

EAST INDIA (TORTURE).

RETURN to an Order of the Honourable The House of Commons,
dated 27 July 1855;—for,

COPY “ of LETTER from the Court of Directors of the East India Company to the Government of *Madras*, dated the 26th day of July 1854; LETTER from the Government of *Madras* to the Court of Directors, dated the 23d day of September 1854; and LETTER from the Government of *Madras* to the Court of Directors, dated the 7th day of June 1855, together with its ENCLOSURES, relating to the alleged use of TORTURE by the NATIVE OFFICERS of the GOVERNMENT.”

India Board, }
27 July 1855. }

HENRY DANBY SEYMOUR.

THE Court of Directors of the East India Company to the Government of
Madras, 26 July 1854.

1. IN a recent debate in the House of Commons, assertions, alleged to be founded on information furnished by official and other persons resident in your Presidency, were made to the effect, that torture was frequently employed by native officers to compel the ryots to pay the demands of Government.

2. These assertions having been thus publicly made, we desire that you institute the most searching inquiry into the subject, and call upon every collector in the Presidency to report fully whether such an unjustifiable practice is suffered to exist, and whether they have reason to believe that an occurrence of this kind can have taken place without their knowledge in any part of the territories under your Government. We desire that you will furnish us with a full report on the subject.

We are, &c.

(signed) *J. Oliphant,*
E. Macnaghten,
&c. &c.

THE Government of *Madras* to the Court of Directors of the East India
Company, 23 September 1854.

1. WE have the honour to acknowledge the receipt, by the last mail, of your Honourable Court's revenue despatch of the 26th of July 1854, directing us to institute the most searching inquiry into the alleged use of torture by native officers, to compel the ryots to pay the demands of Government, and to call upon every collector in the Presidency to report fully whether such an unjustifiable practice is suffered to exist.

2. We have now to forward for your Honourable Court's information the proceedings which we had adopted on this subject previous to the receipt of your orders, and your Honourable Court will perceive that we have not only anticipated your wishes in calling on all the collectors to institute the inquiries you have suggested, but we have extended our instructions to all sub-collectors, judges, subordinate judges, civil engineers, and medical officers employed in the provinces. We have also directed that officers of the army, and of the commissariat department especially, should be required to afford all information

in their power. But besides these applications to officers in the Government employ, we have addressed persons residing in the provinces independent of the Government, and we have appointed at the Presidency a commission, consisting of Mr. E. F. Elliot, Mr. Stokes, civil service, and Mr. J. B. Norton, to receive and investigate any complaints which may be presented to them by persons of any class.

3. We shall duly report to your Honourable Court the results of these measures; in the meantime your Honourable Court may depend on our unremitting exertions to put a stop to such practices wherever their existence may be established.

We have, &c.
(signed) *Harris,*
J. F. Thomas.

THE Government of *Madras* to the Court of Directors of the East India Company, 7 June 1855.

REFERRING to your Honourable Court's revenue despatch of the 26th of July 1854, directing a searching inquiry to be made into the alleged use of torture, to compel payment of the Government revenue, and in continuation of our letter in the Public Department of the 23d of September 1854, intimating the steps that we had already taken in the matter, and the appointment of a special commission of inquiry, we have now the honour to inform your Honourable Court that the Commissioners have submitted to us their Report on the subject referred to them, 50 printed copies of which are forwarded to you by book post in this mail.

2. The enclosed minutes by our President and the several members of the Government, together with the Extract Minutes of Consultation of this day's date, will put your Honourable Court in possession of our views upon the Report of the Commissioners, and upon the measures which, in our opinion, are proper to be adopted for the suppression of the evil therein brought to notice. Soliciting your attention to the observations recorded in these papers,

We have, &c.
(signed) *Harris,*
Walter Elliot,
H. C. Montgomery.

(No. 165.)

From *E. F. Elliot, H. Stokes, and J. B. Norton*, Esquires, Commissioners for the Investigation of Alleged Cases of Torture, to *T. Pycroft*, Esquire, Chief Secretary to Government, Fort Saint George.

Sir,

1. WITH reference to the orders of Government under date the 9th of September 1854, we have the honour to forward our Report upon the Alleged Practice of Torture for Revenue and Police Purposes in this Presidency.

2. We also forward all the depositions taken by us from the parties who came before us personally to complain.

3. It is to be observed, that there are still before us a great many cases not yet disposed of. This has arisen from the number of letters of complaint which have reached us from all parts of the country. With no small labour we have gone through the whole of these letters (1440), and set apart such as refer to matters not falling within the scope of our investigation, at the same time informing the parties to that effect. Of the remainder, 469 have been translated, and 117 are still in the course of translation.

4. Such of the translated complaints as appeared to us capable of investigation on the spot, we have transferred to the various local authorities, and are awaiting their replies. This course we at first proposed to pursue, until all

all the cases were exhausted, and then to have addressed Government in a supplementary report, which we are still prepared to do, if considered desirable; but as we have been able to complete our report at this date, we are desirous of submitting to the consideration of the Right honourable the Governor in Council whether it will be necessary for us to continue our investigations any further, or whether if the object of Government in ascertaining the existence of torture is answered by our present report, there is any utility in continuing the considerable monthly outlay necessary for the establishment of writers and translators.

