

Documentation relating to Sir Henry Gwillim

The following passages, revealing as they are of the character and convictions of Sir Henry, may be read in association with the essay by Arthur MacGregor on “Sir Henry Gwillim: tender husband, ‘fiery Briton’ and stalwart judge” in *Women, Environment, and Networks of Empire: Elizabeth Gwillim and Mary Symonds in Madras*, ed. Anna Winterbottom (Montreal, McGill University Press, 2022), pp. **-**, where contextual background for each of them is provided.

(1)

‘Madras: Occurrences for June, 1803’, *Asiatic Annual Register 1803*, pp. 11-12

Sir Henry Gwillim

A very curious and interesting circumstance occurred some time ago here, which has made a great noise all over India. On the trial of Colonel Mandeville, a native it was discovered had grossly perjured himself, and afterwards absconded. This was stated by the colonel to the supreme court, and in consequence a warrant was issued to apprehend the native, and the colonel taken under the protection of the court, to prevent his being sent to England till the affair had undergone further investigation. In the month of October last, an Indiaman was ready to sail for England. In the evening before she was to sail, a guard of soldiers went to the house of colonel Mandeville, in the Black Town, seized and forcibly conducted him to the beach, put him on board a Masula boat, and carried him on board the ship, without allowing him to carry with him necessities of any kind. An account of this transaction reached Sir Henry Gwillim, acting as chief judge in the absence of Sir Thomas Strange, who was then at Colombo, who instantly, with a generous intrepidity, applied for the colonel’s release and restoration to the protection of the court. He sent a writ of Habeas Corpus on board the ship, to which proper attention was paid, and the colonel was permitted to re-land, although several shot[s] were fired at the ship from the fort to make her sail, and at the boat carrying off the writ. Guards of soldiers were placed upon the beach to intercept the colonel, but he landing to the Southward of the fort escaped their vigilance, and was conducted to the house of Sir Henry Gwillim; soon after which a party of military appeared before the house, forcibly entered Sir Henry’s garden, and peremptorily demanded the body of the colonel. Sir Henry, who possesses all the virtuous intrepidity which a British judge ought to have, dared the officer to touch colonel Mandeville, threatened to commit him and his guard, and at length dismissed them without their object being attained. A very active correspondence took place next day between the government and the supreme court; the result of which was, that the former offered, in vain, to make an apology for the outrage committed against the laws. In the meantime, Sir Thomas Strange returned to Madras, colonel Mandeville’s person was rendered sacred, and he returned to his own dwelling in the Black Town. At the next sessions which were held, bills of indictment by the grand jury were found against the Town Major, the Black Town Adjutant, the officer who commanded the party, and two or three others, concerned in firing the guns at the boat and ship. These persons all surrendered themselves, and pleaded guilty, except the Town Major, who did not appear. This was on a Saturday, Sir Thomas Strange declared, that if he did not surrender himself by Monday, the law would be put in force against him; that is, he would be *outlawed*. On the Monday, however, he

surrendered himself and was placed at the bar, and like the others pleaded guilty. The court having thus established the supremacy of the law, was satisfied with imposing the fine of *one pagado [sic]*, and dismissed the offending parties with an admonition which they will probably long remember; – and thus ended the affair.

(2)

‘A Duel in India’, reproduced from the *New Monthly, in the Morning Chronicle* no. 18523, 15 March 1828

