mitted orally or through writing. Before the advent of printing it was assumed that texts "swarmed with errors" because of the unreliability of the scribes, leading to the corruption of the original and pure version created by the author.

Europeans in the nineteenth century saw literature as being conditioned by history, with an author knowing and building on great works of thought that he or she, through an act of genius and originality, could affect. Kamil Zvelbil has argued that Indians do not order their literature in a temporal linear fashion, but rather by structure and type. Literature in India "has a simultaneous existence and composes a simultaneous order." He has also pointed out that persons are constituted differently in India than in the West. In India they are less unique individuals and more incumbents of positions in a social order that existed before they did and will continue to exist after their deaths. Poets or writers before the nineteenth century, Zvelbil states, did not invent or create a poem or a literary work, rather they could only express "an unchanging truth in a traditional form" and by following "traditional rules."

The delineation of the cumulative effect of the results of the first half-century of the objectification and reordering through the application of European scholarly methods on Indian thought and culture is beyond the scope of this essay. The Indians who increasingly became drawn into the process of transformation of their own traditions and modes of thought were, however, far from passive. In the long run the authoritative control that the British tried to exercise over new social and material technologies was taken over by Indians and put to purposes which led to the ultimate erosion of British authority. The consciousness of Indians at all levels in society was transformed as they refused to become specimens in a European-controlled museum of an archaic stage in world history.

56 CHAPTER TWO

THREE

LAW AND THE COLONIAL STATE

IN INDIA

I N THE SECOND HALF of the eighteenth century, the East India Company had to create a state through which it could administer the rapidly expanding territories acquired by conquest or accession. The invention of such a state was without precedent in British constitutional history. The British colonies in North America and the Caribbean had from their inception forms of governance that were largely an extension of the basic political and legal institutions of Great Britain. The colonizing populations, even when drawn from dissident political and religious groups in Great Britain, still were thought of as English or British. The laws of these colonies were the laws of Great Britain.

The indigenous populations encountered in North America were quickly subjugated, relocated, or decimated, and even though there continued to be, from the colonial perspective, a "native" problem, it was a military and political one, requiring little in the way of legal or administrative innovation. In the Caribbean colonies, the indigenous population had all but been destroyed before British sovereignty was established, and the basic form of production through the plantations worked with enslaved labor was largely responsible for the maintenance of law and order. For the whites, the system of governance was much like that of the North American colonies. Only in Ireland, and to a lesser extent in Wales and Scotland, did the British face a colonial problem that required innovation. The solution in Ireland was the establishment of a Protestant landholding elite, with the virtual creation of plantations that a depressed Catholic peasantry provided with labor and rents.

Creating Instrumentalities of Rule in Colonial India

In all the British overseas colonies, at least until 1776, there was little debate concerning the role of the Crown and Parliament and about the basic jural and legal institutions of rule. Debates in Great Britain and raised overseas by white colonists shared a common discourse, were based on assumptions about the nature of the state and society, and could be encompassed within the existing institutions of rule. The con-
or extracted from Indian rulers-for example, the grant of Dewani of Bengal in 1765, which made the company's system of governance could do so on the basis of royal grants and assessment and collection of the revenues of Bengal. Concerns with legitimacy were to become central political issues from 1760.

The East India territories in which the company was acting as the state, were stable and deeply entrenched. The sheer size of the eastern territories and the huge numbers of people becoming subjects of the East India Company were seen as signs that some of the existing state forms should be adopted. The key resources of India were the products of labor, not natural ones, and they involved a well-developed market system. In Bengal and parts of south India, the East India Company had succeeded in acquiring control of the financial resources of the state in the form of taxes, through which they could acquire commodities for export and support the buildup of military power to defend their territories from Indian and French adversaries. The East India Company had over time acquired many of the attributes of a state, in European terms. It could wage war, make peace, raise taxes, and administer to its own employees and to increasing numbers of Indians who inhabited the territories in which the company was acting as the sovereign.

Debate centered on the question of whether a private company that was exercising state functions could do so on the basis of royal grants and charters. What responsibilities did such a private company have for the well-being and prosperity of its subjects? These and many subsidiary issues were to be argued and to become central political issues from 1760 to 1790. By 1785, a dual principle of sovereignty had been established. The East India Company could administer its territories in its own name for the profit of its stockholders—but under regulations passed by Parliament, which would periodically review the adequacy of the company's system of governance in India. Although employees of the company owed allegiance to the British Crown, the natives of India—they, peasant or territorial rulers allied to the East India Company—did not. The company claimed its legitimacy in India from grants received or extracted from Indian rulers—for example, the grant of Dewani of Bengal in 1765, which made the Company the responsible agent for assessment and collection of the revenues of Bengal. Concerns with constitutional questions, at home and in India, and with the construction of legitimacy that would enable the Company to act as the state, were complex and difficult, but it was the pragmatics of building its administrative instrumentalities of rulership that were to engage those in India who were most directly concerned with the management of the company's territories.

In 1765 Clive wrote to his employers, the Court of Directors of the East India Company, informing them of the Mughal's grant of the Dewani of Bengal and claiming that the company "now became the Sovereigns of a rich and potent kingdom" and that they were not only the "collectors but the proprietors of the nawab's revenues." The directors' response to this news was less than enthusiastic, because they believed that Englishmen were "unfit to conduct the collection of revenues and to follow the subtle native through all his arts, to conceal the real value of his country, to perplex and elude the payments." Instead, the directors envisioned their British servants supervising the collection and spending the revenues. There was a contradiction in what they were recommending, since the assessment and collection of land revenue was a complex and difficult job and in the hands of Indian specialists. If the British could not master the details of the revenue system, they would be dependent on those "subtle natives," who could "perplex" them at every turn. When in 1772 the British attempted to control their Indian subordinates by going into the "field," it was, as a modern historian has written, "a journey into the unknown. . . . At every step they came up against quasi feudal rights and obligations which defied any interpretation in familiar Western terms. The hieroglyphics of Persian estate accounts baffled them. . . . They could not easily master the language in which ancient and medieval texts relating to the laws of property were written; for tradition recorded only in memory and customs embedded in a variety of local usages wielded an authority equal to that of any written code." In the British cultural system, the capacity to assess taxes was inextricably linked with law. The courts established and protected property rights and were the instrument for enforcing payment of the "king's share of the revenue." The British in India initially tried to find who "owned" the land, so that person could be made responsible for payment of revenue. In theory this seemed simple, but in practice, as Guha suggests, it was fraught with difficulties. Forms of knowledge that would enable the foreign rulers to frame regulations that would guarantee their obtaining what they thought was the just share of the surplus of agricultural production had to be acquired or created. After 1765, the British so badly managed the task of assessing and collecting land revenue that within five years they found that their actions had caused a horrendous famine, in which they estimated that a third of the population of Bengal had died. The famine left in its wake large tracts of land that
were uncultivated and rapidly turning into wasteland. Hence they added to their perplexing efforts to create information a theoretical set of questions about how best to revive agricultural production in Bengal. Both the famine and the revenue policies of the British also led to a breakdown in law and order; roving gangs (dacoits) began to prey on a helpless peasantry and to disrupt trade.

Hastings and the Redefinition of Traditional Forms of Authority and Rule

Warren Hastings, who had a successful career in India as a commercial and diplomatic agent for the East India Company, was appointed in 1772, under a new parliamentary act, to the newly created position of governor-general and was instructed by the Court of Directors to place the governance of the Bengal territories on a stable footing. Hastings had to contend both with Indian complexities and British venality. Since 1757, appointments to the East India Company’s service in Bengal were viewed as means of quickly attaining a fortune and, on return to England, the life of a successful country gentleman. He was also constrained by a cumbersome form of government by a council of five, of which Hastings was in effect only first among equals. The crucial actor in Hastings’ plan for the better administration of Bengal was to be a British officer designated a “collector.” The collector would have mixed executive and judicial powers in a defined area, a “district,” whose boundaries followed preexisting Mughal revenue units termed circars, which were the constituent units of the subas (provinces). Hastings had invented the emblematic figure of British imperialism who was to appear in Africa, Southeast Asia, and the southwest Pacific, the man on the spot who knew “the natives,” who was to represent the forces of “law and order.”

The premise of Hastings’ plan was the idea that during the seventeenth century the Mughals had an effective administrative structure, clearly not based on European principles, but nonetheless consonant with Indian theory and practice. He was also aware that during the previous fifty years in Bengal this system had all but crumbled under almost constant warfare, maladministration, the growth of local chieftains who had usurped imperial powers, and the privatization of public offices.

Having been a scholar at Westminster, Hastings brought to his task a good “classical” European education. Perhaps more important for the first fifteen years of his career, even though concerned with the East India Company’s trading activities, he was stationed up-country near the court of the last of the effective nawabs of Bengal. There he acquired first-hand knowledge of how an Indian state functioned and could not totally share the prevalent British ideas that Indian rulers were despotic, corrupt, and extortionate. He believed that Indian knowledge and experience as embodied in the varied textual traditions of the Hindus and Muslims were relevant for developing British administrative institutions.

One of the first Persian works to be translated into English was the Ain-i-Akbari, by Abu’l-Fazl, an “account of the mode of governing” under the most illustrious of the Mughal emperors, Akbar. The account is part prescriptive and part descriptive. It contains the rules and regulations by which the Mughal court governed, but it also offered detailed discussions of the properties of a good ruler, vivid accounts of the varieties of animals kept by the king, of how to lay out a camp, and of how jewels and other valuable items were classified. Also included were what the British thought of as more practical matters—the regulations of the judicial and executive departments, a survey of the lands, and a “rent roll” of the Mughal empire.

Hastings encouraged a group of younger servants of the East India Company to study the “classical” languages of India—Sanskrit, Persian, and Arabic—as part of a scholarly and pragmatic project aimed at creating a body of knowledge that could be utilized in the effective control of Indian society. He was trying to help the British define what was “Indian” and to create a system of rule that would be congruent with what were thought to be indigenous institutions. Yet this system of rule was to be run by Englishmen and had to take into account British ideas of justice and the proper discipline, forms of deference, and demeanor that should mark the relations between rulers and ruled. According to one of his biographers, Hastings “had to modify and adapt the old to fit English ideas and standards. He had to produce a piece of machinery that English officials could operate and English opinion tolerate ... to graft Western notions and methods on to the main stem of Eastern Institutions.”

However these tasks were to be accomplished, they had to pass the basic test applied by the owners of the East India Company—that the administration should produce a fixed and regular return in the form of revenue, which was to pay all the expenses of the colonial state as well as provide a profit for the investors. Throughout the history of the company and its successor, the imperial Government of India, the best indicator of efficiency of the administration was its capacity to collect 100 percent of the assessed revenues. The British logic of administration rested on the capacity to classify actions into prefixed domains. If payment were made in cash or in kind by an agriculturalist to a superior, who appeared to have “rights” to the land, these payments were “rent.”
the receiver was a “landlord,” and the payer was a “tenant.” If the receiver of payments appeared to have a political function, maintained an army, provided protection, supported religious institutions, and displayed emblems of sovereignty, then the payments were taxes and the relationship constituted that of ruler and subject.

Hastings’s “collector” in addition to his executive functions as a tax collector, was to preside over two courts. One, which dealt with revenue and civil litigation and followed Hastings’s understandings of Mughal practice, was called the court of Dewani; the other, which dealt with internal order and criminal law, was called the Faujdari court. The substantive law to be administered in the Dewani court was Hindu law for Hindus and Muslim law for Muslims. In the Faujdari courts the law to administer was “Muslim” criminal law; in the Dewani courts the collector was to preside along with his Indian assistant, the dewan. Sitting as a judge, the collector was to establish the “facts” in the case based on testimony, usually in the form of depositions from witnesses, and the documentary evidence was placed before the court. The dewan and a Hindu law officer (pandit) were to find the “law” that was applicable to the case. If the dispute to be adjudicated involved Muslims, the law that applied was to be determined by a Muslim law officer (maulavi). It was assumed that in both traditions there were legal texts that were in effect “codes,” which were known and could be interpreted by legal specialists (usually referred to by the British as “law professors”) who could provide authoritative decisions on the particular sections of the codes that applied. In stressing the importance of using “Indian law,” as it could be objectified out of textual traditions, Hastings was rejecting the prevalent European theory that the Indian state was despotic.1

India as Lawless: The Despotic Model

The word “despot” is derived from a Greek word applied to the head of a household, and from this point of view, to govern despotically was to rule “as a master over a slave.” By extension, to the Greeks, despotism meant arbitrary rule, and Aristotle “made this extended meaning apply specifically to certain governments, in which legitimate royal power was intrinsically the same as master over slave.”

