

SIR CHARLES METCALFE'S ADMINISTRATION AND  
ADMINISTRATIVE IDEAS IN INDIA,  
1806 - 1835

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by

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Abstract

This thesis is devoted to a study of Sir Charles Metcalfe's administration and administrative ideas in India between 1806 and 1835 and is concerned with a discussion of such forces and principles as can be studied in his activities and his mind.

Metcalfe evolved his administrative principles and methods at Delhi, while he was its Resident from 1811 to 1818 and between the years 1825 and 1827. The system of administration as devised by him was known as the Delhi system, which derived its main principles from indigenous sources but it was open to other influences as well. Later when he became a Member of the Supreme Council in Bengal - the homeland of the Cornwallis principles - during Lord William Bentinck's governor-generalship, he sought to assert his influence in remoulding the system of administration according to his viewpoint. In actual result, however, a synthesis between the two sets of administrative principles took place. In 1835, as the Governor-General of India he passed the press-law which guaranteed freedom of thought and expression.

Metcalfe had passed through a period of war and peace in India. On the one hand he had imbibed some ideas and principles of the Wellesley era, on the other his attitude blended with the spirit of the age of Bentinck which

symbolised peace and reform. Both these trends are to be seen in his thoughts and actions. In this thesis particular attention has been paid to an analysis of these trends.

In preparing this thesis extensive use has been made of the records of the East India Company as well as of the relevant private papers of several administrators of the time.



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List of Abbreviations

Add.	Additional
Beng.	Bengal
BM	British Museum
Bo.	Board
Coll.	Collections
Cons.	Consultations
Crim.	Criminal
G.G.	Governor-General
I.O.L.	India Office Library
Jud.	Judicial
L.P.	Lower Provinces
Memo.	Memorandum
Misc.	Miscellaneous
MSS.	Manuscripts
MSS.EUR.	Manuscripts European
NWP.	North-Western Provinces
Pol.	Political
P.P.	Parliamentary Papers
PRO.	Public Records Office
Pub.	Public
Rev.	Revenue
SRR.	Selections from Revenue Records
W.P.	Western Provinces

## Preface

It will be useful as an introduction to describe the major works so far published on the general subject of this thesis. In 1854 Sir John William Kaye, the first biographer of Charles, Lord Metcalfe, gave us an account of his career in two volumes constructing the story from 'unpublished letters and journals preserved by himself, his family and his friends.'<sup>1</sup> Furthermore, he allowed Charles Metcalfe to tell his own story so that Metcalfe's letters were extensively reproduced in the book. By doing so Kaye has performed a significant service, since most of Metcalfe's letters have either been destroyed or are now untraceable except those which are preserved in the Elphinstone, Bentinck and Auckland Papers.<sup>2</sup>

Kaye was prompted to write history from a definite viewpoint. He wished to judge the acts of statesmen and administrators putting them to moral and ethical tests. Nevertheless, he was influenced as much by the generation in which he lived as by his ideals. His generation was interested in political rather than social history. Kaye's business therefore was to record the 'stirring times',<sup>3</sup> Metcalfe himself

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1. Kaye, The Life and Correspondence of Charles, Lord Metcalfe, 2 Vols., London, 1854.
  2. In the family records it is stated that Charles Metcalfe's letters were destroyed by the widow of James Metcalfe, the eldest son of Metcalfe some time after 1870. His letters written to his sister, Mrs. Georgiana Smyth, however, escaped destruction. But these are now untraceable. I am indebted to Miss Félicité Hardcastle of Burley, Ringwood, Hampshire, a relation of the family for having very kindly lent me the three volumes of Family Records, and also for many courtesies shown. Fortunately there are still a number of letters in the collections as mentioned.
  3. Ibid., p.x.

had passed through such a thrilling period of British Indian history and was worthy of detailed study. His political career was the centre of Kaye's interest, whereas only passing references (in about five pages only) are made to the revenue and judicial measures proposed or adopted by Metcalfe.<sup>1</sup>

Nearly a century was to elapse before interest on Metcalfe was revived. This time Edward Thompson refashioned the narrative of Metcalfe's life.<sup>2</sup> Thompson was a Protestant missionary, poet, novelist and historian all rolled in one. According to him history should be something more than a drab record of 'the Acts of Administration'. It ought to capture 'the moods and tendencies'.<sup>3</sup> While writing on Metcalfe, Thompson complained that Kaye was prejudiced against Metcalfe and had arbitrarily handled his material by suppressing facts. Thompson therefore utilized the letters, which were mostly unused by Kaye, sent by Metcalfe to his favourite sister, Mrs. Georgiana Smyth, thus adding an intimate touch to the story. However, in effect his work supplemented that of Kaye; he and Kaye between them completing the biographical account of

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1. There is also a compilation of some private letters and official minutes of Metcalfe. But this is haphazardly done and covers mostly topics of political and military nature. Besides they are extracts from documents. A list of some of Metcalfe's official writings relating to civil administration are appended in Appendix A.: Kaye, Selections from the Papers of Lord Metcalfe, London, 1855.
  2. Thompson, E., The Life of Charles, Lord Metcalfe, London, 1937.
  3. Article by Dr. K.A. Ballhatchet, 'Historical Writing on India by Protestant Missionaries'. Philips, C.H., Historians of India, Pakistan and Ceylon, London, 1961, p.352.

Metcalfe. Thompson gave more space to revenue and judicial administration but he never intended to make it a study of the system or the ideas of Metcalfe.

Dr. Spear's Twilight of the Mughuls is a valuable study of British and Indian social life in Delhi of the pre-mutiny days. It follows the tradition of his work on The Nabobs.<sup>1</sup> Covering a period of about one hundred years (1761-1857) it also traces in general the administrative developments that took place at Delhi during the period of British rule after 1803. One chapter of the book is devoted to a study "specially of the 'Metcalfe System'"<sup>2</sup> which according to him was 'no system' at all, its principle was merely 'to preserve the old intact'.<sup>3</sup> In another work, Dr. Spear says that Metcalfe 'professed utilitarian principles'.<sup>4</sup>

Dr. Eric Stokes<sup>5</sup> is concerned to show the influence of utilitarianism in the formulation of the government's policy in India between the years 1820 and 1840. He is brilliant and original in his conception and has made a substantial contribution both to the history of English political ideas and to the history of administration in India. His approach is more that of a political scientist than of a historian. In his opinion, ever since 1819 when James Mill became Assistant Examiner in the Revenue Department at the East India House in

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1. Spear, T.G.P., Twilight of the Mughuls; Studies in late Mughul Delhi, Cambridge, 1951.

2. Ibid., p.ix.

3. Ibid., p.88.

4. Spear, T.G.P., India, Pakistan and the West, Oxford, 1958, 3rd ed., pp.150-1, 153, 160.

5. Stokes, E., The English Utilitarians and India, Oxford, 1959.

London the influence of the Ricardian concepts of economy and of Benthamism was felt especially in the realm of land revenue and law. It is asserted that these principles were acted upon in the Western Provinces where revenue settlements were being made and in Bombay in general during the period.<sup>1</sup>

The present thesis is not a study of utilitarianism. It deals with Metcalfe's administration and his ideas between 1806 and 1835 and is concerned with a discussion of such forces and principles as can be studied in his activities and his mind. Metcalfe was a member of the Supreme Council at Calcutta while Bentinck was Governor-General from 1828 to 1835. Dr. Stokes considers that Bentinck's period witnessed the fulfilment of the aims which were assiduously being extolled by James Mill. Metcalfe features in his treatment since he was in the midst of those discussions, and is shown to belong to an outmoded school of thought different from that of Bentinck and the utilitarians.

In this connection two observations may be made. The first is that important decisions regarding principles and policy in both the revenue and judicial spheres had been reached before 1819, roughly during 1814 and 1817, and the motive force behind those decisions was not utilitarian philosophy. And in many ways especially in the making of judicial policy Bentinck acted upon them. And secondly, if these

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1. A thesis since has been written on the formation of revenue policy in the Western Provinces. Hussain, M.I., The Formation of British Land-Revenue Policy in the Ceded and Conquered Provinces of Northern India, 1801-1833, (unpublished Ph.D. thesis, London, 1964).

principles were acted upon they had been diluted during Bentinck's time so as to lose much of the original purity and significance. As far as the principles of administration are concerned the influence of the native tradition in administration was manifest in them. It is in this context that Dr. Stokes' contribution should be regarded, and I have, in fact, drawn much from both Dr. Spear and Dr. Stokes, in my attempt to interpret Metcalfe's ideas.

A thesis<sup>1</sup> which I have found of much use deals with the administration of the Delhi territory between 1803 and 1832. Here the emphasis is, however, laid on the political duties of various residents including Metcalfe rather than on the administrative system. Besides it is concerned with the machinery of administration and not with the principles, policies or ideas involved in creating that machine. No attempt has been made exhaustively to examine the official documents relating to revenue and judicial administration, partly because, perhaps the field was vast since political problems were considered in the thesis. Moreover it shows little awareness of the amount of valuable material available. To cite an example, six volumes of revenue records running into hundreds of pages covering the period <sup>between</sup> 1822 and 1827 and deposited under the head of Board's Collections at the India Office Library have not been utilized at all.

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1. Holmes, J., The Administration of the Delhi Territory, 1803-1832. (unpublished Ph.D. Thesis, London, 1955).

In fact, a systematic and an interpretative study of Metcalfe's administration has not been made so far. This study attempts to fill<sup>in</sup> that gap.

In the preparation of this thesis a wide range of published and unpublished materials have been used. The private papers which have been consulted include the Adam, Elphinstone, Bentinck, Bentham, Col. James Young, Ellenborough, Colchester, Auckland and Broughton Papers.



Chapter IIntroduction : The Heritage, and  
Outlook of Metcalfe

By some historians the history of <sup>the</sup> early nineteenth century has been described as reflecting contemporary political ideas but in fact the British-Indian administration was an outcome of the association of two dominant administrative traditions, one Indian and the other British. The administrative system in India evolved, receiving new ideas and impulses yet remaining firmly rooted in the Indian soil, the soil of its origin and in the climate in which it flourished. That India should have felt the impact of western ideas was in the nature of things. Also, that the British should have brought to bear upon Indian problems and policies, the experiences, principles and ideas inspired by their own institutions at home was but natural. Even so, no system or principle, however virtuous, could have ever been successfully enforced unless modified to suit the altered situations and the tastes, habits and character of the people subject to the alien rule. Indeed, the two streams of thought and traditions met on the threshold of administrative needs.

Among the British in India, Warren Hastings was the first to have conceived and applied an administrative system founded on principles. He drew inspiration from Indian institutions whereas Cornwallis dreamed of remodelling the Indian society on a British pattern. The forces which were unleashed as a result of the interplay of these two sets of ideas were

at work in the early decades of the nineteenth century until a synthesis was achieved during Bentinck's Governor-Generalship. These were truly the formative years of British administration in India. It was during these years between 1806 and 1835 that Sir Charles Metcalfe was destined to play a significant role in the shaping of the system.

Although the primary concern of <sup>the</sup> British Government was to govern according to the dictates of expediency and circumstances yet ever since the assumption of responsibility of government Warren Hastings set out to evolve a pattern of administration enunciating broad principles. His attitude towards India was one of appreciation. He thought that Indians were fairly advanced in the scale of civilization hence, 'the people of this country did not require our aid to furnish them with a rule for their conduct, or a standard for their property.'<sup>1</sup> Furthermore, he observed that it would be a 'wanton tyranny' to deprive Indians of their own laws and force them to obey laws of foreign origin of which they were completely ignorant.<sup>2</sup> Besides, if the laws and institutions of Indians were preserved they were most likely to be 'pleased' with British rule.<sup>3</sup> This was a motive well-calculated to win the confidence of the vanquished people.

Hence he established a system preserving entirely

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1. Warren Hastings to Court of Directors, Moon, Warren Hastings and British India, pp.103-104.
  2. Warren Hastings to Lord Mansfield, 25 Aug. 1774, Gleig, Memoirs of Warren Hastings, 1, p.400.
  3. Warren Hastings to Hon'ble Josias Dupre, 8 Oct. 1772, Ibid., p.263.