5. It has appeared to us that all these petitions might be handed over to Government for disposal in the ordinary way.

6. We also propose to forward to Government the complaints which have reached us from Travancore, as they come from a foreign territory, as well as the whole of the petitions (385 in number), which have reached us subsequent to the 1st of February, and which we have not opened on account of their having arrived after the latest date fixed in our notification.

We have, &c.
 (signed) *E. F. Elliot,* } Commissioners for the
 H. Stokes, } Investigation of Alleged
 John Bruce Norton, } Cases of Torture.

Polytechnic, Mount-road, Commissioners' Office,
 16 April 1855.

(No. 577.)

From *T. Pycroft*, Esquire, Chief Secretary to Government, Fort Saint George, to Messrs. *E. F. Elliot*, *H. Stokes* and *J. B. Norton*, Commissioners for the Investigation of Alleged Cases of Torture.

Gentlemen,

I AM directed by the Right honourable the Governor in Council to acknowledge the receipt of your letter of the 16th ultimo, forwarding, with appendix and depositions, your report on the alleged employment of torture in this Presidency for revenue and police purposes.

2. The Government have perused with deep attention this highly interesting and valuable report, and I am commanded to convey to you their warm acknowledgments for the care, ability, and candour with which your proceedings have been conducted.

3. The Report with its Appendix will be immediately put to press, and the Government will hereafter record more at large the observations that have occurred to them on its persual, and the orders which seem to them to be called for; meanwhile I have to inform you that the object for which your Committee was nominated, has, in the opinion of the Right honourable the Governor in Council, been fully answered by the submission of your report and the accompanying evidence, and that further inquiry on your part is unnecessary. The Government will not, therefore, longer encroach upon your valuable time, and your Committee will be considered as having been dissolved. Before separating, you will, however, be so good as to direct the various local authorities referred to in the beginning of para. 4 of your letter to forward direct to Government their replies to the references made to them by your Committee. You will also transmit to Government for disposal the other petitions that you still have in hand, including those from Travancore, and those which reached you subsequent to the 1st February last.

I have, &c.
 (signed) *T. Pycroft*, Chief Secretary.

Fort Saint George, 5 May 1855.

MINUTE by the Right Honourable the President.

THE letter from the Commissioners for the investigation of alleged cases of torture, addressed to Mr. Pycroft, and with which they forward their Report, with its Appendix, should be answered at once.

2. The Commissioners appear to me to have conducted the inquiry with great care, judgment and circumspection.

3. The method of procedure which they adopted was remarkably well organised, and the divisions under which they have collected the information which came into their possession were well selected.

4. The report is drawn up in a manner which elicits my unqualified satisfaction. The language and tone of feeling manifested throughout suggests that all the points coming under discussion have received a fair and scrutinising, and impartial investigation.

5. I am of opinion that they have fully realised the confidence placed in them at the period of their appointment, and that they deserve the highest thanks and acknowledgements of Government for the manner in which they have performed the very invidious and arduous duties which were imposed upon them.

6. It appears to me that the evidence which is now before Government is quite sufficient to leave no manner of doubt of the existence of those practices which have been properly designated as "torture," and that there can be no necessity for the Commissioners to continue their labours.

7. The papers, &c., which are still in their hands may be disposed of by them in the manner they recommend.

8. It now becomes a matter of the gravest consideration for this Government to decide on what course it should adopt in the position in which it is now placed.

9. I fully concur with the opinion expressed by the Commissioners at the conclusion of their report, that this matter must not be allowed to slumber.

10. The evil is shown to be of a most serious nature, pervading the whole of the native population, and helping most influentially to perpetuate the moral and social degradation in which the inhabitants of this country are sunk.

11. The evidence adduced by the Commissioners show very clearly that this is no new thing, and it is to a certain extent satisfactory to find them expressing their impression that a diminution of those practices has been gradually going on.

12. It is also satisfactory to find that there is every reason to suppose that not only has no encouragement been given to these cruelties by the British rulers of the country, but that measures have constantly been in action to endeavour to prevent them.

13. These may not in many cases have been carried out with the degree of energy and determination which the serious nature of the offences deserved, but there have been doubtless many difficulties to overcome which it is impossible for any one, who has not himself made the attempt, to estimate.

14. The course which I would propose that this Government should at present adopt is this :

15. That a circular should be addressed to all collectors, judges, heads of departments, &c., stating that Government has received the report of the Commissioners.

16. That from the evidence therewith adduced, it can have no doubt of the existence of the practice of torture, and that it is to be feared that it exists not rarely both in police and in revenue cases.

17. That there is reason to suppose that the population finds difficulty in procuring redress from grievances of this nature, and though it is impossible,
from

from the small number of European officers, to afford the necessary facilities to the total suppression of this evil, yet that their attention is called to the impression of Government, in order that they may, so far as they can, give relief.