Alexander Dow, an East India Company servant, prefaced his translation of Ferishta’s History of Hindostan, a history of the Muslim conquerors of India published in 1770–72, by writing:

The history now given to the public, presents us with a striking picture of the deplorable condition of a people subjected to arbitrary sway; and of the instability of empire itself, when it is founded neither on law, nor upon the opinions and attachments of mankind. . . . In a government like that of India, public spirit is never seen, and loyalty a thing unknown. The people permit themselves to be transferred from one tyrant to another, without murmuring; and individuals look with unconcern upon the miseries of others, if they are capable to screen themselves from the general misfortune. This, however, is a picture of Hindostan in bad times, and under the worst Kings. As arbitrary government can inflict the most sudden miseries, so, when in the hand of good men, it can administer the most expeditious relief to the subject. We accordingly find in this history, that the misfortunes of half an age of tyranny, are removed in a few years, under the mild administration of a virtuous prince.6

Dow, and other English historians as well, stressed that the arbitrariness of the political order caused the salient characteristic of despotism to become the insecurity of property. The British believed that the Mughal emperor “owned” all the land of Hindustan and could distribute in the form of grants and jagirs to support the military nobility (omrah or amirs) throughout their lifetime or during his lifetime. They also believed that at the death of the emperor or a noble the land escheated to the throne (but Dow recognized that in many cases such grants were renewed and given to a son of the holder). They understood that some of the Hindu kingdoms, such as those ruled by the Rajputs in western India, were in effect held in perpetuity by ruling families as subjects of the Mughals and were confirmed by payment of an annual tribute.

As with property, so also with honors. The Mughal emperor was thought to be the sole source of all honors in the state. These honors were not hereditary, as they usually were in England. They lasted only for the lifetime of the person to whom they were granted. The British believed that this prevented development of a status group in the polity that could check the arbitrary power of the emperor, as in European states.7 In the model of the Mughal empire created by the British, there was no primogeniture for inheriting the throne (masnad), and each succession of a Mughal was accompanied by a bloody war: “The power of disposing of the succession naturally belongs to a despot. During his life, his pleasure is the law. When he dies his authority ceases.” The Mughal might nominate one of his sons, not necessarily the oldest, but the son must still fight for the throne. A “prince must die by clemency, or wade through the blood of his family to safety and Empire.”8

Although it was recognized that there was “law” in India, that “law” was believed to be different from the European kind. Because the government was seen as based on “no other principle than the will of one [the Mughal],” the law was based upon his will, and hence, argued
Orme, there could not be “any absolute laws in its constitution; for these would often interfere with that will.” Orme believed that in 1752 there were “no digests or codes of laws existing in Indostan: The Tartars who conquered this country could scarcely read or write; and when they found it impossible to convert them to Mohammedanism left the Hindus at liberty to follow their own religion. To both these peoples (the lords and slaves of this empire), custom and religion have given all the regulations at this time observed in Indostan. . . . Every province has fifty sects of Hindus; and every sect adheres to different observances.” The British realized that there were a large number of judicial officials in India, and a regular system of courts, with the Mughal’s darbar (court) at the top, and that redress was always open to the subjects of the emperor by going to his court to seek justice. But the courts found in the country were thought to be “extremely venal.” Orme described the process of the administration of justice thus:

The plaintiff discovers himself by crying aloud, Justice! Justice! until attention is given to his importunate clamours. He is then ordered to be brought before his judge; to whom, after having prostrated himself, and made his offering of a piece of money, he tells his story in the plainest manner, with great humility of voice and gesture, and without any of those oratorical embellishments which compose an art in freer nations. The wealth, the consequence, the interest, or the address of the party, become now the only consideration. . . . The friends who can influence, interfere; and, excepting where the case is so manifestly proved as to brand the failure of redress with glaring infamy (a restraint which human nature is born to reverence) the value of the bribe ascertains the justice of the cause.

Still the forms of justice subsist; witnesses are heard; but brow-beaten and removed; proofs of writing produced; but deemed forgeries and rejected, until the way is cleared for a decision, which becomes totally or partially favourable, in proportion to the methods which have been used to render it such. . . . The quickness of decisions which prevails in Indostan, as well as in all other despotic governments, ought no longer to be admired. As soon as the judge is ready, everything that is necessary is ready: there are no tedious briefs or cases, no various interpretations of an infinity of laws, no methodized forms, and no harangues to keep the parties longer in suspense.

Providence has, at particular seasons, blessed the miseries of these people with the presence of a righteous judge. The vast reverence and reputation which such have acquired, are but too melancholy a proof of the infrequency of such a character.

In summary, the model of the Mughal-Indian political system was absolute and arbitrary power, unchecked by any institution, social or political, and resting in the person of the emperor, with property and honors derived solely from the will of the despotic ruler. There were no fixed rules of inheritance and, above all, no primogeniture; succession to the throne was based on an inevitable struggle among the sons of the emperor. Justice was dependent not on the rule of law but on the rule of men, who could be influenced by money, status, and connection in the exercise of their office of judge.

The idea that India had been ruled by “despots” was valorized in the nineteenth and twentieth centuries as one of several ruling paradigms that formed the ideological infrastructure of British rule in India. In its cleaned-up version it was expressed thus: Indians are best ruled by a “strong hand,” who could administer justice in a rough-and-ready fashion unfettered by rules and regulations. The courts, their procedures, their regulations, and the propensity of Indians to perjury and to the suborning of witnesses only served to delay justice and made the simple peasant folk of India the prey of the urban-based lawyers, merchants, and agitators. This would lead to the alienation of the “natural” loyalty the masses always felt for the strong, benevolent despot. As benevolent despots, the British were to appear in several forms—as “platonic guardians,” as patriarchs habitually addressed by the simple folk as ma-bap (mother and father), as authoritarian rationalist utilitarians, and in times of crisis as the not-so-benevolent Old Testament avengers.

India as a Theocracy: Classical Models of the Indian State

Simultaneously with the development of the despotic model, Hastings and some of his associates in Calcutta were elaborating a countermodel of India as a theocratic state. This model included established and highly detailed codes of conduct that had the power of law and had already been worked out in the ancient era (as far as Hindus were concerned) and since the time of the Prophet in the sacred law (for Muslims). For both Hindu and Muslim law there were extensive bodies of texts and commentaries and sophisticated legal specialists who were the maintainers, expositors, and interpreters of these legal traditions.

In 1772 and 1773 a parliamentary committee was investigating the affairs of the East India Company and trying to decide what institutions of governance were most appropriate for restoring law, order, and prosperity to the company’s territories. In this context, influenced by the “India as despotic” theory, it was argued that because there was no law in India, British law and institutions should be introduced into the vacuum. On hearing these reports, Hastings lobbied influential members of the Court of Directors and Parliament to prevent this, arguing that Brit-
ish law was too technical, too complicated, and totally inappropriate for conditions in India. He declared that the "ancient constitution" of Bengal was very much intact. Writing to the Lord Chief Justice in 1774, Hastings denied the validity of the idea that India was ruled by nothing more than "arbitrary wills, or uninstructed judgements, or their temporary rulers" and the notion that "written laws are totally unknown to the Hindoos, or original inhabitants of Hindostan." The Hindus, Hastings averred, "had been in possession of laws which continued unchanged, from remotest antiquity." These laws were known to the Brahmans ("professors of law," found all over India) and supported by "public endowments and benefactions." These professors received a degree of personal respect amounting almost to idolatry. This attitude of reverence for the Brahman specialists in law was so entrenched that it was left unmolested even by Muslim governments.

The logic of Hastings' model of Hindu law read as "an ancient constitution" required that it be made accessible to the British who now were sitting as judges in the civil courts and would have to pass judgment on disputes "concerning property, whether real or personal, all cases of inheritance, marriage and caste; all claims of debt, disputed accounts, contracts, partnerships and demands of rent." Some way to authoritatively establish the content of Hindu law to be administered in the East India Company's district courts had to be found. To this end, Hastings persuaded "eleven of the most respectable pandits in Bengal" to compile from the shastric literature on Hindu law a code that could be translated into English for the newly appointed judges to use. Because at the time there was no European in Calcutta who knew Sanskrit, the compilation by the pandits was translated first into Persian and then from Persian into English. As if this chain of translations is not tortuous enough, the Persian translation was done by a Bengali Muslim, who would discuss in Bengali with one of the pandits the passages being translated and then gloss them into English for the appointed judges to use. At the time, there was no European in Calcutta who knew Sanskrit, the compilation by the pandits was translated first into Persian and then from Persian into English. As if this chain of translations is not tortuous enough, the Persian translation was done by a Bengali Muslim, who would discuss in Bengali with one of the pandits the passages being translated and then gloss them into English. The English translation from the Persian was by a young civil servant, N. B. Halhed, and published in London in 1776 as A Code of Gentoo Laws; or, Ordinances of the Pandits. In his preface, Halhed described how the work had been produced:

The professors of the ordinances here collected still speak the original language in which they were composed, and which is entirely unknown to the bulk of the people, who have settled upon those professors several great endowments and benefactions in all parts of Hindostan, and pay them besides a degree of personal respect little short of idolatry, in return for the advantages supposed to be derived from their studies. A set of the most experienced of these lawyers was selected from every part of Bengal for the purpose of compiling the present work, which they picked out sentence by sentence from various originals in the Sanskrit (sic) language, neither adding to, nor diminishing any part of the ancient text. The articles thus collected were next translated literally into Persian, under the inspection of one of their own body; and from that translation were rendered into English with an equal attention to the closeness and fidelity of the version.

The original compilation in Sanskrit was termed Vivadarnacasetu, "bridge across the sea of litigation," and was circulated in Persian, Sanskrit, and English versions and used in the East India Company's courts until the early nineteenth century. The two leading scholars of the code disagree about its relationship to the legal traditions of eighteenth-century Bengal. Derrett argues that the topics covered—"Debt, Inheritance, Civil Procedure, Deposits, Sales of Strangers' Property, Partnership, Gift, Slavery, Master and Servant, Rent and Hire, Sale, Boundaries, Shares in Cultivation of Lands, Cities, and Towns and Fines for Damaging Crops, Defamation, Assault, Theft, Violence, Adultery, Duties of Women"—were topics Hastings believed would be useful in the district courts. He also asserts that the order in which the sections appear "does not correspond with anything known to the usual Shastric texts," that the pandits were working on a list of topics supplied by Hastings.

In a detailed study of Halhed's career, Rosane Rocher argues that the Sanskrit version of the code was a "traditional compilation of the nibandha type, i.e., excerpts from a variety of authoritative sources, and extensive commentary." She attributes the difference between her interpretation and Derrett's to the fact that his was based on the English version of the code, which does not accurately reflect the Sanskrit original. The enduring significance of Halhed's translation has much less to do with the further development of the East India Company's legal system than with its role in establishing indological studies in Europe, where the work was read in English, and in translation in French and German, for information about the "mysterious" Hindus.

In his preface to the translation of the Gentoo code, Halhed makes it clear that his interests were not primarily legal, but concerned more with explicating Hindu thought, religion, and customs in relation to establishing a policy of toleration on the part of the British toward the conquered Indians. Halhed held up the model of the Romans, "who not only allowed to their foreign subjects the free exercise of their own religion and the administration of their own civil jurisdiction, but sometimes, by a policy still more flattering, even naturalized parts of the mythology of the conquered, as were in any respect compatible with their own system." Halhed's reference to Roman imperial policy adumbrates the next phase of British efforts to find a basis for their legal
system with respect to Hindu personal law in the work of Sir William Jones.

