ART. XI.—*On the Introduction of Trial by Jury in the Hon. East India Company's Courts of Law, by the late* RÁM RÁZ, *Native Judge in Mysore, Member of the Royal Asiatic Society, Author of the "Treatise on Hindú Architecture," &c. &c. &c.; addressed to* H. S. GRÆME, Esq., *late Member of Council at the Madras Presidency.*

Read at a General Meeting of the Society, on the 16th Jan. 1836.

[IT will be of use to the future historian of British India, to know the precise periods at which the British government granted to the natives of the Island of Ceylon, and of the different parts of India, those rights which are alike calculated to elevate both their moral and their political character; and, also, to be enabled to refer to the opinions which were entertained at the time upon the subject, by the people of the country. One of the most important of these rights was that of sitting upon juries, and of being tried by juries of their own countrymen. It is, therefore, thought advisable to record the period, and to give some account of the circumstances under which the British government granted this right to the natives of the Island of Ceylon, and to the natives of the different parts of India; and, also, to give a copy of a paper written to Mr. GRÆME, the late Governor of Madras, by RÁM RÁZ, who was native Chief Judge of the Mysore country, and one of the most enlightened of the Hindú inhabitants of the peninsula of India.

In 1806, Sir ALEXANDER JOHNSTON, the late Chief Justice, and President of His Majesty's Council in Ceylon, after much communication upon the question with the natives of every caste and religious description on the island, formed a plan for granting the right of sitting upon juries, and of being tried by juries of their own countrymen, to all the natives of Ceylon. In 1808, having previously made a journey by land from Cape Comorin to Madras and back again, for the purpose of obtaining local information respecting the people and the country, and having, while on his journey, become thoroughly acquainted with the religious feelings and views of the natives of that part of India, he submitted his plan officially to the governor and council of Ceylon. In 1811, having been sent to England officially by the governor and council of that island, in order to explain the nature of the measure to his Majesty's ministers, and to induce them to sanction it; and having, with their approbation, got a charter under the great seal

for the purpose, he carried his plan into complete effect throughout the island of Ceylon. In 1817, when about to return to Europe, having, at the request of the late Sir THOMAS MUNRO, met him in the Peninsula, and explained to him the nature of the measure, and of the moral and political effects which it had produced on Ceylon, was authorised by Sir THOMAS to state to his Majesty's ministers, that he thought the measure perfectly applicable to the natives of the rest of British India. In 1825, in consequence of the communications which he had in 1817 with the late Sir THOMAS MUNRO, and being now in England, he proposed to the President of the Board of Control, to extend, as was subsequently done by act of Parliament, the right of sitting upon juries, and of being tried by juries of their own countrymen, to all the natives of British India who live within the local jurisdiction of his Majesty's three supreme courts. In 1827, Sir THOMAS MUNRO, then governor of Madras, having heard from Sir ALEXANDER the circumstances under which the legislature had passed that act, formed the resolution, as appears by his minutes of June of the same year, of extending this right to all the natives living under the Madras government. Sir THOMAS having died soon after, Mr. GRÆME, who succeeded him as temporary governor of Madras, acting upon the enlightened and honourable principles of Sir THOMAS, passed in council, and published the regulation of 1827, for gradually extending this right, under certain modifications, to all the natives living under the presidency of Madras. About the same time, RÁM RÁZ, one of the natives whom Mr. GRÆME had consulted upon the occasion, wrote, for his information, the paper of which the following is a copy; and which, whether considered as evidence of the thorough knowledge he had acquired of the English language, or as a proof of the correct views which he took of the question, does him the highest credit, and shews the advantage which may result, and the useful information which may be acquired in India, from consulting the natives upon every question which relates to the improvement of their moral and political situation.]

TO THE HONOURABLE H. S. GRÆME, ESQ.

&c. &c. &c.

HONOURABLE SIR,

WHEN I had the honour of visiting you a few days ago, you were pleased to express a wish that I would state to you in writing my opinion as to the expediency of introducing the mode of trial by jury, in criminal cases, which occur in the provinces subject to this

presidency. I have afforded the several points connected with the subject the best consideration I am capable of, and am happy to say, that the result is in perfect concordance with the view I had always taken of this matter. It is, undoubtedly, a measure the best calculated to answer the ends of justice, as well as to raise the character of the natives of this country; and no difficulty whatever presents itself, to my observation, as an impediment to its being carried into immediate execution.