18. That the Report of the Commissioners, with the Appendix, will be printed, and then distributed; but that, in the meantime, such cases in the Appendix under letters (E.) and (F.) as have not already come under notice, will be forwarded to the collectors in the several districts for investigation; and I would recommend that in all instances in which it is proved that the police are guilty of these acts, that, in addition to any punishment they may receive for the actual offence, that they should be dismissed from the service, with a positive prohibition from re-employment.

19. I concur generally with the views of the Commissioners with respect to the remedies which should be adopted for rendering the general administration of the Government more effective, and at the same time equitable and beneficial to the people.

20. Some of the measures mentioned, more especially those respecting the police and magistracy, have been under my consideration for some time, and I should have already moved in these subjects, on which discretionary power has already been given to this Government by the Honourable Court, in its Despatch, No. 8, dated 23d August 1854, but for the delay which has occurred of more than six months in procuring information on the police force of Bombay.

21. The evidence brought forward in these papers strengthens the views which I had already arrived at on these subjects, and there is a very remarkable confirmation of the advisability of the separation of the revenue and police, in the absence of charges against the police of Madras.

22. I hope this Government may soon be able to embody a comprehensive and valuable change in the unsatisfactory system now in force; at the same time, the whole subject requires serious consideration, and must, with the greatest desire of improvement on the part of the Government, take considerable time in its completion.

23. On one point to which attention is drawn by the Commissioners, I think an immediate change might be beneficially made,—that as regard the state of the law on the subject; and I would propose that the Advocate-general and Government Pleader should be called on in concert to propose such alterations as would be likely to remedy the evils mentioned.

(signed) *Harris.*

Government House,
19 April 1855.

MINUTE by the Honourable Sir *H. C. Montgomery*, Bart.

I AGREE with the Right honourable the President that the Commissioners have performed the duty entrusted to them with great judgment and circumspection, and that they fully merit the best acknowledgments of the Government for their able and comprehensive report.

From the replies furnished by the revenue and judicial covenanted civil servants of the State, to the requisitions of the Government, of the 9th and 19th September 1854, there could be no doubt of the continued existence of violence, ill-usage and coercion, amounting in some instances to torture, in the collection of the revenue. In police, the resort to torture for the purpose of obtaining confessions and evidence has been an evil which the constant and earnest endeavours of all the European authorities concerned in the administration of justice, and the infliction of the severest punishments on conviction, have failed to eradicate. But while the existence of these evils is admitted, it is satisfactory to see that the Commissioners have come to the conclusion that the practice has of late years been steadily decreasing in severity and extent, and that no imputation of countenancing such practices can justly attach to the Government or its European officers.

The Commissioners, in paras. 72 to 74, specially notice, as a reason for the practice still existing, the paucity of European agency in the provinces. But forcibly as they have put forward this fact, they seem still in error regarding the number of covenanted officers in each district, for in almost every instance they have given that number in excess of the reality in the tabular statement attached to para. 73 of their report. There are only a very few collectorates where there are more than four European magistrates, and one of these even is generally a young officer, not qualified to exercise full or separate authority. The enormous extent of their charges, the numerous duties imposed on them, render it absolutely impossible for magistrates to investigate more than a small proportion of the many complaints which come before them, and the untruthfulness and exaggerations of native testimony, combined with the proneness to false accusation from motives of enmity, induce in these officers suspicion and doubt. It is therefore a matter of astonishment, that so much has been effected for the protection of the people by men so overwhelmed with such multifarious labours, having such extensive tracts of territory under their jurisdiction, and with the scanty means, and the very limited powers they possess, rather than that this protection of the ryots against their fellow-countrymen is not yet more complete.

The Commissioners are also in error with respect to the case they have prominently referred to in para. 32 of their report, as No. 24 of the Appendix E, and as "Balambal's case," in para. 66, arising it would seem from their not being acquainted with the meaning of the designation of the first defendant in that case. The "Pumberan," the person accused of the atrocities recounted, is not a servant of the State, neither are the other defendants his accomplices. A pumberan is professedly an ascetic, of a class corresponding in some degree with the monkish order, the head of a Hindoo temple, managing its affairs, ceremonies and festivals. He possesses no authority whatever from the Government, and the Government have no concern with the temple, or with this man's appointment to it. The case, therefore, which the Commissioners rightly stigmatise as one of the worst that has come before them, is a simple case of very aggravated assault, quite unconnected with the revenue or police systems of administration, for which the police officers of Government are no more responsible than they are for any of the constantly occurring acts of violence for which parties are committed by them for trial to the criminal courts.

The absence of complaint at the Presidency cannot be wholly attributable to the causes assigned by the Commissioners. It is not impossible that the chief magistrate, being a member of the commission, may have had some effect in deterring persons from complaining (as it might be supposed) against the department he controls. It is improbable that torture or violence in police matters should have wholly ceased within the limits of Her Majesty's court alone; for there seems little if any difference between the Supreme and the Company's courts. Judges, in their appreciation of confessions and general belief certainly does not confirm the opinion that the Presidency is exempted from the stain of torture. The police force is composed of men from the provinces of the same class as all the inferior police peons there employed, and they cannot be wholly free from the vices and practices inherent in their nature. Several of the most experienced officers, in their replies to the requisitions of Government, affirm, and it is also admitted by the Commissioners in para. 66 of their report, that torture in the usual acceptation of the term in this country appertains to the daily proceedings of the natives of India; that it pervades their families, their schools, and their village arrangements. It does not owe its origin or continuance to the system of administration adopted by the government of the East India Company; but is part and parcel of the constitution of native society, which can only be gradually eradicated by the spread of education, and the moral and social improvement of the condition of the people.