Sir William Jones (1746–1794), a classical scholar who studied Persian and Arabic at Oxford and qualified as a barrister, had by the time of his appointment to the Crown Court in Calcutta, in 1783, published a number of translations of Arabic and Persian works and written one of the first modern Persian grammars. In addition, he had an active political career and was a major intellectual figure of the time. Jones had long lobbied his political friends for an appointment as a judge in India, which he hoped would provide him with financial security and the opportunity to further his orientalist studies. He originally did not think he would learn Sanskrit because he was too old, but as he began his judicial career in India he found that Halked's code was badly marred—"rather more curious than useful." There were Persian translations of some Sanskrit legal texts, but Jones believed these were defective, too. He was therefore at the mercy of "native" lawyers, as were the other British judges, and he determined to learn the rudiments of that "venerable and interesting language," Sanskrit, in order that the "stream of Hindu law remain pure." By 1786, Jones felt his Sanskrit was good enough that he could decide between differing opinions of his pandits by reading the "original tracts" and pronouncing whose interpretation of the law was correct.

Shortly after his arrival in India, Jones sent Edmund Burke, the leading critic of the administration of the East India Company in Bengal, his ideas for the "Best Practicable System of Judicature." British law, Jones wrote to Burke, could not become the law of India because that would be counter to the very nature of an established legal system. There was no doubt in Jones's mind that British law was superior to the law existing in India, but even "a system of liberty, forced upon a people invincibly attached to opposite habits, would in truth be a system of tyranny." The system of judicature "affecting the natives of Bengal" had to be based on the "Old Mogul constitution." The basis of the law to be administered in the company's court should be digests of "Hindu and Mahomedan laws" compiled by "Conogos [keepers of land records] and Maulavis and Pandits," whom Jones (and most of the British at the time) considered to be a combination of legal scholars and practicing lawyers. There should be attached to the East India Company's court "native interpreters of the respective laws," but the honesty and competence of these interpreters had to be guaranteed by careful selection and by pay adequate to place them above temptation. The British judges, however, had to be in a position to be able to "check upon the native interpreters." This was to be accomplished through the "learning and vigilance" of the British judges. "The laws of the natives must be preserved inviolate," and the decrees of the courts must be "conformable to Hindu or Mahomedan law."

If the system Jones hoped to see implemented was to succeed, it would require that several forms of knowledge become codified and public. The British judges and other officials would require access to what Jones and others believed at the time was "the Hindu and the Mahomedan law," locked up in the texts and the heads of pandits and maulavis. A fixed body of knowledge that could be objectified into Hindu and Muslim law had to be found. This body of knowledge could be specified, set into hierarchies of knowledge linearly ordered from the most "sacred" or compelling to the less powerful.

Jones and others believed there was historically in India a fixed body of laws, codes, that had been set down or established by "law givers" and that over time had become corrupted by accretions, interpretations, and commentaries. They also believed that this jungle of accretions and corruptions of the earlier pure codes was controlled in the present by the Indians the British thought of as the Indian lawyers! An Ur-text that would simultaneously establish the Hindu and Muslim law and free the British from depending on fallible and seemingly overly susceptible pandits and maulavis for interpretations and knowledge had to be found or reconstituted. The task also had to be accomplished somehow by using the knowledge that their Indian guides, the mistrusted pandits and maulavis, seemed to monopolize. Even before arriving in India, Jones seemed to distrust Indian scholars' interpretations of their own legal traditions, a distrust that grew in India. He wrote to Governor-General Cornwallis in 1788 that he could not with "an easy conscience concur in a decision, merely on the written opinion of native lawyers, in any case, in which they could have the remotest interest in misleading the court." Jones wanted to provide the British courts in India, the Crown, and the East India Company with a sure basis on which to render decisions consonant with a true or pure version of Hindu law. Then the pandits, the Brahmans, and the Indian "lawyers" henceforth could not "deal out Hindu law as they please, and make it at reasonable rates, when they cannot find it ready made."

What began as a kind of personal effort to correct what he saw as the villainy or venality of some of the law officers of the court was to grow within a few years of Jones's arrival in India into a much more ambitious project to compile a "complete digest of Hindu and Mussulman law." In proposing this to the acting governor-general, Jones worried that if his plan were known to the officials in London he would be accused of "proposing to be made the Justinian of India." By 1787, Jones had formulated a plan for the administration of justice in India that he believed would be in accord with the Indians' own principles of jurisprudence.
The goal was to develop "a complete check on the native interpreters of the several codes." Jones wanted a "complete digest of Hindu and Muslim Laws, on the great subjects of Contracts and Successions." He hoped to have two pandits and two maulavis at 200 rupees a month, and two writers (one for Sanskrit and one for Arabic) at 100 rupees a month. The modus operandi would be that of Tribonian, compiler of the Justinian code, and the digest would consist of only "original texts arranged in a scientific method." Jones then went on to describe the texts he wanted to abstract and translate:

I would begin with giving them a plan divided into Books, Chapters, and Sections; and would order them to collect the most approved texts under each head, with the names of the Authors, and their Works, and with the chapters and verses of them. When this compilation was fairly, and accurately transcribed, I would write the Translation on the opposite pages, and after all inspect the formation of a perfect index. The materials would be these; Six or Seven Law Books believed to be divine with a commentary on each of nearly equal authority; these are analogous to our Littleton, and Coke.²⁷

In March 1788, Jones formally wrote to Cornwallis to request government support for this plan. He reiterated the argument that the compilation and its translation into English would establish a "standard of Justice" and that the English judges would have access to them the "principles" and "rules of law applicable to the cases before them." Thus Jones hoped Cornwallis would become "the Justinian of India," and Jones by implication would become the Tribonian. The British government would give to the natives of India "security for the due administration of justice among them, similar to that which Justinian gave to his Greek and Roman subjects," Jones wrote to Cornwallis.²⁸ Cornwallis was quick to agree to support Jones's efforts to assemble the pandits, maulavis, and munshis to carry out his ambitious plans.²⁹ From 1788 until his death in Calcutta in 1794, Jones continued to devote as much time as he could spare from his regular judicial duties to supervising the assembling and collating of the materials that were to become the Digest. At his death in 1794, the compilation in Sanskrit and Arabic texts was complete, and he had begun translating them into English.³⁰ By 1797 the English translation was completed by H. T. Colebrooke and published as The Digest of Hindu Law on Contracts and Successions in Calcutta in 1798.

The Court of Directors of the East India Company expressed their respect for Jones's achievements in India by commissioning a monument placed in St. Paul's Cathedral by the sculptor John Bacon (the Younger). Jones in the statue is depicted wearing a toga, with pen in hand and leaning on two volumes that "are understood to mean the Institutes of Meno.³²

Jones, and especially his successor, Colebrooke, established a European conception of the nature of Hindu law that was to influence the whole course of British and Indo-British thought and institutions dealing with the administration of justice down to the present. There was an inversion and contradiction in Jones's efforts to fix and translate what he believed to be the crucial aspects of Hindu law. Jones was trained in English common law, which although it embodied principles, legislation, ideas of natural law, and the concept of equity and justice, was essentially seen as case law. Case law was a historically derived law based on the finding of precedent. It was flexible and above all subject to multiple interpretations by judges and lawyers. Jones and other jurisprudents of his time saw the English common law as responsive to historical change. Because the manners of a nation of people—or today we might say their culture—could change, legislation would be ineffective "unless it was congenial to the disposition, the habits, the religious prejudices, and approved immemorial usages of the people for whom it was enacted."³³ But it appears that Jones believed that even though manners, habits, dispositions, and prejudices were not fixed or immutable, the Hindus of India had usages that were fixed from time immemorial. Unlike the British with their case law, in which a lawyer could trace changes both in manners and in customs as well as in the law, the Hindus therefore lived a timeless existence, which in turn meant that differences in interpretations offered by pandits must have arisen from ignorance or venality.

Jones and the British believed that the original or earliest legal text was assumed to have the most authority. Jones's conception of Hindu law was that its authority was seen by Hindus to derive from its "sacredness" and its antiquity. The authoritativeness of Hindu law was compounded by the texts being written in Sanskrit, which as a language was unchanging, ancient in origin, and sacred. Colebrooke, translator of the Digest, believed that "the body of Indian law comprises a system of duties religious and civil."³⁴ This being the case, the portions of the texts dealing with what the British thought of as ethical and religious matters—instructions for rituals, incantations, speculative philosophy, and even rules of evidence—all had to be excised to produce what the British thought of as the rules determining "contracts" and "succession." The object was to find and fix a Hindu civil law concerned with the topics that Jones, a Whig in political and legal philosophy, was centrally concerned with—those rights, public and private, that affected the ownership and transmission of property.

Jones, like Hastings, rejected the idea that India's civic constitution was despotic. He believed that in antiquity in India there had been
Colebrooke and the Discourse on the Nature of Hindu Law

Colebrooke, who completed the translation of Jones’s Digest after his death in 1794, had been appointed to the East India Company service in 1782. His father was a banker who had an active role in the management of the company. Educated at home, Colebrooke had a good knowledge of classical languages and a special interest in mathematics. The latter interest led him in India to study Sanskrit, as he wanted to acquire knowledge of the “ancient algebra of the Hindu.” In 1795 he was posted as a judge in Mirzapur, where he had access to the Hindu college in Banaras recently founded by the East India Company “to preserve and disseminate a knowledge of Hindoo law” and to “collect treatises on the Hindoo religion, laws, arts and science.”

With access to this collection and to pandits in Banaras, Colebrooke’s interest shifted from mathematics to Hindu thought, culture, and law. He was a much better Sanskritist than Jones, and he developed a quite different conception of the nature and function of Hindu law. He also had much firmer grasp on the nature of shastraic texts and their history. More than any Englishman, Colebrooke fixed an interpretation of the Hindoo religion, laws, arts and science.

“Legislators” and “lawgivers,” of whom Manu was “not the oldest only, but the holiest.” What Manu and subsequent commentators had therefore created was “a spirit of sublime devotion, of benevolence to man-kind, and of amiable tenderness to all sentient creatures . . . [that] pervades the whole work; the style of it has a certain austere majesty that sounds like the language of legislation and extorts a respectful awe.” Jones wanted to restore to India its laws, which pre-dated the Islamic invasions. To be content and productive under British rule, the 30 million black subjects of the East India Company, whose well directed industry would add largely to the wealth of Britain, needed no more “than protection for their persons, and places of abode, justice in their temporal concerns, indulgence to their prejudices of their own religion, and the benefit of those laws, which they have been taught to believe sacred.”

While English jurisprudence of Jones’s time sought certainty in the law, through either “rationality” or an ultimate appeal to ideas of natural law, Hindu jurisprudence sought flexibility through fixed means to interpret what had been revealed to man in terms of principles of right action and proper duties. A British lawyer schooled in case law was skilled in finding precedent in the case record and by analogy relating this precedent to a particular case. The Hindu lawyer, a logician and dialectician, sought reconciliation of conflicting interpretations through analysis of meanings and intentions. It must be remembered that Colebrooke, unlike Jones, was not trained in English law and did not have knowledge of Roman law—aspects that marked Jones’s intellectual approach to Hindu law. Colebrooke’s solution to the problem of conflicting interpretations was to suggest that there were regional variations or differences that led to the “construing of the same text variously.” Ultimately, Colebrooke attributed the variations to historical and cultural differences in India, “for the whole Hindu people comprise diverse tongues; and the manners and opinions prevalent among them differ no less than their language.”

Colebrooke organized the differences conceptually, in what he termed “schools” of Hindu law. Ludo Rocher has argued that the invention of the concept of schools of Hindu law “engrafted upon Hindu law an element which was foreign to it.” The source of Colebrooke’s conceptions, Rocher argues, was based on several misconstructions. Colebrooke viewed the commentaries on Hindu legal texts as the work of “lawyers, juriscounsels and lawgivers” reflecting “the actual law of the land.” This
was analogous to early modern English jurisprudes who sought English law in the varied customs of different parts of Great Britain. The second misunderstanding was the analogy made between Hindu law and Muslim law. The British were familiar with Muslim law, with its relatively clear distinctions between Sunni and Shia, with the Sunni having four variations: Hanafi, Shafi'i, Maliki, and Hanbali. Colebrooke seems to have analogized this to Hindu law, yielding a symmetrical set for Hindu law to match what were thought of as the schools of Muslim law.

