no less disgraceful to the Bench, than derogatory to the independence of my profession and insulting to the Government under whose orders I acted.

It happens that the case of Capt. Wilks, already so often referred to, is a precedent in point to another question raised by Sir Henry Gwillim as to the regularity of the late proceedings. There upon the ~~present~~ prosecution of Sir Henry Gwillim, a presentment was found against Capt. Wilks and was immediately (p.4164) sent back by Sir Thomas Strange to the same Grand Jury (as in the present case) in the formal shape of an indictment although strongly opposed by the Counsel for Capt. Wilks. It does not certainly become Sir Henry Gwillim, who, as prosecutor, had then the benefit of that course of proceeding to object to it now, when it happens to be inconvenient to a second prosecution directed by him against another officer of Government. I believe the whole of the papers upon that occasion were transmitted to the Hon'ble Court of Directors.

I have the honour to be etc.  
Alex Anstruther  
Advocate-General

Madras 21st July 1807



X.48

Minute of the Rt. Hon'ble the President

It is remarked in the Advocate General's report that he was directed to attend in Court in consequence of the instructions given by Sir Henry Gwillim of his intention to attack the Government at the Sessions which are just terminated. It seems necessary to explain how this intimation was given. Sir Henry Gwillim had communicated to various (p.465) persons in the settlement, his determination of renewing his former attack upon the Police with undiminished violence. I have reason to believe that the abuse of the Chief Justice and of the government, has been the constant topic of his conversation with all persons, natives as well as Europeans, from the January Sessions to the present moment. The commencement of his opposition should be dated at an earlier period, if violent language deserves to be so termed. I particularise however the January Sessions, as from that time, his opposition has been manifested not in language only, but in public acts.

Hearing of this intention, I was anxious if possible to avert the execution of it. However advantageous to the cause of Government or rather however injurious to the cause of Sir Henry Gwillim, a repetition of his former acts of violence might prove, the Public interests were not to be sacrificed to the personal consideration of an advantage, not required I should hope in the unfortunate dispute in which we were engaged. I therefore requested Mr. Petrie, to whom the (p.466) opportunity offered, to endeavour to prevail upon Sir Henry Gwillim not to renew an attack, from which so much public mischief in my opinion would arise. I begged Mr. Petrie to recommend to Sir Henry, in the event of any acts of the Government appearing to him to require public notice, to represent our conduct to our superiors at Home, or to the Supreme Government, by whom the power of giving immediate remedy was possessed. Sir Henry Gwillim in answer gave Mr. Petrie to understand that he would refrain at the ensuing Sessions from any public remark upon the conduct of Government in the establishment of the Police (which he reprobated as a military despotism) provided that

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India Office Records: Madras Public Consultations:  
P/ / : 21st July 1807



Capt. Grant was removed from the superintendance. To this proposition or compromise, it seemed to me that the Government could not for one moment listen. The Government had seen its authority already shamefully trampled upon. To yield in the present occasion, would be confirming its humiliation and degradation by its own act. It would have been better at (p.4167) once to have transferred the duties of the Governor-in-Council to the Puisne Judges of the Supreme Court. The utmost exertion of the legal means of resistance have appeared to me throughout, utterly inadequate to meet the danger.

The Sessions began and Sir Henry Gwillim made his meditated attack. It may seem extraordinary that the application made at a subsequent period of the Sessions to the other judges of the Court to take their seats was not made before its commencement, as soon as the precise intentions of Sir Henry Gwillim were known. If I had been aware of the course which the Puisne Judges intended to take, I should certainly have advised an earlier communication of our request to the judges. But I had imagined that Sir Henry would have confined himself to the personal abuse of the Chief Justice, and of myself and to general invective against the measures of Government. I was not aware that he had laid any concerted plan of attack, or that upon his motion alone, without any petition or solicitation (p.4168) to the Court from any person aggrieved, he would have directed the Grand Jury to go and seek for causes of complaint to be tried before himself and to be subjected to the determination of his furious resentment. Not foreseeing this consequence, I was unwilling to ask the Chief Justice to submit himself to the indecent attack which would probably be made upon him and which he could not control. I felt confident that the Chief Justice would take his seat if occasion required. My confidence has not been disappointed and the Chief Justice is entitled to the highest approbation of his sovereign for the support which he has given with so much moderation but firmness to order and constituted authority against, (if I may borrow Sir Henry Gwillim's phrase) judicial despotism.

Upon the occasion of Sir Henry Gwillim's former attack upon the Government, I recommended that he should be removed from the territories. I gave this opinion from the firm conviction of my mind that at particular time, when the apprehension of disaffection had prevailed, when the (p.4169) public mind had been agitated in a new and extraordinary manner by the circumstances connected with the mutiny at Vellore, and when famine, attended with acts of popular commotion, not before known in Madras, threatened us, the



authority of Government required every support. I well knew also that Sir Henry Gwillim would persevere in impressing upon every mind, the inflammatory doctrines which he had already preached and that he was planting, under the sanction of his judicial office, those seeds of liberty and insubordination, which if hereafter they grow to maturity, must be destructive to a foreign government like our own. It is an unwelcome office to appear as the discourager of Political Liberty; But we are here the servants of our country. Our duty is to save this possession to the mother country. Our duty is to rule with equity and justice, to introduce, if we are able, the blessing of civil liberty. It is not for us to preach the "Rights of Man" or to submit for the consideration of the multitude, such sentiments as that given by Sir Henry Gwillim, "protior pericalosa, libertas, quam tutum Servitum." Much as I admire this sentiment as applicable to Great Britain, the introduction of it here seems to me little short of positive insanity. If required proof of the necessity of removing such a character from India, not a doubt could remain after the publication of so dangerous a sentiment.

We have seen within these few days a petition signed by a great number of the inhabitants containing various grievances, presented to the Supreme Court against the Government. This petition not only complains of the Police but of every measure in operation for many years past respecting the revenues or taxation of Madras. It is perfectly well-known to every one conversant with India, that in consequence of the supposed restrictions of the acts of Parliament, the Governments have been prevented from raising an adequate revenue at the different Presidencies, Although the inhabitants enjoy in a peculiar manner the benefit of English Protection and (p.4171) are the best enabled to contribute to the necessities of the State. The draft of the petitioners seems to be that of the disaffected in all countries, to pay nothing and to be relieved from all control. I have every reason to believe that Sir Henry Gwillim was the first creator of this spirit of dissatisfaction and mode of complaint, unprecedented in its nature. And that he particularly encouraged, no doubt for the furtherance of his own defence, the present petition to be written. I have the honour to annex a letter which was written to me

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\* Reproduced on page (No.            )



so long ago as March last by the Superintendent of Police, respecting the interference of Sir Henry Gwillim in encouraging the natives of Madras to make opposition to the measures of Government. Subsequent reports have confirmed the activity of his interposition.

It is unnecessary for me to trespass longer upon the time of the Board. My opinion remains unaltered. I think every hour of the continuance of Sir Henry Gwillim in India, is fraught with additional danger to the public safety. I rejoice in having been relieved (p.4172) from all responsibility on this account. It now only remains for me to recommend that those proceedings may be laid as early as possible before the Supreme Government, and that the same opinion with regard to Sir Henry Gwillim's removal be reported.

Fort St. George  
July 21, 1807

William Bentinck



8.49

## Law Department

To the Honorable the Court of Directors  
for Affairs of the Hon'ble the United  
Company of Merchants of England trading  
to the East Indies.

Hon'ble Sirs,

1. We had the honor to lay before your Hon'ble Court in our despatches of the 6th and 14th of March last, a detailed account of the disagreeable events which had occurred in the Supreme Court of Judicature at this Presidency; and it is with concern that we are again compelled to draw your attention to a sequel of those proceedings.

2. The July Sessions of Oyer and Terminer were opened at this Presidency on the 10th instant; and Sir Henry Gwillim presiding on that occasion on the Bench, he recurred to the subject of the Police which had afforded such ample matter of discussion in the Sessions of January last, in terms equally acrimonious and violent as those which have been already exhibited by your notice.

3. The Advocate General having, according to his public duty attended at the Supreme Court, for the purpose of obtaining correct information with regard to the nature of the observations which we had reason to believe were about to be made by Sir Henry Gwillim, relative to the measures of this Government, we are enabled to lay before you an account of the charge delivered by that Judge on opening the Sessions, and also of the subsequent proceedings which occurred in the progress of the Sessions. The Advocate General submitted to us separate Reports on the several points requiring our attention, and copies of those Reports are accordingly forwarded for your information.

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India Office Records: Letters from  
Fort St. George: 33/E/4/335.



4. In our letter of the 6th March last we explained the effects which had been produced by the violence of Sir Henry Gwillim in compelling one of the Magistrates of this place, Mr. Walter Grant, who had been appointed Superintendent of Police to resign that office, and we informed you of the nomination of Capt. James Grant to that situation, a measure which was adopted under the conviction of its being essential to the efficiency of the Police.

5. In the same letter we informed you of the circumstances which had attended the apprehension of a person named Collooroia, in consequence of a particular representation from the Acting Resident at Mysoor. By a singular coincidence, the person who was apprehended and sent to Mysoor, as the supposed offender, accorded in name, in appearance and in all other external circumstances with the person who had been very minutely described by the Acting President. It however so happened that this was not the person whose apprehension was intended; but as there were no means of knowing this fact at the Presidency, and was not discovered until the arrival of the supposed offender at Mysoor.

6. The person who was apprehended, proved to be a native of Guzzerat, who had proceeded to Madras in prosecution of his trade as a Teacher of Singing and Dancing. To him the change has been fortunate, for he has since his arrival at Mysoor, been admitted into the service of the Rajah, and liberal provision made for his support. The circumstance therefore was of a nature which like any other arising from the present accident, might have happened at any time and in any place, and it was one from which benefit only, not injury has resulted to the individual concerned.

7. We have thought it necessary particularly (p. ) to advert to the above points as it was to them that Sir Henry Gwillim directed his chief attention in his address to the Grand Jury. After



## Report A

stating such observations as were required by the usual calendar of offences, he proceeded with great emphasis to resume his attack on the system of Police, which he described as the "instrument of a Military Despot, and as an attempt to overawe the Civil authority". We pressed on the attention of the Grand Jury that they should not be deterred from entering on discussions of that nature, insisting that the "principal danger to all Governments arose from their own tyranny." He urged that there was no danger in rendering the Natives of India conscious of their liberty; but whatever might be the political consequences he reminded the Jury (and the scope of the observation is deserving of attention) "that it was their duty only to administer the Law as it stands; fiat justitia, ( ) ( ).

8. From the Tenor of the Charge delivered by Sir Henry Gwillim, in which he at the same time introduced the most odious and degrading personalities in regard to some of the officers of the Government, particularly the Advocate General, we thought it proper to lose no time in recurring (p. ) to a similar course, as we had adopted in the preceding Sessions, in requesting the Chief Justice Sir Thomas Strange, and the Second Puisne Judge Sir Benjamin Sullivan to take their seats on the Bench as a measure, in our judgment, essential to the preservation of the public tranquillity, and to the support of the just authority of the Government.

## B

9. We have the honor to forward with this Dispatch a copy of our letter to the Judges....., and to acquaint you that before it was delivered to the Chief Justice, he had already, on the report which had previously reached him of the occurrences in the Supreme Court, announced his determination to take his seat. The measure therefore having been the result of the judgment which Sir Thomas Strange had himself formed of the (p. ) necessity of the base, we have reason to know that though he received the letter, he thought it more proper to forward it without perusal to Sir Benjamin Sullivan.