The ____ regiment of foot was quartered at Vellore when the tragical occurrence took place which deprived poor Captain Bull of his existence. He was yet only in early manhood, beloved of all who knew him, and much respected in the Hussar regiment, which he quitted in exchange for a company in the regiment in India, which he had joined only a few months [earlier]. At Vellore, he found a set of officers, chiefly Irish, and by no means favourable specimens of that country, either in its virtues or its failings. He felt, therefore, as was natural, little or no inclination to associate with them, farther than military duty required. The mess of the regiment was convivial and expensive; and Captain Bull having been affianced to a young lady who was coming to India, had the strongest and most laudable motives for living economically. He therefore intimated, but in terms of politeness, his disinclination to join the mess, stating his expectations of being shortly married, and the consequent increase of expence which he was so soon to incur. But the majority of the mess, the Irish part of it in particular, with the confusion of head incident to those who are resolved to quarrel, interpreted his refusal into an affront. It was then unanimously agreed amongst nine officers present, that they should draw lots which of them was to call Capt. Bull out. The lot fell upon a Lieut. Sandys, who, in the name of himself and his brother officers, sent the challenge, which Bull had too much spirit to decline, though determined, as he told his second, not to fire, having no personal injury to redress. They went out, Sandys fired, and Captain Bull fell. The systematic cowardice of the plot, and the untimely fate of so excellent a young man, strongly agitated the feelings of all. Sandys, and Yeaman, a Lieutenant in the same regiment, his second, were brought down to the Presidency, and tried at the ensuing sessions for wilful murder. The grass-cutters and the horse-keepers, who had observed them going out together and returning, and a water-bearer, who had actually seen the duel, were somewhat at a loss to identify Sandys and Yeaman; and the prisoners had, moreover, the advantage of a jury of Madras shopkeepers, who, serving the different regiments with stores, had on former occasions acquitted officers under similar charges and, aggravated as the present case was, probably felt a like indisposition to convict. They were acquitted, therefore, but against the strong and pointed direction of the Judge, Sir Henry Gwillim, who told the Jury, that it would be trifling with his own oath not to tell them that it was a case of foul and deliberate murder. They deliberated, or pretended to deliberate, for half an hour; and during this time the Judge, who could not imagine that any other verdict could be brought in but that of “guilty,” had already laid his black cap upon his note-book, prepared to pass the sentence of the law upon them, and which, as he told the prisoners, it was his intention to have carried into effect. “You have had,” he said, addressing them with great solemnity, a narrow escape, and too merciful a Jury. If they can, let them reconcile their verdict to God and their consciences. For my part, I assure you, had the verdict been what the facts of the case so fully warranted, that in

24 hours, you should both of you have been cold and unconscious cor[p]ses – as cold and unconscious as that of the poor young man whom, by a wicked conspiracy and a wicked deed, you drove out of existence. Begone, repent your sins. You are men of blood and that blood cries to Heaven against you.” Sandys and Yeaman were afterwards tried by a Court Martial, found guilty of the conspiracy against the life of Captain Bull, and broke. The sentence was confirmed by the King, with an additional clause, declaring them “incapable for ever again of serving his Majesty.”

(3)

Excerpt from Sir Henry Gwillim's *Charge to the Grand Jury, at Madras, 10th July, 1807* (Madras, “published at the request of the Grand Jury”, 1807) (British Library, IOR/H/Misc/539).

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

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

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

... When a Government pushes its efforts beyond the Law, and assumes powers which the constitution does not invest it with, it becomes as sacred a duty to oppose it, and it is only in a court of law that it is to be opposed, as it is to obey it while it proceeds within its just limits. In such an opposition the best subjects will be found among the foremost. Arbitrary power cannot in the nature of things last long ... Though men cannot break their bonds, yet they will find the means of ridding themselves of tyrants. Why have the countries of this part

of the globe so often and so easily been transferred from one power to another? Because they have been the property of tyrants. Why have the natives of India clung to the English in preference to other Europeans? Because they have felt themselves more at liberty with them. Why has the population of this place increased so much as it has done within these past few years? Because people live in it under the protection of equal laws.

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

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

But suppose, Gentlemen, that there were some danger in admitting the natives to this regulated freedom, in giving them the benefit of equal laws – we are bound to do it, bound by the laws of God and of man - they are our equals by nature, our brethren; and the good policy of the British legislature has fearlessly acknowledged their common rights ...