'the spirit of the Constitution' of olden days making only minor changes to suit existing circumstances and to make the system more effective.<sup>1</sup> Following this principle Mohamedan law continued to be practised in the courts and a digest of Hindu law was prepared. Educational institutions designed to impart Oriental learning were established. And Warren Hastings advised the Authorities at Home to avoid schemes tending to offend the religious sentiments of the people and to resist the temptation of undermining the importance of social customs and traditions in India however revolting they might appear to the western eye. He said:

'Even the most injudicious or most fanciful customs which ignorance or superstition may have introduced among them, are perhaps preferable to any which could be substituted in their room. They are interwoven with their religion, and are therefore revered as of the highest authority. They are the conditions on which they hold their place in society, they think them equitable, and therefore it is no hardship to exact their obedience to them. I am persuaded they would consider the attempt to free them from the effects of such a power as a severe hardship.' 2

These teachings were not lost on generations of future administrators.

For once Warren Hastings and Burke seemed to agree with each other. Both rejected abstract theories as guides to administration and accepted the pragmatic approach. Both believed in the utility of historical experience. And above all, both appealed to the virtues of harmony and saw evil in

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1. Ibid., 6 Jan. 1773, Ibid., p.272.

2. Warren Hastings to Lord Mansfield, 25 Aug. 1774, Ibid., pp.403-404.

conflict. While Burke was propounding his philosophy of conservatism at home, Warren Hastings was formulating those ideas on the Indian battleground where the British were fighting for the survival of their power.

Cornwallis succeeded Warren Hastings. He was fresh from England and came from an ancient aristocratic land-owning class. Fully conscious of the superiority of the British over the Indian system of government and determined to bring an end to what he called the despotic and corrupt practices of the previous administration, he established a system based on English principles. His measures touched the heart of the problem of administration - land revenue and law. Being a Whig himself and coming as he did from the nobility he created big landlords in Bengal on the western model by introducing the permanent land settlement. The underlying principle was to create private property in the soil to ensure economic progress in India. The policy behind it was to establish a stable social order by creating wealthy landed gentry which would be loyal to British rule. Furthermore, by fixing an invariable revenue demand, the government stabilised its own income which so far had been uncertain and insecure if not precarious.

Logically following this measure Cornwallis built the judicial system professing a faith in the supremacy of law. For the administration of the laws he established courts and made the officers of government and the government itself amenable to their jurisdiction. The government as well as the

governed were subjected to a written code of regulations. The code guaranteed rights to the people, bound the government servants, judges and collectors alike, to a prescribed rule of conduct and defined the jurisdiction of the courts. This was primarily designed to do away with the arbitrariness of the officers by limiting their discretionary powers to a minimum. In short the administration was to be an impersonal and formal one full of forms, technicalities and procedural details,<sup>1</sup> so that it would be 'upheld by its own inherent principles, and not by the personal qualities of those who would have to superintend it.'<sup>2</sup> Thus a clear definition of powers was considered necessary for the establishment of the rule of law. In the second place, the executive was separated from the judiciary, the functions of the collector and the judge being assigned to two individuals. The supervisory and controlling powers were entrusted to boards composed of more members than one following a principle of checks and balance. Over the district courts were Provincial Courts of Appeal and Circuit, the Chief Civil and Criminal Court known as the Sadr Diwani and Nizamat Adalat being at the top of the ladder. Thus the whole system was founded upon 'the broader basis of British law; and it may be said, cemented with the spirit of the British Constitution',<sup>3</sup> which in turn derived principles from Montesquieu's theory of separation of powers and the dictum

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1. Regulation XLI of 1793, Harington, J.H., An Analysis of the Laws and Regulations in Bengal, 1, pp.9-16, 25-28.

2. Firminger, Fifth Report of 1812, 1, p.54.

3. Harington, op.cit., p.16.

that the more the forms, the greater was the chance of safeguarding the individual liberty.<sup>1</sup>

To the Whigs as also to Cornwallis, private property, free trade, individual liberty and reduction of the power of government to a minimum were articles of faith.<sup>2</sup>

About this time when a new system was being established in Bengal, another system, later known as <sup>the</sup> Munro system was being evolved at Madras. This system looked to indigenous sources for its inspiration, and declared the superiority and efficacy of the principle of union of powers over that of separation of powers. This was indeed the legacy of the native tradition of administration. Allowing large discretionary powers to officials Munro decided to utilize and invigorate the native institutions, administering the country through the agency of Indians themselves under European supervision. In his advocacy of such a system Munro was recapitulating the teachings of Warren Hastings. Even his ryotwar system of revenue settlement which aimed at settling with the petty peasant-proprietors fitted into the framework of Warren Hastings' theory that existing institutions should be maintained, although in fact Warren Hastings had made little contribution towards the settlement of revenue or in recognizing the claims of the ryots for the fixation of revenue. Undoubtedly, the Munro system made a distinct advance on Warren Hastings' ideas and held its ground for decades as an

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1. Halevy, The Growth of Philosophic Radicalism, p.379.  
 2. Stokes, The English Utilitarians and India, pp.3-6.

alternative to the Cornwallis system. Munro attacked these principles as innovations and as being unhistorical, therefore useless and harmful in the Indian context.<sup>1</sup>

The relative merits and demerits of the two systems were a subject of prolonged controversy. The issue was open and was being hotly discussed, when Charles Theophilus Metcalfe, son of Major Thomas Metcalfe, an East India Director and Member of Parliament landed at Calcutta on 1 January 1801. He was barely sixteen years old.

Charles Metcalfe came to India straight from Eton. He loved Eton and left it with a sad heart. He was by nature studious, reserved and thoughtful. He spent long hours at his desk studying classics, history and poetry. He was not interested in out-door activities and looked for even a half-holiday so that he could read his favourite authors. He was a voracious reader. He was fond of Gibbon, Rousseau, Voltaire, Homer, Virgil and a host of Latin and Greek writers.<sup>2</sup> He kept a Journal which was to record the 'facts of his life' as well as his reflections 'so that it will be the general rendezvous not only of my actions but my thoughts'.<sup>3</sup> His journal records intense intellectual activity. To take a few examples:

'Wednesday, 5th - Whole school-day.... Re-translated four pages of my translation from Rousseau....

'Saturday, 8th - Common Saturday .... Finished Voltaire's 'Life of Louis XIV'. Mem. Follow up the

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1. Arbuthnot, Writings of Sir Thomas Munro, Minute, 31 Dec. 1824, p.261. Also, Stokes, op.cit., p.19.
  2. Kaye, Life of Metcalfe, 1, pp.9-10, 16.
  3. Ibid., p.10.

enquiry about the Iron mask; ask my tutor to lend me Gibbon.

'Sunday, 9th - Did theme. Read Ariosto with Melville and Shaw; ...'1

He began Voltaire's Life of Charles the Twelfth on eleventh of March and finished it on 14th, reading in the meantime some of Horace's Art of Poetry, also of Lucan, Cicero and Ariosto along with Gibbon's Antiquities of the House of Brunswick and Este, and Observations on Bishop Warburton's Explanation of his Sixth Book of the Aeneid.<sup>2</sup>

He liked 'Rowley's 'Poems', and did verses. He mentions in his Journal that he composed a few stanzas on 'Solitude', 'On Human Life', apart from writing poetry to his first love, Miss D----.<sup>3</sup> This happened when he was fifteen. Later in 1833 while he was a member of the Supreme Council at Calcutta he wrote a fairly long poem to wean 'a friend from an unhappy attachment'.<sup>4</sup>

All this is suggestive of a romantic temperament in him but unlike Elphinstone he was not given to a life of adventure. Elphinstone had a zest for scholarship, action, society and war. Metcalfe had no love for hog-hunting or horse-riding or 'the trenches' although he was one of the first amongst the 'stormers' at Dig in 1804.<sup>5</sup>

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1. Journal, March 1800, Kaye, op.cit., p.11.

2. Ibid., p.12.

3. Journal, March 26, 30. Ibid., pp.16,25,29.

4. Kaye, Ibid., 1, Appendix, pp.499-502.

5. Kaye, Ibid., 1, pp.136-138. About Elphinstone, see Ballhatchet, Social Policy and Social Change, pp.2-4.



Now and then he was moved by the beauties of nature. While on his way to India he was struck by the sublime beauty of the scenery at St. Helena. But it was the contrast that attracted him most:

'Every step I took afforded a new scene of delight; every winding of the valley, every twining of the mountain offered a magnificent view to our eyes; the contrast was wonderful. If I looked behind, I saw a bleak, barren rock, without a stock of cultivation; if I looked before me, I was struck with the pleasing view of the sides of the hills covered with verdure; a fine breed of cattle browsing on the declivity, and every here and there [sic.] waterfalls, pouring their contents into the bosom of the most fertile valleys, where they formed a meandering stream, the banks of which were covered with water-cresses and other herbs in abundance. Everywhere something grand or something beautiful opened upon us, and everywhere there was fresh substance for admiration. But I need not attempt to describe what cannot be described; I shall overrun my imagination, and be lost in the maze of wonders.' <sup>1</sup>

In 1802 he passed through Agra and visited the Taj-mahal. It was 'far above description' but it did not leave any 'impression' upon his mind.<sup>2</sup> In 1806 he went to Delhi as First Assistant to the Resident. His mind was full of 'reflections' when he saw the Mughul ruins:

'The ruins of grandeur that extends for miles on every side, fill it with serious reflections. The palaces crumbling into dust, every one of which could tell many tales of royal virtue or tyrannical crime, of desperate ambition or depraved indolence, that have caused the accomplishment of the most important events, yet have

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1. Kaye, Ibid., 1, p.31.

2. Common-Place Book, 12 March, 14 March 1802, Ibid., pp.61-62. In India he maintained a diary under the title Common-place Book.

never reached the ear of history; the myriads of vast mausoleums, every one of which was intended to convey to futurity the deathless fame of its cold inhabitant, and all of which are passed by unknown and unnoticed, eclipsed by the grandeur of one or two which attract the traveller. These things cannot be looked at without indifference. The view at present before me from my tent contains the history of ages....' 1

Although he found himself in a reflecting mood after seeing the desolate scenes of the past he showed no sympathy for 'the fallen greatness' or the decayed ancien-régime. He had no reverence for the Mughul emperor nor for the nobility.<sup>2</sup>

He seems to have been greatly influenced by Rousseau whom he continued to read in India along with Gibbon, Abbé Raynal and others. Also he seems to have shared the Whig enthusiasm for man in the state of nature. Perhaps he saw an image of this in the Indian village. As Resident of Delhi he eulogized the structure of the village societies and the self-governing institutions existing in them.<sup>3</sup> 'The village government' was based on common consent. Perhaps in some vague way this might have made an appeal to him as a system operating according to the 'general will'. He was also influenced by the Greek classical traditions and he might well have visualized in the village constitution elements of Greek republics where democracy flourished.

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1. Private Letter to Sherer, J.W., 14 March 1806, Kaye, Ibid., 1, p. 203. John Walter Sherer, a close friend of Metcalfe, arrived in India 1798, Dy Accountant-General 1807, Accountant-General 1816, Third Member Board of Revenue L.P. 1825, Retired 1826.

2. See below, p. 28. Also Chapter 2, pp. 104-08.

3. Metcalfe's Revenue Report, 11 June 1811, Beng. Rev. Cons., 2 July 1811, 43. This theme was later developed in the subsequent well-known report of 4 Sept. 1815 and the minute of 7 Nov. 1830.

But he rejected the metaphysical element in Rousseau. He would have nothing of Paine or Godwin, the propagators of 'Blessed Reason'.<sup>1</sup> He gave his unreserved allegiance to the 'British Constitution' and affirmed his faith in Christianity and its gospels and the abiding moral values they embodied.<sup>2</sup>

Metcalf came to India when British power was on the ascendant under Lord Wellesley's vigorous governor-generalship. Tipu Sultan had been overthrown. Between 1803 and 1805 the backbone of the Maratha power was broken. Metcalfe's duties at this time, after being an assistant in the private staff of Lord Wellesley, were that of a political adviser to Lord Lake in the north. Metcalfe lamented the departure of Lord Wellesley both on grounds of policy as well as on personal reasons. Personally he had lost a patron; in terms of policy Lord Wellesley's departure meant a termination, at least for some time, of a policy of expansion which Metcalfe had appreciated with enthusiasm.<sup>3</sup> In 1806 he went to Delhi as First Assistant to the Resident. It was here that he had his first taste of the revenue 'line', which he did not relish.<sup>4</sup> He was a 'political' and wished to be treated as such. However, soon in 1808 Minto sent him on a diplomatic mission to Ranjit Singh, the Sikh ruler of the Punjab. The treaty of Amritsar

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1. Common-Place Book, 5 May 1803, Kaye, op.cit., 1, pp.109-110.