C

10. We beg to refer you to the Report of the Advocate General, noted in the Margin, for a particular account of the circumstances which occurred after Sir Thomas Strange had taken his place. Sir Henry Gwillim after informing the Grand Jury that he considered the proceeding to be "irregular and unprecedented" and after stating that he left them "in full confidence of their doing their duty to their King and country," retired from the Bench, on which Sir Thomas Strange addressed to the Grand Jury his intended charge.

11. The Chief Justice particularly described the circumstances which had impelled him to resort to that measure. We took occasion to express his strongest sentiments of the public benefits which (p. ) had been derived from the Establishment of the Police: He observed that so far from considering it "as an Establishment proper to be cried down, he considered it to be most useful, and without which it might but lately have been doubtful whether any of us was in safety; that a police was necessary in every metropolis; and that after the events at Vellore, Government would, in his opinion, have been inexcusable in omitting it; that he himself had recommended that measure; that his letter to that effect was now among other papers in the course of being submitted to the King, in whose judgment the question of the fitness of the Establishment now rested. Sir Thomas Strange stated that although he had not interfered in the (p. ) details, he knew that the Regulations established for it were in every respect unexceptionable; that the powers of the present Superintendent were merely, that duty which every subject is competent and even bound to discharge in times of danger, a vigilant attention to the public safety;.....that trifling irregularities must be (p. ) expected in so large a body especially of men not before accustomed to the exercise of regular Law; but that the general correctness of its conduct would be found in the comparatively small number of errors or irregularities which were brought forward against it; and he took occasion to express in strong terms his high opinion of the moderation and general judicious conduct and respectable characters of the late and present Superintendents."



12. The Chief Justice then proceeded to review the circumstances which had attended the arrest of the person named Colooroia: "He stated the case as having come before the Court upon Habeas Corpus and said it was understood and notorious that it was a case of an arrest unconnected with any powers of Police, and proceeding, or being intended to proceed, upon the avowed and express commands of the Governor in Council; and he told the Jury that as such it was a case of which that Court is prohibited by the legislature from holding cognizance by the Statutes 21 Geo:3: & 39: & 40: Geo: 3, under which taken together that Court is prohibited from holding cognizance of the acts of Government, and any one impleaded for an act done under written orders of the Governor in Council is entitled to be discharged upon the production of such orders. That the Statutes had reserved to the British subjects the full enjoyment of all his rights and liberties, and the courts in India are bound to protect (p. ) him in them, but that as far as regards the acts and orders of the Government affecting natives, these Statutes operate in many respects as a permanent suspension (as it is generally termed) of the Habeas Corpus act th(ough) it did not belong to him, or to the Jury, to candidate's propriety of that distinction, whether it may have been thought that the natives of India are unfit to receive the whole and full freedom secured to British subjects, or whether it may have been deemed inexpedient to grant it to them, or whatever may be ~~the~~ supposed to have been the reason and origin of the provision it was sufficient for that Court that the Legislature had established it: but that it had at the same time reserved full redress and the entire responsibility of the Members of Government before the King's Courts at Home for all their acts here."

13. The whole tenor of the charge delivered on that occasion by the Chief Justice is beyond the expression of any



praise which we could convey to your Hon'ble Court: and we are satisfied that sentiments so founded in truth and so judiciously interposed for the preservation of order and of just respect to the constituted authorities in this part of the British dominions, will not fail to receive their due reward in the approbation of the contra(ry) power to whose cognizance these proceedings may be (inti)mately referred.

14. We should have been happy if the sentiments delivered by the Chief Justice had produced the effect which might have been expected in the (p. ) question to which they were immediately addressed, but in this reasonable expectation we were disappointed.

D

15. On the 15th instant, we received a letter from the Advocate General informing us that he had attended the Supreme Court that day when a presentment was delivered into Court by the Grand Jury against Captain James Grant, which "charged that he being a military officer holds the situation of Superintendent of Police, and has exercised military powers in Madras in the arrest of several persons (none of whom were specified) without lawful authority or warrant, which they considered to be against the Law and Constitution."

16. On that occasion both Sir Thomas Strange and Sir Henry Gwillim were upon the Bench; and the Chief Justice having been informed by the Grand Jury that they had nothing farther before them, was proceeding to discharge them, when the Advocate General who had previously received from Captain Grant the fullest assurance that he had in no case exceeded his authority, thought it proper to wave all objections to the looseness of the presentment, and with great propriety demanded a trial.

17. The Advocate General grounded this demand on the right which every man has, render the English Law of having an immediate trial if he requires it, and of not remaining subject to the stigma of a presentment standing against him on public record. The Advocate General there-



fore (p. ) claimed that the accusation should either be formed into an indictment, or that the presentment should be quashed.

18. Sir Henry Gwillim declared his opinion that neither of these claims ought to be acceded to by the Court that the Jury was not bound to proceed in the Indictment, and that the presentment could not be quashed. He also stated the interference of the Advocate General to be improper and impertinent, Captain Grant not being present, nor having pleaded to the charge.

19. The Chief Justice differed from Sir Henry Gwillim on both points. He said that as the known representation in Court of the Government, the interests of which were evidently concerned in this presentment, the Advocate General was entitled to appear for its interests. He also determined that as the presentment did contain (ind )ble matter, though indefinitely expressed, the (Judge) was bound to proceed in it, and to state the charges specifically upon indictment, so as to bring the matter to trial. In conformity to the sentiments directions were given for preparing the Bill of Indictment, and Council was employed at the desire of Sir Henry Gwillim, to assist in the execution of that duty.

20. The Bill having been completed it was (p. ) stated by the Counsel employed on the occasion that "he had prepared the indictment, but was not ready to proceed, having no evidence to support it; and he prayed that the farther investigation of the charge might stand over till the next Sessions." This was refused by Sir Thomas Strange, as having been already determined, and he intimated that "it must be presumed that the Grand Jury in making the presentment had sufficient proof to support the charge."

21. We shall not in this place give any detailed description of the singular and distressing scene which was then exhibited in the Supreme Court. The Advocate General was from an accidental circumstance not at that moment present in the Court, but



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the information which he was enabled to collect, leaves no doubt of the correctness of his report, to which we request your particular reference.

22. The grounds of the opinion delivered by Sir Thomas Strange have been already explained, and their accuracy must appear undeniable to every impartial judgment; But (p. ) the case was differently viewed by Sir Henry Gwillim, who in the open Court, and in the performance of the most solemn duties, attacked the Chief Justice in the utmost strain of abuse, and in language more indecorous than could ever before have been uttered in any Court of Justice.

23. It is impossible to judge of the fatal effects which might have followed if the outrageous proceeding of Sir Henry Gwillim had not been opposed by the most dignified calmness, but at the same time ( ) desneator on the part of Sir Thomas Strange who peremptorily ordered the Bill of Indictment to be delivered to the Grand Jury, and as Sir Henry Gwillim still continued his indecent violence, he at length declared aloud, "that he had no means of defending himself against us such an unprecedented attack," and ordered the Court to be adjourned. This measure was also resisted by Sir Henry Gwillim, with the utmost vehemence, and was only enforced by the repeated orders of the Chief Justice.

24. We are satisfied that we need not anticipate the reflection which must (p. ) arise in every mind on a view of the scene which we have mentioned; But it is proper that we should press on your most serious thoughts though absolute necessity of applying a speedy remedy to so alarming an evil. The dignity, and decorum which the British Courts of Law have been usually accustomed to maintain have been followed by the happy consequence of imposing that degree of recurrence which has rendered them at once the Guardian of the Subject, and a Bulwark of the State; and we must view as a calamity any event that may in its tendency impair a feeling that it must be considered of the highest national importance to preserve.



25. Such considerations are applicable to every Court of Law where British Justice is administered; but they must in a peculiar degree be felt in these distant possessions where the Law is administered to the inhabitants of a country not as yet familiarized to the habits and manners of the European Nations, and who unable properly to discriminate in their idea, between the violent excesses (p. ) of an individual Judge, and the general character of the Judicial authority, may find it difficult to view such degrading conduct with the feelings which it is calculated to excite, without losing that respect for the authority of the Supreme Court, which it is of the highest moment to maintain.

26. We are satisfied that the utmost reliance may be placed in the judgment and discretion of the present Chief Justice of the Supreme Court, but under the freedom of discussion, allowed to the several Judges in an equal degree, no power in this country can be adequate to control a temper so impetuous and ungovernable as that of the Senior Puisne Judge, and it appears vain to hope that farther excesses of a nature injurious to this Government, degrading to the character of the Supreme Court and in the highest degree dangerous to the public interests, can be averted by any other mode than by the immediate removal of Sir Henry Gwillim, from the station in which he has been unfortunately placed. (p. ).

27. We have stated above that it had been directed that the Bill of Indictment against Captain Grant should be referred to the Grand Jury. This having been accordingly done, we were informed by a subsequent Report from the Advocate General that the Bill had been returned "found," and that Captain Grant having appeared in Court, had been arraigned upon it.

28. The Advocate General had in that Report, to which we request your particular attention, explained the nature of the Bill, and the grounds on which he had found it his

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duty to object to it, and to move that both the Indictment and the Presentment should be quashed. The counts contained in the Bill, amounting to three, were entirely general, and went to the establishment of no specific offence, it therefore appeared to the Advocate General that a Bill of this nature was a mere evasion of the Trial which Captain Grant had demanded, and that it amounted to an admission, on the part of the prosecution, that no definite offence could be established against him. The Court has postponed a decision on the application of the Advocate General until the 27th instant, when we expect that a determination will be passed on the question.

29. The Advocate General has in the (p. ) mean time observed "that if his motion for quashing the Indictment and Presentment shall be refused, it is his intention to demur to the Indictment," and though he cannot with certainty anticipate the judgment of the Court upon such demur( ) the Advocate General has stated that "he now feels relieved from all solicitude about the final result of the prosecution."

30. The Advocate General having in the last report to which we have referred, gone into a very full discussion of every legal point connected with the formation of the Police at this Presidency, and having taken a distinct view of all the objections which have been urged against that institution, your Hon'ble Court will perceive on referring to that paper, that the existing establishment differs in no material degree from that which had existed by immemorial usage; with the exception that the former Police Establishment was worse than useless, in being rather turned to purposes of private depredation, than to the protection of private property; while we are enabled to add that the present System of Police is, notwithstanding the unexampled counteraction which it has experienced, improved to a degree of the greatest energy and efficiency. (p. )

31. Of the general merits of the Police, we need at present enter into no farther discussion. On that point the strongest



testimony has been stated by the highest legal authority at this Presidency; and if the system had not been more than commonly exempt(ed) from defects, it could not assuredly have eluded the matchful inspection which has attended every stage of its progress, and which was prepared to exhibit in the least favorable view, every deviation from a path, beset by numerous and embarrassing difficulties.

32. We cannot consider the late Presentment and the Bill of Indictment preferred by the Grand Jury to detract from that sentiment; and we trust that a reference to the proceedings which we have brought to your notice, will be sufficient to justify this opinion. We should feel considerable difficulty in pursuing a discussion of this nature; but we believe the facts to which we have adverted, to be too forcible to be overlooked.

33. In concluding this subject we deem it proper to draw the particular attention of your Hon'ble Court to the continued series of personal abuse which has been directed against the Advocate General by Sir Henry Gwillim. The different reports which have been submitted (p. ) by that officer will exhibit the painful situation in which he has been placed, while employed in the strict performance of his public duty; and the firmness and temper with which Mr. Anstruther has conducted himself under difficulties, nearly amounting to acts of personal violence and restraint.