I do not now exactly recollect the particular points on which you required information, but I shall consider the subject with reference only to the following: 1st. As to what is the general notion of my countrymen in regard to the proposed measure; 2dly. Whether the Hindú law contemplates any mode of trial similar to the one now under examination; 3dly. Whether such a mode of trial is open to corruption; 4thly. Whether there is any difficulty or inconvenience to be experienced by the persons called upon to sit as jurors in giving their attendance; 5thly. Whether such jurors will feel any religious scruples in finding a verdict against a Bráhman; and, lastly, whether they are likely to be possessed of such a retentive memory as to recollect all the circumstances of a case during the trial, especially when the case is of a complicated nature, and one in which a great number of evidences may have been adduced, and what means can be adopted for preserving such recollection in the jurors.

In regard to the general notion of the Hindús with respect to the proposed measure, it must be confessed, that there are some among them who might look upon it as an innovation upon the customs and usages of their country; but the enlightened portion of the Hindú community certainly give it all the credit it deserves; and so perfectly conscious are they of the beneficial effects that are likely to arise from it, that they are actually filled with gratitude towards their rulers for the extension to them of a privilege which has hitherto constituted the pride and "the bulwark of the rights of Englishmen." Where could we, indeed, find an individual who has any notion of national honour, that would prefer to receive his sentence from the hands of a Mahomedan law-officer in the pay of government? If it be granted that Hindús are not dead to such feelings of honour, this consideration alone must remove every idea that Hindús would ever be inimical to the adoption of the measure proposed. It is true, that when the act of parliament regarding the appointment of native juries in his majesty's courts in India first reached this country, some aversion was manifested by a few individuals at Madras to the adoption of the system; but then it must be considered that men are

naturally slow in adopting new principles or systems, however irrefragable or judicious they may be: nothing which has had the smallest symptom of novelty has ever met with the general approbation of mankind at its very first appearance. Such approbation has always been the result of time and experience. That the excellence of the system proposed is now fully appreciated, is evident from the alacrity and willingness with which my countrymen now enter upon the functions of jurors in the supreme court of judicature at Madras. Having thus far shewn the impossibility of Hindús entertaining any notion unfavourable to the mode of trial by jury, I shall now proceed to consider the next point, namely, whether the Hindú law contemplates any mode of trial similar to the one in question.

In order to a right determination of this point, it may, perhaps, be necessary to inquire into the details of the constitution of the Hindú courts, as laid down in books of authority. *Sabhá*, in Sanskrit, signifies a court, an assembly, a meeting. It is derived from *sa*, together, and *bhá*, to shine; and is applied to an association of respectable persons. *Sabhás* are divided, according to some, into four sorts, namely, *apratishthita*, temporary; *pratisthita*, permanent; *mudrita*, confirmed; and *sástrita*, constitutional. The first comprehends all assemblies occasionally convened for the purpose of deciding causes and disputes referred to them; the second includes all the established village and town-courts; the third is held by a chief judge, duly appointed by the king; and, in the last, the king presides in person.

In the *Smriti Chandrica*, a work on Hindú law of great celebrity both in the northern and southern parts of India, are enumerated fifteen different descriptions of *sabhás*, courts or assemblies. They are as follows: — 1. *Aranyasabhá*, an assembly of foresters; 2. *Sárthikasabhá*, that composed of merchants; 3. *Sénikasabhá*, the members of which were appointed from among military men; 4. *Ubhayánumatasabhá*, that chosen by the parties themselves; 5. *Grámavásisabhá*, composed partly of the villagers and partly of strangers, or of civil and military persons together; 6. *Grámasabhá*, a village court in which the *Mahájenams*, or heads of castes, are assembled to settle disputes arising in the village; 7. *Purasabhá*, a town or city court; 8. *Ganasabhá*, an assembly composed of all the four classes indiscriminately; 9. *Srénisabhá*, an assembly composed of all the inferior classes, or castes, such as washermen, barbers, &c. for deciding causes among their own tribes; 10. *Chaturvidyásabhá*, that composed of persons learned in all the four *sástras;* 11. *Vargasabhá*, an assembly of irreligious men; 12. *Kulasabhá*, a meeting composed of persons of the same family;