The late investigations, and the notice the subject has attracted, must tend to the still greater decrease of the practice, and the circular order which the Right honourable the President proposes to address to all collectors and magistrates, and other provincial authorities, is well calculated to stimulate them to continued and increased vigilance. The Commission having fully performed the objects of its formation, need no longer be continued. The Report, with Appendix, together with the first proceeding of this Government in taking up the question, will of course be speedily printed and circulated for general information.

The

The replies to the more recent requisitions of the Commissioners on the officers in the provinces, still due, can be sent to the Government office as received, and dealt with according as each case merits, and the undisposed of petitions addressed to the Commissioners should also be transferred to the Government office. On examination of the purport of each, which might be given briefly in the form of a statement, it can be decided whether any and which shall be reported on or be otherwise disposed of.

It appears inexpedient to enter on the investigation of cases of old standing, and to single out for punishment some, no more deserving it than their fellows. Such a course will open the way for the full exercise of vindictive feelings and animosities at the expense of imposing much labour without result on the European officers, and the certain hindrance of the public service. It will be sufficient in my view rigorously to enforce what has hitherto been the general rule, that dismissal from office and disqualification for further government employ shall invariably follow all future cases of any public servant being convicted of the crime of torture or aggravated violence in whatever department.

The further measures suggested by the Commissioners must receive the consideration their importance demands, in connexion with the Honourable Court's several recent orders for the revision of the assessment (in some instances already carried out), for the investigation of the police system, with a view to its greater efficiency, and on the subject of the control exercised over the provincial authorities charged with the revenue and judicial administration of the country.

(signed) *H. C. Montgomery.*

28 April 1855.

MINUTE by the Honourable *Walter Elliot, Esq.*

ALTHOUGH I was absent when the Report of the Commissioners was first received, I feel called upon to express my views on so important a subject before it is disposed of.

The mode in which the Commissioners have performed the difficult task committed to them, fully merits the commendation with which their labours have been noticed by the Right honourable the President and Sir H. C. Montgomery. In the sentiments expressed by them, I fully concur.

The report has satisfactorily and clearly established the following facts: that powers with which public officers have been invested for the collection of the revenue, and the discovery of crime, have been greatly abused by the employment of unjustifiable means, ranging from the exercise of vexatious interference to acts of violence, and in some instances of extreme cruelty towards accused or suspected persons; that these proceedings are confined to the local native officers, and have been uniformly repressed by the European servants of Government, and that the practice is of ancient date, and has been gradually diminishing.

This information is neither new or unexpected. The public records of Government bear testimony to the existence of the evil in past times, to the energy with which it has been denounced, and to the exertions used for its correction. The replies made to the call on its servants and on all other persons for information by Government, published simultaneously with the issue of the Commission, would have equally established the same truth had no separate inquiry been made. Of 215 responses elicited by that requisition, only seven express a dis-
Vide Tabular Statement at the close of the Report.

The chief value of the report, however, consists in the fact, that it has placed that result, hitherto resting on isolated and occasional notices only, in a broad and authoritative shape before the Government, and thereby demonstrated the necessity for the adoption of more vigorous and continued measures of care.

It is not to be supposed that abuse of authority by public officers is confined to Southern India. It is the rule of administration in all Native States, and as these have fallen under British authority, the system, though discountenanced, has not been eradicated. I can state from my own knowledge of the precisely similar revenue and police management in parts of Bombay, in which I have served, or

have visited, that similar practices must and do prevail; and the relation of the atrocities perpetrated by the Zannadari police, and the far more degraded and destitute condition of the peasantry in the permanently settled districts, leave no room to doubt that the same excesses are to be found in an even greater degree in Bengal.

It is not easy to determine the extent to which the exercise of such revolting proceedings is carried. The report leaves this part of the question pretty much where it was before. It cannot escape remark how many persons speak to the existence of torture from rumour and hearsay alone, without a single fact corroborative of its use having ever come under their notice; and yet they do not hesitate to pronounce the practice to be universal. But this may well be doubted. The eye-witnesses to such cases as have come under direct European observation, when they speak to distinct acts, refer to isolated and often distant instances. It is hardly to be supposed that more frequent examples would not have come under the eyes of persons constantly itinerating the country without parade or notice like missionaries, planters, overseers, and others, if the infliction had been one of daily and general occurrence. I cannot concur in the justice of the disparaging comment on the evidence of missionaries and planters contained in the closing portion of paragraph 20 of the report. No classes possess such an intimate knowledge of the people, and the Appendix bears numerous proofs of their readiness to speak out. I draw a similar conclusion from the proportion of com-

App.(C.), No. 18.-
10, No. 19.-8, No.
10.-14, No. 13.-7.