34. The Advocate General has in his report of the 21st instant, given a particular explanation of the obligations which he considers to be imposed upon him as a public servant of the Government; and while we cordially approve the zeal and spirit with which Mr. Anstruther has been actuated, we can have no hesitation in stating our opinion that by the adoption of a different court, and by allowing any punctilious feeling that must have been utterly misapplied, to impede the execution of his duties as the principal legal officer of this Government, he could not have established that claim to our regard and approbation, which we now consider to be deservedly due to him.



35. The Advocate General, in attending on all public occasions at the Supreme Court fulfilled the instructions which he had received for that purpose, as it was by that means only that we could obtain any correct knowledge of the violent scenes which have been lately exhibited in that place; and as our instructions have been executed in entire conformity to our wishes, we accordingly consider Mr. Anstruther to be entitled to our strongest commendation. (p. )

G

36. Lord William Bentinck having recently recorded a Minute containing an explanation on certain points connected with the conduct of Sir Henry Gwillim adverted to in the preceding part of this letter we have the honor to forward a copy of that Minute for your information. We doubt not that the description which it conveyed, of the nature of the intrigues which have been practised at this Presidency will afford a very accurate solution of the causes of some of the prominent events stated in this letter.

H

37. We have at the same time the honor to transmit to you the copy of a letter which has been recently addressed to us by the Chief Justice in reply to our letter of the 12th instant. Sir Thomas Strange has in that letter particularly described the principles by which his public conduct has been guided on the late occasion; and it is almost unnecessary to add that those principles are such as cannot fail to reflect credit on the high rank and station filled by Sir Thomas Strange at this Presidency.

We have the honor to be with great Respect,

Honorable Sirs,  
Your faithful,  
Humble Servants  
William Bentinck  
Cradock  
William Petrie  
Oakes

Fort St. George  
23rd July, 1807



X.50

To The Rt. Hon'ble Lord William Cavendish Bentinck  
Governor-in-Council

My Lord

I have the honour to report to your lordship-in-Council that the Presentment and indictment against Capt. Grant, were this day quashed by the Court.

The criminal business of the Court having been appointed to come on this day after the civil, Sir Benjamin Sulvan retired upon the conclusion of the latter, and the Chief Justice Sir Thomas Strange remained the only judge upon the Bench.

Capt. Grant being in Court, the Chief Justice stated the motion to quash ~~the~~ (p.4348) the indictment and presentment against him. He said that he had delayed giving his opinion, at the time of the motion, both for the purpose of looking attentively into those papers and also that he might have an opportunity of receiving assistance from the other two judges, to whom he had accordingly directed copies of them to be sent. That he was sorry to find that he sat there alone to dispose of it, but as he had no doubt on the question, and had received no intimation of any doubt existing in any other quarter he should proceed to do so.

He then enforced at considerable length and with great clearness the various objections to those papers. That the indictment was in effect for a series of several and distinct wrongs against different individuals, which ought to have been distinctly and severally stated; that the want of all specification of the circumstances, parties, times and places, withheld from the party accused all intimation of the particular offences to be tried, (p.4349) and prevented the possibility of his preparing for his defence. The Chief Justice pointed out the several views in which this is contrary to the principles of law and traced the authorities upon the subject as being too clear and too direct to admit of a doubt. He therefore directed the indictment and the Presentment to be quashed.

I am etc.  
A. Anstruther,  
Advocate-General

Madras 27.7.1807

Resolved that a copy of the foregoing letter be transmitted to Bengal, accompanied by a letter agreeably to the following Draft.

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India Office Records: Madras Public Consultations:  
P/243/21



X.51

The following Minute of the Right Hon'ble the President having returned from circulation is now recorded.

Sir Henry Gwillim lately transmitted to Government a printed copy of the charge which he delivered to the Grand Jury at the past sessions.

The editor of the public papers have been restricted from publishing without the permission of Government, subjects connected either with the army or navy, or with the orders of Government under these orders. I am of opinion that the printer of the judges charge was not warranted in publishing a paper, which he knew from its contents to be an attack upon (p.180) the Government. I would recommend that the Secretary to Government may be directed to ascertain by whom this paper has been printed.

It is necessary in my opinion for the public safety, that the press in India should be kept under the most rigid control. It matters not from what pen the dangerous matter may issue. The higher the authority the greater the mischief. We cannot prevent the judges of the Supreme Court from uttering in open court, opinions however mischievous, but it is in our power and it is our duty to ~~prevent~~ prohibit them from being circulated through the country by means of the Press. Entertaining strongly this sentiment, I would recommend that the orders of Government may be given to all proprietors of printing presses, forbidding them upon pain of the utmost displeasure, of the Governor-in-Council, to print any paper whatever without the previous sanction of the Governor-in-Council communicated by the Chief Secretary.

(signed) William Bentinck

Fort St. George  
24th August, 1807

Approved and ordered accordingly.

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India Office Records: Home Miscellaneous  
539: Extract: Fort St. George Public  
Consultations 1.9.1807.



X-52

Sent the following letter to the Superintendent of the Government Press:

Sir,

I have it in command from the Right Hon'ble the Governor-in-Council to desire that you will state, for the information of his Lordship-in-Council, whether the charge delivered by the Hon'ble Sir Henry Gwillim Knight to the Grand Jury of Madras at the last sessions of Oyer and Terminer was printed at the Press under your management.

I am etc.  
(signed) G.G. Keble  
Secretary to Government

Fort St. George  
2nd September, 1807

The same to the agents of the Madras Courier, Gazette, and Madras Monthly Journal Press.

India Office Records: Home Miscellaneous  
539: Extract: Fort st. George: Public  
Consultations 2nd September, 1807.



8.53

Read the following letter from the agent of the Madras Gazette Press:

(p.183) The Agent of the Madras Gazette Press begs leave to state to Mr. Keble, for the information of the Right Hon'ble the Governor-in-Council, that the charge delivered by the Hon'ble Sir Henry Gwillim Knight to the Grand Jury of Madras, at the last session of Oyer & Tarminer and printed at their request, was done at the Madras Gazette Printing office.

The agent of the Madras Gazette Press begs leave to add, that he is not aware of having acted inconsistent with former usages in printing the address before alluded to, and that nothing could be farther from his intention than in any respect to disobey the orders of Government.

Gazette Office  
18th September, 1807

(p.184) The President proposes that a letter agreeably to the following draft be dispatched to the Superintendent of the Government Press and to the managers of the other presses at this Presidency.

To

The Superintendent of the Government Press

Sir,

I have it in command from the Hon'ble the Governor-in-Council to desire that you will not, on any account publish at the press under your management, any book or paper which may be sent to you for that purpose, without having previously obtained the sanction of the Government through the established channel of communication.

I am etc. (signed)  
G.G. Keble

Fort St. George  
September 1807

The same to the Managers of the Madras Gazette, Madras Courier and Madras Monthly Journal Presses.

Approved and ordered accordingly.

India Office Records: Home Miscellaneous 539:  
Extract: Fort St. George Public Consultations  
22nd September, 1807.



X.54

13. After the termination of the sessions held in July last Sir Henry Gwillim transmitted to the Chief Secretary for our information a printed copy of the charge which he was stated to have delivered to the Grand Jury.

14. Many parts of that charge, as it now appears, are obviously of the most offensive nature, but it is proper to observe that it does not exhibit the most aggravating circumstances of Sir Henry Gwillim's conduct, of which a sufficient explanation was conveyed in our former dispatch.

25. (p.178) In concluding this subject, we are induced to notice that from the objectionable nature of Sir Henry Gwillim's charge, we have considered it proper that a document of that nature should not obtain publicity in the territories under this government, where the native inhabitants are incapable of forming a correct opinion of such publications, and are liable to be misled by the dangerous doctrines which it has a tendency to circulate. You will accordingly observe, on reference to the proceedings noted in the margin\*, that we have issued such orders to the editors of the public papers of this Presidency as will we hope preclude a renewal of similar publications.

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India Office Records: Home Miscellaneous  
539: Extract: Separate Law Letter from  
Fort St. George dated 21st October, 1807.

\* Consultations 1st September  
In Dy to D  
8th Ditto  
Consultations 22nd D.



X.53

To

The Honourable the Court of Directors  
for Affairs of the Honourable the United  
Company of Merchants of England trading  
to the East Indies.

Hon'ble Sirs.

1. Our Dispatch to your Hon'ble Court from this department of the 23rd July last will have informed you of the proceedings until that period relative to the conduct of Sir Henry Gwillim, one of the Puisne Judges of the Supreme Court.

2. We particularly stated the measures which had been adopted in consequence of the presentment of the Grand Jury against Captain James Grant Superintendent of Police; and the grounds on which the Advocate General had moved that the presentment and the indictment preferred against that officer should be quashed.

3. We have the honour to acquaint you that this question was decided on the 27th July last, and have the satisfaction (b ) to add that the motions of the Advocate General were acceded to, according to the particular explanation stated in the Advocate General's report of that date.

4. The Advocate General reported that "Captain Grant being in Court, the Chief Justice stated the motions to quash the indictment and presentment against him. He said that he had delayed giving his opinion at the time of the motion, both for the purpose of looking attentively into those papers and also that he might have an opportunity of receiving assistance from the other two Judges, to whom he had accordingly directed copies of them to be sent. That he was sorry to find that he sat there alone to dispose of it, but as he had no doubt upon the question, and had received no intimation of any doubt existing in any other quarter he should proceed to do so."

In consul-  
tation  
30th July

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India Office Records: Letters from Fort St. George:  
33/E/4/335: Letter dated 21-10-1807: Law Department



5. The Advocate General stated the general grounds on which the opinion of the Chief Justice was founded; and observed that having "traced the authorities (p ) on the subject to be too clear and too direct to admit of a doubt, he directed the indictment and the presentment to be quashed."

In Diary to  
Cons 28th July

6. We deemed it proper to take the earliest opportunity of laying before the Governor General in Council a copy of our late Dispatch to your Hon'ble Court, with the papers to which it referred. In doing so, we particularly adverted to a Minute which had been recorded by Lord William Bentinck, in which His Lordship urged the measure of immediately suspending Sir Henry Gwillim from the office, which he holds as Judge in the Supreme Court. On this point, we observed that we had expressed our sentiments in a letter addressed to the Supreme Government on the 18th of March last, and it only remained for us to add that every subsequent event had appeared to justify the recommendation which we stated on that occasion, and to call for the adoption of early measures for the safety of the state, and for the protection of those public institutions which it is of the highest moment to preserve unimpaired. (p )

In Cons  
18th September

7. The Governor General in Council in acknowledging the receipt of our dispatch took an extensive view of the question which we had referred for his determination. He informed us that he was strongly impressed with a sense of the serious evils which the conduct of Sir Henry Gwillim was calculated to produce, and, was satisfied, that the removal of that Judge, not only from the Bench of the Supreme Court at Madras, but from India, is indispensable not more for vindicating the authority of this Government, which, he has insulted, than for the tranquility and even ultimately the security of the settlement.

8. The Governor General in Council also agreed with us in thinking that the immediate accomplishment of that event would be extremely beneficial and desirable. The Governor General in Council at the same time



<sup>cc</sup> provided to discuss the particular objections which would oppose the adoption of ~~this~~ this measure by any power in this country, arising chiefly from a view of its tending to impair that independence of (p) the Courts of Judicature which appeared to be one of the main objects for which the Legislature had been the most anxious to provide.

9. The Governor General in Council observed that reflecting deeply and seriously on the whole of this very important matter, he was not satisfied that the danger which the conduct of Sir Henry Gwillim tended to produce, was so urgent in point of time, though certainly of a very serious complexion, as to make it impossible, consistently with prudence to wait for the regular relief from the difficulty which he could not doubt that His Majesty's Government would administer without delay.