13. *Kulikasabhá*, in which the relatives of the plaintiff and defendant meet to discuss the matter; 14. *Niyuktasabhá*, a court held by a deputy, or chief judge, regularly appointed by the king with the *sabhásads*, or assessors. This was sometimes called *mudritasabhá*, as it was presided by the *prádvivéká*, or chief judge, in virtue of the king's *mudra*, or seal, with which he was entrusted; and, sometimes, also, *prádvivékasabhá*, after the name of the presiding officer; 15. *Nripasabhá*, or king's court, which is also called *sástrita*, because the king was assisted by persons skilled in *sástras*, and all decisions passed here were final. Of these fifteen descriptions of courts, the first three are called *apratishthita*, unsettled, because they were only occasionally held, and were liable to be removed from place to place; and all the rest, excepting the two last, are called *pratishthita*, fixed or permanent. An appeal lies from an inferior to a superior court in regular succession, or directly to the king's. The popular courts above described, from the number of persons of whom they were composed, and the facilities which they must have afforded in ascertaining the facts they were called to judge, present something like a jury, and appear to have produced all the advantages peculiar to that mode of trial, without the delay and vexation attending the forms introduced in more regular courts. But I am unable to ascertain to what extent the inferior courts took cognisance of criminal matters; there seems to be less doubt, however, as to their power in trying civil causes without any limit. They often appear to have acted as mediators between the parties who could not proceed to higher tribunals without passing the lower.

As to the organisation of the two last-mentioned courts *sástrita* and *mudrita*, and the duties of the officers of whom they were composed, abundant information is to be gathered from our law books; but I will only quote a few extracts which bear on these points, from *Vijnyánéswaríyam*, a commentary on the Institutes of *Yájnyavalkya*, which is consulted as the highest authority in southern India. This work, according to the practice of Hindú writers on law, is divided into three heads; namely, *áchára*, ceremonial rites; *vyavahára*, municipal law; and *práyaschitta*, expiations and purifications. The *vyavahára kánda*, or that part which treats of municipal law, opens with the following texts of *Yájnyavalkya*:—

1. "Let the prince investigate judicial disputes, accompanied by learned Bráhmans, in conformity to law, avoiding anger and avarice."

2. "Persons skilled in theology, well versed in law, who are addicted to truth, and make no distinction between an enemy and a

friend; these (and such as these) ought to be appointed as assessors (*sabhásads*) by the prince."

3. "A Bráhman, experienced in all institutions, shall be appointed with the assessors (*sabhya*), by a prince who is engaged in other affairs, and not able personally to conduct judicial investigation."

4. "The prince shall examine causes in succession, attentively fixing his mind and adhering to law and the opinion of the chief judge (*pradviváka*)."

5. "On the assessors (*sabhya*) who deviate from law through fear, favour, or hope of reward, punishment shall be inflicted double that to which the parties are liable."

It appears from the first, second, third, and fourth texts, as explained by VIJNYÁNÉSWARA, that the king, with learned Bráhmans, the chief judge (*prádviváka*), and the assessors (*sabhásads*), constituted the *sástrita*; and that the Bráhman, accompanied by the assessors, formed the *mudrita*, court. The commentaries explain,—they who sit in the court are termed *sabhásads*, assessors, or judges; they ought to be selected from the sacerdotal class, for KÁTYÁYANA says—"He shall be accompanied by assessors (*sabhya*) who are eminent, twice born, and well versed in the art of reasoning." The term being in the plural number, the number of assessors ought to be three, at least, as MANU has declared: "In whatever place three Bráhmans, skilled in theology, meet with the very learned Bráhman appointed by the king, the wise call that assembly the court of Brahmá *with four faces*." But VRIHASPÁTI says—"The court in which seven, five, or three Bráhmans, learned in theology and skilled in law, sit, is equal to an assembly for the performance of a sacrifice." The distinction between the Bráhmans mentioned in the first text, and the assessors *sabhásads*) described in the second, is pointed out by KÁTYÁYANA, who says,—"A king who investigates causes, accompanied by his chief judge (*pradviváka*), his ministers (*mantri*), his domestic priest (*purohita*), and assessors (*sabhásads*), shall, by the power of virtue, obtain bliss in heaven." VIJNYÁNÉSWARA further observes, that the Bráhmans mentioned above are not constituted (*anyukta*), and the assessors are constituted members of the court (*niyukta*), as it is declared, "Whether constituted members (*niyukta*), or not constituted members of the court (*anyukta*), they who know the law or fact ought to declare it;" and the commentator explains the passage by remarking, that the king should be admonished in the event of his acting contrary to justice by the constituted members of the court, and that, if they do not, they incur guilt, for KÁTYÁYANA says—"The assessors who follow him who commits injustice become sharers