I will dismiss you, Gentlemen, in the words of one of the wisest sovereigns that ever sat upon the throne of England, I mean, Queen Elizabeth, addressed to the University of Oxford at her departure from them – I call her one of the wisest sovereigns because her Servants were the most able men of the time – the wisdom of a sovereign is manifested in the wisdom of his ministers; the prince alone, however great, cannot be equal to all complicated affairs of Government. The counsel of this glorious princess was, that they would “in the first place serve God, not with the novel and fantastical devotion practised by some, but according to the laws of God and the land; that they would not outrun the laws, but follow them; not dispute the fitness and authority of them, but sincerely obey those that were already in force, and submit to their superiors; in the last place, that they would preserve peace, union and good agreement among themselves”.

(4)

Testament from certain “Officers and Practitioners of the Supreme Court” on his leaving Madras, as reproduced in *The London Pilot*, 31 May 1809.

Honourable Sir,— We, the undersigned, the Officers and Practitioners of the Supreme Court, present this address to you, on the occasion of your approaching departure to England. We offer it as a testimony of our esteem for the ability and independence with which you have fulfilled your trust as a Judge of this Court. We thought that such a testimony, proceeding from those who have been the daily witnesses to the eminent qualities of which we now regret the deprivation, would, at this season, not be unwelcome to you. We sincerely wish you a prosperous voyage, and should be insensible to the blessings of a pure and honest administration of English justice, were we not at the same time to express our wishes for the speedy return of an upright Magistrate and a profound lawyer to his important station.

We have the honour to be, Sir, Your obedient servants

Charles Marsh, Barrister at Law; Henry Gahagan, Barrister at Law; Thomas Greenway, Master in Equity; S. D. Totton, Clerk of the Crown; Gilbert Ricketts, Register and Prothonotary; William Light, Attorney at Law; John Shaw, Deputy Prothonotary.

(5)

Encomiums in favour of Sir Henry Gwillim on his departure from Madras, as reproduced in 'Madras Occurrences for October', *The Asiatic Annual Register, or a View of the History of Hindustan, and of the Politics, Commerce, and Literature of Asia* 10 (1808), pp. 153-7

(5a)

October 18. Yesterday a deputation of subscribers, Europeans, descendants of Europeans, and Natives, waited on the honorable Sir Henry Gwillim, Knight, at his Gardens, with the underwritten address, when Mr. John Branson, foreman of the deputation, addressed the honorable Sir Henry Gwillim, Knight, as follows:—

HONORABLE SIR, - We the Europeans, descendants of Europeans, and Natives, here present, have been deputed by the subscribers, for the purpose of presenting to your honor this address.

All we have to add is, that as we are unanimous as to your merits, we consider ourselves highly honoured in having been deputed on this occasion.

COPY OF ADDRESS

To the honorable Sir Henry Gwillim, Knight, Justice of the Supreme Court at Madras, &c.

HONORABLE SIR, - We the undersigned Europeans, descendants of Europeans, and Native inhabitants of Madras, reflecting on your accurate knowledge of the law, your ardent love of justice, your disinterestedness, your easiness of access, your humanity and tender feelings for the poor and distressed, and on that spirit of firmness so necessary and so eminently possessed by you to establish the law of Great Britain, in a place where by many they have never been known, and by others but imperfectly; cannot but feel extremely sorry to learn you are for a time to leave us.

On this occasion, therefore, we should be extremely ungrateful, as well as void of public spirit, did we not, as we do, feel it our bounden duty to testify the sense we have of your public character, to offer you our grateful and warmest thanks, for your indefatigable exertions, to make the law known and respected, and to support us in our liberties and rights: and it is with pleasure we add, the name of "Sir H. Gwillim" will be ever dear to us and to all lovers of justice.

That the Almighty may preserve your health, develop your merits to a grateful country, and from thence again restore you with increased powers to administer justice among us, is the ardent prayer of, Honorable Sir, Your honor's most obedient faithful Servants.