10. The Governor General in Council stated that the recall of Sir Henry Gwillim by His Majesty involving an authoritative condemnation of his conduct, from which it will be known that there is no appeal, appeared best calculated to restore the subordination and tranquility, which he had disturbed and to re-establish the authority and dignity of this Government, which, his (p) violent and indecorous proceedings had tended to impair.

11. In carrying these sentiments, the Governor General in Council bestowed a high and deserved encomium on the dignified and efficient part which had been taken by Sir Thomas Strange, the Chief Justice in the late transactions in the Supreme Court; and particularly commended the judgment and ability which had distinguished the conduct of the Advocate General.

12. Under this explanation, we beg to observe that the question which has excited a more than an ordinary degree of agitation at this Presidency, being now finally referred for the



decision of the authorities in England, we shall look forward with anxiety, though with confidence to an early decision on the important reference.

In Cons  
14th August

13. After the termination of the sessions held in July last, Sir Henry Gwillim transmitted to the Chief Secretary for our information a printed copy of the charge which he was stated to have delivered to the Grand Jury. (p )

14. Many parts of that charge, as it now appears, are obviously of the most offensive nature, but it is proper to observe that it does not exhibit the most aggravating circumstances of Sir Henry Gwillim's conduct, of which a sufficient explanation was conveyed in our former dispatch.

In Cons  
8th September

15. We received from Sir Henry Gwillim an application to be furnished with a copy of our late Dispatch to your Hon'ble Court, and also with "copies of all communications respecting him which we might have received, and not yet disclosed in order that he might be enabled to meet any charges that might be preferred in consequence of them."

16. In reply to the application of Sir Henry Gwillim, he was informed in a letter from the Chief Secretary that the same objection which had been formerly stated to him, precluded us from a compliance with his request to be ~~sent~~ furnished with copies of any dispatches from this Government to your Hon'ble Court. (p )

17. With respect to his application on the subject of other papers, we observed that no determination had been adopted with regard to the transmission of further charges to the authorities in England, and we were in consequence of opinion that a communication of the nature which he had proposed, would be premature.

In Diary to  
Cons 29th  
September

18. Sir Henry Gwillim had since reviewed his request in terms which accord with the former indecorum of his conduct. But we have considered it sufficient to repeat our regret that we do not consider ourselves at liberty to comply with it.



In Cons  
18th September

19. We have the honour to refer you to a letter which was addressed to us by Captain James Grant, enclosing the copy of one which that officer had considered it proper for him to address to Sir Henry Gwillim, on consequence of the personal abuse with which that Judge had attacked the conduct of Captain Grant in his charge to the Grand Jury.

20. We deem the letter of Captain Grant to be deserving of particular attention from (p) the temper, firmness, and ~~resolute~~ <sup>firmness</sup> which that officer has manifested in his vindication.

21. Captain Grant explained the particular feelings, founded on a sense of public duty, under which he had been induced to accept the office of Superintendent of Police; and as he no longer considered the same exigency to exist he solicited our permission to resign that office.

22. We informed Captain Grant that we felt great satisfaction in recording our entire approbation of the manner in which the very difficult duties of Superintendent of Police had been conducted by him, and that the circumstances under which he undertook the execution of those duties were deemed equally creditable to his zeal, as the fulfilment of the trust had been creditable to his discretion and judgment.

23. We expressed to Captain Grant our desire that he would continue to retain the office of Superintendent of Police until a permanent arrangement can be made, for (p) the performance of its duties. In the meantime, we have directed that Mr. George Garrow of your Civil Service should act in the situation of Superintendent.

24. Captain Grant has since been entirely released from the office, and Mr. Garrow has been appointed his successor.

25. In concluding this subject, we are induced to ~~state~~ that from the objectionable nature of ~~the~~ <sup>his</sup> Sir Henry Gwillim's charge, we have considered it



improper that a document of that nature should obtain publicity in the territories under this Government where the native inhabitants are incapable of forming a correct opinion of such publications, and are liable to be misled by the dangerous doctrines which it had a tendency to circulate. You will accordingly observe on reference to the proceedings noted in the margin that we have issued such orders to the Editors of the public papers of this Presidency, as will we hope preclude ( ) a reviewal of similar publications.

In Cons 1st Sept.  
In Diary to Cons  
8th Sept.  
In Cons 22nd Sept.

We have the honour to be,

With great respect,

Honourable Sirs,

Your faithful Humble Servants

Sd/- W. Petrie

Oakes

Ja. Casanova

Fort St. Geroge  
21st October 1807



X.56

Read the following letter from Mr. C. Marsh

To

G. Buchan Esq.  
Chief Secretary to Government

Sir,

Previous to the departure of Sir Henry Gwillim, he requested (p.202) me in the event of your taking upon yourself to suppress the publication of the address of the profession to him, and of his answer to that address, to intimate the circumstance to him by letter. I have therefore taken the opportunity of doing so by the present packet; but before I close my letter I thought it right as the matter will be much discussed in England to request, that you would point out to me the objectionable passages which rendered them unfit for circulation. I would have spared you this (p.203) trouble, had I been able to perceive in them, after much fruitless conjecture, a single word or sentiment, of which the publication could be deemed by any liberal or well educated mind, inexpedient ~~for~~ or dangerous.

Another reason for addressing you is, my firm conviction, that the suppression of these articles was neither directed, or sanctioned by the Government of this place; for I cannot but conceive them to be too enlightened, not to know, that the unnecessary and wanton exercise of a power, at all times an odious one, has never suppressed one truth, or concealed one fact.

(signed) G. Marsh

Fort St. George  
29th December, 1808

Resolved, that Mr. Marsh be informed, that the Board consider a compliance with the application submitted in the foregoing letter to be unnecessary and improper; and (p.204) further, that the mode of his application is considered by the Board, as in the highest degree disrespectful to the authority of the Government.

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India Office Records: Home Miscellaneous  
539: Extract: Fort St. George Public  
Consultations: January 3, 1809.



Sent the following letter to Mr. C. Marsh.

Sir,

Your letter of the 29th ultimo, addressed to the Chief Secretary of Government, having been laid before the Hon'ble the Governor-in-Council, I have been directed by the Governor-in-Council to inform you, that he considers a compliance with the application therein submitted to be ~~nee-~~ unnecessary and improper.

I am further directed to acquaint you, that the mode of your application is considered by the Governor-in-Council as in the Highest degree disrespectful to the authority of Government.

I am etc.  
(signed) G.G. Keble  
Secretary to Government

Fort St. George  
4th January, 1809



X.57

Read the following letter from the editor of the Madras Gazette:

The Editor of the Madras Gazette requests the favour of the Chief Secretary to Government, to inform him if there is any objection to the publication mentioned by Messrs Abbott and Maitland in the enclosed letter.

To

The Editor of the Madras Gazette Press.

Sir,

As the trial of Roya Reddy Row and Anundah Row for conspiring to defraud the East India Company, and the private creditors of (p.206) the Nabobs of the Carnatic by means of a forged bond etc. etc. has engaged the attention of the public in an extraordinary degree, and as it must be an object of considerable interest to the East India Company, to the Commissioners for investigating the debts of the Carnatic, and to the private creditors of England, we are desirous to publish the same and accordingly we request the favor of you to obtain the permission of the Hon'ble the Governor-in-Council to print it at your press from notes which we caused to be carefully taken of the evidence, and we will thank you to let us know the price and in what time it can be printed.

We are etc.  
Abbott and Maitland

Fort St. George  
9th January, 1809

Resolved, that the editor of the Madras Gazette be informed, that the Board deem it inexpedient to sanction the proposed publication by Mr. Abbott and Maitland of the Trial of Roya Reddy Row and Anundah Row.

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India Office Records: Home Miscellaneous  
539: Extract: Fort St. George Public  
Consultations: 10th January, 1809.



Diary sent the following letter:

To

The Editor of the Madras Gazette

Sir,

The application of Messrs Abbott and Maitland, for permission to publish the trial of Roya Reddy Row and Anunda Row having been submitted to the Hon'ble the Governor-in-Council, I have been directed to acquaint you, that the Governor-in-Council deems it inexpedient, to sanction the proposed publication.

I am etc.

(signed) G. Buchan

Chief Secretary to Government

Fort St. George  
11th January, 1809.



X.58

17. It is known to your Hon'ble Court, that agreeably to the established orders, founded on instructions from the Supreme Government, all newspapers are submitted to the Chief Secretary for inspection, previously to their being published. We have the honour to state that a few days after the embarkation of Sir Henry Gwillim for England one of the newspapers was submitted in the usual form for inspection, which contained (p.200) an address from some of the Gentlemen attached to the Supreme Court at this Presidency, to Sir Henry Gwillim with his reply, and as both (but particularly the latter paper) appeared to be of an exceptionable nature, a communication was made regarding the circumstance, to the Hon'ble the President, under whose authority orders were given for preventing the publication of the address in question, and of the answer.

18. No copy of the papers was retained, but it is sufficient to say that they were pre obviously connected with views of the most factious nature.

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India Office Records: Home Miscellaneous  
539: Extract: Law Letter from Fort St.  
George dated 27th January 1809.



X.59

Downing Street

12th August 1808

My Lord,

I have received from the Chairman and Deputy Chairman of the East India Company a letter (of which the enclosed is a copy) - respecting the alleged misconduct of Sir Henry Gwillim, one of the Judges of the Supreme Court of Judicature at Madras, and the mode in which the complaint against him ought to be prosecuted. I apprehend that as it proceeded in the first instance from the East India Company in the form of a memorial to the King praying the immediate removal of Sir Henry Gwillim, and that he might be recalled to answer for his conduct, and as His Majesty was advised by the Committee of Privy Council ( 2 ) not to comply with the prayer for the immediate removal of Sir Henry Gwillim, but to direct his repairing forthwith to England in order that the subject matter of the memorial might be fully investigated, their Lordships on the arrival of Sir Henry Gwillim, and on the application of either party to the King, will resume the (investigation)<sup>1</sup> of the subject, and that upon their report His Majesty will (act in such manner as to his Royal wisdom shall seem meet)<sup>2</sup>. It does not appear to me that Government are called upon to interfere further, or that the circumstances of the case, supposing the allegations against him to be fully substantiated, are such as to render necessary a prosecution on the part of the Crown, by order of Government, or any other proceeding than ( 3 ) an investigation before the Privy Council.

If your Lordship concurs in that opinion it will be sufficient to state to the Chairman and Deputy Chairman, in reply to the enclosed letter, that His Majesty's Government (think it necessary only to state that Sir H.G. having been recalled for the purpose of fully investigating the nature of his conduct that investigation will be entered into as soon as circumstances will

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Public Record Office: PC/1/3822: Downing Street,  
12th August 1808 From Robert Dundas to The Viscount  
Castlereagh.



admit - His Majesty's Government have nothing to state upon the subject of prosecution as before such investigation shall have been concluded)<sup>3</sup>

I have the honour to be,

My Lord,

Your Lordship's most obedient  
humble servant

Robert Dundas

The Viscount Castlereagh

As in original draft

1. consideration
2. either direct Sir Henry Gwillim to be removed from his situation, or permit him to return to India.
3. do not feel themselves called upon to direct any prosecution to be instituted against Sir Henry Gwillim, but that the East India Company will be at liberty, on his arrival in England, to adopt such further measures in relation to the subject matter of their former memorial as they may deem expedient.