2. Ibid., 7 June 1803, Ibid., p.110.

3. Metcalfe condemned the weak policy of Cornwallis who succeeded Lord Wellesley. (Private Letter), Metcalfe to Sherer, 6 Aug. 1805, 31 Aug. 1805, 25 Sept. 1805, Kaye, op.cit., 1, pp.159-161, 172-174, 177-181.

4. Same to same, 25 Oct. 1806, Ibid., p.217.

of 1809 was a monument of Metcalfe's diplomatic success. As a reward Minto made him Resident of Delhi in 1811, which position he held until the end of 1818. Here he rose into fame both as an able administrator and a skilful diplomat, although in the latter field he had already made his mark.

By 1811 Metcalfe clearly visualized that another struggle with the Marathas was inevitable, and that sooner or later the whole of India should come under British protection.<sup>1</sup> Meanwhile he noticed with concern that the pindaris<sup>2</sup> were growing powerful and one of their leaders, Amir Khan by name was dreaming of establishing a Mohamedan state in Central India. Even Sindia, a powerful Maratha chieftain of Gwalior, seemed to countenance Amir Khan and his followers. Metcalfe therefore suggested that they should be cut off before they established 'a confederation of the Chumbul'.<sup>3</sup> Lord Hastings received Metcalfe's warnings in all their bearings and adopted his policy.<sup>4</sup> In Central India soon after 1805 a political

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1. Metcalfe to Edward Strachey, 28 Nov. 1811, Elphinstone Papers, EUR.Mss. F.88, Box 14, K.46.(c). This was the same Strachey who later joined the India House in 1819 along with James Mill and was Assistant Examiner in charge of Judicial Department until his death in 1832.
  2. Pindaris were free-booters who plundered villages in groups of thousands. They were mostly disbanded soldiers of the Marathas. Later, by 1815, British government had to take steps to exterminate them.
  3. Metcalfe to Elphinstone, 29 Nov. 1811, Elphinstone Papers, EUR.Mss. F.88, Box.14, k.46(c).
  4. Metcalfe seems to have been a great favourite of Lord Hastings at this time (1815) when Metcalfe was on attendance to the G.G. at Delhi while the Gurkha war was on. Hastings wanted Metcalfe to join the Secretariat at Calcutta. Metcalfe to Richard Jenkins, 16 June 1815, Kaye, op.cit., 1, pp.408-410.

vacuum had been created. Sick of the Maratha rapacity the Rajputs appealed to the British Government for protection as their 'natural allies'. All these states, largely on the advice of Metcalfe, were brought under British influence by 1818. At no stage did Metcalfe suggest their annexation.<sup>1</sup>

In the meantime the Marathas were overthrown. The Nepal war also had come to an end. The days of crisis for the British in India seemed to be over just as the end of the Napoleonic Wars had brought relief at Home. But Metcalfe did not forget that a number of uprisings of a serious nature had taken place during these years in the immediate neighbourhood of the Delhi Territory. In 1816 the insurrection of Bareilly had thrown the civil authority into confusion.<sup>2</sup> In 1817 a very considerable force was employed to subdue Raja Daya Ram, an influential and powerful landlord of Hathras situated near Aligarh.<sup>3</sup> At all critical moments a fear of suchlike uprisings was entertained by many administrators in India. So also did Metcalfe. That is why he insisted that the government should remain in a state of preparedness to meet such eventualities. He was more apprehensive of dangers from 'internal enemies' than from the Russian invasion. According to him a 'natural antipathy' existed between the rulers and the ruled. This

1. Kaye, op.cit., pp.432-33.

2. Meetings of protest held against a police tax imposed by Reg.III, 1814 and XVI, 1814, developed into a serious insurrection in which large bands of Muslims of adjoining regions took part. Nawab of Rampura was also involved and military measures were taken to suppress the disturbances. See Bo.Coll.14284, Vol.590, 1-196 pp.

3. See Bo.Coll.13981, Vol.567, 358 pp.

inevitably made the tenure of foreign rule precarious.<sup>1</sup> However exaggerated his fears might be considered, the Barakpur mutiny of 1824,<sup>2</sup> the turmoil in Assam between 1824 and 1829,<sup>3</sup> the insurrection of Muslims said to be Wahabis at Baraset and Jesore in 1831, followed by the rebellion of the Santhals and Coles in Chhota Nagpur and Palamau from 1831 to 1833,<sup>4</sup> served only to confirm his worst apprehensions. It is therefore not surprising if Metcalfe took sometimes a most pessimistic view of the future of British rule in India and kept on brooding over the mortality of empires.<sup>5</sup>

Metcalfe extolled the virtues of simplicity, efficiency, economy and speed in administration. The indigenous system

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1. Metcalfe's Memorandum, 11 Oct. 1829 in reply to Ellenborough's queries on measures for general improvement of India. Colchester Papers, PRO.30/9/4. Part 2.2. Also, Kaye, Papers of Metcalfe, pp.161-177. Kaye gives some extracts from the Memorandum and mixes them up in one sequence with extracts from other documents written between 1827 and 1835. The memorandum is of great importance and touches various subjects. It is also important for the marginal notes entered by Bentinck in his own handwriting. These notes show the difference as well as similarity of views between Bentinck and Metcalfe.
  2. Metcalfe to Elphinstone, 15 Nov. 1824. He wrote: 'Horrid Business this mutiny at Barrackpoor - It is difficult to conceive anything worse - considering on what our power in India seems at present to rest.' Elphinstone Papers, EUR.Mss. F.88. Box 8, C.17.
  3. Ever since 1824 considerable difficulty was experienced by the British in settling Assam. Disturbances engendered by the Chiefs were common. One of the serious uprisings resulted in a massacre of Europeans at Nungklow in 1829.
  4. Metcalfe to Bentinck, 1831-33, Bentinck Papers, PWJf. 1608-10, 1613, 1626, 1627, 1630, 1632, 1634-35. In the absence of G.G. as Vice-President of the Supreme Council, Metcalfe was supposed to deal with measures of suppression of these disturbances.
  5. Metcalfe's memorandum, 11 Oct. 1829, op.cit.

offered possibilities of promptly realizing these aims hence he advocated its adoption. He did not do this merely to follow tradition. Of course it was advantageous that such a system should conform to established practice so that the administration might be carried on smoothly. Nevertheless, better administration was the end, the policy of adhering to the past was merely the means although his love for the past was manifest in his romantic temperament.

In a recent work it has been asserted that Munro was the founder of a distinct political tradition, and that Malcolm, Elphinstone and Metcalfe were some of the most distinguished men who recognized him as their master.<sup>1</sup> Generally speaking this may be true. All of them believed in the empirical approach to problems. In a greater or lesser degree all of them were 'romantically' attached to the past. They all combined to oppose the Cornwallis principles. And all of them favoured an informal, personal and discretionary government as opposed to the cold, mechanical and legal or 'regulation' system of Cornwallis.

Yet in their attitude to problems they differed from one another greatly, the sharpest difference of opinion being between Metcalfe and Malcolm. Munro came to Madras in 1780 during Warren Hastings' governor-generalship and rose to the position of Governor of Madras in 1820 after having acquired fame for his ryotwar system and administrative successes in

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1. Stokes, op.cit., pp.9-25.

Madras. Malcolm entered the Company's service in 1782 and held the office of Governor of Bombay between 1827 and 1830. Munro and Malcolm began their careers as soldiers and shared each other's views by long association of friendship and common beliefs. They were also nearer to the era of Warren Hastings. Perhaps owing to this they were nearer in spirit to Warren Hastings' ideas. Like him they were prepared to tolerate even the revolting customs thus closing their minds to the reforming mood of the eighteen-twenties.

Elphinstone joined the Bengal Civil Service in 1796 and became Governor of Bombay in 1819 retiring from the post in 1827. He refused the offer of the office of Governor-General in order to devote himself to a life of scholarship. Indeed, he was a scholar-statesman par-excellence. Although he endorsed, by and large, the principles and policies of Munro and Malcolm he showed a keen intellectual appreciation of Benthamism. Metcalfe was the youngest and last to leave India. He left India in 1838, eleven years later than Elphinstone and eight years after Malcolm had left, that is why perhaps he seemed to have imbibed in some measure the spirit of the Bentinck era as his attitude to European colonization, European education and freedom of the press suggests. He was one of those few who vigorously pleaded in favour of opening the doors of India to these influences. According to him, by these means alone the spirit of India would be regenerated.<sup>1</sup>

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1. See Chapter 6, pp. 310-12.



Munro, Malcolm and Elphinstone were strong opponents of these measures. Indeed in many ways Metcalfe bridged the gulf which separated <sup>the</sup> Bentinck era from that of Wellesley's. And for the same reasons, he at times gave the impression of a man torn between the two worlds having failed to achieve a perfect synthesis between the contending forces.

Despite the claim of Malcolm that Metcalfe 'belongs to the same school as myself ... of which I have lived to be the acknowledged father',<sup>1</sup> the difference of views and attitude between them was both sharp as well as profound. Metcalfe had nothing of Malcolm's love of adventure, sport and display. Malcolm's reverence of 'fallen greatness', his steadfast advocacy of a policy of conciliating the aristocracy - the princes, chiefs and jagirdars - 'the privileged classes' as he called them; were basic to his thought.<sup>2</sup> Metcalfe decidedly broke away from the past in this respect. Apart from giving a courteous and generous treatment to the Mughul emperor, he refused to share any authority with him, however nominal it might have been. He informed Bentinck that he had renounced his allegiance to the Emperor a long way back. Even when he was young, he disdained the idea of showing too much respect to him who was a mere 'shadow'. He wished that the Emperor were told so.<sup>3</sup> Likewise he had no faith in the success of the

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1. (Private Letter) Malcolm to John Adam, n.d., Kaye, Life of Malcolm, 2, pp.394-395.
  2. Malcolm's Minute as Governor of Bombay, 30 Oct.1830, paras. 32-35; Malcolm, Government of India, Appendix A, pp.12-15. Also, Stokes, op.cit., pp.16-18.
  3. Metcalfe to Bentinck, 18 Dec. 1831, Bentinck Papers, PWJf.1620. Also to Sherer, 27 Aug. 1807, Kaye, Life of Metcalfe, 1, p.235.

policy of conciliation towards the nobility. Therefore he suggested deliberate measures of reducing the power and influence of that class to a minimum.<sup>1</sup> This was one of the reasons why he was prompted to support the ryotwar system of Munro. Malcolm also favoured the ryotwar principle, but his allegiance to it was far from being complete. Malcolm wrote to Sir George Barlow:

'I confess, before I travelled through your provinces, I was not perfectly reconciled to your system. I have now observed its effects, and must ever think it one of the most wise and benevolent plans that ever was conceived by a Government to render its subjects rich and comfortable. We can only hope that a sense of gratitude will be the primary feeling in the breast of those who benefit by this admirable system, and that they will repay the State for the care it takes of their interests by a firm and lasting attachment.' 2

Even more marked and deeper was their difference in respect of social reforms. Metcalfe seems to have had some evangelical fervour for reform without a fanatical zeal for it. As early as 1812 he prohibited the sale and purchase of slaves in the Delhi territory.<sup>3</sup> With the Mughul Darbar situated in Delhi along with the presence of a well-established nobility here the slaves were eagerly sought after. It was not an easy task to deal with this delicate problem especially when some influential and prosperous people were involved either in the trade of slaves or were interested in maintaining them.

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1. See below, Chapter 3, pp. 104-08.

2. 14 Nov. 1801, Kaye, Life of Malcolm, 1, p.161.

3. Metcalfe to Bengal Government, 4 Sept. 1812, Beng. Crim. Jud. Cons., 19 Dec. 1812, 48.

Furthermore, slavery was sanctioned by custom as well as by law and had been in practice for ages. Yet Metcalfe refused to allow trade in 'human flesh' in spite of the advice of Bengal Government to him to go slow. And they asked him to rescind the step already taken in this regard.<sup>1</sup> But he would not. Similarly, another practice, more inhuman and cruel than the former, i.e. the killing of new-born girls, was declared as an act of murder.<sup>2</sup> To crown his reforming achievement he prohibited in the Delhi territories, the practice of sati, the burning of widows while they were alive.<sup>3</sup>

Thus Metcalfe showed a determination to take a strong stand against these crimes by passing a prohibitory law to stamp them out. In other words, he was willing to reform through legislation setting aside the traditional persuasive and lukewarm policy.