Bearing 1006 Signatures.

Madras, October 17, 1808.

To which the honourable Sir Henry Gwillim, Knight, has been pleased to reply as follows:—

St. Thomé, October 20, 1808.

SIR, – Give me leave to convey through you my warmest thanks to the Europeans, descendants of Europeans, and Native inhabitants of Madras, for the very kind and affectionate address which I have received from them by your hands. I feel an honest pride in such a testimony of my public conduct; and though they far over-rate my humble services, yet I know that they speak what they think, and that it is not the language of adulation. Indeed, I have in the address, a satisfaction not very common upon occasions of this kind: I am sure that it is the free and voluntary act of those who signed it. Whether I shall return to this country must for the present be a matter of uncertainty; but if I should, it will be, I trust, with more efficient powers for the administration of justice. Wherever I may be I shall always pray for the happiness and prosperity of my fellow subjects in India, both Natives and Europeans; and among the many obligations they have conferred upon me, I shall particularly remember the very handsome manner in which the address was presented to me by yourself and the respectable inhabitants who accompanied you to my gardens.

I am, Sir, Your obliged and obedient Servant,

H. GWILLIM.

To Mr. Branson.

(5b)

On Friday the 21st of October, Sundy Chingalvaroyen, attended by many of the principals of his caste, waited on the honorable Sir Henry Gwillim, Knight, at his gardens., and presented the following address:

To the Honorable Sir Henry Gwillim, Knight, Puisne Judge of the Supreme Court of Judicature at Madras.

MY LORD

That during your lordship's administration of several years as a Puisne judge in the Supreme Court of Judicature at Madras, no one spoke of your lordship's smallest deed without praising your lordship's amiable manners, humanity and wise arrangement for the best of the country and its inhabitants. We are convinced by several occurrences that your lordship is the person possessing the love of all the inhabitants of Madras. Under your lordship's administration the inhabitants enjoyed true happiness and prosperity; your lordship's care for their well-being extended itself so far as not only to favour them with due justice in honor of his Britannic Majesty, but also perceiving that a difference arose among us to hold their meeting for the performance of our ancient customs of our cast[e], which we have been deprived of since the death of our predecessor, who performed the same without the least tendency to a violation of their ancient rules, and your lordship's impartial justice in the above great matter done to our peace and everlasting benefit for the people in public.

Although we cannot forbear returning our due praise, as it would be an evident mark of the greatest ingratitude to your lordship, we however are not desirous that this address should pass for an eulogy only – by no means; we intend and wish hereby your lordship will deign to accept from us this submissive address, as due to your lordship's merits; we therefore take the liberty to offer to your lordship this address, not as a recompence for the benevolence we have enjoyed, but (permit us to say) as a public acknowledgement of all the natives; we return again to your lordship, with due deference, with prayer to the Almighty, to be your lordship's guide on leaving the country of our habitation, and to make your lordship's voyage

prosperous. That your lordship may live under the protection of the mild God! we pray that the supreme being whom we adore continue health to your lordship both in mind and body, and bestow all manner of happiness! May all your undertakings with his Britannic Majesty and the nation be crowned with success! May your lordship soon return safe hither again, that we and our families may be rejoiced, singing hymns in praise of the great God, the living soul of the universe! And we conclude by hoping your lordship will not, contrary to your lordship's good temper, and natural and innate civility, despise the address which in a most submissive manner is presented by,

MY LORD, We have the honor to remain with the highest sentiments of gratitude and respect, your lordship's dutiful and most obedient and faithful humble servants,

(Signed) Sundy Chingalvaroyen, Headman, and 240, &c. in assembly of Tondamandalum Toolooba Oyer Vellala Cast of Ponnary Verpet Naudoo Inhabitants of Madras.

To the Headmen in Assembly of the Ponnary Tondamandalum Tooloova Oyer Vellala Cast, at Madras.