X.60

Council Office, Whitehall

20th September 1808

Sir,

I am directed to acquaint you for the information of Lord Viscount Castlereagh that the Lord President has communicated to the Lords, of this Committee of Privy Council (to whom His Majesty was pleased by order in Council of the 7th October last, to refer a memorial from the Court of Directors of the East India Company relative to the conduct of Sir Henry Gwillim, Knight, one of the Puisne Judges of the Supreme Court of Judicature at Madras) the letter addressed to his Lordship from Lord Viscount Castlereagh ( ) (with the letter from the Right Hon'ble Robert Dundas, President of the Board of Control, and the enclosure therein, from the Chairman and Deputy Chairman of the Court of Directors) respecting the measures which may be proper to be ~~xxxx~~ pursued, by the said Court of Directors, or by Government in regard to the complaints preferred against the said Sir Henry Gwillim; And the Lords of the Committee having taken the said letters into their consideration, think it necessary only to state to you, for the information of Lord Castlereagh that 1 (the Committee of the Lords of Privy Council ~~at~~ not having thought themselves warranted to advise his Majesty to remove Sir Henry Gwillim from his office and to recall him to answer for his conduct, but having in their report of the 10th November 1807 stated it to be their opinion that it would be advisable for his Majesty ( 3 ) to direct Sir Henry Gwillim, with all convenient speed, to repair to England, in order that the subject matter of the Petition and memorial, mentioned in the said report, might be fully investigated; their Lordships will be ready as soon as circumstances will admit, after the arrival of Sir Henry Gwillim in England, to proceed in the further investigation thereof,

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Public Record Office: PC/1/3822: 20th September 1808  
 (East Indies, Madras, Sir Henry Gwillim: Draft letter to Mr. Cooke - that on the arrival of Sir Henry Gwillim their Lordships will proceed in the further investigation of this business)



and to refer to his Majesty their humble opinion upon the results of such investigation, and that it does not appear to their Lordships to be necessary or proper, before such investigation shall have taken place before the Privy Council to direct any other measures respecting the conduct of Sir H. Gwillim.)

I am,

Sir,

Your most obedient humble servant

Edward Cooke, esq.

In original draft

1. Sir H. Gwillim having been recalled for the purpose of fully investigating the nature of his conduct, that investigation will be entered into, as soon as circumstances will admit; and their Lordships' opinion thereupon will then be reported to His Majesty, in the mean time and until such investigation shall have taken place, their Lordships have nothing to state upon the subject of prosecution against the said Sir Henry Gwillim.



X.61

Madras  
June 29, 1808

To

The Right Hon'ble Robert Dundas

Sir,

I had the honour to receive by the Procious ? under a cover addressed by you to the Judges of the Supreme Court of this place the duplicate of despatch from my Lord Henry, and I beg leave to transmit to his Lordship through you the accompanying letter in acknowledgement of it.

I shall take the earliest opportunity of repairing to England in obedience to His Majesty's commands, but I do not find that any homeward bound ship is likely to leave the roads before October.

I have the honour to be Sir  
with the highest respect, your most  
obedient and most humble servant  
Henry Gwillim

Letter from Sir Henry Gwillim to the Right  
Hon'ble Robert Dundas:

39, Bishops Gate St.  
May 23, 1809

To

The Right Hon'ble Robert Dundas

Sir,

I have the honour to acquaint you that I arrived at this place on Sunday, and wait his Majesty's pleasure.

I have.....Henry Gwillim

India Office Records: Home Miscellaneous 431.



Letter from Robert Dundas to Sir Henry  
Gwillim: *kn*

*my*  
Daw Street  
May 25, 1809

To

Sir Henry Gwillim, Knight

Sir,

I have the honour to acknowledge the receipt of your letter of the 17th instant announcing your arrival in this country in obedience to His Majesty's commands and to acquaint you that have communicated the same to the Lord President of the Council.



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ANSWER OF SIR HENRY GWILLIM  
TO THE MEMORIAL AND PETITION  
OF THE COURT OF DIRECTORS OF  
THE EAST INDIA COMPANY, PRESENTED  
IN OCTOBER 1807



The answer of Sir Henry Gwillim Knight, one of his Majesty's Justices of his Supreme Court of Judicature <sup>at</sup> ~~of~~ Madras to the memorial and petition of the Court of Directors of the United Company of Merchants trading to the East India.\*

To the King's most excellent Majesty in Council. May it please your Majesty,

In obedience to your Majesty's command transmitted to me by the Lord President of your Majesty's most honourable Privy Council that I should put in an answer in writing to the memorial and petition presented to your majesty in October 1807 by the Court of Directors of the United Company of Merchants of England trading to the East India, I have examined the said memorial and petition and the several papers and documents which are lodged in your majesty's council office purporting to be in support thereof. Charges so loosely framed and so destitute, of proof, were perhaps never exhibited in an ordinary court of justice; most assuredly, never laid at the foot of your Majesty's throne against a subject holding the office to which your Majesty has been pleased to appoint me. Let me however be permitted to acknowledge with the deepest gratitude your Majesty's grace and condescension in calling upon me for an answer to them. Those who advised your Majesty to entertain such a complaint well knew your Majesty's tender consideration for your Judges, and the concern your Majesty would feel were ~~solemnly~~ to fasten upon them without their <sup>calumny</sup> having an opportunity of repelling and exposing it. In the counsel which they gave, they must have been determined, not by the intrinsic weight of the charges but by the delicacy of the character to which it referred and by your Majesty's most honourable feelings.

In examining the memorial and petition, Sir, I shall take the passages as they stand, in the order in which they occur, having found the impossibility of viewing it as (2) a whole or of dividing it into parts.

Your Majesty is told in the introductory part of the memorial and petition, that the town of Madras <sup>patnam</sup> which is near Fort Saint George, and of which the memorialists and petitioners are possessed, is "a very populous town and contains a great number of inhabitants consisting of various descriptions of persons of various nations and

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<sup>Public</sup>  
\*Record Office: PC/1/3822, dated 11-11-1809  
Received 13-11-1809



and various languages;" which are particularly enumerated. In what part of the town of Madras the memorial and petitioners have found the Jews <sup>L ists</sup> and Greeks I know not having often inquired for, but never been able to discover there any person of either of those nations. Or how the memorialists and petitioners can give the appellation of "assured <sup>L earned</sup> followers" to the few wretched attendants of the vakeels, or the name of "powers" to the masters whom those vakeels represent, is to me matter of astonishment. The object of this redundancy of expression, and formidable <sup>L examination</sup> ~~examination~~, was to <sup>L encourage</sup> ~~show~~ your majesty the danger to be apprehended in such a place, among such people from the sort of languages the memorialists and petitioners would impute to me. But surely, Sir, the consequence should rather be the reverse of what they would intimate. The more motley the mixture, the greater the variety of nation and language, the less likelihood of combination, the less facility of communication and the weaker and more limited the effects of any <sup>L word</sup> ~~word~~ I may be charged to have used, unless indeed a miracle be supposed, and each had heard me speak in his own tongue.

That there are such passages in the several statements and charters as are set forth in the memorial and petition. I admit, but I deny the effect which the memorialists and petitioners would give them; I deny that they preclude your Majesty's Judges in India from observing in form the acts of the local government when a fit occasion offers for such observations, and surely a fit occasion offers, when persons acting under the authority, or the supposed <sup>L (3)</sup> ~~authority~~ of the local Government are found to act offensively to their fellow-subjects and in breach of the laws of the country. Your Majesty's Judges in India may, I would humbly contend, notwithstanding these statutes and charters observe in their address to a Grand Jury upon measures of government, when they conceive such measures to affect the public liberty and security, in order that they may deliberate upon them, and consider whether they are not a fit subject of representation to the local government, or to your majesty yourself. A grand Jury in England, though it has no legislative power, may yet under the statute of King <sup>L Charles</sup> ~~clearly~~ the second, which is a restriction on the general right of the subject, remonstrate against and pray for a repeal of any law your Majesty may have been advised to make. So, in India, though the acts of the local government are not reviewable in your Majesty's Courts there for the purpose of instituting a criminal prosecution in those courts against the Governor and members of council, yet they are reviewable there for the purpose of representation. The statutes which direct that the Governor and the Council shall not be ~~admissible~~ <sup>L Charles</sup> ~~admissible~~ to your Majesty's courts in India for misdemeanours, for any offences short of treason or felony, are, like the statute of Charles 2 - in restraint of the general liberty of the subject, and therefore not to be extended by construction. I could, Sir, go much more at large into this part of the memorial and petition; but I doubt whether I may not already have incurred



the charge of being too argumentative; and I trust I have said enough to show that the major proposition of the memorialists and petitioners is not true, and cannot be supported.

The memorial and petition next states that "Walter Grant Esquire the then master on the Equity side of the Supreme Court of Judicature at Madras, was one of the Justices of peace appointed by Commission in your Majesty's name issued by the Governor General in Council at Fort William in Bengal, and that he and the other persons who were then also Justices of the peace were entitled to and received salaries from the Government of Fort Saint (4) George in like manner as other Justices of the peace at Madras had received them from the time of passing the Act of the 33 of your Majesty". Now, here, Sir, is a most egregious misrepresentation; whether by design or by mistake, I will not pronounce. But a most egregious misrepresentation it certainly is. Any man would suppose from this statement that Walter Grant Esquire and the other persons named in the commission of the peace were all of them entitled to and received salaries from the Government of Fort Saint George, and that those salaries had been so received under the act of the 33<sup>rd</sup> of your Majesty. There is no distinction as to persons, and the commencement of the salaries being referred to the time of passing the act would intimate that they were paid under the authority of the Act. Now, Sir, most certain it is, that all the Justices, so named in the commission do not, nor even did receive any salary at all; that three of them only, never more, than three, received salaries; that those three are called Police Magistrates; that Mr. Walter Grant was at the head of them; that these Police Magistrates are appointed and paid by the Government of Fort Saint George; that they are removable at the pleasure of the Government; that one of them was lately so removed for a cause the memorialists and petitioners may be able to state; and that the act does not authorise the payment of any salary; but that the whole is a piece of patronage in the government extrinsick and quite foreign to the Act;

Of the dreadful event at Vellore to which the memorial and petition next alludes I know not the cause, whether it is to be traced to a disregard of the native prejudices, and indiscreet attempts to innovate on some trifling parts of the dress of the sepoys; or whether it is to be sought for in ~~surprings~~ <sup>surprings</sup> that be much deeper. Neither do I know to what extent the spirit of that mutiny may have been carried. But I do not believe that there was any general disaffection in the native inhabitants of Madras; any disposition in the people at large there to foment the disturbances which had arisen (5) at Vellore,



I never observed and I was not an incurious observer of what was passing there. I never observed any appearance in the place which should induce the local government to suspect the fidelity of the natives, or should call for the establishment of a system of police, which by its magnitude and the spirit which directed it, argued imminent danger to the country, and a general distrust of our native fellow subjects. But the event at Vellore afforded the noble Lord who then presided in the executive government of Fort Saint George an opportunity of which he was not unwilling, I believe to avail himself of introducing a part of a system, which he had had much at heart, and which, I think, his Lordship will have no objection to avow; which he had wished to recommend to the notice of your Majesty's Ministers and which your Majesty's Chief Justice at Madras understood in the year 1805, The office of soliciting in England, Sir, your Majesty's Chief Justice then quitted his station and abandoned his duty, without assigning any cause or explaining himself at all to either of his colleagues, principally, I believe, for the purpose of negotiating the establishment of a scheme of judicature, the first object of which was, (the noble Lord will, correct me if I am wrong) the annihilation of your Majesty's Court at Madras, or at least, the stripping it of its most valuable powers. The principal instrument in the framing and digesting of this scheme, which was clandestinely done, were your Majesty's Chief Justice at Madras, and Mr. Walter Grant. And this makes it unnecessary for me to offer my observations upon Mr. Walter Grant's appointment to the superintendance of the new police, or upon the Governor and Councils communications with the Chief Justice only, in exclusion of his colleagues upon the arrangements under that police and the subject of their legislative powers."