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Colebrooke believed that the text, compiled by Jagannatha under Jones's direction, was defective because it did not order the "discordant opinions maintained by the lawyers of the several schools" of Hindu law. In Colebrooke's view each school had fixed "doctrines," and English judges therefore needed access to "those authentic works in which the entire doctrine of each school, with the reasons and arguments by which it is supported, may be seen at one view and in a connected shape."

If those Indian scholars who were cooperating with the British could not compile the texts that demonstrated the stability and completeness required for the administration of Hindu law in British courts, European methods must be used to achieve these ends. Colebrooke's solution was to supply a chronology to establish the authenticity the texts seemed to lack. The search for the oldest text was supposed to yield the most authoritative and authentic statement. If one could establish a chronological sequence of texts and trace them to a single original source, the tremendous variation added by subsequent commentators could also be controlled. Indian texts did have authors. Frequently one author cited another, and some texts appeared to contain bare facts about the relative chronological ordering of authors and commentators, but information on the history and age of authors was "very imperfect, as must ever be the case in regard to the biography of Hindu authors." An agreed-on authoritative, fixed chronology was not established. Gradually over the next forty years, after Jones announced his intention to provide Hindus with their own laws through the mediation of English judges assisted by court-appointed pandits, a peculiar kind of case law came into being. At base there might be reference to a text of a particular author who was thought to represent the norm of a particular regional school, but it is the chain of interpretations of precedents by the English judges that became enshrined as Hindu law in such collections as Thomas Strange's *Elements of Hindu Law*.

After the reform of the judicial system in 1864, which abolished the Hindu and Muslim law officers of the various courts of India, and after the establishment of provincial high courts, publication of authoritative decisions in English had completely transformed "Hindu law" into a form of English case law. Today when one picks up a book on Hindu law, one is confronted with a forest of citations referring to previous judges' decisions—as in all Anglo-Saxon-derived legal systems—and it is left to the skills of the judges and lawyers, based on their time-honored abilities to find precedent, to make the law. What had started with Warren Hastings and Sir William Jones as a search for the "ancient Indian constitution" ended up with what they had so much wanted to avoid—with English law as the law of India.
FOUR
THE TRANSFORMATION OF OBJECTS INTO
ARTIFACTS, ANTIQUITIES, AND ART IN
NINETEENTH-CENTURY INDIA

This chapter explores how things are fabricated and how they are transformed into objects that have value and meaning. The context is India and Great Britain in the nineteenth century.

An object, be it a fired piece of clay, a bone, paper with colors applied to it, a lump of metal shaped into a sharp point, a shiny stone which is polished, a feather, everything that we think of as existing in nature, can be transformed through human labor into a product which has a meaning, use, and value.

A pot shard dug up and placed in a museum with a label identifying and dating it becomes a specimen along with thousands of others, which establish, for the archaeologist, a history. A bone found in a particular geological formation becomes a fossil for a palaeontologist to read as part of an evolutionary sequence. For someone else this bone ground up becomes an aphrodisiac. The paper covered by paint is a god; in another time and place, it is a work of art. A piece of cloth fabricated for presentation marking the alliance between two families through a marriage becomes a bedspread. A piece of metal shaped and sharpened and used as a weapon by a great warrior becomes for his descendants an emblem of his power, and is carefully stored away in an armory, to be brought out in times of trouble to rally a failing army. In the hands of his enemies, it raises another set of questions about the production and meaning of objects through which this relationship was constructed were found, discovered, collected, and classified as part of a larger European project to decipher the history of India.

It was the British who, in the nineteenth century, defined in an authoritative and effective fashion how the value and meaning of the objects produced or found in India were determined. It was the patrons who created a system of classification which determined what was valuable, that which would be preserved as monuments of the past, that which was collected and placed in museums, that which could be bought and sold, that which would be taken from India as mementoes and souvenirs of their own relationship to India and Indians. The foreigners increasingly established markets which set the price of objects. By and large, until the early twentieth century, Indians were bystanders to discussions and polemics which established meaning and value for the Europeans. Even when increasing numbers of Indians entered into the discussion, the terms of the discourse and the agenda were set by European purposes and intentions.

From the inception of direct trading relations between Great Britain and India in the early seventeenth century, India was looked upon as the source of commodities, the sale of which in Europe and Asia would produce profits for the owners and employees of the East India Company. Textiles in bulk and value came to be the primary Indian product imported and sold by the Company in Europe. Hence it was through these textiles that India was primarily known to the consuming classes in Britain and western Europe. The impact of Indian cloth was to play a major role in creating what Chandra Mukherji terms "modern materialism," and the development of industrial capitalism, in the efforts of eighteenth-century British entrepreneurs to find technological means by which British labor could organize to compete with Indian-made textiles. One gets a sense of how deeply embedded Indian goods are in Anglo-American culture through our language, in which so many terms relating to cloth have their origin in India. In addition to those Indian products which were essentially seen as utilitarian goods, there was scattered interest in the sixteenth and seventeenth centuries in items thought of as curios and preciosities, or what today might be thought of as "collectibles." These include odd paintings, both by Indians and Lusho-Indians, inlaid ivory chests and other items of furniture, jewelry and precious stones, swords and weapons to be used as decorative items.
The major interpretative strategy by which India was to become known to Europeans in the seventeenth and eighteenth centuries was through a construction of a history for India. India was seen by Europeans not only as exotic and bizarre but as a kind of living museum of the European past. In India could be found "all the characters who are found in the Bible" and the "books which tell of the Jews and other ancient nations." The religion of the Gentoo was described as having been established at the time of Adam and Eve in the garden of Eden, and preserved by Noah; or the religion of "the seed of those who revolted against Moses" and the worshipers of the "molten calf." The Brahmans were Levites or Nazarites; Jains, Rehabites. Indians were, for some Europeans, the direct descendants of one of the lost ten tribes, for others the manners and customs of Indians derived from the ancient Egyptians who were the descendants of Ham, the son of Noah.

The Bible and the medieval patristic literature offered another interpretation of the culture and religions of India for the European travelers: this was the home of traditional enemies of Christianity, Satan and his devils. One of the earliest of the British travelers in India knew what the religion of the Gentoo was all about.

But above all, their horrid Idolatry to Pagods (or Images of deformed devils) is most observable: Placed in Chappels most commonly built under the Bannyan Trees. A tree of such repute amongst 'em, that they hold it impiety to abuse it, either in breaking a branch or otherwise, but contrarily adorne it with Streamers of silk and ribbons of all colours. The Pagods are of sundry sorts and resemblances, in such shape as Satan visibly appears unto them: ugly faced, long black hair, gog'd eyes, wide mouth, a forked beard, horns and straddling, mishapen and horrible, after the old filthy forme of Pan and Priapus.

To have found the devil and Satan in India was not strange and unusual to the Europeans, as they knew they were there all along. Recent scholarship has tended to stress that European accounts of the peoples of the New World, Africa, and Asia, dwelt less on the strangeness of the "other" but rather on their familiarity. The "exotics," writes Michael Ryan, could be fitted into a familiar web of discourse, as they were after all heathens and pagans, and "no matter how bizarre and obnoxious he appeared the unbaptized exotic was just that—a heathen." When traveling in a strange land, even meeting an old enemy, the devil, is something of a comfort.
property, of the centralized state and kingship, of pastoralism or settled agriculture, became markers of progress or the lack thereof.

The British found that some parts of India were still at the feudal stage of development. Indian modes of production were at a pre-industrial stage, whose products could be taken to represent what Europe had lost through industrialization. India was to be provided with a linear history following a nineteenth-century positivist historiography as well. Ruins could be dated, inscriptions made to reveal king lists, texts could be converted into sources for the study of the past. Each phase of the European effort to unlock the secret of the Indian past called for more and more collecting, more and more systems of classification, more and more building of repositories for the study of the past and the representation of the European history of India to Indians as well as themselves.

The State and the Surveying of the Indian Past

The capture of Seringapatam in 1799 and the final defeat of Tipu Sultan begins the direct involvement of the Company's government in a systematic effort to explore and document India's past. The Company now controlled most of India south of the Vindhyas mountains, completing a military and diplomatic conquest begun fifty years earlier. This victory, combined with Lord Lake's entry into Delhi in 1803, ended whatever doubts there were that the British were now the conquerors of India and had fulfilled Alexander's historical ambitions. The death of Tipu, the arch villain in the emergent British hagiography of India, provided the necessary counterpoint to construction of the British as valorous, virtuous, and above all, triumphant conquerors.

The Company had a governor-general, Lord Wellesley, who matched the times. Unlike the owners and managers of the Company, who rarely looked beyond the ledger sheets, Wellesley had an imperial vision of the future of India. His first move was to establish a college in Calcutta, where the young employees of the Company who were no longer just "agents of a commercial concern" were to be trained "as ministers and officers of a powerful sovereign." In addition Wellesley recognized the need for the systematic collection of information about the natural resources, the arts and manufactures, and the social and economic conditions of the inhabitants of the newly acquired territories of south India. To this end Wellesley established several surveys, the model of which can be seen in John Sinclair's statistical surveys of the highlands of Scotland.

In the late eighteenth and early nineteenth centuries the term "statistical" did not imply as it does today the collection, aggregation, and presentation of numerical data, rather it implied collection of information thought necessary and useful to the state. Since the time of William Camden (1551–1623) information had been collected and published about current conditions, history, and antiquities of various localities in Great Britain. Central to this endeavor was the location and description of old buildings, ruins, sites of ancient settlements, collection of family histories and genealogies, as well as the description of local customs and laws, thought to be antique or unusual.

Wellesley established three separate surveys of the Mysore territories, one under the direction of colonel Colin Mackenzie, which was to embrace "two great leading objects, Mathematical and Physical." Another was under the direction of Francis Buchanan (Hamilton), who was instructed by Wellesley that the primary object of his enquiries "should be the agriculture of the country," and Benjamin Heyne, who under Mackenzie's direction was to collect botanical and geological specimens.

Little is known of the first twenty-eight years of Mackenzie's life. He was born and grew up in Stornoway on the Island of Lewis in the Hebrides, his father a merchant, and the family had connections with the owners of the island, the Seaforths. He had, early on, shown great talent in mathematics, and assisted Lord Napier of Merchiston in the writing of a biography of his ancestor John Napier, the inventor of English logarithms. It would appear it was in connection with an interest Merchiston had in Hindu mathematics that an appointment in the Madras Engineers was obtained for Mackenzie in 1783.

For a short while after his arrival in India in 1782, Mackenzie worked with Lord Merchiston's daughter in Madurah, along with several brahmins employed to collect materials on Hindu mathematics. Soon, however, his official duties prevented his pursuing his interests in "collecting observations and notices of Hindoo manners geography and history." Mackenzie's military duties took him to most of the provinces south of the Kistna river, but frequent transfers, and the demands of his military profession, prevented him from learning any of the "native languages." Any opportunity for systematic study of "objects" and "traits of customs and institutions that could have been explained, had time and means admitted of the inquiry" was lost.

Mackenzie credited his meeting and subsequent association with Cavelli Venkata Boria, a Telugu brahman, in 1796 with enabling him to enter into "the portal of Indian knowledge." Boria was twenty when he was employed by Mackenzie to act as his interpreter and more importantly to direct a growing staff of Indians, who were to be employed for the next twenty-one years by Mackenzie in traveling throughout south India, collecting texts, inscriptions, artifacts, and all kinds of historical
and sociological information. Some of this vast amount of work was done with official patronage as an adjunct to Mackenzie's topographical surveying and mapmaking. Mackenzie was eventually to become the surveyor general of India. Boria at twenty had studied Sanskrit, Persian, Hindustani, and English, in addition to knowing Tamil and Telugu. At the age of sixteen he held his first job with the British as a writer and interpreter.18 Until his death at the age of twenty-six in 1803 he accompanied Mackenzie, recording temple inscriptions, deciphering obsolete scripts, and translating books, manuscripts, and documents. In addition Boria, according to his brother Cavelly Venkata Ramayya, wrote poems in Sanskrit and Telugu, including a poetical account of the fall of Seringapatam.

