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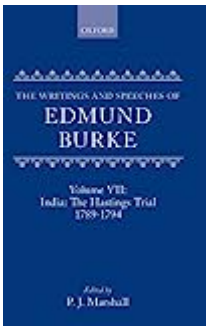

Edmund Burke. *India: The Hastings Trial, 1789-1794.* New York and Oxford: Clarendon Press, 2000. xiv + 728 pp. $125.00 (cloth), ISBN 978-0-19-820809-9.

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Edmund Burke's Last Crusade

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This is the seventh volume of the *Writings and Speeches of Edmund Burke* and the third, and last, to deal with India. As is the case with the other publications in the series, the Clarendon Press and general editor Paul Langford have given us a first-rate production. The work is handsomely bound, the paper of good quality, the notes are at the foot of the page, and there is an absolute minimum of printing errors. In addition, P.J. Marshall, the editor of this as well as the other volumes on India, has done an equally fine job of editing and annotating the various individual works, setting their contexts, and providing a brief but extremely useful and interesting introduction to the whole.

Marshall's introductory essay is especially valuable because it does a masterful job of setting the stage for the included Burkean works. Where, as Marshall points out, Burke's earlier writings on India and Hastings were the products of optimism and hope and represent Burke at his best, these are the fruit of despair over a nearly lost cause and the strain of years of effort clearly shows. Burke occasionally reaches the level of his best rhetoric but, for the most part, these works are of a distinctly lower quality. In the most important, the four hundred page speech closing the prosecution, Burke is often rambling, sometimes incoherent, and more than occasionally excessively vehement. It will, I fear, take a devoted Burke specialist or a serious student of Indian or imperial history to wade all the way through.

Still, there are rewards for doing so and issues worthy of consideration are raised here. In my own mind, three stand out. First, in the early writings and speeches in this volume, Burke raises the question of what legal standards should be applied in an impeachment trial. Students of American politics, and those interested in the Nixon and Clinton impeachment debates, will find much here to fascinate them. Critics of the effort to impeach Hastings argued that the same standard of proof as was used in the lower criminal courts should be applied by the House of Lords. Given the special role of the House of Lords in the British legal system, that argument has a certain plausibility. At any rate, it eventually convinced the House of Lords and thus led to Hastings's acquittal. Burke and the House of Commons, on the other hand, argued that im-

peachment is essentially a political matter, that the Commons and Lords together could devise and employ their own standards, and that those standards should take account of both the difficulty of proof and the dangerous consequences of breach of political trust. In that regard, they took a position much like that of Alexander Hamilton in his *Federalist Papers* explanation of the American constitution's impeachment clause. I do not know that there is a right answer here, but, for my own part, I have always thought that Burke and Hamilton have had the better of the argument.

Burke also opened a second front in the standards debate by relying heavily in the prosecution case on circumstantial evidence. Alleging that the distance from India, the lapse of time, and the nature of Hastings' crimes made direct empirical proof almost impossible, Burke maintained that the Lords should use a process of inference to convict Hastings. That is, Burke suggested that if something illegal happened, and no other explanation accounted for that event as well as a supposition that Hastings and his allies had acted against British East India Company policy, immorally, and out of self-interest, then the Lords should assume that criminal intent and wrongdoing were present. This is not an unreasonable position on the face of it and courts do generally rely heavily on circumstantial evidence. Unfortunately, even a Burke admirer has to admit that the texts of Burke's speeches and writings raise questions about his use of the argument. There is all too often an air of grasping at straws and of stretching and reaching about Burke's presentation. Often, indeed, Burke's approach is patently circular: he declares Hastings's acts criminal because of his (inferred) motive but then proclaims Hastings' motive base because of his acts.

Second, Burke has a great deal to say about what he perceives to be Hastings's method of corruption. He accuses Hastings of forming a system of double government: that is, of playing Indian and British authorities off against each other. Though Burke fails to clearly and directly describe this double government, I think its elements, or rather what he saw as its elements, can be easily recreated. According to Burke, Hastings first used the Indians to screen himself off from the East India Company. He told the Company that he could not follow its rules to the letter because Indian mores and traditions would not allow it. Second, Burke argued that Hastings then used the authority the Company gave him to isolate the Indian political leaders. In Burke's view, Hastings would seize political and economic control of an area by coercing the Indians to cede authority to himself. Third, having acquired that authority, Hastings would return a delegated share of it to the Indians on condition that they satisfy certain requirements in terms of providing revenue or other performance. Four, when those requirements proved impossible to meet, as according to Burke they were meant to be, Hastings would dispossess the Indian authorities and replace them with men, either British or Indian, loyal to himself. Finally, Burke claimed, the newly installed regime and Hastings would collaborate to exploit the area and to falsify the Company and other records to hide their abuses. Worst of all from Burke's perspective, India was left impoverished, the exploiters were enriched, and the Englishmen among them were free to return to England and to use their ill-gotten wealth to undermine English society and politics.

The third theme I would like to comment on concerns Burke's own view of the Empire. It seems to me that a claim to rightly exercise imperial authority over another people involves two core elements: first, one must assert that you can, in some empirical sense, govern them better than they can govern themselves; and, second, you must be able to refute John Stuart Mill's argument that, even if the first point is successfully made, there is an over-riding value to self-government simply because it is *self*-government. However, Burke seeks to make his case against Hastings without considering either of these points and, therefore, without considering the nature of the British claim of a right to govern India. In my view, two limitations of Burke's perspective stand out here. First, Burke is an advocate of what might be called trickle-down justice. His primary concern is with the wrongs to the great people of India. His sympathy is, in short, mostly an aristocratic sympathy and, while he does express concern for the lower classes, it is, by his own admission, a second-hand concern. Second, Burke's admiration for India is, I am convinced, sincere and important, but it is, nonetheless, colored by prejudice. In denouncing one of Hastings's agents, he comes back again and again to the "blackness" of the man's appearance. This is, of course, rhetoric but it is unfortunate, and revealing, rhetoric. Similarly, it is not, for Burke, enough that the agents of evil are of lower class than their victims but too often that status itself is treated almost as though part of their crimes.

For some, the central question will be what this volume tells us about Hastings's guilt. The answer is, I fear, not much. We have here Burke's side of the case presented at appalling length and in a manner which is often his own worst enemy. Burke constantly over-states and exaggerates, he always assumes the worst, and he abuses

his opponents. Moreover, it would take a familiarity with the evidence and with the nature of Indian society going far beyond what can be acquired from the texts presented here before a judgment could be rendered. Marshall, in his excellent work on the Hastings trial, suggests that at least some of Burke's charges were probably justified. Whatever the case, there is more than enough evidence here to remove all question of Burke's sincerity. The sheer magnitude of his effort, especially when set against the unliklihood of his achieving any success, should be enough to convince any critic that Burke had very little to gain by his participation in the Hastings impeachment. In fact, as Marshall notes, the day after accepting the House of Commons' vote of thanks for conducting the prosecution Burke resigned from Parliament.

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