That there was a great scarcity of grain in Madras at the time to which the memorial and petition pertains is true but that there were any serious tumults or riotsthere on that occasion I have not heard, save and except from the memorialists and petitioners, and those who were (6) concerned in the framing and preparing of their memorial. If there were any such, it is to be wondered at that we should find no trace of them in your Majesty's court at Madras; that notwithstanding the activity and vigilance of Mr. Walter Grant and the other Magistrates and peace officers, and the aid of a military force, not one of those rioters should be brought to justice, a presumptive case should not be so far made out against one of them, as to induce the Grand Jury to find a bill. There cannot be a stronger proof than this of the non-existence of any tumult or riot or, if any did exist, of its



trivial nature. These things, if they did happen were not done in a corner. nor could it have been a difficult matter in such a tumult to have masked and with such a force to have secured the

I assisted twice myself in the populous village of San Thome in which I resided, in delivering ~~and~~ ~~to~~ out to the inhabitants the grain which the government had procured for them. There was a number of persons applying for it; there was great ~~importance~~, great anxiety, much <sup>unity</sup> pressing to get supplied; but I saw no disposition to riot; I heard of no attempt to steal; every one was ready to pay for the quantity he was allowed; every one, as soon as supplied, hastened home to his family; and some of those whose wants the provision was insufficient to relieve, retired to die without a murmur.

I now, Sir, come to that part of the memorial and petition at which charges against me commence.

It is stated that "Mr. Walter Grant was opposed in the execution of his duty as superintendent of police in several instances by me by my ordering the subordinate police officers to be apprehended and brought before me individually as a Justice of the peace for acts done by them in the exercise of their functions as police officers, and by encouraging complaints against them, and by my individually obliging the said Walter Grant to withdraw the military sentinels which he had been fit to place for the protection of the grain dealers and their store houses; and the said Walter Grant finding himself by reason of such opposition unable to do (7) the duties of his said office of superintendent of police either with credit to himself or with advantage to the public, resigned the same on or about the 4th day of January then last, and thereupon ~~the~~ ~~arduous~~ and critical circumstances <sup>in</sup> which then existed at the said presidency, the ~~sxx~~ said Governor and Council of Madras appointed Captain James Grant, a military officer belonging to the Corps called the Body Guard of Fort Saint George to the temporary charge of the police of the said presidency."

To this part of the memorial and petition I really cannot persuade myself that your Majesty can require me to make any answer. I am at a loss to discover what the charge is, in what the offence consists, whether simply in opposing the police, or in opposing it, whereby Mr. Walter Grant was driven from his office, and the Governor and Council of Madras were obliged to appoint in his stead Captain James Grant, a military officer; whether the ~~gr~~ ~~vamen~~ is in the act, or in the consequences of the act. The whole, whether the offence ~~be~~ the one or the other, rests upon a letter of the 4th of January 1807 to the Governor in Council from Mr. Walter Grant, which letter is



occurred to the Company's law adviser at Madras  
 some time afterwards to call upon the writer to swear  
 to. Now if the offence imputed to me be simply  
 the opposing of the police, I respectfully submit  
 to your Majesty that there is no proof in that letter  
 of such opposition, even taking everything there  
 stated to be true which however I deny; there, on  
 the contrary, the letter itself affords a full  
 exculpation of my conduct, it shows that I did not  
 oppose the police, but only the abuses of the  
 police; that I did not call the officers below  
 me for acts ~~upon~~ done by them in the exercise of  
 their functions; but for acts which in the  
 discharge of those functions they had no authority  
 to do. If the offence be not in the act itself of  
 opposing the police, but in the consequences of  
 the Act, the resignation of Mr. Walter Grant, and  
 the appointment of Captain James Grant in his room,  
 I would respectfully submit to your Majesty that  
 there is nothing in the letter to fix those conse-  
 quences upon me, no act of mine from which they  
 could reasonably flow; and if in fact they did  
 flow from any act, I am there stated to (8) have  
 done, still that I am not chargeable with them;  
 I am not to answer for Mr. Walter Grant's  
 resignation or for the government's appointing  
 a still more improper man to succeed him. Unless  
 therefore, I receive your Majesty's commands,  
 I shall take no farther notice of this part of  
 the memorial and petition. I shall only beg leave  
 to observe, that I did not require Mr. Walter Grant  
 to withdraw the military, till after he had admitted  
 their presence to be no longer necessary, and  
 that of the only instances mentioned of complaint <sup>two</sup>  
 being brought before me, the one is from a person  
 in my own family; and the other appears to have  
 arisen in an affray which had just happened close  
 to my own house. I am the more unwilling to enter  
 into this part of the case from the delicacy of  
 my situation in the event which has since happened  
 I mean, the death of Mr. Walter Grant; for besides  
 the real disadvantage, I might suffer from the  
 seeming advantage. I should have of speaking  
 without the risk of contradiction, I could scarcely  
 avoid violating in the observations I might be  
 driven to make that respect which is due to the  
 dead. I beg leave however to assure your Majesty  
 that I am prepared to give a full and satisfactory  
 answer to it, should your Majesty be pleased to  
 lay your commands upon me to proceed farther in  
 this part of the inquiry. To some points in the  
 letter I will still allude. If, Sir, it be an  
 offence to oppose assumed, unauthorised summary  
 jurisdiction; if it be an offence to protect  
 your Majesty's native subjects in India from  
 arbitrary punishments, and to deal out to them the  
 same measure of justice, as is meted to your  
 Majesty's ~~natives~~ natural born British subjects;  
 if it be an offence to attack the natives more  
 strongly to your Majesty's person and government  
 by making them sensible of the blessings of a mild  
 and equal administration of the laws; if it be an  
 offence to publish that ~~crimes~~ are not to be <sup>crimes</sup>  
 compromised, and that the accused are to look to  
 justice, and not to power, for their deliverance;  
 if it be an offence to regret the necessity of



calling in a military force in civil cases, and to express an anxiety that it should be withdrawn as soon as the necessity ceases; then of all and every of these (9) offences do I confess myself to be guilty. Let me notice, Sir, another part of the letter. It is said that the Hindoo character is changed; and it is insinuated that change has been effected by the influence of your Majesty's Court. Two instances are stated; the one, the rising of a Hindoo populace in defiance of their sovereign; the other, the non-resignation of a Hindoo populace to the dispensations of providence. Now, as to the first, Sir, I deny the fact that this is the first instance of a Hindoo population rising in disturbance of the public peace against the ruling authority. It would not be difficult for me to show, if it were necessary, that much greater disturbances among the Hindoos existed prior to the establishment of your Majesty's Court, than have ever been since that period; and as to the second instance, if my poor testimony be of any avail, can weigh at all, I can give it most honestly in proof of the Hindoo's dying of famine during the late scarcity with all that "patient submission" for which the letter writer should give them credit on former occasions.

The memorial and petition next states, Sir, what passed between your Majesty's Court and the Government of Fort Saint George relative to an application by the former for an establishment of two native law officers. With what view this is brought forward, whether to explain the conduct of the government, or to inculpate Sir Benjamin Sullivan and myself, is not very obvious. It should seem to fail of both these objects. It certainly contains no matter of charge, unless it were criminal in Sir Benjamin Sullivan and myself, to resent an act offensive to us as gentlemen, and to refuse to compromise the dignity and powers of your Majesty's Court. Be the object of the statement what it may, I am sorry to observe that it suppresses important circumstances and advances what is not true. Your Majesty is not told that previously to any application being made, to any public letter being sent in by the Court to the Governor in Council, his Lordship was advised with by Mr. Anstey, the Company's advocate at the instance of the Judges, whether such an application, if made, would be complied with and that his Lordship expressed his readiness to accede to it. (10) The reason for this previously advising with the noble Lord upon the subject was, that the Judges doubted whether his Lordship might not feel himself precluded from assenting to the request by some expressions, not very decorous ones, used by the memorialists and petitioners in a general letter in 1803 to their government of Fort Saint George with reference to the expenses of the late establishment of the Court; and the Judges did not think that they ought to hazard a refusal,



to ask what the Government might not feel itself disposed or at liberty to grant. Your Majesty is not made acquainted with the date of the first letter from the Court to the Government, which was in June 1806; nor with the date of the letter from the Court in reply to the answer of the Government; nor are you told, Sir, that two letters in reply were written by the Court, the first having been mislaid by the noble Lord, and the receipt of it having for a long time entirely escaped his Lordship's memory. The first of those letters was sent on July 1806, the last in the October following. These things are important, if the matter is to be gone into at all, and ought not to have been kept back. But these, Sir, as I have already mentioned, are untruths advanced. The memorial and petition states that the Governor and Council having determined to comply with the application requested the Supreme Court (the said Sir Andrew Thomas Strange then having returned to Madras) to state their opinions as to the salaries." Now, Sir, when this request was made by the Government, Sir Thomas Strange was not returned to Madras. He did not return till the 28th or 29th of June, and the date of the letter is of the 18th of that month. A further evidence of it is that the letter is addressed to Sir Benjamin Sullivan and myself only; that the name of Sir Thomas Strange is not inserted in it; and it would surely not have been omitted, had he been then in the settlement, by persons so jealous as the Governor and Council were of his rank and privilege, who considered him as an essential part (11) of the Court and his name as indispensably necessary as alone sufficient to authenticate its acts. I have the honour to ~~assure~~ assure for your Majesty's <sup>honour</sup> satisfaction in these points in the paper marked (A) copies of the correspondence between your Majesty's Court and the Government. I forbear from motives of delicacy to make observations to which this transaction is open, or to bring forward facts and circumstances materially connected with it; humbly preferring my claim, however, should the inquiry proceed further, to be permitted to go at large into this part of the case.

Of those passages in the memorial and petition in which it is professed to represent my charge to the Grand Jury it would, Sir, seem to be unnecessary for me to take any other notice that by simply denying the truth of them, I am ready to admit however that I took occasion in the course of my address to speak of the conduct of the government so far as it related to new schemes of police, which appeared to me to trench upon the jurisdiction of your Majesty's Court. I admit also that I spoke of its conduct where it seemed to me to derogate from that respect which was due to your Majesty's Judges and to ~~draw~~ draw into question the constitution of the Court and to make it doubtful in whom its efficient power is vested.



But I deny, Sir, that I used the words imputed to me, or any words with the meaning and the inferences ascribed to them in the memorial and petition; and I call upon the memorialists and petitioners to prove that I did so; for I humbly submit that at present the charge is wholly unsupported by any the least evidence. Let me be permitted, Sir, to turn to that which is called the evidence. It is not taken from any notes made at the time, but from a few imperfect, imperfect as stated, recollections of Mr. Antruther, aided by still <sup>ms</sup> more imperfect recollections of ~~my own~~ Mr. Orme, the Company's attorney at Madras; and these again subject to the variations and corrections of other memories. The witnesses are not required to state what I said, as I humbly conceive, they ought to have been but this dressed up, this altered paper of recollection is put into (12) ~~into~~ their hands and they are asked whether it be a correct report of my ~~own~~ words. I beg leave humbly to represent to your Majesty that I might object to this mode of examination, to these leading questions and to every witness who has answered to them. But the answers of the witnesses seem to make it unnecessary to press that objection, for not one of them ventures to say that the report is correct without following it up with words that qualify, and in truth annihilate what he says "it is in substance," "it is in effect", "it is generally correct", "it is by no means an exaggerated statement rather the reverse". It is, Sir, admitted, therefore not to be a report of what I said, but, unless it states what I said, it states nothing to which I am called to answer, whether exaggerated, or softened, is a matter of opinion and opinion is not evidence of fact. Witnesses to words, when words are made the subject of a criminal charge, are not to judge of the words; but merely to give them as they were delivered. Their meaning, their effect, their tendency, whether criminal or not, is a mixt question of law and fact, upon which the court wherein they are examinable is to decide.