Accept my best thanks for the very tender and affectionate address, which I have received from you. You express thankfulness for protection in the customs of your cast. It is but justice in me to say that the correct and loyal conduct of the inhabitants of Madras in general, particularly entitles them to be upheld in their rights and their customs, as it shews how sensible they are to the blessings of a free and equal administration of justice.

Your very pleasing expressions of regret at my departure, and of approbation of my public conduct, have made a deep impression on my mind; and the Vellala cast of Madras for this kind remembrance of me, will always hold a place in my regard.

That you may all live long and happy is the sincere wish of,

Your's faithfully

H. GWILLIM

Phoenix, Madras Roads,

October 25, 1808.

(5c)

On Monday morning, the 24th instant, Chiniah Moodeliar, accompanied by many of the most respectable Native inhabitants of Madras, waited on the honorably Sir Henry Gwillim, at his gardens, when the following address was presented to him, with a very appropriate speech by Chiniah Moodeliar.

To the honorable Sir Henry Gwillim, Knight, &c.

HONOURABLE SIR, — The Natives of Madras, in common with the other inhabitants, heard some time ago with much concern, that your presence had been required in Britain, for the purpose of explaining some matters connected with the situation which you have during many years so ably filled in this place; but, as the abilities, zeal, and integrity, with which you had executed the duties of your high office, were well known, hopes were entertained that on a further consideration of the matter by the government at home, your personal attendance would not have been deemed necessary.

It is with the greatest regret that we now learn, that these hopes have not been realized, and that the fleet about to sail, is to carry from us, (although we trust but for a short

time,) a person, whom the Native inhabitants of this settlement have, from the moment of his first arrival amongst them, been accustomed to consider as their father, and their friend; to whom on all occasions of difficulty, and distress, they have resorted for advice and assistance: and whose acts have in every instance, most unequivocally evinced that he has felt a more than common interest in their welfare and happiness.

The able manner in which your judicial proceedings in general have been conducted, is universally acknowledged;— but the labour, patience, temper, and perseverance, with which you have investigated many intricate causes which have been brought before you, wherein Natives alone were concerned, cannot, perhaps, be better appreciated than by ourselves:— We beg to assure you, that they have impressed on our minds the strongest feelings of gratitude and respect for your character, and that we have viewed with admiration your decisions on those occasions, the justice and equity of which, cannot fail to hand down with veneration and esteem, the name of Sir Henry Gwillim, to the Native inhabitants of Madras, from generation to generation.

In taking leave of you, we request permission to return you our warmest acknowledgements for all the favours you have conferred upon us, and to offer our best wishes that you may have a safe and speedy passage to your Native country, and that you may never experience any thing in this life, but a constant increase of honors, and of happiness.

With the greatest respect, we beg leave to subscribe ourselves,
Honorable Sir,
Your most faithful, Most obedient, and obliged humble Servants

Manale Chiniah Moodeliar, M. Moodookistna Moodeliar, C. Singana Chitty, C. Pedda Sawmy Chitty, C. Chinna Sawmy Chitty, Pummel Soobaroy Moodeliar, C. Veerasawmy Brammy, Vencata Rangum Piliay, M. Rungiab Naick, S. Vencatachellah Chitty, Vemagah Moodeliar, Chinnatomby Moodeliar, Connor Moonah Moodeliar, Shabaubady Moodeliar, T. Somasundra Moodeliar, Singery Vencatachella Moodeliar, P. L. Paulgapah Moodeliar, and upwards of 400 respectable Native inhabitants.

To the Natives of Madras.

I feel very sensibly the kind disposition you have manifested towards me in your address of this day, and the warmth with which you express your regret at my leaving India. You do me no more than justice in saying that I have had your interest at heart. Your gentle manners and modest deportment very early attached me to you, and made the discharge of my duty a pleasure to me. It was my duty to extend to you the protection of the laws; it was my duty to administer your own laws to you pure and such as I found them in your most revered authorities. If I have done this, I have only the merit of having done my duty, and do not deserve the praises you have so affectionately bestowed upon me. Be assured that though locally separated from you, my heart will be ever with you, and that your happiness will be among its warmest wishes.