But Metcalfe was not an idealist. As a practical administrator he had the wisdom to appreciate the exigencies of the situation. In Delhi he must have known that sati was not frequently practised hence prohibitory measures could be enforced presumably without provoking alarm or disaffection. In 1829 as a member of the Governor-General's Council he supported Bentinck in the move for passing a law against the

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1. Bengal Government to Metcalfe, 13 Nov.1812, Beng.Crim.Jud. Cons., 19 Dec. 1812, 48, Enclosure. In reply to the letter of Metcalfe, 24 Oct.1812, Ibid., 49. Note slavery was declared illegal in Bengal only in 1843.
  2. Fortescue's Revenue Report, 12 May 1820, para.152, Beng. Civil Jud.Cons. (W.P.), 29 Dec. 1820, 3. Fortescue was Civil Commissioner of Delhi in 1819-20. He succeeded Metcalfe.
  3. Ibid., Also, Bentinck's Minute, 8 Nov.1829, Beng.Crim.Jud. Cons.(L.P.), 4 Dec. 1829, 10.

practice but asked the government to be sure that no immediate repercussion would be engendered by it. If the government was satisfied on that score, <sup>a</sup>law must be passed without delay. It would be an act, he said, which would immortalize <sup>the</sup> British name in history for its humaneness.<sup>1</sup>

The note of caution which was sounded by Metcalfe then was in the fitness of things. In fact, there were none who did not advise caution in this regard. The long-awaited legislation which came during Bentinck's time in 1829 was almost a test case. The burning of widows was both a social custom as well as a practice sanctified by Hindu religion at least it was considered so by many Hindus. Following the principle of religious neutrality the government until the coming of Bentinck, had refused to undertake its suppression despite the horror and atrocity of the crime. Even Bentinck was cautious and often felt uneasy before determining on a course of action against it, in spite of the fact that a favourable social and intellectual climate had been prepared by reformers like Ram Mohan Roy whose life's mission was to see the practice eradicated. Yet ironically enough when Ram Mohan Roy was asked to give his opinion on the intended measure, even he was diffident.<sup>2</sup> Bentinck passed the law against the practice after having acquired a consensus of opinion from the judges and army and district officers that no danger to the security

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1. Metcalfe's minute, 4 Nov. 1829, Beng. Crim. Jud. Cons., (L.P.), 4 Dec. 1829, 16.
  2. Bentinck's minute, 8 Nov. 1829, Beng. Crim. Jud. Cons., (L.P.), 4 Dec. 1829, 10.

of the state was anticipated from such a course of action. And finally Bentinck admitted in his minute that had the practice been generally prevalent among 'the bold and manly' people of the Western Provinces, he might have still hesitated to adopt a prohibitory measure of that nature.<sup>1</sup>

It was therefore no surprise at all if Malcolm refused to take effective measures for the prevention and punishment of either female infanticide or sati in Bombay while he was Governor.<sup>2</sup> He believed in the policy of persuading people by personal influence to relinquish such practices.

It was true that Metcalfe was opposed to 'precipitate legislation' as were Munro, Elphinstone or Malcolm. This was equally true of Bentinck as well. Yet there was a world of difference between Munro and Malcolm on the one hand and Metcalfe and Bentinck on the other.

Malcolm was 'not a new era man' as he himself declared.<sup>3</sup> He had no faith in the new light:

'My practical education makes me an unbeliever in the new political lights. I cannot think that the mantle of Francis Bacon has descended upon Jeremy Bentham....' 4

In England Malcolm fought tooth and nail against the Reform Bill both in and outside Parliament. He was proud to be known as one of those who "hold conservative principles" and that

1. Ibid.

2. Ballhatchet, Social Policy and Social Change, pp.299-305.

3. Ibid., p.292.

4. Malcolm to Sir Charles Malcolm (his brother, Private letter) 25 April 1831, Kaye, Life of Malcolm, 2, pp.562-3.

his mission was 'to make an attempt to stem, as far as I have the power, the tide of Radicalism now flowing unhappily with little less violence through our sequestered valleys, than through the streets of Birmingham....',<sup>1</sup>

While Malcolm was thus engaged in battling against the age of Reform, Metcalfe was happy, even jubilant in his enthusiasm about it. The Reform Bill appeared to him 'excellent and perfect'.<sup>2</sup> And again he observed:

'I rejoice at the dissolution of Parliament & hope that the Reformers will triumph decidedly. I did not expect that the Parliament would have acted so foolishly. I thought the Majesty would have yielded to the manifest sense of the nation.... How silly the clergy are to excite the feeling of the Nation against them by their violent opposition to reform.' <sup>3</sup>

In almost all political issues which were being hotly debated at Home Metcalfe held consistently a most enlightened opinion. On the Irish question he observed with <sup>a</sup>rare prophetic note that it should be resolved soon or it would be 'settled by separation'.<sup>4</sup> He disliked the Corn-laws since they taxed the articles of food besides restricting trade. The abolition of 'the abominable ~~of~~ Corn-laws' would be 'a righteous measure, and ought to be adopted,'<sup>5</sup> he pleaded.

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1. Malcolm to Duke of Northumberland, 28 June 1832, Ibid., p.582.
  2. Metcalfe to Bentinck, 30 July 1831, Bentinck Papers, PWJf.1594a.
  3. Same to same, 4 March 1831, Ibid., PWJf.1601a,b. This letter is dated 4 Sept.1831 by Thompson and misquoted by him. See p. 297.
  4. Metcalfe to Elphinstone, [?] Jan.1838, Elphinstone Papers, MSS.EUR. F.88, Box 3, G.50.
  5. Metcalfe to Lord Monson (his uncle and a landlord - private letter), n.d., Kaye, Life of Metcalfe, 2, p.452. Also Thompson, op.cit., p.410.

His one ambition ever since his childhood was to be an Independent Member of Parliament. At Leeds he was asked to be a Liberal Candidate but he would not agree if he had to do electioneering for it.<sup>1</sup> Similarly when Bentinck sounded him on a seat at Glasgow vacated by himself, Metcalfe refused unless asked to <sup>do</sup> 'so 'by a cordial invitation from a decided majority of the Electors....'<sup>2</sup> Quite obviously while he moved in spirit with the times yet he had not been able to capture its temper. He did not realize that in the new age representation went hand in hand with the democratic procedure. As late as 1843 he was still inclined for a seat in Parliament but he felt that

'... in the present predominance of Toryism among the constituencies, there is no chance for a man who is for the abolition of the Corn-laws, Vote by Ballot, Extension of the Suffrage, Amelioration of the Poor-Laws for the benefit of the Poor, equal Rights to all sects of Christians in matters of Religion, and equal Rights to all Men in Civil matters; and everything else that to his understanding seems just and right; and at the same time, is totally disqualified to be a demagogue....'<sup>3</sup>

In contrast Malcolm on the other hand remained a Tory unto the last.

In political faith therefore Metcalfe came to the forefront of the Liberals of his age, but colonial administration was a different matter, and he was quite conscious of

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1. Kaye, op.cit., 2, p.357, Thompson, op.cit., p.325.
  2. Metcalfe to Bentinck, 3 July 1838, Bentinck Papers, PWJf. 1698.
  3. (Private letter) Metcalfe to Ross Mangles, 13 Jan. 1843, Kaye, Life of Metcalfe, 2, p.455. Mangles later became Chairman of the Court of Directors for some years.

this. When he was sent to Canada as Governor-General by the Tory ministry headed by Peel, Metcalfe felt in duty-bound to follow the principles of the then government and observed:

'I cannot surrender Her Majesty's authority,  
or the supremacy of the Mother Country.' <sup>1</sup>

Likewise although he was anxious to see the Corn-laws repealed in England, he proposed an imposition of duties on grain in Delhi to obtain the much-needed revenue for the government.<sup>2</sup> He was aware that it was impossible to always follow principles in administration. He said 'how frequently we are compelled by policy to deviate from our fixed principles.'<sup>3</sup>

In the years following 1818 there was a mellowing of attitude in Metcalfe towards the native states or on the question of war and peace. Between 1805 and 1818, until the defeat of the Marathas he talked of the inevitability of war and the policy of expansion with a vigour characteristic of Wellesley's age<sup>4</sup>, but later on except for the Bharatpur action of 1826 when he intervened to resolve the succession dispute invoking the authority of 'the Paramount Power', he constantly appealed to the principles of moderation and non-interference. In fact he was an architect of the policy of non-interference

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1. Metcalfe to Lord Stanley, 30 March 1844, Thompson, op.cit., p.391.
2. Metcalfe to Elphinstone, (date illegible), Elphinstone Papers, MSS.EUR. F.88, Box.14, k.46(c).
3. (Private letter) Metcalfe to Richard Jenkins (Resident Nagpur), 3 Nov.1814, Kaye, Life of Metcalfe, 1, p.394.
4. Ibid., pp.394-5.



as adopted by Bentinck.<sup>1</sup> He repeated the same theme when Jaipur affairs attracted the attention of the Supreme Government in 1830.<sup>2</sup> Again he advised Bentinck not to send the commercial mission to Sind and the Punjab lest those chiefs should feel unnecessarily alarmed. In his opinion the Amirs of Sind were already suspicious of British motives and would certainly consider this step as a prelude to conquest. He therefore warned Bentinck:

'It seems to be contrary to our nature to remain quiet and contented with what we have got. To my mind this move on the Indus is the forerunner of perilous wars & enormous expenditure. ... We are too overbearing to be thwarted, and thus we advance crushing the independence of every state that we come nearer.'<sup>3</sup>

In the same vein he exerted himself to dissuade Auckland from crossing the Indus. He thought that the Russian threat was imaginary therefore an advance towards the Punjab or Afghanistan was unnecessary and would be ill-advised. He saw the evil clearly and argued with mature judgement and wisdom with Auckland:

'I lament the course which you have determined to pursue for what is now done is but a beginning. We are I fear about to plunge into a labyrinth of interference from which I fear we shall never be able to extricate ourselves, -

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1. Pandey, K.N., Lord William Bentinck and the Indian States, 1828-1835. (Unpublished Ph.D. thesis, London, 1957). Also see Kaye, Life of Metcalfe, 2, pp.195-197, for Metcalfe's views as recorded in his official minutes, 20 Dec. 1830, 14 Aug.1835. In clear and unambiguous language he deprecates interventionist policy.
  2. Metcalfe to Bentinck, n.d., [1830], Bentinck Papers, PWJf.1535.
  3. Metcalfe to Bentinck, 9 Oct. 1831, Bentinck Papers, PWJf.1606.

the result will be blows which will either end in our downfall, or in the necessity of maintaining large armies in countries too poor to pay them.' 1

But although he disagreed with Auckland's policy and did not anticipate a war with Ranjit Singh at that stage, he offered his unreserved support which was expected of him as Lieutenant-Governor of the North-Western Provinces and sent a plan of operations which he considered best in case of war with the Sikhs.<sup>2</sup> Later when the Afghan expedition was actually sent he predicted that the outcome would be 'ruinous' having little to gain from it. To him this appeared to be the least practicable way of establishing 'our influence in Afghanistan by such means', and <sup>he</sup> doubted whether the Russian actions were so serious as to render such an action necessary.<sup>3</sup> Again writing in May 1841 from Jamaica long before the tragic retreat of British troops began, he continued to 'regret our Cabul policy' and felt convinced that this would end in disgrace.<sup>4</sup>

Evidently all this testifies that Metcalfe was a statesman of great foresight and judgement, a man of hard realism and devotion to the cause of peace. Indeed, his attitude blends with the outlook symbolised by the era of 'Peace, Reform and Retrenchment'. Surely, he was neither an

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1. Metcalfe to Auckland, 25 Oct.1836. Auckland Papers, B.M. Add.MSS., 37708, f 11. It is a long letter which shows profound wisdom of the author.