Torture.	Other Grievances.
In person 316	175
By letters 425	938

plaints of personal ill-usage to those of other kinds of wrongs preferred to the Commissioners, which were allowed by the proclamation to embrace a period of seven years, with the payment of their expenses to those attending in person, and it may fairly be inferred that when the determination of the Commissioners not to interfere with ordinary grievances was perceived, the petitioners would not be slow to secure a hearing by giving a higher colouring to their statements, a course in concurrence with the ordinary practice of exaggeration usual in this country on such occasions.

I think it may be assumed, from an attentive consideration of the whole subject, that, in the collection of the revenue, coercive measures are employed towards persons who are known to have the means of paying the public demand, but refusing to do so, that the more respectable ryots, and the very poorest, whose poverty is notorious, are exempt from annoyance; that in police inquiries the resort to forcible means for extorting confession is more general and more severe; in fact, that it is the only mode for the discovery of crime which suggests itself to the native police, and that both with regard to revenue and police the degree of coercion, and the extent to which it is resorted to, depends on the personal character of the European officers in charge, and of their vigour and energy in controlling their subordinates; and this is borne out by the results of my own experience. I have always found the greatest license to exist where the practice of collecting unauthorised extra cesses for the benefit of the public servants prevailed; a sure proof of general laxity of superintendence on the part of European officers.

But that abuse of powers conferred solely for the public good is to be found in a greater or less degree in all parts of the country must, I think, be admitted. After a careful consideration of the large body of opinion that has been brought together in the report, the Commissioners, it is observed, consider that the districts on the Malabar coast and the Presidency form exceptions to such a conclusion. But in the former case this is not borne out by facts; the quotations given at pages 7, 11 and 53 of the report contain some of the most extreme examples of the practice in former times as regards the police and the collector, and judge of the Canara districts: *both state that it still exists. A late judge of Malabar testifies to the same fact there.† The admissions of the tahsildars, made to the collector of Canara (para. 3 of the Report‡), leave no room to doubt that compulsory measures are still sometimes required for the collection of the revenue, and the nature of the exactions stated to be levied by the ryots in Appendix F. 28, show that the people of that province are liable to the same illegal demands which have proved the most fertile sources of violent extortion elsewhere.

Of the province of Malabar we have only the opinion of Mr. Goodwyn; but the rights of property, and the warlike habits of the armed population, would certainly tend to render the practice both rare and dangerous as a means for collecting

* Mr. Maltby, App. (C.), No. 10.-1, para. 7-10.
Mr. Anderson, App. (C.), No. 10.-7.

† Mr. Goodwyn, App. (C.), No. 14.-3.
‡ App. (C.), No. 10.-1, para. 16.

App. (C.), No. 14.-3, para. 18.

collecting revenue. I am quite ready to admit the excellence of the police of Madras; but the impression that the inferior police officers resort to intimidation, and the infliction of pain, is as strong there as elsewhere, and it is a significant fact to which I myself can speak from my experience as occasional chairman of the grand jury during several years, that the evidence sent up by the clerk of the Crown almost invariably consisted of taliars and duffadars of the police, deposing to the discovery of stolen property.

With regard to remedial measures, I fully concur in the propositions of the Right honourable the President, viz.,—An immediate circular to all public officers, impressing on them the necessity of increased vigilance, the reform of the law for dealing with such offences, and the better organisation of the police. I am not however sanguine that these will suffice to eradicate the evil, but I trust they will still further check and diminish it. A system which is so widely and firmly established, which pervades the whole social system of the people, which is resorted to in their families, and enters into the ordinary discipline, by which their children are punished at school, cannot be overthrown in a day; even with more stringent laws, it will be very difficult to obtain convictions, unless they can be summarily administered. The only law at present which admits of dealing directly with such offences, is Regulation III., 1819, the provisions of which are wholly inadequate. Whenever a case is committed for trial before the Sessions Court, it is almost sure to fail through sympathy of the judicial servants and the facilities afforded for tampering with the evidence. It must be remembered that the perpetrators of such cruelties are almost always men of influence, and that they are of the same class, and often intimately connected with the judicial branch of the service. The failure to procure convictions in certain aggravated cases committed for trial at Masulipatam in 1852, strikingly illustrates the correctness of the above observations, for they related to some of the most grievous and undoubted cases of oppression that can be conceived, yet no convictions were obtained, and in reviewing the proceedings, the Court of Foujdaree Udalt regretted that in some of them the ends of justice had been defeated through the perjury of the witnesses. It is to this same cause that I attribute an impossibility of maintaining convictions passed by revenue officers under Regulation IX., 1822, and XXVII., 1828, when carried by appeal to the Civil Court.

I have already remarked, that I consider the most fertile source of oppression is to be found in connexion with the indirect exactions levied by public officers from the ryots. The practice I consider cannot be checked so long as annual ryot-war settlements of the revenue continue to be made. The machinery for such a purpose requires the employment of a very large body of inferior revenue officers, many of them receiving rates of remuneration lower than those of ordinary domestic servants. They are always men of education, that is, they are the best educated individuals of the community; they are expected to maintain a decent appearance, and the nature of their duties often requires them to keep a conveyance. It is absolutely impossible for them to do all these on the pittance allowed to them, and their means are eked out by illicit contributions derived from the ryots. I believe that a more permanent tenure of the land, which shall save the people from constant annual interference whilst it allows of a large reduction in the present description of inferior agency, and the better remuneration of those that remain, with the location of a larger number of European or other qualified controlling authorities throughout the extensive revenue and police districts into which the country is divided, are quite as essential to a successful repression of torture as any of the other measures that have been recommended.