Mackenzie's ambition was to compile the source material necessary to write a history of south India. The Mysore Survey continued for almost ten years. Mackenzie summarized the results of this work:

1. The discovery of the Jaina religion and philosophy, and its distinction from that of Buddha.
2. The different ancient sects of religion in this country, and their subdivisions—the Lingacanta, the Saivam and Pandaram Mats, etc.
3. The nature and use of the Sassanama, and inscriptions on stone and copper, and their utility in throwing light on the important subject of Hindu tenures; confirmed by upwards of 3,000 authentic inscriptions collected since 1800, hitherto always overlooked.
4. The design and nature of the monumental stones and trophies found in various parts of the country from Cape Comorin to Delhi, called Virakal and Maastikal, which illustrate the ancient customs of the early inhabitants, and, perhaps, of the early western nations.
5. The sepulchral tumuli, mounds, and barrows of the early tribes, similar to those found throughout the continent of Asia and of Europe, illustrated by drawings, and various other notices of antiquities and institutions.19

The most active period of the Survey was from 1800 to 1810, when Mackenzie became chief engineer for the expedition sent to Java. Here had remained until 1813, where along with his military duties he initiated a survey similar to that being carried out in south India.20 Mackenzie then returned to his post as surveyor of Madras, and in 1815, somewhat against his wishes, he was transferred to Calcutta and appointed surveyor general of India. This enabled him to travel widely and explore much of north India. Mackenzie brought with him to Calcutta much of the staff who had worked with him in Madras, who were to be engaged in trying to organize the vast amount of materials which they had collected during the previous twenty years. Subsequent to Mackenzie's death in 1821, this staff was to come under the charge of H. H. Wilson, who had been successful in having the Company establish an antiquarian department in Calcutta. This office was staffed by four translators, four pandits, a maulavi, and several copyists and peons. Wilson's primary interests were in the Sanskrit language and Persian, which he viewed as "the chief vehicle of the modern history of India." He had no knowledge of and little interest in the languages and history of south India.21 Wilson had little interest in maintaining Mackenzie's staff, except as they were concerned with Sanskrit and Persian. The directors of the Company were long interested in Mackenzie's efforts to collect the materials to write a true history of south India. In 1810 they strongly expressed their admiration for the zeal with which he had carried out his statistical work and his "enquiries into the history, the religion and antiquities of the country."22 They congratulated Mackenzie for providing the basis on which a real history and chronology of south India could be written, dispelling the idea that the "Hindoos possess few authentic records." They encouraged him to "digest and improve the materials" which he had collected and urged him to forward them for deposit in the Company's museum.23 They also asked for an accounting of his own funds which he had expended so that he might be recompensed. It appears that Mackenzie never supplied the accounting.

In 1823 Palmer & Company, the executors of Mackenzie's estate, submitted a detailed accounting of his expenditures in assembling his collection, amounting to Rs 61,452. Palmer & Company pointed out that the accounting was based on scattered records and that the figure was undoubtedly an underestimate. They asked that the estate be paid Rs 100,000, a figure which the governor-general agreed to, but which the Court of Directors rejected.24 Eventually, though, the court of Directors did agree to purchase the whole of the collection from Mackenzie's widow for Rs 10,000.25 Wilson, although he had little knowledge of the languages involved, and who seems to have dismissed most of Mackenzie's staff, undertook the task of organizing and publishing a catalogue of the papers, with excerpts, which appeared in two volumes of over eight hundred pages in Calcutta in 1828.

Wilson basically followed Mackenzie's own classification of the materials, which included 1,568 manuscripts in 13 languages in 19 scripts, which he described as dealing with "Literature." There were 264 volumes of what Mackenzie labeled "Local Tracts"; these were primarily based on oral accounts which Mackenzie's assistants had collected, and which related to the history of particular temples, kingdoms, families, and castes. There were also 77 volumes of copies of inscriptions recorded from temples, copper plates, and various grants, 75 volumes of translations, 79 plans, 2,630 drawings, 6,218 coins, 106 images, and 40 antiquities.26
Mackenzie, after Boria's death, established Boria's younger brother Cavelly Venkata Luchmiah as his chief assistant who trained and supervised the work of obtaining and collecting the vast array of materials in the collection. Luchmiah's original monthly reports for 1804 provide an excellent account of how the varied materials were obtained. The reports are in Luchmiah's handwriting, in English, which although somewhat ungrammatical—he had difficulties with tenses—are quite clear and understandable. In the reports, he describes where he and the other collectors have gone, and who they talked with. Sometimes he provides brief summaries of the content of the conversations. There are frequent references to books bought and their prices. He also forwards to Mackenzie translations which were being done in various languages. He comments on sources of information which he is developing. He has heard about a history of a particular zamindari; he writes to the vakil who has the account, expressing his desire to meet him. Luchmiah reports that he is received with great respect by the vakil, who knows one of his relations. At his first meeting, which lasts three to four hours, the vakil learnedly discusses astrology, and Luchmiah does not raise the question of obtaining a copy of the history but assures Mackenzie that during his next visit he will undoubtedly obtain the copy which they are seeking. Luchmiah then follows up the discussion of astrology with a visit to the astrologer in Madras that the vakil thinks is such an expert. Luchmiah, having heard from his informant that the astrologer has a large collection of texts which have accounts of the lives of his clients, he decides to go see him "and try his skill." Luchmiah day by day recounts for Mackenzie the letters received and sent to the various correspondents and assistants.

H. H. Wilson, as a means of illustrating the process by which the materials were collected, printed the "Report of Baboo Rao," Mackenzie's Maratha translator, of a trip along the Coromandel coast to collect historical information and coins. Day by day he reports where he has gone and who he has seen. Rao is asked by several English officials to take them to see a recently discovered temple at Mahaballipuram, and acts as their guide. He reports that he declined to accept four stars pagodas for his trouble, "for fear of losing my character with my master." Wherever Rao goes he first checks in with the local British official and presents letters of introduction from Mackenzie. Most of Rao's efforts were devoted to collecting "ancient books," which he would either buy or copy. Failing to obtain texts and documents, he would question elderly people, pujaris, local chiefs, learned men, particularly about the Cholas and anything which dealt with "Bouddhas" and their conflicts with the Jainas.

Rao tracked down various stories about the discovery of hidden treasures, old pottery, ruins, and statuary. Rao was told that four months before, a cultivator while ploughing a field struck a gilded image of the Buddha. He informed the managers of the nearby temple, who secretly took it into the temple thinking it was all gold, but it turned out to be a brass image which was gilded. After rubbing off eight or ten pagodas worth of gold, the manager of the temple was preparing to melt the image down and to make brass pots out of it, "to save their character and to prevent its coming to knowledge of the Circars." On hearing this Rao went immediately to the managers, who at first denied any knowledge of the statue, but after more questioning they produced it. Rao offered to buy it for sixteen or twenty star pagodas. The head manager of the temple, having heard what had transpired, refused to go through with the bargain, saying he would never agree to sell the image even for thousands. A frustrated Rao "resolved to wait for my master's orders before I should apply to the Collector." Rao then went to the site where the image was found with four coolies, where they dug, but after finding only "a stone image of Bouddha and two covered wells," he suspended further search and returned to his house.

In Kumbhakonam, Rao visited the chief priest of the "Sankar Archari Math," and after spending four rupees on "fruit etc." he asked the priest for a copy of the copper inscription that was in the Math. The priest was willing, but the managers of the Math (Kyasthalu) vociferously denied that there were any inscriptions to be found. They were afraid of "loosing their original documents," which, Rao suggests, had saved them from "the destruction of different wars." Rao reassured them that he only wished to make a copy, to which the managers agreed on the condition that Rao recommend to Mackenzie that a jagir that they once possessed be restored to them. Rao agreed to this. The chief priest was so pleased by this that he promised to get Rao a particular account of the "Cholen, Cheran, and Pandian" together with the rajas of Bijanagur, as he was the "Guru of all the Rajas." He also promised to give him an account of all the "Rajas who had ruled since the commencement of the Kaliyugam." Rao was then taken in to the chief priest's agraram and shown 125 copper sasanams. Rao was dismissed by the priest with a promise that he would give him these accounts along with several coins, if there was any assistance forthcoming in getting the return of the lost villages.

Although the bulk of the Mackenzie collection was in Calcutta in 1823, when Wilson began to work on it, some of it already was known to be lost or missing. In 1809 Mackenzie had sent seven volumes described as "Memos of the Survey of Mysore to London" as well as two volumes of maps. In 1827 Charles Wilkins, the librarian of the India Office, could not locate these. Wilson, as he finished sections of the catalogue,
dispatched, in 1823 and 1825, portions of the collection to London. At the completion of his work in 1827, he sent all the works in Persian, Sanskrit, and Burmese, along with the plans, drawings, coins, and 106 images of Indian gods in silver, copper, and brass, to London. Some of these were displayed in the small museum which the Company had at its headquarters in Leadenhall Street. Also dispatched were five "large pieces of sculpture on stones from Amaravati," four smaller pieces and one "inscription on stone" from Amaracartu. I will discuss what happened to these pieces subsequently.

Wilson also sent the materials classified as "local tracts," the accounts of the histories, stories, and descriptions taken down by Mackenzie's collectors from local priests, chiefs, and local scholars, to Madras, where they were placed under the charge of the Madras Literary Society. With their arrival in Madras, C. V. Luchmiah asked that he be placed at the head of an establishment which would complete Mackenzie's work. This fell on deaf ears. Luchmiah persisted in lobbying for his plan, and the governor of Madras was sufficiently impressed that he forwarded the plan to the governor-general, who in turn sent it to the Asiatic Society of Bengal, for evaluation and to make recommendations on what should be done about Luchmiah's plan. Luchmiah wanted in effect to reestablish Mackenzie's program for collecting, under his own direction. For a start he wanted permission to be able to correspond with "gentlemen" of "literary endowments" to enable him to procure information on the subject of the history and antiquities of India. In addition, he wanted to hire in each district in south India two "intelligent scholars," one versed in Sanskrit and the other in "Oriental Literature," who would continue to collect materials for the project. The plan was referred to the Committee on Papers of the Asiatic Society of Bengal, headed by James Prinsep—who took a dim view of Luchmiah's qualifications and his plan:

Such an extensive scheme would need the control of a master head, accustomed to generalization, and capable of estimating the value and drift of inscription and legendary evidence. The qualifications of Cavelly Venkata, for such an office, judging of them by his 'abstract,' or indeed of any native, could hardly be pronounced equal to such a task, however useful they may prove as auxiliaries in such a train of research. Prinsep and the committee did however make a strong argument for making knowledge of the collection more widely known and that efforts be made to preserve it, and make it available to scholars. To this end they recommended to the government that William Taylor, a missionary in Madras who had published some "oriental historical manuscripts," undertake the publishing of translations from the Mackenzie manuscripts. Taylor was more than willing to do this, and quickly submitted a budget to the Madras government of Rs 7,000 for eighteen months' work. He hired six pandits and munshis, as well as two "native writers."

Over the next few years some excerpts appeared in the Madras Literary Magazine, and finally in 1857 the first three volumes of the excerpts appeared in Madras as A Catalogue Raisonnée of Oriental Manuscripts in the Library of the (Late) College, Fort St George. The corpus not only included the manuscripts sent by Wilson to Madras, but also some found in the library of East India Company by C. P. Brown in 1838. Brown also added some materials in Telugu and Tamil which he had himself collected. The Brown collection was shipped to Madras sometime after 1840. Taylor, who reprinted many of the excerpts already published in Wilson's catalogue, used the occasion to write an exegesis of his own theories about Hindu thought, religion, and what the true history of India had been. The materials in the collection on Indian architecture, wrote Taylor, were of little value as they contained too much on astrology. From the beginning of the work the reader is introduced to Taylor's overriding theory, that Indian culture is derived from Chaldean or Egyptian origins. There is in fact little or nothing in India which could be counted as their own; the Indians are merely poor imitators of an authentic antediluvian culture that existed in the Middle East. There is little to wonder at in the Indian mind, degenerate and debased. This is accounted for by the fact that "The Hindu skull is of a lower order than that of [even] the Celtic, and very inferior [to the] broad Saxon skull.