in his guilt." But those who are not constituted members of the court, adds the commentator, incur guilt either by not giving information, or by not stating the truth, but not by not admonishing the king. The term "and such as these," in the second text, is explained as denoting a certain number of merchants of whom the court may be composed for the satisfaction of mankind.

The Bráhman mentioned in the third text, acted, in the absence of the king, as chief judge or magistrate, together with the assessors and Bráhmans. It does not appear by what name this officer is designated; but a competent knowledge of the law and established usages, an unblemished character, and a descent from a respectable family, are the qualifications required in the person holding the office; for KÁTYÁYANA says, "He must be capable of restraining his passions, well born, serious, not rash and violent. He must be in awe of the next world, benevolent, dexterous, and free from wrath." Where there is not an intelligent Bráhman to be procured, says the commentary, a *Kshatriya*,[1] or *Vaisya*,[2] may be appointed, but never a *Sudra*;[3] for the same author says, "A *Kshatriya*, or *Vaisya*, learned in law, may be employed where there is not an intelligent Bráhman; but a *Sudra* is by all means to be avoided."

The officer mentioned in the fourth text is the *prádviváka*, a term explained in the commentaries as signifying one who examines the pleading, and interrogates the parties in the suit; for VYÁSA says — "He who inquires into disputes with attention, accompanied by the assessors, by reason of his investigating suits, is called *prádviváka*." His duties were somewhat analogous to those of the English judges, whether the king presided or not; but, when the king was not present, he sometimes presided in the king's court, and, according to the opinion of his assessors, determined finally all civil suits, whether original or in the last resort. All criminal cases, however, were either tried before the king personally, or referred to him for confirmation; for the *prádviváka* is not authorised to inflict any punishment beyond reprimand. The duties of *sabhásads* are to judge of the facts and law of any case, whether the king, the *prádviváka*, or other officer, presided in the court. But there is a doubt whether, in criminal matters, the *subhásads* merely returned a verdict on the case, and the king, or the *prádviváka*, passed the sentence; or, whether the former, or the Bráhmans, mentioned before, explained the punishment, and referred it to be confirmed and executed by the royal authority.

[1] A man of the second, or military, tribe of Hindús.

[2] A man of the third, or mercantile, tribe.

[3] A person of the fourth, or servile, tribe.

The Pandits are inclined to think that the king, or *prádviváka*, merely carried the sentence into execution; many passages, too, which I have consulted on the subject shew that the king may set the sentence aside at pleasure. There is a text quoted in the *Smriti Chandrika*, however, which clearly points out the functions of the several members of the court. "The chief judge interrogates, the king executes; the *sabhyas*, or assessors, judge of the facts (*kárya pravartaká*), and the law determines the punishment." But some explain the word which I have translated *judge of the facts*, judge of the whole matter, and make it comprehend both the law and the facts. Be this as it may, it is clear on the whole, that the *sabhásads*, or *sabhyas*, so far as regards their verdict on the case, resemble the juries of the English court.

I hope I have shewn, by what precedes, that the Hindú law does contemplate trials similar to that of the English by jury, though differing in form and some non-essentials. Some might be disposed to think — and I have heard some persons maintain — that, as the *sabhásads* of the Hindú courts were composed of Bráhmans, the jurors should be selected from among that class. But this is not correct; for it is expressly ordained by MANU and others, that protecting mankind shall be the duty of a *kshetriya*; and VIJNYANÉSWARA, in the course of commenting on the first text of *Yajnyavalkya*, quoted above, interprets the word, *nripah*, prince, as "not applicable to a *kshetriya* only, but to persons of any class of people in whom sovereignty rests." This exposition is founded on natural reason; why then may we not, in like manner, explain the following text which describes the qualifications of the *sábhásads*, or assessors, as applicable to all classes of people, who are possessed of the abilities required. We cannot so explain it, the objector says, because the commentator interprets it differently, that "although it is only mentioned that they must be skilled in theology, yet they ought to be Bráhmans, for KATYÁYANA uses the epithet 'twice-born.'" Now, the term, *dwija*, "twice-born," may signify any of the three higher classes, viz. Bráhman, Kshatriya, and Vaisya; so that still the exposition of the text, as relating exclusively to Bráhmans, is objectionable. Moreover, the commentator explains the term "such as these," in the foregoing text, as implying "a certain number of merchants, of whom the court may be composed, for the satisfaction of mankind," and quotes a passage from KATYÁYANA to the same purport in support of this interpretation; which clearly shews that the office of *sabhásads*, or assessors, was never intended by the legislature to be confined to Bráhmans alone, but to all the three higher