(signed) *Walter Elliot.*

4 June 1855.

(No. 747.)

With the above letter, the Commissioners appointed under orders of Government, 9th September 1854, submit, with its appendices, their report upon the alleged employment of torture, for purposes of revenue or police, by the police servants in the Madras Presidency.

2. The Commissioners have conducted the inquiry confided to them with great care, judgment, and circumspection.

3. Their method of procedure was remarkably well planned, and the divisions under which they have arranged the information which they have collected, have been well selected.

4. The report itself has been drawn up in a highly satisfactory manner. Its language, and the tone of feeling which pervade it, sufficiently evince that all the points coming under discussion have received a fair, scrutinizing, and impartial investigation.

5. The evidence taken before the Commission, and forming their fourth head of testimony, has, as they point out, been given in *exparte*; but the Commissioners have, in the opinion of Government, shown that this mode of proceeding was unavoidable, and that it does not impair the validity of the conclusions at which they have arrived.

6. The Right honourable the Governor in Council is of opinion that the Commissioners have fully realised the confidence placed in them at the period of their appointment, and that they deserve the highest thanks of Government for the manner in which they have performed the very invidious and arduous duties imposed upon them. In acknowledging the receipt of the report, and in announcing the dissolution of the Committee, the Governor in Council has already apprised its members of the high value that the Government put upon their services; and he deems it now but due to them to avail himself of this present opportunity for placing on record his appreciation of their labours.

7. The Commissioners have been directed to forward to Government the papers yet remaining in their hands for disposal in the mode that they have recommended, and their Committee has been dissolved, the purpose for which it was appointed, having, in the opinion of the Right honourable the Governor in Council, been fully answered.

8. That object was, primarily, to ascertain the truth or falsehood of the alleged resort by public servants to the practices popularly designated as torture, as a means of collecting revenue. Subsequently the Commissioners were instructed to enlarge the field of their inquiry, and to extend it to the investigation of the employment of torture for police purposes.

9. That these practices do exist, the evidence which has been collected by the Commissioners and laid before Government, together with the returns of the collectors and judges, and of others unconnected with the services to the requisitions addressed to them by the Government on the 9th and 19th September last, render it impossible to question.

10. The evil, as newly disclosed, is shown to be of a most serious nature, pervading the whole of the native population, and helping most influentially to perpetuate the moral and social degradation in which the inhabitants of this country are sunk.

11. The evidence adduced by the Commissioners shows very clearly that this is no new thing, and it is satisfactory to find them stating their impression that a diminution of these practices has been gradually going on.

12. It is also satisfactory to find it conclusively established that these acts of cruelty are confined to native officials, and that so far from their being connived at or encouraged by the British rulers of the country, measures have constantly been in action to endeavour to prevent them.

13. These may not in all cases have been carried out with the degree of energy and determination which the serious nature of the offences deserved, but there have been doubtless many difficulties to overcome, which it is impossible for any one who has not made the attempt to estimate.

14. It now becomes a matter of the gravest consideration for this Government to decide on the course which it should adopt in the position in which it is placed, for they entirely concur in the opinion expressed by the Commissioners at the conclusion of their report, that the crisis demands instant action, and that the matter must not be allowed to slumber. It is not indeed to be expected that any measures which can be employed will suffice immediately to eradicate the evil. A system which is so widely and firmly established, which, as noticed by the

To Commissioners,
5 May 1855.

Gazette, 8 May
1855.

the Commissioners, pervades the whole social framework of the people, which is resorted to in their families, and enters into the ordinary discipline by which their children are punished at school, cannot be overthrown in a day. It must, however, be vigorously met and grappled with, and it is trusted that means may be adopted which shall at least greatly check and diminish the evil for the present, and pave the way to its entire extinction at, it is hoped, no distant date.

15. In the first place, the Government resolve to issue to all collectors, judges, heads of departments, &c., a circular to the effect following, viz. :

That the Government have received the Report of the Commissioners nominated to investigate the asserted resort to torture by public servants for purposes of revenue or police.

That the evidence submitted with the report leaves no room for doubt as to the existence of the practice of torture, which there is reason to fear is had recourse to, not rarely, by native public servants, both in police and revenue cases.

That although the great size of the districts under the Madras Presidency, and the paucity of the European agency employed in them, interpose difficulties in the way of granting full redress for grievances of this character, or of effecting the total and immediate suppression of practices which, however culpable, have long prevailed, and to which unfortunately the native mind would appear to have become habituated; yet, that the Government rely confidently upon their European servants to exert themselves to the very utmost of their powers and opportunities for the abatement of so great an evil.

That the Report of the Commissioners with the Appendices is being printed, and when finished will be distributed. That it appeared that the Commissioners had, during their sittings, referred to the local authorities several petitions which had been addressed to them by persons complaining of ill-usage or oppression, as also statements taken in writing from such parties on their presenting themselves before the Committee.