I am, with true regard,
Your faithful Servant,
(Signed) H. GWILLIM.

St. Thomé, 24th October, 1808.

(5d)

On Monday afternoon, the honorable Sir Henry Gwillim, Knight, one of the Puisne justices of his Majesty's Supreme Court of judicature at this presidency, embarked on board the honourable company's ship Phoenix captain Ramsden, for Europe.

Sir Henry was met at the beach by his excellency lieutenant-general Hay Macdowall, commander-in-chief, the honorable Sir Benjamin Sulivan, Knight, and a most numerous assemblage of European and Native inhabitants of this settlement – the principal Khans of the Mussulman and the heads of the Hindoo casts, personally paid their respects to Sir Henry Gwillim, prior to his reaching the boat, and a few of them proceeded with him on board.

A salute of seventeen guns from the garrison of Fort St. George announcing his leaving the beach, and a like salute from the honorable company's ship on his arrival on board the Phoenix.

(6)

Committee Report on the Memorial of the Court of Directors respecting Sir Henry Gwillim, 11 April 1810. National Archives, PC 1/3822

The Lords of the Committee to whom the matters respecting Sir Henry Gwillim were referred by Your Majesty, having, since his Return to England, resumed the Consideration thereof, and having also duly considered the Representation made by Sir Henry Gwillim himself, have agreed to report to Your Majesty their humble Opinion, that under all the Circumstances of the Case, as they are now before this Committee, it is adviseable, that Sir Henry Gwillim should not return to his Seat in the Court at Madras; and their Lordships take leave further to Report to Your Majesty, that Sir Henry Gwillim in His Memorial to Your Majesty humbly begs leave to lay in his Claim upon Your Majesty's Justice to be permitted in the Event of further Inquiry being directed, to enter more fully and at large into his Case; that he has much to bring forward; that there are many witnesses in India, whose Testimony will be material to him; and that he cannot possibly dispense with the personal Examination of Sir Thomas A. Strange the Chief Justice of Madras, and Mr Anstruther, the Company's Advocate there; and if the View their Lordships had taken of the Inexpediency of Sir Henry Gwillim's Return to his Seat in the Court of Madras had proceeded upon any Part of the Representation before their Lordships, which was controverted in Sir Henry Gwillim's Memorial, their Lordships would have thought it necessary to have withheld their advice from Your Majesty on this point till such further Inquiry had taken Place; but they humbly report to Your Majesty, that without entering into those Circumstances which are controverted in Sir Henry Gwillim's Memorial and independent of them, sufficient ground appears to render the Return of Sir Henry Gwillim inexpedient. As their Opinion therefore rests upon Considerations which no further Inquiry could remove, and as the Delay and Publick Inconvenience which must be incident to such further Inquiry ought, if unnecessary, to be avoided; The Lords of the Committee have considered it to be their Duty no longer to withhold from Your Majesty their Report on this important Subject.

The Lords of the Committee take leave, nevertheless, further humbly to submit to Your Majesty that the Circumstances of the Case do not appear to them to make it unfit for

Your Majesty, if Your Majesty should graciously so please, to direct some Allowance to be made to Sir Henry Gwillim, as a Judge of Your Majesty's Court at Madras returning to Europe, under the Authority vested in Your Majesty by Act of Parliament; and Their Lordships are further of Opinion that the Right Honourable the Earl of Liverpool, one of Your Majesty's Principal Secretaries of State should receive Your Majesty's Pleasure for signifying to Sir Henry Gwillim his Removal from his Seat as one of the Puisne Judges of Your Majesty's Supreme Court of Judicature at Madras, and as to such Allowance as Your Majesty may be graciously pleased to grant to the said Sir Henry Gwillim