2. Ibid., ff.15.

3. Metcalfe to Elphinstone, 29 Nov.1838. Elphinstone Papers. MSS.EUR. F.88, Box 3, G.50.

4. Same to same, 5 May 1841, Ibid., MSS.EUR.F.88, Box.4, B.10.

annexationist nor a prophet of doom as Dr. Stokes attempts to show him to be.<sup>1</sup> Continuing his argument Dr. Stokes observes that Metcalfe, while

'priding himself on his political liberalism, was at heart the most conservative of his group. His liberalism consisted, in fact, of a few superficial measures, such as freedom of <sup>the</sup> press and the unrestricted immigration of Europeans.'<sup>2</sup>

In the first place, the concepts involved in these measures were of great importance. Secondly, had these measures been adopted along with the policy of promoting European education, of which Metcalfe was a staunch advocate,<sup>3</sup> the cumulative impact surely would have been to arouse the intelligenstia and the men of means - the rising middle classes - to action thus facilitating improvement and change. At all events this reflected an attitude and approach, and <sup>a</sup>very sane one for that matter, and cannot be dismissed as superficial. What is more surprising is that Dr. Stokes refuses to believe that Metcalfe could have been the originator of the press reform. He says:

'Relying successfully on Metcalfe's delusions about himself as an apostle of liberalism, Macaulay persuaded him to free the press of its last legal restrictions in the interregnum which followed Bentinck's departure.'<sup>4</sup>

This is entirely an untenable assertion. There is no evidence to show that Macaulay and not Metcalfe was the inspirer of the move which granted full freedom to the press in 1835, while

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1. Stokes, op.cit., pp.16,18.

2. Ibid., p.18.

3. See below, Chapter 6. Dr. Stokes was not aware that Metcalfe was a supporter of European education.

4. Stokes, op.cit., p.239. We are not informed about the source on which this statement is based.

Metcalfe was then the provisional Governor-General. In fact Metcalfe mentions in his minute that Macaulay drafted the bill under his instructions:

'The reasons which induced me to propose to the Council the abolition of the existing restrictions on the press in India accord entirely with the sentiments expressed by Mr. Macaulay in the minute accompanying the draft of the Act, which, at our request, he has had the kindness to prepare, ...' 1

There was nothing strange or anomalous about Metcalfe's action. It was not a sudden decision. Considerable thought had been given to the subject by Metcalfe ever since 1825 and he repeatedly asserted in 1828, 1830 and 1832 the desirability and expediency of such a policy, even in opposition to Bentinck's views, and at the first opportunity he freed the press.<sup>2</sup>

This line of argument on Metcalfe is quite consistent with Dr. Stokes' inclination to see in the administration of law and land-revenue the paramount influence of utilitarian thought. He considers that it was the major force in the making of the age of reform and he presents Metcalfe so as to serve as a contrast representing the bygone age. In the economic field in terms of principles as propounded by the classical economic thinkers the views of Metcalfe appeared backward, but although in actual working, to an extent, he

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1. Metcalfe's minute as G.G., 17 April 1835, India Civil Jud. Cons., 18 May 1835, 2.
  2. See below, Chapter 6, pp. 299-302. In 1825 Metcalfe observed (Private letter) 'I am inclined to think that I would let it [press] have its swing, if I were Sovereign Lord and master.' Kaye, Life of Metcalfe, 2, p. 121.

supported the concept of a traditional society he did not think that this would necessarily lead to stagnate the economic forces. Besides, it should be remembered that the period under study constituted a period of transition and formation. It is true that the bonds of tradition had to be broken before the transformation of a society into a rapidly growing economy could be envisaged. So also the social and political structure had to undergo a change for its eventual emergence into an international trading community. But it is also wise to try to make the process of change gradual and painless, and herein lay the sensible counsel of Metcalfe.

Metcalfe's life was rich, varied and complex as was his mind. If Metcalfe felt 'morose and joyless',<sup>1</sup> in 1814 and had his moments of depression, he also had his times of enjoyment. In 1814 he might well have been thinking of the future of his sons born of an Indian lady. He adored the children and sent them to England to be brought up by his sister, Georgiana. His letters to her show tender love and anxious care of a father for the children.<sup>2</sup> His fondness for children never left him. Even while engaged in <sup>the</sup> busy official life of Calcutta, he found time to play with 'the Bushby's children' every evening.<sup>3</sup> Bentinck once remarked that he had a 'most

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1. (Private letter) Metcalfe to Hon'ble Mrs. Monson, (aunt) 20 March 1814, Kaye, Life of Metcalfe, 1, p.341.
  2. These aspects of his life have been well brought about by Thompson.
  3. (Private letter) Metcalfe to [?], 18 May 1828, Kaye, Life of Metcalfe, 2, p.167.

delicate' mind.<sup>1</sup> Although Metcalfe shunned society and was shy and unassuming by nature, he loved life and took it as it came. Bentinck informed Charles Grant that he was 'a great favourite with all those few well-adapted to the large gay [illegible] society of Calcutta',<sup>2</sup> and Lady William slyly cajoled Metcalfe that 'that Lady was intended for you.'<sup>3</sup>

Sometimes Metcalfe found himself isolated in his thoughts.<sup>4</sup> At first when Bentinck came they did not <sup>'ap</sup>proximate', but friendship developed soon afterwards. Earlier Metcalfe suspected that Bentinck might have been on the wrong side on the Palmer episode.<sup>5</sup> Later, in spite of differences of opinion now and then Bentinck showed immense respect for Metcalfe and his views.

Metcalfe lived in India for 38 long years. Never in Indian history had an Englishman served so long without the benefit of a furlough home. When he went home in 1838, he was almost a broken man, having contracted the fatal disease which ended his life eight years later. He literally gave his life in the service of India.

1. Bentinck to Charles Grant, 14 April 1834, Bentinck Papers, PWJf.1066.

2. Ibid.

3. Lady William Bentinck to Metcalfe, n.d., Ibid., PWJf.1798.

4. The letter was dated 8 March 1828. Bentinck arrived in July 1828. Also the letter is published by Kaye in Life of Metcalfe, pp.170-1 and not in Papers of Metcalfe as mentioned by Dr. Stokes. See op.cit., p.18.

5. (Private letter), Metcalfe to [?], 2 Dec. 1828, Kaye, Life of Metcalfe, 2, p.173.

This thesis is a study of his administrative activities and the ideas behind them between 1806 and 1835. In 1806 he was assigned the responsible job of a revenue settlement officer, in 1835 he became Governor-General for a brief interlude after the departure of Bentinck. But for his press reform, the period of <sup>the</sup> governor-generalship is relatively of less significance than the earlier period since most of his ideas were formed then. For two years from 1836 to 1838 he held the office of Lieutenant-Governor of the North-Western Provinces. A study of those years is excluded from the present treatment.

## Chapter II

### The Delhi System : Land Revenue, 1806-1827

Soon after the fall of Delhi, the Mughul Emperor placed himself under British protection, and the Marathas, having accepted the terms of the Treaty of Surji Arjangaon of 1803, gave away the territory situated on the west of the river Jumna to the British. The lands thus obtained, although ostensibly 'Assigned for the Support of the Royal Family at Delhi', were taken over by the Bengal Government for direct management. In return for this the Emperor was granted a generous pension. The region comprising ~~of~~ the city of Delhi and the surrounding districts though not ~~too~~ large was quite sizable and it formed a distinct administrative unit. Until 1806 or so the area remained undefined, and it was not possible to establish what precisely constituted the Delhi territory.<sup>1</sup> However, by the time Metcalfe became Resident in 1811, the jurisdiction of the territory was fairly well known. It seems the boundaries of as many as 23 independent and semi-independent native states met with those of the Delhi territory.<sup>2</sup> On the north were the principalities of the protected Sikh and Hill Chiefs apart from the Sikh dominion of the Punjab under Ranjit Singh.

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1. W. Spedding, Superintendent of Revenue Delhi to A. Seton, Resident Delhi, 20 July 1806, Beng. Rev. Cons., 7 Aug. 1806, 34. The parganas or sub-divisions of which the territory was composed, as stated by Spedding were Karnal, Panipat, Gunour, Sonapat, Somulka, Palam, Najafgarh, Fali Paikal, Aliverdi Tehar, Rohtak, Bowana, Mandcuti, Hansi, Maham, Tosham, Jamalpur and Asowda.
  2. Metcalfe's Judicial Report, 12 Dec. 1815, paras. 28-30, Beng. Civil Jud. Cons. (L.P.), 12 Aug. 1817, 44.



On the west and the south, the rocky and barren portions of the territory merged into the deserts of Rajputana touching the borders of Alwar, Bikaner, Bharatpur and other minor Rajput states. The river Jumna separated Delhi from the eastern districts of Merath, Bulandshahr and Seharanpur of the Ceded and Conquered Provinces or the Western Provinces as it was later known. The importance of this acquisition from political and military viewpoints was great. It commanded the route to Rajputana and the Deccan besides occupying a central position in the North-Western India. Furthermore, Delhi had experienced perpetual misrule ever since Nadir Shah's invasion of 1739, hence especial care was to be taken for its management. That is why Delhi was declared a non-regulation area to be administered by a Resident under direct supervision of the Governor-General-in-Council.

Sir David Ochterlony was the first Resident of Delhi. His brief period of administration was largely engaged in preventing the raids of Holkar and maintaining peace. Nevertheless, by 1806 conditions had improved and Archibald Seton succeeded Ochterlony, the veteran soldier. He was expected to lay the foundation of a sound administrative system. Seton was a reputed and experienced administrator. Before joining Delhi he had been a member of the Board of Commissioners of the Ceded and Conquered Provinces, of which Henry Wellesley was President and Lieutenant-Governor. As such he had acquired intimate knowledge of land tenures and problems of revenue and judicial administration. He was therefore

eminently qualified for the duties at Delhi.<sup>1</sup> He came to Delhi in June 1806 followed by his First Assistant, Metcalfe in October. In the meantime Seton was assisted by William Spedding and William Fraser. Metcalfe took over from Spedding as Superintendent of Revenue on 25 October 1806 which post he held until 1808, when he was sent to Ranjit Singh on a diplomatic mission by Minto.

On his arrival Seton found that virtually the whole territory had been parcelled out in rent-free and partially rent-free estates. That was the work of Lord Lake who, with a view, as he himself observed, 'to create a permanent interest in the soil' and 'to reconcile them [the Jagirdars, talukdars, istimrardars] to the British Government...'<sup>2</sup> had granted large areas of land to individuals. His motives were the same as had led Cornwallis to introduce the permanent settlement in Bengal. In point of fact, however, it was the most convenient mode from the government's viewpoint of settling the revenue under the then unsettled conditions of the territory. The lands given away by Lake paid a revenue of more than eleven lakhs of rupees (about £1,10,000),<sup>3</sup> whereas

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1. A.Seton, Resident Delhi 1806, Governor of Prince of Wales Island 1811, Member G.G.'s Council 1812, Retired 1818.
  2. Lt.Col.Malcolm under instructions from Lord Lake to Bengal Govt. 4 May 1806, Beng. Rev. Cons. 16 Oct., 1806, 25.  
Jagirdar = a holder of an assignment of revenue, given for military service.  
Talukdar = a holder of an estate, or tract of land, not necessarily having proprietary right over the whole estate.  
Istimrardar = a holder of a perpetual farm or lease.
  3. Ochterbury to G.G., 15 June 1805, Bo.Coll.4432, Vol.196, p.145. For more details of grant also see, Seton to Gardner, 16 Jan.1809, Beng.Rev.Cons. 11 Feb.1809, 25; Seton to Govt., 21 June 1807, Ibid., 9 July 1807, 39.

the jama or revenue demand from the assigned lands in 1806 gave a paltry sum of Rs.3,22,117.<sup>1</sup> However, this amount indicated the actual collection made since no regular engagements for revenue had been made so far. Evidently enough land still remained unaccounted for and unsettled, which held out a prospect of a steady increase of revenue.