The whole of the examination before your Majesty on this part of the case is, not, I would humbly submit, to your Majesty, to facts, but to a representation of facts; the evidence is not to what I did or said, but to a report of what I am supposed to have done or said, whether that report be correct or not. The witnesses not only differ and most materially differ from one another as to the report, but there are in the report itself strong variations, and even departures from former allegations. Nay, the incorrectness of it is admitted by the reporter himself. In speaking in his examination, as he is pleased to call it, for ~~the~~ examined himself, of the 3rd of February 1807, of the report of my supposed (13) charge which report he had given



to the Governor on the 28th of January, and which at the time of such examination was produced to ~~him~~, he says, (I use, Sir, his own words), <sup>L him</sup> "every word of it as well as the general context I did then believe to be true and correct so far as I thought it material to report, and I still do believe it to be correct, except in the following particulars, which from comparing my own recollection with that of others, I have since been satisfied and believe to have been inaccuracies or omissions in that report." He did believe, Sir, every word of that report as well as the general CONTEXT to be true and correct, as far as he thought it material to report. I confess myself, Sir, unable to define what he would mean by the words "general context". The plain sense should seem to be that he did believe the report to be his own throughout. ~~The~~ He acknowledges that it is a garbled report, that he has given only so much of what may have fallen from me as he thought proper,\* to my discourse. Independently on the reporters own admission, Sir, no man I submit to your Majesty, can read the report, and not see that it states only detached passages, that it neither gives what precedes, nor what follows the sentences quoted, which it must at least do, if it would give the "context". It would be an unwar-ran-ta-ble trespass upon your Majesty's patience to pursue this report further. I will only by your Majesty's permission beg to observe that the reporter corrects his inaccuracies and supplies his omissions, not by direct and plain statements of fact and circumstances but by loose expressions of assent to what the recollections of others had furnished him with. Why among these friendly reminiscences he should bring forward those of the witness Scott, I confess I cannot well see, as he acknowledges he does not understand the application of the passage he has introduced, and he moreover follows it up with a passage in his own report, the correctness of which Scott had questioned, and which it would surely have been as well to have kept out of sight when he was calling in aid Scott's better memory.

Of the variations of the witnesses from one another (14), I will here notice only one, and that ~~may~~ respects my manner, not my words. The memorial and petition states, that the supposed expressions "Good men will not desire such powers, bad men are not to be entrusted with them" were pointedly and emphatically "directed to Mr. Walter Grant" and this statement is taken from Mr. Antruthey's <sup>L 20</sup> report, and is also supported by the evidence of Cosmo Gordon who says that he was standing by Mr. Grant "when these expressions were used, and \*\* that "Sir Henry Gwillim did not then address himself particularly to him, but that he appeared to address himself in a solemn manner to the Grand Jury." There should seem to be nothing very offensive, Sir, in the words, admitting they had escaped me; but ~~by~~ be they what they may, the witnesses are at variance about their direction, if that be material; and Mr. Walter Grant, who

\*so that the words "general context" cannot possibly appl

\*\*that Sir Henry Gwillim turned round and looked particularly at him, Mr. Grant". But it undoubtedly will not have escaped your Majesty's observation, that Mr. Grant himself says,



should best know, and who says he marked my manner at the time not only negatives their being addressed to him but expressly states to whom they were addressed.

I was not unwilling, Sir, nay I voluntarily offered to communicate to the Governor and Council a copy of my charge to the Grand Jury. Why that offer was not accepted is stated in a paper which I have found in the Council's office purporting to be written by Mr. Anstruther. The manner in which the offer is acknowledged, and the reasons assigned for not closing with it are so peculiarly that Gentleman's own, that I will not venture to observe upon them; but, that they may be brought back to your Majesty's recollection, I have ~~xxx~~ taken leave to annex an exact copy in the paper marked (B). Let me be allowed, however, Sir, to mention some advantages which might have resulted from accepting my offer. On the one hand, if in what I had given anything offensive or criminal had appeared, the memorialists and petitioners would have come before your Majesty with the best possible evidence; they would have had *reum confitentium*; or, if I could have been base and weak enough to give a garbled and mutilated (15) statement, it would not have been a matter of any difficulty to detect it; and they might then have properly dealt with my statement, as they have improperly done with the report of Mr. Anstruther, they might have examined upon it, and inquired how far it was correct. On the other hand, Sir, they would have avoided the idle attempt to form a whole from indistinct, supposed recollection of scattered passages; they would have been spared the labour of reconciling inconsistent accounts; and would have escaped the mortification of presenting to your Majesty a charge founded upon misrepresentation and error. But the gentlemen have made their election; they have refused my preferred services they have chosen to proceed adversely, and your Majesty will not, I assure myself, think it consistent with justice that I should be required to assist them. Indeed I am not able to assist them now, it being impossible for me at this distance of time to fill up loose notes from recollection. Should this inquiry be carried farther, and should they be able to fix upon me by other witnesses, by anything like proof, any expressions that may seem to be so far intemperate or offensive as to call for a justification, I shall be ready, Sir, to enter into it. But I submit with the utmost deference to your Majesty, that until the fact be established matter in justification or explanation cannot be requisite.

The next statement is, that "the substance of the said charge of the said Sir Henry Gwillim having been stated on the day on which it was delivered to the said Governor and Council of Fort

\*ransacking barren memories and endeavouring to



Saint George they called upon Alexander Anstruther Esquire the Advocate of the said united company at Fort Saint Goerge who had been present in court, when the greater part of it was delivered, and upon several of the Grand Jury and others who had also been present in court to verify the correctness of the statement, \*and the said Governor and Council examined such persons upon oath before them, and took down their depositions in writing, and the said Governor and Council wrote to the said Sir Thomas Andrew Strange, the Chief Justice, and to the (16) said Sir Benjamin Sullivan requesting them to attend in court for the remainder of the sessions; that the said Chief Justice attended accordingly; the said Sir Benjamin Sullivan did not attend, being prevented by ill health".

Any one reading this part of the memorial and petition would, I submit to your Majesty, suppose that the statement had been made by some one else than Mr. Anstruther, that he had been merely called upon together with the Jurors and others to verify it, and that the examinations were had, and the depositions taken before the Governor and Council wrote to the said Sir Thomas Andrew Strange, the Chief Justice and the said Sir Benjamin Sullivan, and that Sir Benjamin Sullivan would have attended but for ill health. The truth, however, is Sir, that the report was first made to the Governor and Council by Mr. Anstruther, <sup>L 5</sup> that the statement was his, as will appear from his own better delivered in by the memorialists and petitioners; that he who had been present in court in violation of all professional delicacy, upon an occasion when counsel invariably withdraw, was the bearer of the intelligence; that the examinations were not had, the depositions were not taken till long after the letter to the Chief Justice and Sir Benjamin Sullivan was written, and that ill health was not the cause of the non-attendance of Sir Benjamin Sullivan in obedience to that letter, but that the said Sir Benjamin Sullivan had other reasons for it, and that he would not have attended, had his health been in never so good a state. For his reasons, I beg leave to refer your Majesty to his answer to the letter of the Governor and Council addressed by him to their Chief Secretary in the paper marked (C). This representation of dates and circumstances was, I am willing to suppose, not entirely accidental nor yet with any former design against me; the memorialists and petitioners must have been aware upon what slender evidence the Chief Justice had attended, they must have known how questionable his conduct must appear, and have wished to screen him, as far as they were able, by what they conceived a few pardonable ana-c-hronimes (17)

As, Sir, to what I am stated to have said at a subsequent part of the session; I can neither deny nor admit it: I spoke extempore, I have no perfect recollection of what I said, but I am rather inclined to think that the report is so far correct: I do not feel disposed to

\*and to ascertain the fact of its having been delivered;



controvert any part of it. That the provocation was sufficient to justify that and much more and that a greater outrage was ever offered to one of your Majesty's Judges sitting on the seat of judgment I should humbly conceive no man would deny. The outrage was as wanton and unnecessary, Sir, as it was violent and indecent, the charge, whatever it was, was over, the peace of the settlement had not been disturbed by it, and there was a good understanding between the government and the leading part of the Jury. I was proceeding in the regular discharge of my duty, the whole authority of your Majesty's Court was by agreement between the Judges of your Majesty's appointment at that time vested in me, so that to outrage me was, as it appears to me, to outrage your Majesty's Court: the Chief Justice by coming into the Court proclaimed to the country, that a Judge appointed by your Majesty, and then in the execution of his office, was unfit to be trusted. And this, he did, Sir, in defiance of repeated remonstrances from that Judge, and after having refused to hear what that Judge had to allege in his behalf, and to read that Judge's notes of the charge which had been objected to, and upon which the letter of government which occasioned his intervention had been founded. Nor was this all, Sir; scarcely had he taken his seat, when the Advocate General came forward with charges which had been, and ought to have been withdrawn; with observations towards me disrespectful; and with allusions to directions which he erroneously supposed me to have given in my address to the Grand Jury, and which, if I had given, he ought not to have heard.

The memorial and petition next states that "in the month of February then last the said Governor and Council of Fort Saint George had information that one ~~z~~ Coloo Braming, a man of dangerous, suspicious, and intriguing character had come from Mysore to Madras and thereupon they issued an order in writing to the said Captain Grant who had then the charge of the police directing him to (18) discover the said Cooloo Braming and to send him to his home in Mysore which the said Captain Grant accordingly did".

I feel it my duty to state to your Majesty that this last assertion is erroneous as the memorialists and petitioners themselves must know. The man taken by Captain Grant upon that occasion was not the man he was required to take was not "the dangerous, suspicious, intriguing character, who had come from Mysore." But a poor, inoffensive Bramin of Madras, who had been settled there upwards of eight years, and who earned a scanty subsistence for himself and a helpless mother by singing in the pagodas, and in religious processions and by occasionally teaching children to write. This man, Sir, seized about ten o'clock *W. 27*



on a Saturday morning in his own house in the Black Town by a number of the new police peons, was carried to a small house in the neighbourhood of the government gardens which had been then lately set apart for police purposes under the direction and immediate control of the said Captain Grant, where he was kept a close prisoner, no one allowed to have access to him, no explanation admitted, the nature of his offence not disclosed to himself or any one who inquired for him, until twelve O'clock on the Sunday night, when he was conveyed under a Guard to the Mysore country, and there notwithstanding the mistake was discovered immediately upon his arrival, he was detained for a long time restrained of his liberty and indeed had not returned to Madras when I left it which was in October 1808.