classes, at least, who were the most respectable in the age in which the law was promulgated. But, in a worldly point of view, it must be remarked, that society has now assumed a different character from what it originally bore; many of the priestly class have abandoned their sacerdotal functions, and follow secular professions; while *sudras* have become more enlightened than formerly, follow the professions ordained for higher classes, and, in most respects, are in better circumstances than their priests generally are. In this state of the community, I do not see any objection to the juries being selected from all the respectable castes of Hindús; that is, Bráhmans, Kshatriyas, Vaisyas, and Sudras, indiscriminately, as is now done in the supreme court at Madras. These classes do not shew the least scruple to associate together, on a footing of equality, in temporal matters.

A few words with respect to the courts at present existing, or which have lately existed, under Hindú dynasties, would, perhaps, be desirable. I have not been able to obtain much detailed information on the subject; but, as far as I could collect, there is every reason to conclude, that popular tribunals once prevailed all over India, and still exist in many parts of the country. In the commencement of the Mahratta power in the Dekkan, a supreme court was established in the capital of the empire, presided by one of the eight *prádhuns*, or ministers, in his capacity of *nyáyatthipati*, or judge; and this office, though usually held by Bráhmans, was not altogether confined to that class of people. This court was abolished after the usurpation of the royal power by the prime minister, or, as he was commonly called, the *péshwa*. Latterly, the administration of justice and the collection of revenue were united into one department. Almost all the civil affairs, such as loans, contracts, inheritance, &c. were decided by the awards of *panchávet*, or arbitrators, regularly summoned from among the classes of merchants, and all criminal cases were determined by local authorities, excepting such as were capital, which were regularly referred to the head of the government, who alone retained the power of inflicting capital punishments and heavy penalties.

Nearly the same mode of administering justice is said to prevail at the present day in the dominions under the Rájá of Mysore. I am personally acquainted with several instances in which the *faujdár* at Bangalore, an officer who, as his name implies, must have originally belonged to the army, but at present acts as collector and judge of an extensive district, summoned an assembly called the *panchávet*, composed of all classes of people indiscriminately, to attend at his

kachahrí[1] for the purpose of deciding civil causes. Adultery, rape, &c. are commonly tried by a similar assembly of the people, often of the same class as that to which the offender belongs.

A digest of Hindú law, entitled *Saraswativilása*, attributed to PRATÁPARUDRADÉVA, one of the princes of the Kalinga dynasty, who reigned in the commencement of the fourteenth century of Salivahana,[2] attests the existence of regular courts in his dominions; and it is well known, that the rájás of Vijayanagara established tribunals, and administered justice under certain modifications, according to law, in their once flourishing empire; and it was under the auspices of its founder, that the *Mádaviyam*, a commentary on the Institutes of PARÁSARA, and *Dattamimansa* a tract on the law of adoption, were composed. That it appears that, after the destruction of the Vijayanagara empire, the viceroys of Madura and Trichinopoly abolished the courts which existed during the prosperity of the government to which they were tributaries; and though they substituted in their place some mode of judicial investigation, not exactly according to law, yet the memory of some of the princes of this dynasty is still held in high estimation for their justice and equity.