Metcalf was hardly impressed with this state of affairs. In fact he entered into the uninspiring business of settlement-making with misgivings. He was disappointed to see the 'ridiculously trifling' collections and to find 'the districts in a sad and irremediable state of confusion', and exclaimed 'God forbid ... the revenue line.'<sup>2</sup>

Seton clearly saw the need of an early and well-regulated system of revenue administration. But he realized that 'the native system' could not be changed straightway. It was both inexpedient and unpractical to do so. However, he soon gathered that it was difficult to define what the native practice was. There was neither a fixed rule of assessment nor a regular system of collecting the revenue. There was little to guide the revenue officer since authentic village records were not forthcoming. Nor could the information of patwaris,<sup>3</sup> kanungos<sup>4</sup> and amils<sup>5</sup> be relied upon. To ascertain

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1. Seton to Beng.Govt., 21 July 1806, Beng. Rev.Cons., 7 Aug.1806, 34. About ten rupees were equal in value to a £ (pound) during those days.
  2. Metcalfe to Sherer (Private), 25 Oct.1806, Kaye, Life of Metcalfe, 1, p.217.
  3. Patwari = village accountant and record keeper.
  4. Kanungo = a village or district revenue officer who kept records of land and revenue.
  5. Amil or amilidar = contract revenue collector.

the resources of the country it was therefore necessary that a thorough enquiry on the spot should be made by a European officer.<sup>1</sup>

Hence he asked Spedding to proceed on a fact-finding mission. Spedding on his part suggested a quick remedy. According to his plan lands estimated to produce a revenue of about Rs.20,000 were to be divided into lots and given in hereditary proprietary grants to any person found suitable and selected by <sup>the</sup> government for the purpose of its management. In his opinion the cultivators were unqualified to enter into engagements for revenue or to improve land on account of their 'extreme ignorance' and 'irregular habits'.<sup>2</sup> Obviously Spedding was influenced by the prevalent notions as held in some quarters that big landholders could be created at will and that they alone were capable of effecting economic advancement in India. Seton however, was sensible enough to reject such a proposition since in his opinion 'it would introduce a new species of landholders whose interests must clash with the present occupants of the soil', and such a plan could be suitable 'only to a country where no right (real or supposed) to the soil existed'.<sup>3</sup>

Meanwhile Metcalfe was entrusted with the task of revenue settlement. He settled Haveli Palam himself, and in addition drew <sup>up</sup> a memorandum on the general conditions of the

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1. Seton to Beng.Govt., 15 Sept. 1807, Beng.Rev.Cons., 2 Oct. 1807, 21.
  2. Seton to Spedding, 8 July 1806, Beng.Rev.Cons., 21 Aug. 1806, 31.
  3. Seton to Beng. Govt., 12 July 1806, Ibid., 30.

people and of the parganas of Haveli Palam, Rewari, Panipat, Sonapat and Gunour from the administrative viewpoint.<sup>1</sup> Metcalfe reported that settlement in Haveli Palam had been made with actual occupants of the soil. The settlement was made according to the actual circumstances. No measurement of land at that advanced season was possible; hence the gross jama of five preceding years and the produce of the current year formed the basis of assessment.<sup>2</sup> In some places he concluded a settlement for three years instead of one as instructed, since he considered it advisable to do so.<sup>3</sup> The assessment was made purposely light with a view to conciliate and win the confidence of the people. This at any rate, he observed, was a more 'powerful consideration' than increasing the revenue.<sup>4</sup>

According to Metcalfe, the objectives of settlement were improvement of agriculture and of the people and consequent increase of revenue to the state.<sup>5</sup> The more the people were prosperous the greater was the security to the state. More wealth for the people meant also more revenue for the state. Also their sense of loyalty for a government that cared for their welfare would then be greater.<sup>6</sup> Thus during the course of these duties, his ideas were being slowly formed.

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1. 'Memorandum respecting the present state of the parganas composing the Assigned territory', 10 Jan. 1807, Beng. Rev. Cons., 12 Feb. 1807, 33, Enclosure 2.
  2. Memo., Ibid.
  3. Seton to Beng. Govt., 22 Jan. 1807, Beng. Rev. Cons., 12 Feb. 1807, 32.
  4. Seton reporting Metcalfe's views, Ibid.
  5. Memo., op.cit.
  6. Ibid. Also see Metcalfe's Revenue Report, 4 Sept. 1815, paras 153 & 157. Beng. Rev. Cons., 16 Sept. 1820, 81.

He spotted what he thought to be some of the glaring evils present in the existing system. For instance, he proposed that amildari or revenue farming should be avoided under all circumstances, if possible, since no country could ever hope to prosper under it. These contractors of revenue had no interest in the soil. They were a selfish and extortionate lot. Similarly lands should not be alienated as jagirs. Wherever he had occasions of touring during the course of the settlement operations he had found that most of the fertile lands had been given away in this manner resulting in the loss of revenue to government and in the influence of <sup>the</sup> government over the people. By such means he felt that the 'power to do good' to them was taken away from the hands of <sup>the</sup> government.<sup>1</sup> Both the jagir and amildari systems were a legacy of native rule. This had however, been sanctioned by Wellesley.<sup>2</sup> Seton praised Metcalfe's vision, ability and efficiency, and agreed with him that from 'a political as well as financial point of view' his suggestions were sound.<sup>3</sup>

Seton himself was in favour of introducing village-settlements. But that was not his ultimate objective. Moreover his notion of a village settlement was not quite clear. What he was planning in the initial stages was perhaps a village-

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1. Ibid. Also, Metcalfe to Seton, 2 Dec. 1807, Beng. Rev. Cons., 26 Feb. 1808, 33, Enclosure 2. This theme was later developed by him when he was Resident of Delhi. See his Revenue Report, 4 Sept. 1815, paras. 23-25, 175-178.
  2. N.B. Edmonstone to Ochterlony, 23 May 1805, para. 4, Bo. Coll. 4432, Vol. 196, pp. 104-105.
  3. Seton to Beng. Govt., 22 Jan. 1807, Beng. Rev. Cons., 12 Feb. 1807, 32.

wise settlement in order to gain a thorough knowledge of the internal resources of the country so that eventually a permanent settlement of the Bengal type could be introduced. In fact he was a staunch admirer of 'the revenue system prevailing in the Lower Provinces of Bengal...', he informed Metcalfe, since it was best 'calculated to secure the comfort and happiness of the zumeendars and ryots,...'. However, he did not wish to adopt its principles at that stage, in Delhi considering such a move to be premature.<sup>1</sup> Yet he asked Metcalfe to suggest suitable persons on whom proprietary rights could be vested and said,

'If no regular proprietary right to land exist, it may be deemed a wise and politic measure on the part of Government to create that right, in order with it to create an interest in the soil, and thereby raise the value of the land, and render its improvement a source of profit to the owner.' 2

At the same time he agreed that a sense of right commensurate with occupancy and prescription was recognized in Delhi, although the right of unconditional sale of land 'did not exist'. In other words, he continued, <sup>the</sup> Government was the landlord having the right to create or delegate its proprietary rights to anyone it chose.<sup>3</sup> Only a few months earlier he had chided Spedding for such a proposition but now he was himself suggesting it.

Necessity dictated this policy. Having discovered that

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1. Seton to Beng.Govt., 4 Jan.1808, para.3, Beng.Rev.Cons., 26 Feb. 1808. 32, Also to Metcalfe, 21 Dec.1807, para.2, Ibid., 33. These letters are published in Delhi Residency and Agency, 1806-1857, Vol.1, pp.7-9, and 15-30.
  2. Seton to Metcalfe, 21 Dec.1807, para.13, Ibid.
  3. Ibid.

the village zamindars<sup>1</sup> either resisted or did not co-operate with the officers of government in measuring the cultivated land, Seton conceived of entering into settlement with the mukaddams<sup>2</sup> or headmen of the village. They in turn posed a problem. It was quite often found that there were as many as 8 or 10 mukaddams in the same village. An engagement with all of them, Seton observed, tended 'to divide responsibility' and 'confuse the business' besides creating 'unnecessary detail'.<sup>3</sup> But more serious than this was the fact that these headmen were all united, and often opposed the government to such an extent that the amils and other officers were forced either to yield to their wishes or flee the village. That is why Seton felt determined to reduce their power, firstly, by selecting one of them as a proprietor in each village,<sup>4</sup> and secondly, by reducing their allowances and regulating their relations with the ryots after ascertaining the rights of both.<sup>5</sup>

He insisted that the rights of the ryots whom he defined as the immediate cultivators of the soil should be ascertained in relation to their immediate superiors whether they were headmen, landlords or jagirdars, and their 'share of the produce' must be fixed. He enjoined Metcalfe:

'The relief of the ryot was a very essential object of your present deputation.' 6

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1. Zamindar = landlord in Bengal; an occupant of the soil in Delhi; normally other than a ryot or peasant.
  2. Mukaddam = headman of a village.
  3. Seton to Beng.Govt., 15 Sept.1807, Beng.Rev.Cons., 2 Oct. 1807, 21.
  4. Ibid.
  5. Seton to Beng.Govt., 4 Jan.1808, Beng.Rev.Cons., 26 Feb. 1808, 32.
  6. Seton to Metcalfe, 21 Dec.1807, paras. 2 & 9, Beng.Rev.Cons., 26 Feb. 1808, 33.



One thing appears to be certain. Although Seton, favoured the Bengal principles, he did not conceive then of creating big landlords. He would have been satisfied perhaps if one person was made a landlord in each village. Furthermore, he showed an awareness of the fact that subordinate rights existed and they deserved to be protected. Quite obviously he was being conscious of the shortcomings of the Bengal system which had exposed themselves as time advanced. Also to avoid mistakes he planned that villages should be surveyed and lands measured before fixing the revenue permanently. In these respects an influence of the Munro System was also obvious in him. Perhaps he was attempting to evolve a workable formula by compromising two sets of principles in the context of the situation in Delhi. In faith however, he looked to the principles of Cornwallis for salvation. While engaged in settling Rewari when Metcalfe pointed out that Seton's proposals appeared a deviation from the established usage, Seton replied that 'every improvement is in fact an innovation'.<sup>1</sup> Surely Seton was less concerned than Metcalfe on the question of 'innovation'.

In actual working, however, village settlements continued to be made without upsetting the existing social order. Also the method of assessment, the mode of collection and the machinery used for the purpose remained indigenous in character. In his instructions on all questions relating to revenue

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1. Seton to Beng. Govt., 24 May 1808, para.4, Beng. Rev. Cons., 10 June 1808, 24; Metcalfe to Seton, 21 May 1808, Ibid., 25.

affairs Seton detailed out the indigenous methods and techniques to be employed.<sup>1</sup> Hitherto everywhere whether in Madras or in the Ceded and Conquered Provinces such a procedure was being followed.

Seton's period of administration of five years was devoted to <sup>the</sup> acquiring of information and knowledge of the territory. Seton had succeeded in maintaining peace and protecting <sup>the</sup> lives and property of the people as a result of which the revenue of the territory had increased, the country evidently growing in prosperity.<sup>2</sup>

Full of enthusiasm Metcalfe came to Delhi in May 1811 as Resident at the age of 27. He considered his situation

'... without exception in every respect the highest in the country beneath the members of Government; and I do not wish to quit this situation until I quit India.' 3

When he set out to work he found 'a load of arrears of Seton's time'.<sup>4</sup> Seton was in the habit of looking into every minute detail of administration himself, hence the arrears. Moreover, especially in revenue matters nothing had been finally decided. Metcalfe informed Elphinstone that his whole time was now engaged in revenue and judicial business. As a result of this he managed to write only a few and short reports, 'the longest

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1. Seton to Spedding, 1 Oct. 1806, Beng. Rev. Cons., 12 Feb. 1807, 33, Enclosure 1; Also to Metcalfe, 21 Dec. 1807, Ibid., 26 Feb. 1808, 33.
  2. Land revenue under Seton had increased to Rs. 8,60,884 in 1810-11. Seton left in 1811. Metcalfe's Revenue Report, 4 Sept. 1815, para. 3, Beng. Rev. Cons., 16 Sept. 1820, 81.
  3. Metcalfe to Hon'ble Mrs. Monson, (Private Letter), 10 Sept. 1811, Kaye, Life of Metcalfe, 1, p. 337.
  4. Metcalfe to Elphinstone, 29 Nov. 1811, Elphinstone Papers, Eur. MSS. F.88, Box 14, k.46(c).

I wrote recently had been quite out of the line i.e. on Revenue and Police.'<sup>1</sup>

Two years of intensive training in the revenue line under Seton had given Metcalfe a first hand knowledge of the country and its people. Metcalfe realized that land revenue was the core of Indian administration and in its proper management depended not only the happiness of the people but also the future of British rule in India.

He accepted that property formed the basis of human endeavour. The right to property was a sure incentive to individual initiative and enterprise and to social improvement. Therefore it was of the highest importance that the question of proprietary right should be carefully decided. Unless proprietary rights in the soil ~~were~~ recognized and made secure no economic progress could be attained.<sup>2</sup> Thus, to this extent he agreed with the spirit of the Bengal principles. But he did not see any reason and found much less justification for creating new rights. Proprietary rights, of course, could either be 'conferred' or 'confirmed'. But although, according to Oriental practice, the sovereign was the acknowledged proprietor of the soil in as much as ~~he~~ received rents - an attribute of proprietary right - , yet in his opinion there was no necessity of interfering with the existing rights which were also held equally sacred, inviolate and complete in many

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1. 21 Sept. 1811, Ibid. The report referred to here is dated 11 June 1811, a very valuable document, Beng.Rev.Cons., 2 July 1811, 43.