The cerebellum of the Hindu brain is highly developed which accounts for the fact that their poetry runs rampant with "sexualities." The Indians have even outdone the licentiousness of Ovid in the way they "treat systematically on the ars amorum." Taylor rejects the interpretation that the Indians have a theory of "moral action." This is easily seen to be wrong through his study of the Bhagavad Gita, in which Krishna advises Arjuna to kill without compunction or fear of moral retribution. He advises his readers that the proof of this assertion is to put the message of the Gita "into the mouth of any leading mutineer at Meerut." Then "the true character of the Gita will become instantly visible." Because of the despotic nature of the Indian state, there is no chance for manly virtues to develop in the Indian mind, degenerate and debased. This is accounted for by the fact that "The Hindu skull is of a lower order than that of [even] the Celtic, and very inferior [to the] broad Saxon skull.

The introduction to the materials in Volume Two is used as a platform to reiterate the major theme of the unoriginality of the Indians, this time with more attention to their romance-historical literature, which seems to be copied either from the ancient Jews or the Greeks.

...
The historical explanation put forward by Taylor is an account of the wanderings of the ancient Aryans, who brought this mishmash of "Hebrew Theology and Chaldean Sabism into India." There is a profound irony in the Mackenzie collection falling into the hands of an interpreter seemingly more familiar with the spurious and mystical Orientalism of the eighteenth century than with the post-Jones scholarship of the first half of the nineteenth century. The scholar to whom Taylor most frequently refers is Jacob Bryant, the eighteenth-century compiler and antiquarian. The members of the Asiatic Society doubted Cavely Ven­kata Luchniah's scholarly credentials, and instead they selected a crack­pot to edit Mackenzie's papers.

Colonel Mackenzie's collection has not fared much better in the twen­tieth century. N. D. Sundatravelu, vice chancellor of the of Guntur dis­trict when he heard about the discovery of some antiquities in a small town, Amresvarem, on the Kistna river. He sent ahead his trusty guide Ven­kata Boria along with some brahmans and two sepoys. They were to make inquiries into the history of the place and to conciliate the inhab­itants, particularly the Brahmans, "who are apt," wrote Mackenzie, "to be alarmed on these occasions." On Mackenzie's arrival Boria reported that there was some apprehension at the approach of the British and their sepoys, but Mackenzie reassured the inhabitants that they had only come to look at the recently discovered ruins, which were being excavated by a local raja, who was using some of the materials in building a temple and his house. Mackenzie found a long circular trench 10 feet wide and 12 feet deep, which exposed a mass of masonry, and some slabs, some with bas reliefs on them. It was reported that some statue had been uncovered and taken into the newly built temple.

One of Mackenzie's delineators, Mr. Sydenham, drew a number of the figures which were readily accessible. Mackenzie described seeing a number of lingams on the bas reliefs. In the mud wall of the temple he found a circular trench 10 feet wide and 12 feet deep, which exposed a mass of masonry, and some slabs, some with bas reliefs on them. It was reported that some statue had been uncovered and taken into the newly built temple.

Colonel Mackenzie was generally mystified by the appearance of figures in the fragments that he saw:

"The legs of all the figures are more slender and gracefully disposed than I have observed in any other Hindu buildings. It would be rash to draw any conclusions until an opportunity offers of observing more sculptures." 40

It was not until almost twenty years later, in 1816, that Mackenzie re­turned to investigate the Amaravati tope. This time he had a full team, including four or five specially trained delineators, presumably the "country born" graduates of the Madras Observatory and Surveying School established by Michael Topping in Madras in 1794.41 Mackenzie spent four or five months at the site and his assistants worked through 1817, producing "careful plans of the buildings and maps of the sur­rounding country, together with eighty very carefully finished drawings of the sculptures." James Fergusson stated that these drawings were unsurpassed "for accuracy and beauty of finish." Mackenzie was never to write up a full description of the site as he found it in 1816, integrating the plans and maps and drawings done by his assistants. After his death an article based on two letters to Mr. Buckingham appeared, first in the Calcutta Journal of 1822 and reprinted in the Asiatic Journal of 1823 under the title of "Ruins of Amaravatty, Depauldina, and Durnacotta."

In the twenty years between visits, the site was further destroyed, in the search for treasure (always assumed to be buried in ancient mounds), for building materials, and through firing of the marbles for lime. In
addition the raja had decided to dig a large tank in the center of the mound. Nonetheless large numbers of fragments of sculpture remained, to be described and drawn. Mackenzie was impressed with the skill of the mysterious artists, who carved with taste and elegance. The human figures depicted "were well executed" and the proportions "correct." The site, he believed, was dedicated to religious worship, but of what kind he did not know, except that it was clearly different from the brahmanical worship of the "present day" as none of the Hindu mythological figures was depicted.

Mackenzie speculated that, because of the circular nature of the larger outline of the enclosure, it perhaps was the same religion as the Druids and that the temple was devoted to sun worship. He was further mystified by the discovery on sculptured slabs of inscriptions in characters "entirely foreign to these countries," characters of a type that Mackenzie had never seen before. Mackenzie appears to have sent copies of the drawings and plans to London, Calcutta, and Madras. In addition, and to the frustration of subsequent scholars, pieces of sculpture were sent to Musalapatam, Calcutta, Madras, and London, but how many there were, and their provenance, continues to be a mystery to this day.

In 1830, Mr. Roberston, collector of Musalapatam, found some of the sculptures, and obtained others from the site, which he set up in the square of the new market place he had built in the town. These were seen five years later by the governor of Madras who was on tour, and he ordered them to be shipped to Madras, so that they could be better cared for by the Madras Literary Society. Some of these wound up in the garden of the master attendant.

The first effort at deciphering the script found at the site was done by James Prinsep in collaboration with Pandit Madhoray, the aged librarian at the Sanskrit College who had been one of Mackenzie's associates. Prinsep identified the script as being the same type as found in the cave inscriptions from Mahabalipuram, and similar to the alphabets of Chhattisgarh. He denominated the characters as Nadhra, and he decided they were transformations of the north India Devanagari. Prinsep declared that the inscription "refers in all probability to the foundation and endowment of some Buddhist institution by the monarch of his day." However, he was disappointed as the monarch was not named, hence the date could not be established; "history will have gained nothing by the document," he declared.

The largest collection of the sculptures and fragments, ninety in all, from the Amaravati site were made by Sir Walter Elliott, commissioner of Guntur, in 1840. These he shipped to Madras, where for fourteen years they were stored, unexamined and undescribed until 1854, when Dr. Balfour, who was in charge of the Central Museum, made a list of them. The description and analysis of these fragments was left to William Taylor, who again, as with the Mackenzie manuscripts, used the occasion to spin more hypothetical histories.

In 1857 the Madras collection, now dubbing the Eliott Marbles, was shipped to England, presumably for display in the Company's museum. They arrived in the winter of 1858, just at the moment when the Company's rule was being transformed into Crown rule. The marbles lay through the winter in open crates on a dock in Southwark. One of the better pieces was later affixed to an outer wall of the India Museum in Fife House on Whitehall, while the others dropped out of sight. In 1866, Henry Cole, who was organizing part of the British display to be shown the following year at the Paris International Exhibition, asked Fergusson to organize a display of archaeological and architectural photographs from India. Fergusson thought it would be a good idea to have some actual statuary on display as well. He remembered the Amaravati marbles, which he thought were "the principal ornaments of the Old Museum on Leadenhall Street." He tracked them down under piles of rubbish in the coach house of Fife House. Fergusson had a complete set of photographs, made by William Griggs of the India office, and by studying these, he sought to reconstruct the buildings of which they once were a part.

As Ferguson studied the photographs he "perceived that they might be classified in three great groups." One, based on the analogy of Sanchi, formed an outer rail as an ornament, and belonged by the main building, as was seen in Mackenzie's drawings. Another set, smaller and finer, Ferguson believed belonged to the inner rail. What remained he declared "were to no architectural value" and could be placed anywhere. Ferguson's interest in the Amaravati site and its fragments was to grow in the next few years into a major scholarly and intellectual project. He was determined to make the fragments tell part of the history of India. The representations of people, their clothes and ornaments, the animals, buildings and symbols, were to become for Ferguson a projective test.

Even before the Exhibition began, Fergusson was utilizing the photographs at a meeting of the Society of Arts, on 21 December 1866. With Sir Thomas Phillips, under-secretary of state for India in the chair, and with a distinguished audience including Sir Henry Cole, the impresario of the Great Exhibition of 1851, he delivered a lecture "On the Study of Indian Architecture." Rather than giving a scholarly and detailed exegesis of the principles and history of Indian architecture, he made an argument about the utility of the study of Indian architecture for an understanding of the ethnology and religions of India, and about the value of Indian architecture as a source of ideas for the improvement of architecture in England. He began his lecture by describing what he
thought was the racial and ethnological history of India. He posited a
distant past. Here was an aboriginal race in the Ganges valley, whose
descendants were the hill tribes such as Bhils, Gonds, and Coles who
had dominated north India. These people were conquered about 2,000
B.C. by the Aryans, a Sanskrit-speaking people to whom India owes its
literary traditions, but they were not great builders, and like all out­
siders to India, soon fell prey to the enervating climate and the degener­
ation which naturally followed, by their "intermingling with the aborigi­
nal races." The Aryan's demise as effective rulers cleared the way for the
rise of the great religious leader Buddha, who taught the people a new,
pure religion, which following the iron law of decay in India, "gradually
became idolatrous and corrupt" and perished beneath its own overgrown
hierarchy. Simultaneously with the rise of Buddhism, there was yet an­
ter invasion of India, this time by the Dravidian peoples, who came
also from the north, and who had crossed into India in the lower Indus
valley. They traveled through Gujarat, and then spread southward
through the Deccan. The Dravidians were a race of great builders, but
"totally distinct from those in the North." A century or two before
Christ, there was yet another invasion, the invaders unnamed by Fer­
gusson, but settled in Rajputana and Gujarat. Some went as far south as
Mysore and others went into the Agra-Delhi region in the north. The
fourth invasion was that of the Muhammedan peoples. The fifth civiliza­
tion to take over India "is our own."  

Architecture and its associated sculpture were for Fergusson the only
reliable documents on which to build a "scientific history of India," a
land where there "are no written annals which can be trusted." It is only
when the annals of a king "can be authenticated by inscriptions and
coins that we can feel sure of the existence of any king, and it is only
when we can find his buildings that we can measure his greatness or
ascertain . . . what the degrees of civilization to which either he or his
people had attained."  

Fergusson summed up his brief arguments in the following terms:

I consider the study of Indian architecture important because it affords the
readiest and most direct means of ascertaining the ethnological relations of
the different races inhabiting India. It points out more clearly than can be
done by other means how they succeeded each other, where they settled,
how they mixed, or when they were absorbed.

In the next place, I consider it important, because it affords the best
picture of the religious faith of the country, showing how and when they
rose, how they became corrupted, and when and by what steps they sank
to their present level.

It is also, I believe, important because in a country which has no written
histories it affords almost the only means that exist for steadying any conclu­
sion we may arrive at, and is a measure of the greatness or decay of the
dynasties that ruled that country in ancient times.

These considerations refer wholly to India, and to the importance of the
study as bearing on Indian questions only; but I consider it as important
also, because of its bearings on architectural art in our own country. First,
because by widening the base of our observations and extending our views
to a style wholly different from our own, we are able to look at architecture
from a new and outside point of view, and by doing this to master principles
which are wholly hidden from those whose study is confined to some style
so mixed up with adventitious associations as our local styles inevitably are.

It is also important because architecture in India is still a living art. We
can see there, at the present day, buildings as important in size as our
mediaeval cathedrals erected by master masons on precisely the same prin­
ciple and in the same manner that guided our mediaeval masons to such
glorious results.

It also is, I conceive, important as offering many suggestions which, if
adopted in a modified form, might tend considerably to the improvement of
our own architectural designs.

Lastly, I consider the study worthy of attention from the light it may be
expected to throw on some of our own archaeological problems.