That an allegation so notoriously unfounded should be submitted to your Majesty is to me matter of astonishment. It was due to myself to correct it and to represent to your Majesty the real circumstances of the transaction in order to account for the warmth which I am stated to have shown upon the motion for the writ of Habeas Corpus, and which is imputed to me as a crime. It is said that I was instrumental in directing a writ to be moved for. I admit, Sir, that I was accessory to it, but I deny that my interposition was unsolicited, or that the occasion was sought for by me. I was applied to on the behalf of the poor man by a lad, who acted as a writer to my relation Mr. Clarke, and who took an interest in the man's case from having long lived near him, and been taught to write by him. (19) I directed Mr. Clarke, my agent upon such occasions to make some inquiry into the matter. What direction I gave to him, and how he acted in the affair, is detailed in the paper marked (D) hereto annexed, drawn up by him from notes he made at the time, and to the truth of which he is ready, if requisite to swear. This inquiries, your Majesty will see were fruitless; no satisfaction, no explanation was to be given; and a subordinate peace officer, who ignorant of his Mr. Clarke's business, had simply directed him to the Daroga's, that is, one of the superior police officers' house, was for that cause only ignominiously dismissed from his employment. The paper marked (E) which I have taken the liberty of annexing is a petition from the officer to me complaining of his dismissal, and appealing to me as the person through whom he had been injured for redress. If upon the motion for the writ of Habeas Corpus, I expressed myself with some warmth, your Majesty I humbly trust will see that it was not without provocation; The man had been seized by a military



officer, invested with no legal authority, for it is not competent to the subordinate governments in India to appoint a magistrate that as your Majesty has been told in the memorial and petition being done by commission in your Majesty's name from ~~Mr.~~<sup>the</sup> Governor General; the whole place was put under the immediate control of this officer; the liberty of the subject was invaded without any cause assigned; the inquiries of one of your Majesty's Judges were not only not listened to, but it was criminal in any one inadvertently or ignorantly to afford the least aid to them; the person who did so was no longer capable of the trust which had been reposed in him. At such an outrage to the subject accompanied with such provoking personal indignities, and maintained and avowed by the executive government, I confess, Sir, that I could not repress my indignation. The particular words I used upon the occasion I am unable to state: they were sudden and unpremeditated. Certain I am they were not the words imputed to me, nor exclusively I hope, of the improbability, the almost impossibility of my using such language, is there any proof of it, the witness *Neale* who is made to speak to the words having been examined in the same irregular, unfair way, and by the same leading questions which were put to the witnesses who were called to prove the words reported to have fallen from me in my address to the Grand Jury. I was amazed upon looking over the papers in the Council Office to find that the noble Governor had seriously supposed I meant to draw in question the legitimacy of his birth. I can assure his lordship I had no such thoughts. The idea I meant to convey was by no means disrespectful to his Lordship. The sentiments I felt and delivered, as I believe, were those of doubt, astonishment and concern. I must have been guilty of a sad misprison of language, or my reporter must have grievously misunderstood me. The latter I should rather think to be the case: at the same time I am ready to admit that my ideas might not have been distinctly conveyed for in addition to the circumstances already stated, I had other causes of irritation at the moment, which were sufficient to throw me off my guard, and to deprive me of all self-possession. Mr. Anstruther, a practiser in my own court was attempting to note every word that might drop from me, as he himself is stated in the memorial to have openly avowed, for the purpose of exposing me and raising further charges against me. Under ~~such~~ such an insult, which was the ~~greatest~~ greatest perhaps ever offered by the bar to the bench and the allowing of which fixes an indelible stain on the Chief Justice at Madras, I could not possibly feel myself competent to the discharge of my duty. I had a still further cause of irritation, The Governor and Council had at that time erected themselves into a court for enquiring into my conduct in which



they were examining witnesses on oath to verify as the memorial and petition states the correctness of Mr. Anstruther's statement and to ascertain the fact of the substance of the words reported by him having been delivered. In that court the noble Lord, the then Governor, the party supposed to be aggrieved by what I had done and said, and whose complaint, which was private and personal, formed the chief matter of charge against me, presided; and at his right hand as his assessor sat Mr. Anstruther, himself a witness, examining witnesses to his own credit, to give colour to his own report, and that, in the unbecoming, irregular, unfair way I have already humbly represented to your Majesty. All this, Sir, was passing during the term, while I was sitting daily in your Majesty's court as one of your Majesty's Judges and after repeated offers by me to communicate to the Government my entire charge.

(21) No one I would submit to your Majesty can contend that in this sort of proceeding, there was much regard for the delicacy of my public character, much consideration whose representation I was, or any great respect for justice or even common decency; no one I would submit to your Majesty can contend that it was not a wanton aggression on my feelings as a gentleman.

The noble Lord has thought it incumbent upon <sup>him</sup> ~~me~~ to enter into a justification of himself from the imputation which this last report of Mr. Anstruther might seem to convey of his being a supporter of arbitrary measures, and has produced papers to show the care he took to put the country under the protection of law. This Lordship has introduced a subject in which I have no concern and shall therefore wave his Lordship's conduct in the general ~~management~~ management of the interior never having been ~~assigned~~ assigned by me. My <sup>h</sup> ~~h~~ <sup>arraigned</sup> observations were upon facts and circumstances then before me; I spoke only of what was then passing, of what I then saw and what I then felt.

There is one part of the report of Mr. Anstruther, which, I believe, Sir, is correct, but which I would gladly retract. I am stated to have spoken rather favourably of Captain Grant, to have admitted that he was an amiable private character and this admission in the papers which are left in the Council office purporting to be in support of the complaint is frequently urged against me. I had some slight acquaintance with Captain Grant at the time; he was represented to me as a good-natured man, and I knew nothing to the ~~contrary~~ contrary. I thought that the office had been imposed on him, and I wished not to confound his private with his then public character. I gave him full credit for all I had heard in his favour. I now acknowledge that I went too far. The correspondence on his part between himself and the noble Lord which the memorialists and petitioners have lodged in your Majesty's Council office, and



his letters of the 14th of March 1807 to the noble Lord referred to in his Lordship's minute of the 21st July 1807 copies of which last letters are lying in the office of the Board of Control, (22) will clearly demonstrate that I was not warranted in what I said of him, that I was mistaken in his character. The last two letters it is my intention, Sir, to make a subject of enquiry in your Majesty's Court of King's Bench; they convey accusations of too serious a nature to be suffered to lie unnoticed.

I have now, Sir, gone through the memorial and petition, and I hope that feeling, as I do most strongly, the purity of my intentions, I am not betrayed into too presumptuous a confidence that your Majesty's will be satisfied, that the charges are as destitute of proof as they are trivial in themselves, and that no part of my conduct has been such as to make me unworthy of the important and honourable trust which your Majesty has been graciously pleased to repose in me, or to subject me to any mark of your royal displeasure. Should however my hopes be too sanguine and should your Majesty deem it proper to command a further inquiry into the matters alleged, I must humbly beg leave to put in my claim upon your Majesty's justice to be permitted in that event to enter fully and at large into my case. I have much to bring forward; there are many witnesses in India whose testimony will be material to me; and I cannot possibly dispense with the personal examination of Sir Thomas Andrew Strange and Mr. Alexander Anstruther.

Sir, before I conclude, let me humbly solicit your Majesty's attention to a paper which I find in your Majesty's Council office purporting to be a minute of the 23th of February 1807 of the then noble Governor of Fort Saint George, an extract from which I have presumed to annex in the paper marked (F). If his Lordship's ideas, as unfolded in that paper of the functions of a Judge in India are correct, if the system of government and the mode of administering justice in that country are to be such as there stated, it is my misfortune entirely to differ from him; and I will frankly confess to your Majesty that I could not square my conduct by the rules there laid down without acting in opposition to the honest dictates of my judgment and to the best feelings of my heart; and I must in that case humbly entreat your Majesty to permit (23) me to resign into more fit hands an office the duties of which I should feel myself incompetent to perform. Should your Majesty in tenderness of such my errors, if errors they are, condescend to admit of my resignation, you will not forget, I trust, my former services or withhold from me that remuneration to which the length of those services has given me a claim. And I further trust



that through your Majesty's gracious interposition the arrears of my salary from the time of my quitting India will be paid to me, and I shall be reimbursed by the memorialists and petitioners the expenses of my passage to England.

I hope, Sir, that in endeavouring to repel the charges which have been exhibited against me to your Majesty, I have not abused your Majesty's indulgence either by unnecessary prolixity or unbecoming warmth; and that nothing has escaped me inconsistent with those sentiments of profound veneration and grateful attachment with which I have the honour to be,

Sir,

Your Majesty's dutiful  
subject and devoted  
servant

November 11, 1809

Sd/- (H. William)



X 63

At the Council Chamber, Whitehall

11th April 1810

By His Majesty's most hon'ble Privy Council, present Lord Chancellor, Lord President, Earl of Liverpool, Mr. Dundas, the Lords of the Committee to whom the matters respecting Sir Henry Gwillim were referred by your Majesty, having, since his return to England, resumed the consideration thereof and having also duly considered the representation made by Sir Henry Gwillim himself, have agreed to report to Your Majesty their humble opinion, that, under all the circumstances of the case, as they are now before this Committee, it is adviseable that Sir Henry Gwillim should not return to his seat in the Court of Madras; and their Lordships at take leave further ( 2 ) to report to Your Majesty, that Sir Henry Gwillim in his memorial to Your Majesty humbly begs leave to lay in his claim upon Your Majesty's justice to be permitted in the event of further enquiry being directed, to enter more fully and at large into his case; that he has much to bring forward; that there are many witnesses in India, whose testimony will be material to him; and that he cannot possibly dispense with the personal examination of Sir Thomas A. Strange, the Chief Justice of Madras, and Mr. Anstruther, the Company's Advocate there; and if the ( 3 ) view their Lordships had taken of the inexpediency of Sir Henry Gwillim's return to his seat in the Court of Madras had proceeded upon any part of the representation before their Lordships, which was controverted in Sir Henry Gwillim's memorial, their Lordships would have thought it necessary to have withheld their advice to Your Majesty on this point till such further enquiry had taken place; but they humbly report to Your Majesty, that without entering into those circumstances which are controverted in Sir Henry Gwillim's memorial ( 4 ) and independent of them, sufficient ground appears to render the return of Sir Henry Gwillim inexpedient. As their opinion therefore rests upon considerations which no

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Public Record Office: PC/1/3822: 11th April 1810:  
East India Company: Sir Henry Gwillim: Committee  
Report on the memorial of the Court of Directors  
respecting the conduct of Sir Henry Gwillim.



further enquiry could remove, and as the delay and publick inconvenience which must be incident to such further enquiry ought, if unnecessary, to be avoided; The Lords of the Committee have considered it to be their duty ~~to~~ no longer to withhold from Your Majesty's their report on this important subject.

The Lords of the Committee take leave, nevertheless, further humbly to submit to Your Majesty that the ( 5 ) circumstances of the case do not appear to them to make it unfit for Your Majesty, if Your Majesty should graciously so please, to direct some allowance to be made to Sir Henry Gwillim, as a Judge of Your Majesty's Court at Madras returning to Europe; under the authority vested in Your Majesty by Act of Parliament; and their Lordships are further of opinion that the Right Honourable the Earl of Liverpool, one of Your Majesty's Principal Secretaries of state should receive Your Majesty's pleasure for signifying to Sir Henry Gwillim his removal from his seat as one of the Puisne Judges of Your Majesty's Supreme Court of Judicature at Madras, and<sup>as</sup> ( 6 ) to such allowance as Your Majesty may be graciously pleased to grant to the said Sir Henry Gwillim.\*



X.64

Whereas there was this day read at the Board a Report from a Committee of the Lords of H.M. M. P.C. in the words following, viz.

H.M. having taken the said report into conson, was pleased, by and with the advice of His Privy Council, to approve thereof and to order, as it is hereby ordered, that the Right Hon'ble The Earl of Liverpool, one of H.M. S. S. of state do receive H.M. pleasure for signifying to Sir Henry Gwillim his removal from his seat as one of the Puisne Judges of H.M. Supreme Court of Judicature at Madras, and as to such allowance as H.M. may be graciously pleased to grant to the said Sir Henry Gwillim.

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Public Record Office: PC/1/3822: dt. 11 Apr 1810  
Sir Henry Gwillim