That petitions to a like effect which had not been examined by the Commissioners at the close of their proceedings, and had been made over by them to Government, would also be referred to the provinces for local inquiry.

That it was the desire of Government that all charges of maltreatment preferred in those statements or petitions against native public servants, revenue or police, wherein the act charged is alleged to have occurred within one year from the date of the Circular, should be judicially investigated by the proper authority, and that if they were brought fully home, the parties convicted, in addition to the punishment that may be awarded them under the regulations, should be dismissed from the public service, with a positive prohibition against their re-employment. The proceedings held in every such case should be reported briefly for the information of Government.

That the Government will not, except, under special circumstances, refer to them for inquiry cases of older date, nor will it be necessary for them to enter upon the examination of any charges of longer standing, that had been referred to them by the Commissioners, and that this limit had been fixed, both because by confining the inquiry to cases of recent occurrence, and therefore more readily susceptible of proof or disproof, there was the better chance of a satisfactory conclusion being arrived at; and also because to carry back the investigation farther, while it would impose much labour on the European officers, and occasion certain hindrance to the public service, would be unattended with any countervailing benefit. The object is not vengeance for the past, but security for the future, and the proceedings which will be held under the orders now given, will be sufficient to mark the view in which the Government regard these practices, and their determination to suppress them.

16. The Government now proceed to notice the causes which have been adverted to by the Commissioners as favouring the continuance of the abuses which they have exposed, and the remedies which they have suggested.

The former are the difficulties in the way of the aggrieved parties obtaining redress; the European officers to whom alone they could appeal with confidence for defence against oppression, being overwhelmed with multifarious duties, and burdened with the charge of extensive tracts of country, which it is beyond their power efficiently to supervise.

The defective state of the law for the punishment of abuse of authority by those invested with it.

Para. 82. The union of police and revenue functions in the same native servants. General combination of native officials, in which all, with some bright exceptions, from the highest to the lowest, are banded together for the common purpose of extorting illicit gain, and for mutual protection from discovery.

Para. 78. The remedies proposed are :—
 The larger employment of European agency.
 The amendment of the law.
 The separation of revenue and police powers.

Para. 82. The subjection of the police to independent European authority, the police force in each district being commanded by an officer who can give his whole undivided time and energies exclusively to that object.

17. In regard to the first of the causes above referred to, viz., the insufficiency in the districts under this Presidency of European agency, the Right honourable the Governor in Council must remark that the Commissioners, apparently from a laudable anxiety not to overstate their case, have in truth much understated it. In the tabular statement inserted in para. 73 of their report, the number of covenanted officers set down to the several districts, is in many instances in excess of the regular establishment, even if this were kept up to the authorised standard, and in almost all exceeds the number of the officers as they at present stand. In a very few collectorates are there more than four European magistrates on the fixed establishment; and one of these men is generally a young officer, not qualified to exercise full or separate authority. At present, however, few districts have their regular complement. Two of the largest provinces under the Madras Government, Cuddapah and Madura, have at present only three magisterial officers; and although the heads of these districts have urgently applied for more European aid, it has been wholly out of the power of Government to afford it. The enormous extent of their charges, the numerous duties imposed on them, render it absolutely impossible for magistrates to investigate more than a small proportion of the many complaints which come before them; and the untruthfulness and exaggerations of native testimony, combined with the proneness to false accusation from motives of enmity, induce in these officers suspicion and doubt. It is therefore rather a matter of astonishment that so much has been effected for the protection of the people, by men so overwhelmed with such multifarious labours, having such extensive tracts of territory under their jurisdiction, and with the scanty means and the very limited powers they possess, than that the protection of the ryots against their fellow countrymen is not yet more complete.

18. In the present state of the service it is not possible to add to the covenanted European agency in the several districts, but the Government have now under their consideration two measures which may go far to compensate for the deficiency.

19. The first is, that of augmenting the uncovenanted agency, and placing it in point of numbers, emoluments, and position upon an improved footing, and more nearly approaching that of the other Presidencies. The effectual carrying out of this measure would not only strengthen the hands of the European magistrate, but tend to the accomplishment of another object on which much stress has, with reason, been laid by the Commissioners, viz., the breaking up of those cliques, whereby, in many districts, nearly all the principal offices, revenue and judicial, have been thrown into the hands of the same caste, if not of the same family. The Commissioners would seem to think that those compacts are not confined to certain districts, but that all the native public servants, revenue and judicial, throughout the Mofussil, are banded together in one comprehensive league for purposes of mutual aggrandisement and protection; but this idea seems to the Right honourable the Governor in Council to be overstated. Doubtless community of feeling and identity of interest will produce the same results wherever they may be found to prevail, but the supposed combination embracing the whole country seems to Government to be somewhat overstated. At the same time, the predominance of one caste, and even of one family, which late inquiries have shown to exist in some districts, is of itself a formidable evil.