Implicitly and explicitly, Fergusson in his 1866 lecture was enunciating
a theory compounded out of seventy years of British Orientalist discou­
se. The primary components of this discourse revolved around In­
dia's double lack of a history. Since it has no documents, dateable
records, chronicles, the kinds of materials out of which the West con­
structed a history of itself, the British were called upon to provide India
with a history. In a second sense India has no history as it has not pro­
gressed. All the civilizations which had entered India, except the fifth
one, displayed the same history, by succumbing to the inevitable effects of
the climate, and their intermingling with the inhabitants, which in
turn lead to enervation and the falling into the hands of overdeveloped
hierarchies.

The European past can be seen in India as in a museum. Builders in
India have been doing the same thing since time immemorial, which
enables the British to understand how their own great religious build­
ings of the Middle Ages were constructed. Finally there are policy con­
siderations the British should learn from the experiences of the other
invaders. The only way to survive and flourish in India is to remain
totally separated from the degenerate races who inhabit the country, and
they should live in such a fashion as to minimize the effects of the cli­
mate.
Fergusson followed his pragmatic lecture with an analysis of the Amaravati Tope in Guntur,44 which in turn led to the publication of Fergusson's magnum opus of his later years, Tree and Serpent Worship: or Illustrations of Mythology and Art in the First and Fourth Centuries After Christ. From the Sculptures of the Buddhist Topes at Sanchi and Amaravati. The work proclaims itself on the title page as being prepared under the authority of Secretary of State for India in Council.

In his 1868 paper, which was well illustrated with drawings based on the photographic collection, we find him reading an ethnology and a history into the sculptures, in which he finds three races; the Nagas, whose emblems associate them with snakes, are a handsome race, but are not the rulers of Amaravati. The Nagas were from Taxila "which seems to be the headquarters of snake worship in the early centuries of the Christian era." Also represented were Jats, and thirdly there are the autochthonous—"Gonds or some cognate Tamil race." The paper ends with an announcement of his next project, the publication and explanation of how the arts of Europe influenced those of the East, along with an essay on tree and serpent worship. As promised, the essay appeared five years later; in seventy-five folio pages the reader is taken on a world historical tour, demonstrating that there was a worldwide Ur-religion based on the worship of trees and snakes.

In Fergusson's history of religions, bits and pieces of this earlier nature worship get woven together along with the speculative thought of a great religious leader into one of the progressive religions. Once again the Indians turn out to be losers. They had their chance to be with the winners in the religious sweepstakes, but they turned their backs on the Buddha, and kept up the old snake and tree worship. Not only had the poor Indians, as represented by the Naga people and their snake worship, blown their chance for real salvation, but they also had in their grasp the beginnings of Western monumental architecture as worked out by the Greeks and Romans.

The buildings and their decorative motifs owed their fineness to "Greek or rather Bactrian art." Fergusson faces a problem with his theory of Bactrian and Roman influence on the Amaravati site. He has to date it within A.D. 200 to 400. This he does, through developing a series of inferences, based on stylistic analogies found in the western Indian cave temples. This was counter to the inscriptive evidence, which made the site more recent than his argument for Greek and Roman influence would have sustained. Fergusson reserved his strongest argument for the relation of Amaravati to Rome to a footnote.

My impression, however, is that few who are familiar with the arts of Rome in Constantine's time, and who will take the trouble to master these Amaravati sculptures, can fail to perceive many points of affinity between them. The circular medallions of the arch of Constantine—such as belong to his time—and the general tone of the art of his age so closely resemble what we find here, that the coincidence can hardly be accidental. The conviction that the study of these sculptures has forced in my mind is, that there was much more intercommunication between the east and west during the whole period from Alexander to Justinian than is generally supposed, and that the intercourse was especially frequent and influential in the middle period, between Augustus and Constantine.50

Rajendralal Mitra, the first of India's Sanskritists and student of early Indian history who utilized European-based scholarship, took exception to Fergusson's theories on the origins of Indian architecture. In papers given before the Asiatic Society of Bengal, and then The Antiquities of Orissa, a two-volume work published in 1875 and 1880, and Buddha Gaya: The Hermitage of Sakya Muni, he mounted a full-scale attack on European assumptions, particularly those of Fergusson, of India's lack of originality and inventiveness in art and architecture, particularly the idea that there had been a strong influence of the Greeks and Romans in the development of monumental stone construction in India. Mitra approached the discussion of Indian antiquities and buildings from an historical standpoint, relating texts and inscriptions to his interpretation of the form and function and meaning of building, and the development of Indian artistic productions.54

Fergusson replied to what he thought was a cheeky and ill-trained Indian with a full-blooded defense of his own work, and by calling into question the capacity of any Indian to be able to master the methods which the understanding of Indian architecture required.56 He began his defense by a statement of his love of India, recounting the delight "in visiting the various cities of Hindustan, so picturesque in their decay, or so beautiful in their modern garb." He averred that all his "relations with the natives of India were of the most gratifying and satisfactory nature." He had enjoyed the hospitality of the rajas of central India, and he would never forget the "servants who served me so faithfully, so honestly, from the time I first landed till I left its shores."56

Fergusson had been in India from 1835 to 1842, a period he now looked back upon as a kind of golden age, before some of the natives were spoiled by contact with European civilization.61 The agency of this change was the idea that Indians could become the equals of the British through education in the European fashion, which Fergusson stated they could not assimilate.

Bengalis—and for Fergusson, Babu Rajendralal Mitra was the typical case—had a marvelous facility for acquiring "our language, but only a
superficial familiarity with the principal features of our arts and sciences. The great skill of Indians was the capacity for memorizing vast amounts of materials and amassing a great many scientific facts. This was not the same thing as acquiring by "long study and careful reasoning, ... the great truths of scientific knowledge." The Babu was accused of using a German technique to establish a reputation, something an Englishman would never stoop to, by attacking Fergusson only to enhance his own reputation. In addition he posed as a "patriot" by "defending the cause of India against the slanders of an ignorant and prejudiced foreigner." Fergusson argued that in his refutation of the Babu there was more than just differences between two scholars about the history of Indian art and architecture. He related it to the then current attack by Europeans in India on the Ilbert Bill, which would have made them subject in criminal matters to Indian judges. It is easy to understand, wrote Fergusson,

why Europeans resident in the country, and knowing the character of the people among whom they are living, should have shrunk instinctively, with purely patriotic motives, from the fatuity of the Ilbert Bill. It may, however, be useful to those who reside at a distance, and who have no local experience, to have it explained to them by a striking living example, wherein the strength and weakness of the case resides, and for that purpose I do not know any example that can be more appropriate than that of Babu Ramlalal Mitra. If, after reading the following pages, any European feels that he would like to be subjected to his jurisdiction, in criminal cases, he must have a courage possessed by few; or if he thinks he could depend on his knowledge, or impartiality, to do him justice, as he could on one of his own countrymen, he must be strangely constituted in mind, body, and estate.64

Fergusson was certainly correct about the context in which what started as a scholarly debate about the effort to construct a history of India became centrally about politics, not just the issue of equality before the law but in all the questions entailed in the effort to represent to Indians their own traditions and pasts.

Thus far in this chapter I have been exploring one collection, that started by Colonel Colin Mackenzie and of the efforts at interpreting one archaeological site. It was not until 1942 that the Amaravati sculptures got the catalogue they deserved, when C. Sivaramamurti published his detailed descriptions of each piece along with a thorough iconographic and textual commentary.65 This was followed in 1954 by Douglas Barrett's discussion of the British Museum collection. Basil Grey, keeper of Oriental Antiquities there, commented that "the Amaravati sculptures are ranked with the Elgin Marbles and the As-
Library in Oxford, and then in the latter part of the nineteenth century was transferred to the Bodleian, and is the basis of that library's Sanskrit collection.

Some of the British in India were attracted to Indian painting more, it would seem, for its documentary value than its intrinsic aesthetic qualities, and a number of important collections were made during the second half of the eighteenth century. Sir Elijah Impey and his wife collected Indian paintings and "commissioned Indian artists to paint natural history specimens." The largest and most important collection made in the latter part of the eighteenth century still extant is the Richard Johnson collection of the India Office Library. Johnson collected, as well as commissioned, a wide range of albums from the time of Akbar to the end of the eighteenth century. Johnson had made a large collection of Oriental manuscripts as well, totaling 1,100 volumes. Charles Wilkins, the Sanskrit scholar and the Company's librarian, examined the collection in 1807, when Johnson had offered to sell it in its entirety to the Company, and in recommending its purchase for three thousand guineas, wrote to the chairman and deputy chairman of the Court of Directors:

The books, as to the writing, illuminations, perfectness, preservation and binding are upon a par with any other collection which has come under my view. There are of course many in an indiffident state of preservation, a few works deficient in the number of vols and otherwise defective, and the binding, as is always the case, naturally bad and in a bad condition. On the contrary there is a great number of books of the first rank as to the beauty of the writing, and splendour of the decorations; and not a few exquisitely fine.

As to the subjects, there is a good proportion of the best Histories, many very valuable Dictionaries of the Arabic and Persian languages, several useful treatises on Grammar, etc., with a great many specimens of fine penmanship in various oriental hands by the most celebrated masters. There are also a great many distinct treatises on Mathematics, Astronomy, Music, Medicine and other sciences and arts; a very ample and curious collection of Arabic and Persian Tales, perhaps unique, with the works of all the most celebrated Poets. There are many works on Law, Religion and ethics, some of them splendid copies; many valuable translations from the Sanskrit into Persian; some works in the original Sanskrit and Hindi—a few rare; with a miscellaneous division upon a great variety of useful and interesting subjects; particularly a choice collection of statistical works consisting of particular tables and statements of the lands and revenues of several of the provinces of India.

Shortly after this Dr. John Flemming, who had been in the Company's medical service, presented the library with "eight miscellaneous paintings of religious subjects," but his massive collection of botanical drawings wound up in the collection of a Belgian nobleman. Francis Buchanan also presented his collection of official papers which included a large number of drawings done by Indian artists who had been employed by Hamilton during his Bihar Surveys. These acquisitions marked the end of any purposeful acquisition of collections of Indian paintings by the India Office until the beginning of the twentieth century. Falk and Archer explain this lack of interest in Indian paintings in terms of the dominance of utilitarian and evangelical views of India, which saw its art as degraded, even obscene. What collecting was done for the India Office stressed the utility of books of reference and aids to language study, and increasingly from the middle of the nineteenth century, Indian handicrafts and textiles.

During the nineteenth century in England there were several important collections of paintings and at least one massive collection of Indian sculpture in private hands. In 1774, William Watson, a Company official, acquired a set of paintings during the Rohilla campaign, which in recent times has come to be known as Manley Ragamala, an album of illustrated musical modes. Robert Cran dates these as early seventeenth century. In 1815 Watson gave the album to his daughter, and wrote at the time that the album "gives you a perfect idea of the customs, manners and dress of the men and women in Bengal, Persia and most parts of the East Indies ... also of their birds, trees and plants." He annotated the individual folios for his daughter.79

In a series of publications Mildred Archer has abundantly documented the patronage of the British, from the second half of the eighteenth century until the middle of the nineteenth century, of albums and sets of drawings and paintings by Indian artists illustrating the appearance, dress, customs, and occupations of the Indians. These sets seem to have been one of the major items which the British collected in India, either commissioning Indian artists or buying them in the open market.74

The people of India most accessible to the Europeans were their domestic servants. Most newcomers to India commented on the large number of servants which even a modest European household contained. Captain Thomas Williamson, author of the first British guide book for India, The East India Vade Mecum, London, 1810, explained the large number of servants was largely due to "the division of Indians into sects, called by us castes." Williamson lists 31 kinds of servants that a gentleman would need for his home and office, depending on his occupation and status. The servants as de-
scribed by Williamson were divisible into an upper and lower category. The upper servants, naukeron, held positions of trust or supervision and would not be expected to do menial work. The lower order of servants, or chaukeron, had their own hierarchy and were divided into those largely doing inside work, waiting on the table, cooking, acting as the wine cooler, the huka bearer, and the furniture keepers. The outside servants included a gardener, the palankeen bearers, a syace, a dhabi, poens, and the watchman and door keeper.