2. Metcalfe's Report, 4 Sept. 1815, paras.38,88-89, Beng.Rev.Cons., 16 Sept.1820, 81.

respects.<sup>1</sup>

The mistakes of the Bengal settlement, he observed, lay in applying English notions of private property rights in India by which the hereditary possessors of lands were turned into

'... labourers of England and consigned their lands in absolute property to rich individuals because the latter seemed calculated to figure in the scheme for the settlement of India, in the place of great land proprietors of England.'<sup>2</sup>

- \* Arguing at length in favour of the system as established by him in Delhi he rejected the Bengal system altogether. It created new land owners usurping the rights of others and in the attempt condemned the whole population to remain in a state of 'depression' without any hope of ever improving their station in life. Besides it sacrificed a source of revenue to government and should the system fail, it could not be remedied. Furthermore, long-term settlements as an alternative could give all benefits of the permanent settlement.<sup>3</sup>

In Delhi he introduced what ~~were~~ known as village settlements, in which the village zamindars engaged for revenue and were made responsible for its collection. These zamindars were of two kinds. In some villages there were eight or ten or just one of them, as Seton had found; and <sup>they</sup> were called mukaddams. In other villages, the whole village owned land in common as proprietors, and the village as a whole entered into <sup>a</sup> settlement with the government. In the revenue phraseology, a pattidari

1. Ibid., also paras. 39-45, 97.

2. Ibid., para. 112.

3. Ibid., paras. 165-172.

tenure prevailed in the first type of village. This was a form of joint sharing of lands in the village in which sharers held land according to their ancestral shares. Also they might have acquired land by purchase, transfer or gift. In the other village, bhaiyachara system of joint ownership of land was prevalent, in which the community or brotherhood held land of equal areas having equal portions of good and bad lands in each share. In the first, below the mukaddams or headmen there were various types of tenants as also other members of the community. In the other, all the inhabitants with the exception of those who may be termed as the servants of the village were Zamindars.<sup>1</sup>

These zamindars of both kinds were occupants of the soil, who usually descended from the ancient inhabitants of the village. The village thus passed to the same families by hereditary succession for generations, sometimes even centuries. As long as they paid the revenue demand they were the masters of the soil. There were no proprietors of the Bengal type here. The village zamindars were the real proprietors. They possessed the right of sale, mortgage, transfer and gift 'within the village', and 'the whole village by prescriptive right could sell or transfer their zumeendaree right and title to the zumeendars of another village or to any individual.'<sup>2</sup> Notwithstanding numerous revolutions these rights have been respected by all civilized governments, none ever venturing to

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1. Metcalfe's Revenue Report, 11 June 1811, paras.2-4, 11. Beng.Rev.Cons., 2 July 1811, 43.

2. Ibid., also para.14. Also, Revenue Report, 4 Sept.1815, para.180, Beng.Rev.Cons., 16 Sept. 1820, 81.

violate them. The property in the soil did exist, '... though not perhaps on that firm and sacred footing, nor to such a full and unreserved extent as it would exist under <sup>the</sup> British Government after the conclusion of a permanent settlement,' yet the rights 'have generally been held sacred, more sacred it seems to me than any other property...'.<sup>1</sup>

Mukaddams were principal zamindars or managers of the village. They did not enjoy any superior rights, nor could they, with justice, be turned into 'maliks' or masters of the village. Besides it was inconvenient to pick up one out of many makaddams for the exalted position. Furthermore, this would create jealousy and ill-will and disturb the harmony of the brotherhood.<sup>2</sup>

Once the revenue demand was fixed, the village proprietors were left to themselves to share it according to the laws of the village. The relation between them and their tenants was also governed by the customary laws. The mode of collecting the shares of revenue from amongst the members of the community differed from village to village. This was a matter of internal management, and it depended upon the will of the inhabitants to choose any mode they liked. In some villages the internal assessment was made on the ploughs, while in others, on the land, or families or on the divisions of the village. However, the government never interfered with these affairs except in cases

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1. Revenue Reports, 11 June 1811, para.14; and 4 Sept.1815, para.97, 91-96. Ibid.
  2. Metcalfe's Revenue Report, 11 June 1811, paras.15-16, Beng.Rev.Cons., 2 July 1811, 43. Also, 4 Sept.1815, paras. 103-104, Ibid., 16 Sept.1820, 81.

of injustice.<sup>1</sup>

But the assessment of revenue to be paid by the village zamindars to <sup>the</sup> government was fixed after having made a minute investigation in the assets of the village and its inhabitants and cultivated lands. A survey of the village was conducted and accurate measurement of lands to be assessed was taken. Then an estimate of the produce in relation to the extent of land was made. The produce of the whole village as belonging in detail to each proprietor was classed by bighas according to several kinds of grain, and aggregated into first, second, third and fourth quality by regular appraisers who usually belonged to other villages. Also, the quality of land and its situation i.e. whether nearer roads or market or water; whether the land was watered by irrigation or depended upon the rains formed an important item in the investigation.<sup>2</sup> Other considerations were also taken into account such as the number of ploughs and wells in the village and whether the village was flourishing and the condition of the inhabitants was improving or not.

Even the caste of the village zamindars was ascertained. The proprietors received various proportions of produce from the cultivators which ranged between  $\frac{3}{4}$ ,  $\frac{3}{5}$ ,  $\frac{2}{5}$  or  $\frac{1}{2}$  of the produce, after however deducting from the gross produce

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1. Metcalfe's Revenue Report, 11 June 1811, para.5, Beng.Rev. Cons., 2 July 1811, 43.

2. Bigha = a measure of land, the standard bigha of the revenue surveys of the N.W.P. was equal to 3,025 sq.yards or 5/8ths of an acre. Fortescue's Revenue Report, 28 April 1820, paras.63-67, Beng.Rev.Cons., 13 Nov.1820, 26. Fortescue was Civil Commissioner of Delhi, 1819-20.

the wages of 'the labour and expense of raising the crops.' Also the details, as discussed above, were worked out before the proprietor demanded his share from the ryot.<sup>1</sup> Wherever lands had not been measured and a detailed census of the village not taken, the demand was fixed after ascertaining pargana rates. These rates were usually applied to check the accuracy of assessment.<sup>2</sup> However, Fortescue reported that all the cultivated lands in the territory had been measured twice or thrice and 'a very accurate data for forming the assessment' had been collected and acted upon.<sup>3</sup>

Three important conclusions can be drawn from the procedure followed in Delhi for assessing land revenue. In the first place, the assessment was based on details. Secondly, the gross produce formed the basis of assessment. The whole investigation in effect was directed towards its calculation although in that process every possible information relating to the land and its occupant had been obtained. Thirdly, in the process of fixing the relative shares of the proprietor and the ryot some attention was paid to a calculation of the cost of production, however inadequate that attention might have been. In principle it was recognized all the same.

Seton had followed the principle of taking half of the gross produce as the share of the government. Metcalfe also probably did so, although he considered it to be excessive and wished that this standard should not be rigidly applied since

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1. Fortescue's Revenue Report, 28 April 1820, paras. 82-89, Beng. Rev. Cons., 13 Nov. 1820, 26.

2. Ibid., paras. 83-85.

3. Ibid., para. 63.



it did not give 'a sufficient hope of profit' to the cultivators, which meant that the property was not sufficiently made secure.<sup>1</sup> He therefore constantly urged ~~upon~~ the officers to reduce the demand as far as possible.

Metcalfe preferred long-term settlements; the longer the period of settlement the better. Ten years as a minimum and one hundred years as the maximum was regarded by him as a suitable period of lease to ensure security of tenure and to facilitate agricultural developments.<sup>2</sup>

Metcalfe imagined that this system would safeguard landed rights and guarantee security of property to a large section of population. The cultivators, he hoped, would then improve their lands and grow rich. With the acquisition of wealth they would acquire better taste and learn the art of living. Villages with their substantial incomes then would grow into country towns. A class of farmers, tenants, merchants and men of all professions would emerge seeking articles of comfort and luxuries, thus transforming the village economy into a competitive and a growing one. With the advance of education and knowledge, eventually a richer and happier society would be built.<sup>3</sup>

The machinery employed for the purpose of revenue administration underwent a change during Metcalfe's tenure as Resident. In Seton's administration, amildar performed significant functions. He served as a link between the assistants and

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1. Metcalfe's Revenue Report, 4 Sept. 1815, paras. 44-46, 135-137, Beng. Rev. Cons., 16 Sept. 1820, 81.

2. Ibid., para. 183.

3. Ibid., paras. 138-146.

landholders. Shahbaz Khan, an efficient amildar, had helped Metcalfe in the settlement of Panipat in 1806-07. Shahbaz Khan was also in charge of a body of horses stationed at Haryana. There were also tahsildars (sub-divisional revenue officers). Rangi Ram, a tahsildar, had assisted Shahbaz Khan and Metcalfe in the work of settlement at many places.<sup>1</sup> Metcalfe replaced the amildari system with regular tahsildari establishments. When the jagirs of Palwal, Mandouti, Gohana and Barset lapsed to the government in 1818 tahsildars on monthly salaries were immediately appointed at these places.<sup>2</sup>

In the scheme of Metcalfe the office of tahsildar and that of thanadar (a native police officer in charge of a post) remained separate. Seton had considered that

'the management of police is intimately connected with the settlement of land-revenue and it, in fact, makes part of the arrangement.'<sup>3</sup>

- But the Bengal Government which adhered to the principle of separation of powers disapproved of such a proposal.<sup>4</sup>

Metcalfe's own inclination was for a union of powers.<sup>5</sup>

William Fraser, the First Assistant, was in charge of revenue

1. Metcalfe's Memo., 10 Jan. 1807, Beng.Rev.Cons., 12 Feb. 1807, 33, Enclosure 2.

Tahsildar = a native collector of revenue under zamindar or European collector.

2. Metcalfe to Beng. Govt., 13 Oct. 1818, 3 Nov. 1818, Beng.Rev.Cons., 20 Nov. 1818, 85-87. The Tahsildar of Palwal was paid Rs.100 per month and was assisted by a peshkar (deputy manager) a mutasaddi (clerk) a jemadar (head peon) and 20 chaprasis or peons.

3. Seton to Metcalfe, 26 June 1808, Beng.Rev.Cons., 28 Oct. 1808, 37. For details see Seton to W.Fraser, 1 Sept. 1809, Beng.Rev.Cons., 6 Oct. 1809, 57.

4. Beng. Govt. to Seton, 6 Oct. 1809, Beng.Rev.Cons., 6 Oct. 1809, 59.

5. For a detailed discussion, see below, Chapter 4, pp.178-183.

affairs in Delhi. Edward Gardner, the Second Assistant, although entrusted with the police duties for the whole territory also, was engaged in revenue settlement whenever other duties permitted him to do so. Fraser moved from village to village settling lands for revenue as well as disputes arising from them.

The forming of <sup>a</sup> settlement was an interesting although a laborious operation. Assistants aided by Indian officials like tahsildar, kanungo, patwari and a number of peons and petty servants examined cultivated lands in person and fixed the government demand after survey, measurement and forming an estimate of the produce. Fraser and Gardner were eminent revenue officers. When Gardner became Resident of Nepal in 1816, Richard Cavendish, another capable officer joined the Delhi residency. Cavendish also rose to high office later, being Political Agent to <sup>the</sup> Governor-General at Jodhpur in 1828 and Resident of Gwalior and Nagpur in 1831 and 1835 respectively.<sup>1</sup> Fraser loved Delhi and never left it except for very brief periods when he was employed in the adjoining regions of Garhwal or Moradabad. While he was Commissioner and Agent to the Governor-General at Delhi, he was assassinated in 1835.

Metcalfe had established a system of administration which later on came to be known as the Delhi system more as an object of criticism than of appreciation. The system was by no means a unique one having distinct characteristics though it

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1. Prinsep, H.T., General Register of the Civil Servants of the Bengal Establishments, p.59. About Gardner, p.132.

might have had its own individuality. It combined native practice with the spirit of the Regulation system. The practical results of this system have been discussed in the later part of this chapter while examining the question of over-assessment.

When Metcalfe left Delhi after laying down the office of Resident on 19 December 1818, he received universal approbation for his work and achievements.

Metcalfe soon proceeded to Calcutta to take up his new duties as Secretary in the Secret and Political Department and Personal Secretary to the Governor-General. Within a year, in 1820, he was sent as Resident to Hyderabad where he exposed the underhand dealings of the Palmer Company and Raja Chandu Lal, the Chief Minister of Hyderabad; thus saving the Nizam's government from financial ruin. As he explained to Elphinstone, he was working for 'the salvation and improvement' of the country.<sup>1</sup> In his opinion the transaction was 'unequal' and 'improper'.<sup>2</sup> The government was taken aback by this incident and Lord Hastings' reputation to some extent was damaged on account of his support to men who were behind those transactions.