20. A further

20. A further means of relieving the covenanted magistracy may perhaps be found in the introduction of the system which has for some time past been under trial in the Bombay Presidency, viz., that of vesting the immediate charge of the police in a separate officer, holding it as a sole and distinct charge in general subordination to the head of the district. In a recent despatch the Honourable the Court of Directors have directed the attention of this Government to the Bombay police system, and at their suggestion reference has been made to Bombay for information on certain details. This has been just furnished, and the question is now engaging attention. Closely connected with it is the further measure of separating the native district police wholly from revenue officers, on which the Commissioners have written at some length. The Government are not insensible to the great importance of this question; it is, however, one of much difficulty and delicacy, and it is remarked that the Commissioners themselves rather refer to it as a matter deserving deep consideration, than express any decided opinion; it has, however, for some time been under consideration. It is certain, that to attain the object in view, no half measures will answer; the magistracy must be increased, and the police force must be rendered more efficient. To attempt to correct the evil by strengthening the one body without improving the other, must result in failure.

21. With regard to the remaining cause noticed by the Commissioners, as impeding the due suppression of acts of extortion and oppression, viz., the vague and defective state of the law for the punishment of abuse of authority on the part of public servants entrusted with it, and its dilatory and circuitous action, the Right honourable the Governor in Council resolves to request the Advocate General, and the Government Pleader to confer upon the subject, and to submit the draft of the Act which they would propose in amendment of the present law to be applicable to all cases of abuse of authority committed by public servants, or parties assuming to act as such, and either in the police or in the revenue department.

Report, para. 76.

Ordered that the following circular be issued.

(Circular.)

(No. 748.)

To
The

No.

Sir,

You will be aware from the announcement made in the "Fort Saint George Gazette," under date the 8th ultimo, that the Commissioners appointed to investigate the alleged resort to torture by public servants, for purposes of revenue or police, have submitted their report to Government, and that the Committee has been dissolved.

2. This Report, with its Appendices, is being printed, and, when finished, will be published for general information; copies will also be furnished to the revenue, judicial and magisterial officers in the provinces.

3. The evidence which has been submitted, both in the report, and in the replies from the local officers to the circulars from this office, under date the 9th and 19th September 1854, is such as, in the opinion of Government, to leave no room for doubt as to the practice of torture, or acts of violence, which there is reason to fear are resorted to, not rarely, by native servants, both in police and revenue cases.

4. The observations of Government, as contained in the Extracts Minutes of Consultation, 9th and 19th September last, which have been communicated to you, will have shown you the horror with which they regarded the bare idea of such practices, and their earnest desire that their existence, if they did exist, should be fully exposed, in view to their utter suppression.

5. That which, on the appointment of the Committee, was only feared or surmised, has since, both by their labours and by the reports of the local officers and other parties, been placed beyond doubt; and I am now directed by the Right honourable the Governor in Council to call upon you to make known as widely as possible the illegality of such proceedings, and the detestation in which

14 CORRESPONDENCE:—TORTURE BY NATIVE OFFICERS.

they are viewed by Government, and to co-operate to the utmost of your power with Government towards their extinction.

6. The Board of Revenue have already made arrangements for publishing in every village under this Presidency, a notice announcing the determination of Government to protect the ryots from all illegal coercion and oppression.

7. Such feelings or measures on the part of the authorities at the Presidency can, however, have but a feeble effect in abating the evil, unless they are heartily shared in and zealously seconded by the European covenanted officers in the provinces; and though the large size of the Madras districts and the paucity of European agency interpose much difficulty in the total and immediate suppression of practices which have so long obtained, and are so congenial to native ideas, yet the Governor in Council relies fully on your exerting yourself to the utmost of your power and opportunities for their abatement.

8. It is understood that during their sitting, the Commissioners have referred for inquiry to the local authorities several petitions which have been sent to them by parties complaining of ill-usage or oppression on the part of native public servants, as also sundry statements taken by them in writing from such parties on their appearing in person before the Committee. A number of petitions which had not been gone into by the Commissioners at the close of their proceedings has been made over by them to the Government office, where they will be examined, and such as may seem to deserve notice will be referred to the authorities in the provinces.

9. The Government will not, unless under special circumstances, refer for inquiry charges of maltreatment when the act alleged is stated to have occurred above a year from the date of this circular; nor will it be necessary for the local officers to enter upon the investigation of charges of longer standing, already referred to them by the Commissioners; but when the offence charged is of more recent date, it must be judicially investigated by the proper authority; and if fully brought home to the parties accused, they should not only on conviction be visited with such punishment as may be awardable to them by law, but should be dismissed from the public service, and be declared incapable of re-employment on any future occasion. The proceedings held in every such case will be briefly reported for the information of Government.

10. The Government have fixed the above limit, both because, by confining the inquiry to cases of recent occurrence, and more readily susceptible of proof or disproof, there is a better chance of a satisfactory conclusion being arrived at, and because to carry back the investigations further, would impose much labour on the European officers, and occasion certain hindrance to the public service, while it would be unattended with any countervailing benefit. The object is not vengeance for the past, but security for the future, and the proceedings which will be held under the orders above given will be sufficient to mark the view in the which the Government regard these practices, and their determination to suppress them.

Fort St. George,
7 June 1855.

I have, &c.
(signed) T. Pycroft,
Chief Secretary.