The household in many respects became the model which the British created for Indian society. The specificity of duties was assumed to be based on the caste system in which a member of one caste could not or would not do the work assigned to another caste. Functional positions appeared to reflect the hierarchy of the caste system, with the confidential servants being drawn from the upper castes of Indian society. A Muslim of some status was employed as a teacher and scribe. The table waiters were generally Muslim who had less scruples about handling foreign food. The cooks were generally low caste, untouchables or Portugese, as it was generally believed that upper caste Hindus would not touch beef. The Khansman, the butler, was usually Brahman or a high status Muslim, in some wealthy households he might be Portugese or Anglo-Indian. Ayahs were usually low caste, tailors Muslim; gardeners, washermen, and water carriers came from castes usually associated with these occupations. Those working in the stables as grooms and who also would take care of dogs and other household pets, were generally untouchable Chamars. Each occupational speciality with its assumed caste base, lived separately, usually in huts in back of the great house where their families lived and where they prepared and ate their food.

Throughout much of the nineteenth century the representation of servants and their duties was a major subject matter of paintings and drawings which were organized in sets, done by British and Indian artists, and sold as souvenirs to be brought back as one of the icons of the exile in India. Along with the servants, the depiction of the occupations, castes, and the varied dress of the Indians became extremely popular in India and in Great Britain. Typically in the paintings and drawings of the castes, trades, and occupations of India there is a total decontextualization of the subject. They are drawn without any background, and with an individual and perhaps his wife depicted with the tools of his or her trade or the products or goods produced for consumption and use by Europeans and Indians. Other popular forms of art which British collected were paintings of buildings, sometimes on ivory, religious ceremonies, usually the more bizarre the better, such as a hook swinging or the dragging of temple carts, and holy men. There was a counterpart in clay of the depictions of the typical household servants and the Indian craftsmen.

Given the difficulties of shipping, and the generally low evaluation by the British of the aesthetic qualities of Indian sculpture, it would appear that few major collections of Indian sculpture were made during the late eighteenth and the nineteenth centuries. Partha Mitter has extensively discussed the collections which Charles Townly and Richard Payne Knight had made, both these collectors being interested in the significance of the works for their studies and interest in the relationship between the erotic and ancient religions. Perhaps the most interesting of the collections made was that of Charles Stuart, generally known as "Hindoo" Stuart, who was in India from 1777 until his death in 1830. Stuart is best known for his tomb in Park Street Cemetery in Calcutta, which is in the form of a small temple which was decorated with representations of Indian gods and two miniature carvings of "Indo-Aryan temples," and has a doorway which "originally belonged to an ancient Brahmanic temple." At his death in 1830 the bulk of Stuart's collection was shipped to London, where it was sold by Christie's and bought by James Bridge, who in turn offered the collection for sale in 1872, when it was bought for a "song" by Sir Woolston Franks of the British Museum. In all, the collection contained 115 specimens.

Some idea of how Stuart made his collection was discussed by James Prinsep, who was trying to translate the inscription on a stone slab which was in the Asiatic Society of Bengal's collection, and about whose origin little was known. The script appeared the same as one known to have come from Orissa. Lt. Kittoe was at the time in Bhubaneswar copying inscriptions on the temples there. He found himself "impeded and foiled by the Brahman of the spot." When he enquired about their opposition or as Prinsep put it, "the cause of so unusual a want of courtesy," Kittoe was informed by the priests that "their images and relics were carried off by former antiquaries and mentioned in particular a "late Colonel Sahib." On checking the records of acquisitions of the society, Prinsep found that General Stuart was the donor of "two slabs with inscriptions in Orissa." Prinsep hoped that the society would return the slabs to the temple from which they were cut. The following year this had been done, but Kittoe was not greeted with the cordiality and good will he had expected that the return of the slabs would have elicited. Rather the priests presented him with "a long list of purloined idols and impetuously urged him to procure their return as he had done with the Inscriptions." We have seen how surveys and exploration, conceived by individuals and by the Company for the amassing of practical knowledge as part of
the agency of rule, led to the formation of important collections. In addition, objects obtained through direct commission and the patronage of artists led to extensive assemblages of text and albums. Many objects of everyday use or produced for a luxury market in India could be bought in the market place. Bribery, extortion, and outright theft also played a role in the amassing of significant collections.

Perhaps what was seen in Great Britain, and by the British in India, as the most significant objects which eventually found their way into public repositories of valued objects were the result of warfare. Individual and state-managed looting were the source of what, for the first half of the nineteenth century, were the most valuable and popular objects brought back from India. Pride of place in the establishment of the popular interest of the British relationship to India were objects looted from Tipu Sultan's palace in 1899 at the fall of Seringapatam. Included in this loot were Tipu's tiger, his helmet and cuirass, a golden tiger's head from his throne, a howdah, and one of his "royal carpets." These had been presented to the Court of the Directors and members of the royal family, and within a few years were to go on display in a room set aside as a museum in the Company's headquarters on Leadenhall Street.

There was a great interest in the prints and drawings of the events connected with the British victory at Seringapatam. General Sir David Baird's "Discovering the Body of Tipu," "The Death of Tipu," and the surrender of "Two of Tipu's Sons" all circulated widely. There were shows, popular plays, ballads, and broadsides, all of which presented aspects of events: the defeat of Tipu and the triumph of British arms over the arch villain and embodiment of evil, Tipu the Tiger.

Popular guidebooks and books about the architecture of London, published between 1820 and 1860, all included discussion of the East India House as well as the contents of its small museum. Admission was by ticket and the museum was only open a few days a week; a tip to the doorman would guarantee the visitor being able to see as much as possible. Although Fergusson recalled seeing the Amaravati marbles in the museum, none of the contemporary descriptions mentioned the sculpture. All mentioned Tipu's tiger and the other memorabilia of the fall of Seringapatam.

The following list drawn up by Britton and Pugin in 1838 gives some idea of the miscellaneous quality of the Company's collection.

The Javanese Tapir, a quadruped with a hide like that of the Hog, having a lengthened proboscis, and its hoofs divided into three parts, exceeding greatly in size the South American Tapir. This newly discovered animal is described in Horsfield's Researches in Java.

A collection of quadrupeds, chiefly of the Cat and Monkey tribes, from Java.

A collection of birds from Java, distinguished by the beauty of their plumage; of aquatic birds, from the same island, of birds from India, Siam, and Cochin China; and a small collection of birds from the Cape of Good Hope.

A Lion's skin brought from India, where this animal is so seldom seen, that doubts have been raised as to its existence in the Asiatic quarter of the globe.

A collection of Javanese insects, principally of the Butterfly kind.

A marine production, called the Cup of Neptune; curious corals, &c., from the vicinity of Singapore.

Beautiful models of Chinese scenery, consisting of rock-work, executed in hard wood, bronzed; temples of ivory, with human figures, birds, trees, &c., formed of silver, embossed, and mother of pearl.

Chinese drawings, one of which, representing a Chinese festival, is executed with more attention to perspective than the artists of China usually display.

A complete Chinese Printing Press.

The Foot-stool for the Throne of Tippoo Saib, formed of solid gold, in the shape of a tiger's head, with the eyes and teeth of crystal. A magnificent throne, to which this appertained, was constructed by order of Tippoo, soon after he succeeded to the sovereignty of Mysore. It was composed of massy gold, the seat raised about three feet from the ground, under a canopy supported by pillars of gold, and adorned with jewellery and pendant crystals of great size and beauty. This throne was broken up and sold piece-meal, for the benefit of the captors, to whom the produce was distributed as prize-money.

A musical Tiger, found in the palace of Tippoo at Seringapatam. It is a kind of hand-organ, enclosed in the body of the tiger; the whole represents a man lying prostrate in the power of that animal, of which the roar, together with the groans of the victim, are heard.

The armour of Tippoo Saib, consisting of a corselet and helmets, made of quilted cotton covered with green silk; of a texture sufficiently firm to resist a blow of a sabre.

Bricks brought from Hills, on the banks of the Euphrates, supposed to be the site of ancient Babylon. They have inscriptions indented in what has been termed the nail-headed, or Persepolitan character, forming lines or columns; for it is a subject of dispute among the learned, whether these characters are to be read perpendicularly, like those of the Chinese, or longitudinally, like those of European nations. Some of these bricks seem to have been baked on a matting of rushes, the impression left by which is still
visible on the underside; as is also some of the bituminous cement, by which they were apparently united.

Each of the major British wars and victories in the first half of the nineteenth century was brought home in the form of relics and trophies to be displayed by the Company in its museum or by the Crown in its armories in the Tower: a cannon cast like a dragon from Rangoon, swords, shields, daggers and other weapons from the Maratha wars. Of a more peaceful nature were Robert Gill’s magnificent drawings of the frescoes of the caves at Ajanta. Most significant were those trophies marking the final triumph of the British over their most stubborn but respected enemy, the Sikhs. The most impressive of these trophies were on display in the Company’s museum in 1853: the golden throne of Ranjit Singh, the unifier of the Sikh nation, the Koh-i-noor diamond, which became one of the great jewels of the British crown. A spear and arms belonging to Guru Gobind Singh and thought by the governor-general “impolitic to allow any Sikh institution to obtain possession,” went to the Tower. The weapons captured from the Sikhs and shipped to England were the embodiment of the martial traditions of the Sikhs; they all had “genealogies” and marked the state-building successes of Ranjit Singh. The British were anxious to obtain not only the Sikh symbols of secular power, but also a “true copy of the Gurunth or Sacred Book of the Sikhs,” so that it might be translated into English. The establishment of British hegemony over India was also a conquest of knowledge.

The end of the Third Mysore War in 1799 marked the establishment of the collecting of what were to become the popular relics of the British conquest of India. It ended with an event which had an even greater impact on the public consciousness, the “Mutiny.” This war generated an enormous public interest, fueled by mass literacy and an illustrated press, who could define a host of heroes and villains: the “Pandeys,” the rebellious and mysterious brahmans, who along with other militarized peasantry were the backbone of the Bengal army, who had traitorously murdered their officers and spilled the blood of innocent Christian women and children; the rebel leaders, a decrepit but nonetheless dangerous Mughal emperor, and the debauched half-Europeanized Maratha brahman, Nana Sahib. The heroes were staunch Christian avengers and martyrs like Nicholson, the men of action like General Neil and Major Hodson, the careful but effective generals, Outram and Havelock. There was even an Anglo-Indian hero, an employee of the Post and Telegraph Department, Kavinaugh, the first civilian to be awarded a Victoria Cross, and then there was Jenny, the daughter of a common soldier whose dream of the relief of Lucknow was to be memorialized by a highly successful poem by Tennyson, and in paintings, drawings, and ceramics.

Once again loot poured into England to be treasured as memorabilia of families, symbolizing the privation and the sense of triumph generated by the war. Eventually these objects or relics found their way into public repositories. Some objects in the National Army Museum’s catalogue of “Memorabilia of the Mutiny” include a dagger belonging to Bahadur Shah II, shamshirs and tulwars surrendered by the king of Delhi to Major W. S. R. Hodson on 21 September 1857; a brass nut box owned by Nana Sahib, taken by Lt. Claude Auchinleck; a wooden spatula found in the massacre well at Cawnpore by Sgt. C. Brooks, 9th Lancers; a table made from a section of tree near which Major W. S. R. Hodson shot the Mughal princes and was fatally wounded; a porcelain bucket from the service of the king of Oudh; a fragment of a dinner plate from the service used by Sir Henry Lawrence at the siege of Lucknow; a silver-mounted brick from Lucknow; a kurta worn by Tantia Topee; a snuffbox containing a lock of Tantia Topee’s hair; a silver ring taken from a dead sepoy; a child’s shoe found in the massacre well at Cawnpore; and a manicure set found in the massacre well at Cawnpore. This last item is currently on display at the National Army Museum.

Let an Indian have the final say on this period of collecting. Rakhal Das Halder, a student in London in 1862, recorded his reactions to reviewing the collections at Fife House:

It was painful to see the State chair of gold of late lion of the Panjab . . . with a mere picture upon it; shawls without babes; musical instruments without a Hindu player; jezails and swords without sipahis and sowars; and above all hookahs without the fume of fantastic shapes.