The constitution of the courts in the south under the Chola monarchs must have been strictly conformable to law, for the *Vijnyaneswariyam* is supposed to have been the standard of justice which they established throughout their kingdom; but these institutions did not survive the dynasty under which they were reared. The present Rájá of Tanjore[3] has for some years past established four different descriptions of courts, called *pratishthita sabhá*, *adhyaksha sabhá*, *mudrita sabhá*, and *uttara sabhá*, which have jurisdiction over the fort of Tanjore and the villages attached to it. The proceedings are conducted partly according to the Hindú law, and partly according to certain regulations framed in imitation of the practice of the Company's courts. The officer who presides in the *pratishthita* court is not a Bráhman, but a Mahratta of a different class. The *sabhásads*, or assessors, are said to act both as jurors, in finding a verdict, and as expounders of law, in passing sentence. In so limited a jurisdiction as that of Tanjore, cases of capital crimes must seldom occur. It was once the custom in Tanjore to refer most civil cases that were brought before the rájá to the *mahájenams*, or the assembly of the inhabitants

[1] A hall, or court of justice.

[2] The era in general use throughout the south of India. The king whose name it bears, commenced to reign A.D. 78.

[3] Sirfojee Rájá.

of the village in which the cause of action arose; and their decisions, if approved by the rájá, were carried into execution. Much can be gathered in this way to prove the existence, in this country, of trials similar to that now proposed to be introduced. The *Asiatic Journal*, Vol. XXIII. No. CXXXV., from page 329 to page 339, in speaking of the judicial system observed in the Dekkan, adverts to decisions by PANCHÁYET, through whom a tolerable dispensation of justice among the people is said to have been effected. I have known several instances in which the trial of civil causes established in the Company's territories, subject to this presidency, has given more satisfaction to the parties than they might have otherwise had; and I can safely say, that it has produced all the benefits contemplated wherever the parties had recourse to the system, and made a judicious choice of an honest and respectable body of inhabitants for the purpose. But, after all, it is, I presume, altogether unnecessary to trace through the books on law and history for a pattern of any measure that is newly proposed for the good of the public. It is for the government to alter, improve, or originate such measures, from time to time, as are best calculated to forward the due administration of justice; and when the objects contemplated by such measures are known to the people, it is impossible they can dislike them on the flimsy ground of their not being sanctioned by former usages and customs.

With respect to the third point, namely, whether such a mode of trial is open to corruption, much need not be said, unless it be maintained that the generality of Hindús are of such a moral turpitude as to be dead to every sense of honour and shame. But this I hope will never be proved; for, without any partiality to my countrymen, I can boldly affirm, that the Hindú character exhibits as much nicety and exquisiteness of good feelings as that of any other enlightened nation in the universe. That there are bad and good, however, in every community, cannot be denied; but it will always be for those authorities by whom the juries are summoned, to select men of probity and unimpeachable character for the purpose. With regard to the Muhammedan law officers now employed in the several courts, I really do not see that they are less liable to be betrayed into corruption, if possible, than a body of Hindús chosen to sit as jurors. Corruption proceeds from avarice, or an inordinate and mean love of lucre, which very often overcomes every moral principle; and as that passion, when once indulged, has no bounds, the certainty of a fixed salary from government can prove but a feeble check against it, if those nobler principles of man do not intervene and make him look down upon all that is mean and worthless.

The Hindús, it is true, have been represented on various occasions as a race of people almost incapable of correction or amendment. They are, indeed, described as being devoid of all religious and moral feelings, sunk in ignorance, and addicted to all the vices that degrade human nature. But those European writers who have ventured to give them such an indiscriminate character, evince a degree of injustice and partiality in their assertions that would be hardly credible to those of their own countrymen who have more liberal views, and who have had better opportunities of ascertaining the fact. The works of these writers have, no doubt, contributed materially to raise the current of prejudice in the minds of Europeans in general against the natives to such a pitch, that it is hardly possible to anticipate a period, however distant, when experience and a closer connexion with the inhabitants of the eastern world will dispel the gloom which prejudice has shed around them, and bring them out in their native colours to the view of their European rulers. We are aware, however, that Europeans in general, from the nature of the situations they hold in India, as well as from their different religious principles, manners, and customs, cannot so nearly associate with their Hindú brethren, and, consequently, do not, unfortunately for India, possess such frequent opportunities of learning their real character. A thorough knowledge of the manners, feelings, and principles of a people can be acquired only by a free and unreserved intercourse with them, and a perfect acquaintance with their literature and science; but these opportunities and facilities, so essential to form a judgment of the people of this country, must have fallen to the lot of very few Europeans. It were vain, therefore, to look into the disagreeable picture drawn by superficial observers for any thing like a resemblance; they could, at best, only have copied their outline from a distant view, and painted it with the colours of their own imagination. It is uncharitable, indeed, to attach obloquy to a whole people from a few solitary instances of depravity, and to carry our prejudice against particular individuals and sects into the general body to which they belong; but that such has been the case with many cannot be denied. How absurd would it be, if the natives of this country were to judge of the character of the English people from the principles of the generality of that class of them who come out to this country as soldiers and sailors? And yet the inferences which most European writers have drawn regarding the native character appears to be founded on no better grounds. It is to be hoped, however, that at no distant period the more curious and impartial portion of Europeans will undertake to develope, from their

own personal experience, that with which their prejudiced countrymen have hitherto endeavoured to amuse the public at the expense of all that is dear to a nation, and consult the valuable productions of those great men, whose extensive knowledge of the manners, customs, and literature of this country, so eminently qualified them to form a more accurate opinion on the character of the people. The dread that I shall be charged with too great a diversion from the main purport of my letter, in vindicating the character of my countrymen, prevents my treating more largely upon this head. I shall, therefore, proceed to consider the fourth point, namely, whether there is any inconvenience or difficulty to be experienced by those who are called upon to sit as jurors in giving their attendance.

Hindús, as well as Muhammedans, are, it is true, generally very loath to travel or be absent from their homes, unless some pressing avocation or imperious necessity renders it unavoidable; but travelling in the present case, which is, indeed, the only inconvenience or difficulty that I see likely to be experienced by distant residents that may be called upon to attend as jurors at the sessions, will, I venture to say, be felt pleasant from the consciousness of the preference shewn to them in their being selected to perform the proud office of judges on the acts of their countrymen. But, as it is proposed that such travelling expenses shall be reimbursed to them, and as provisions may be made to avoid a person being summoned on jury oftener than once in two years, even that inconvenience or difficulty can be hardly felt; and I must not, at the same time, do my countrymen the injustice to believe, that they would not very willingly sacrifice a small portion of their ease and convenience, and even undergo some small expense to the service of the government under which they thrive, as the price of that protection and support which they obtain from them.

The fifth point which now follows to be considered is, whether Hindú jurors will feel any religious scruples in finding a verdict against a Bráhman. The Hindú law, it is true, does not subject the Hindú Levites to the same punishments and penalties as it does the other orders of Hindús; but few persons will be found in this part of India who can be so superstitious as not to perceive the injustice of that part of their law which, fortunately for the community, has long been superseded by other systems, and now remains a dead letter in their code. After all, the infliction of punishments and penalties rests with the court—the jury have nothing to do with them; they are merely called upon to declare, whether the person accused (be he a Bráhman, a Kshatriya, a Vaisya, or a Sudra) is *guilty*, or *not guilty*, of the crime with which he is charged. No

part of the Hindú law, with which I am acquainted, interdicts their freely declaring their opinion as to a Bráhman being guilty of a crime which he may, from evidence, appear to have actually committed. And this knowledge, moreover, on the part of the Hindú jurors, that the culprit will be convicted, if culpable of it, without even the instrumentality of a native jury, must remove any disinclination on their part to find a verdict against a Bráhman.

As to the sixth and last point, namely, whether native jurors are likely to be possessed of so retentive a memory as to recollect all the circumstances of a case which is of a complicated nature, and in which a great number of evidences may have been adduced, and what are the means to be adopted for preserving such recollection, I shall only advert to the many differences and disputes that are almost daily decided and disposed of by arbitration among the Hindús. Many of these cases are of a very complicated nature; and the native arbitrators do not find any difficulty in keeping in recollection all the circumstances connected with them. And in cases where that difficulty is likely to be felt, notes may be taken down by the jurors of the particular facts and evidences; or, if the judge will give himself the trouble of summing up the evidences, and make the case appear to the jury in all its different bearings, as is done by the judges of the supreme court, all objections upon this point must vanish.

In conclusion, I must beg to apologise for my inability to treat the subject in the manner it deserves. It were desirable, indeed, that the task had been consigned to abler hands. I have merely given my own free and unbiassed opinion on the several points about which you were pleased to question me, and have stated all that has occurred to me regarding them. Soliciting the favour, therefore, of your kind acceptance of this my humble attempt to handle a subject far above the reach of my limited acquirements,

I have the honour to be, honourable Sir,

Your most obedient and humble servant,

Madras, May 10, 1828. RÁM RÁZ.