In the meantime Delhi experienced frequent changes in its administration resulting in uncertainty and confusion, until at last Metcalfe was brought back again to Delhi by Amherst in 1825 to remedy the evil of the interim period.

1. Metcalfe to Elphinstone, 21 April 1821, Elphinstone Papers, MSS.EUR. F.88. Box 8, A 10.

2. Same to same, 10 Aug. 1821, Ibid., A 11.

In 1819, after Metcalfe's departure, the civil and political duties of the Resident were separated and assigned to two individuals. Ochterlony was appointed Resident whereas Thomas Fortescue was given charge of civil administration of the territory. This division of functions was necessitated owing to overwhelming business considered to be beyond the competence of one individual to efficiently cope with it. No change whatever was intended in the system of revenue management hitherto pursued in Delhi. The Bengal Government was satisfied that the previous system had worked in accordance with the spirit of the regulations except that 'the transactions of that officer [Resident] have not been reported with the same fullness as it is the intention of Government to require from the Commissioner.'<sup>1</sup> Obviously, hitherto the Delhi Resident had enjoyed considerable discretionary powers which the government now was disposed to reduce with a view eventually to incorporating the territory into the Regulation system. That is why Fortescue was asked to submit a minute and detailed report on the nature of prevailing land tenures and the principles of assessment and mode of collecting the revenue followed so far in Delhi.

Full of ripe experience of the revenue and judicial system as operating in the Regulation Provinces Fortescue was acquainted with its good and bad features. He had distinguished himself both as a Collector and a Magistrate of Dacca, Midnapur, Patna, Aligarh and Allahabad. As Secretary to the

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1. Beng.Govt. to Fortescue, 6 Feb. 1819, Beng.Pol.Cons., 6 Feb. 1819, 28.

Commissioners for Superintending Settlements in the Ceded and Conquered Provinces between 1808 and 1810 he understood the revenue problems thoroughly well.<sup>1</sup> He was indeed a happy choice for Delhi, but unfortunately he could not stay for a longer period as Civil Commissioner because of his failing health, and <sup>he</sup> proceeded to Europe in 1821. However, before leaving Delhi he submitted separate reports on revenue, judicial and customs administration and, on the Jagir Lands of the Delhi territory.<sup>2</sup> These reports are invaluable and are remarkable for their clarity, fullness of details and impartial analysis.

With the departure of Fortescue in September 1820 the duties of the Commissioner were transferred to the newly created office of Deputy Superintendent to be under the control of the Resident. Until the arrival of Henry Middleton who was appointed Deputy Superintendent, William Fraser held charge of the post. Ochterlony, the Resident, left for Malwa and Rajputana in November 1821 leaving the civil and political authority to Middleton. This position continued until the Board of Revenue for the Western Provinces took over the administration of the Delhi territory in May 1822. The Board were instructed to follow the rules of 1819 without changing them except in 'the mode of transacting business'.<sup>3</sup> Now a

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1. Prinsep, General Register, p.

2. Fortescue's Revenue Report, 28 April 1820, Beng.Rev.Cons., 13 Nov.1820, 26. Also published in Delhi Residency and Agency (Punjab Govt.Records), Vol.1, pp.69-130.

Fortescue's Judicial Report, 12 May 1820, Beng.Civil Jud. Cons., (W.P.), 29 Dec. 1820, 3.

Report on Customs & Town Duties, 22 July 1820, Delhi Residency and Agency, pp.131-191.

Report on Jagir Lands, 4 Dec. 1819, Beng.Pol.Cons., 28 Oct.1820, 28.

3. Judicial Letter from Bengal (W.F.), 12 July 1827, para.5.

board of members was responsible for administration instead of a single officer hence there was more scope for mutual discussion and less room for hasty legislations or actions. Besides, the opinion of the majority was to be decisive although it was subject to the confirmation of the Bengal Government. The Cornwallis principle of checks and balance was thus being enforced.

Among the members of the Board, Alexander Ross, who later on became a member of <sup>the</sup> Governor-General's Council in 1833, was the only distinguished officer of the Government. But he also was destined to leave Delhi soon in December 1822. Charles Elliott<sup>1</sup> officiated as Senior Member after Ross's departure for the rest of the life of the Board. William Fraser was appointed Second Member, followed by Henry Batson and Walter Ewer as Third and Officiating members of the Board respectively. But for Fraser, other members were educated in the Regulation system mostly on the judicial line. Only Batson possessed some experience of revenue matters.<sup>2</sup> Unfortunately they saw in the Bengal principles a panacea for all evils and with a meticulous eye of a judge found fault with everything practised in Delhi. They proposed an immediate introduction of the regulations for a vigilant control over the assistants, as also the furnishing <sup>of a</sup> written code of laws to conduct the

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1. C.Elliott, Judge & Magistrate Furruckabad 1811, Third Judge Court of Appeal Bareilly 1819, Senior Member Board of Revenue W.P. 1823. To Europe 1826. Prinsep, General Register, p.109.
  2. H. Batson, Register Bundelkhand 1806, Collector Etawa, Moradabad 1812-13, 1821, Third Member Revenue Board Delhi 1823, To Europe 1826. Prinsep, General Register, pp.18-19.

business of government since as Ewer fiercely attacked 'the Delhi system was without any laws at all.'<sup>1</sup> The Bengal Government were against the sudden introduction of the voluminous codes and authorised the Board to frame rules for conducting business should there be no rules for guidance. Also they asked them to submit a report with concrete proposals for improving the system of administration, so that the government could consider the necessity of changing the system weighing it in the proper perspective.<sup>2</sup> No report was ever prepared by the Board. Only disjointed minutes full of charges and counter-charges were sent to the government. Fraser with his bias in favour of the Delhi system became an anathema to the council. Even the personal relations were strained. Fraser, the only member who had experience of Delhi administration, developed the habit of absenting himself from the deliberations of the Board, as a result of which the Board were left to decide without the benefit of an informed opinion or a first-hand knowledge of the country. The outcome of such a situation was bound to be confusion and inefficiency. The government took strong exception to all this and condemned the Board and Fraser in unequivocal terms.<sup>3</sup> The Court of Directors joined in

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1. Ewer, minute, n.d., Beng.Rev.Cons., 5 June 1823, 57.  
W.Ewer, Register Rajshahi 1808, Judge & Magistrate Mymensingh, Rajshahi 1813-17, Supdt. of Police Bengal, Behar & Orissa 1817, Member Rev. Board Delhi 1822, Commissioner of Rev. & Circuit Saharampur 1828, Judge Sadr Diwani Adalat-Allahabad 1833, Retired 1834. Personal Records, Vol.16, ff.897-99.
  2. Bengal Govt. to Board, 5 June 1823, Bo.Coll.30949, p.105.
  3. Bengal Govt. to Board, 5 June 1823, 17 Jan.1824, Bo.Coll.30949, p.105, pp.349-53; Also 23 July 1823, Bo.Coll.30953, Vol.121, pp.805-09. Also Rev.Letter from Bengal, 16 Aug.1827, para.376.



censuring the Board, naming Fraser and Ewer in particular. The Bengal Government did not escape the Court's condemnation. They were held responsible for not removing men like Fraser and Ewer from the Board when it was quite obvious that they were incapable of working in mutual co-operation. The Directors felt convinced that much of the mismanagement alleged by the Board was 'to a great degree due to the Board itself.'<sup>1</sup>

The Board on their part complained that the division of duties was faulty and business overwhelming.<sup>2</sup> That the settlement was done without any basis and the country was suffering from gross over-assessment as a consequence. Added to over-assessment, the territory was ravaged by a severe famine in 1824 and 1825.

A striking incident disgraced the proceedings of the Board. A brief mention of this may be made here since it throws some light into the working of the Board. In March 1824, E.B. Elliott, the Officiating Collector of Delhi, discovered that Harnarain, the treasurer of Delhi had embezzled Rs.694,675. It seems as many as four Collectors had transferred the treasury to their successors without counting the money. Only E.B. Elliott had the resolution to check it.<sup>3</sup> The Accountant-General while investigating into the circumstances of the incident attributed this to the lack of proper control

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1. Revenue Dispatch to Bengal, 20 Dec. 1830, paras.5,8,9,10.
  2. For difference of opinion on some related subjects see Beng.Rev.Cons., 14 May 1824, 54-6, 21 May 1824, 73. Instances of this type are many in the Board's Collections as well. See Bo.Coll.30954, Vol.1212, pp.865-8.
  3. Revenue Dispatch to Bengal, 28 Jan.1829, Vol.10, pp.115-147; also, 28 March 1832, Vol.12, pp.1-3.

exercised by the Board on the subordinates. These remarks brought about the animadversions from Ewer, who declared that the Board had 'something else to do than to interfere with and direct the ordinary proceedings of the Collectors.'<sup>1</sup> He asked how the Board could possibly have taken action unless informed about it. In this vein he remarked:

'this was the natural consequence of the Delhi system, hitherto so much admired and which authorised every public officer, high or low, to do as he pleased, and to take as little trouble as possible.'<sup>2</sup>

The Court of Directors rebuked Ewer in the strongest terms for his loose statements and observed that the first duty of the Board was to supervise and exercise effective control over the subordinate officers. And if the Board were incapable of performing this function, it was better that the Board should be abolished. They also demanded from Ewer a full explanation substantiating the charge made against 'the so-called Delhi system'.<sup>3</sup> Ewer later explained that his observations mostly related to specific instances in the administration of justice in Delhi.<sup>4</sup>

Embezzlement from the government treasury was of common occurrence even in the Regulation Provinces. Such instances had taken place in the Western Provinces often, for instance, at Mirzapur in 1820 and Allahabad in 1824.<sup>5</sup> Although

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1. Revenue Dispatch to Bengal, 28 Jan. 1829, Vol.10, p.125.

2. Ibid., p.130.

3. Ibid., p.132.

4. Revenue Dispatch to Bengal, 28 March 1832, Vol.12, p.2.

5. Judicial Dispatch to Bengal, 20 Feb.1833, Vol.8, pp.556-571.

at Allahabad, embezzlement had been discovered as early as 1824, it was not reported to the Bengal Government for five years. In 1829, it was again detected and the government was informed accordingly. All this happened despite the checks prescribed by the printed regulations. Metcalfe sternly reminded the critics of the Delhi system:

'With respect to embezzlement of Treasure by the Native Treasurer of the Dehlee Collectors, whatever neglect it may have been owing to, it had no more connection with the Dehly System of Administration in particular than the embezzlement at the mint of Benares had with the Regulations of the Bengal Government, or the embezzlement of Mr. Rons Peter with the Regulations of the Madras Government, or the forgeries of the Company's Promisary Notes in Calcutta with the Laws of England. The evil in each case was owing to the want of some precaution, ...' 1

On 7 May 1824 new rules were framed reinforcing those under Regulation III of 1793 which were already in force in Delhi. The new rules provided that the treasure should be kept under the joint custody of the collector and the treasurer and keys were issued to both of these officers.

, It has been asserted that Delhi was a universally over-assessed territory and that Metcalfe's system was primarily responsible for this. Fortescue while commending Metcalfe's revenue management wrote:

'some mistakes have been made here as well as in our other Provinces, in over-assessment.' 2

Excepting William Fraser all the Members of the Board of Revenue in the Western Provinces, under whose management or

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1. Minute, 23 Aug.1830, Beng.Rev.Cons., 31 Aug.1830, 36.
  2. Fortescue's Revenue Report, 28 April 1820, para.98, Beng. Rev. Cons., 13 Nov.1820, 26.

more appropriately mismanagement, the Delhi territory suffered during 1822-25, delivered a stunning verdict that 'the mode of proceeding had produced nothing but ruin to the people.'

Walter Ewer went on:

'I fancy the amount of assessment has increased in geometrical progression like Sir C. Metcalfe's sentence on Prisoners who attempted to escape from jail.' 1

Charles Elliot, the Officiating Senior Member voiced the same opinion though in a temperate language.<sup>2</sup> Batson, the third Member declared that the system

'when viewed in [sic] the spot free from the varnish which it may have derived from a well-written Report, appears to be little short of hideous Rack-Rent, in which the inferior classes of agricultural community at the mercy of the influential headmen of the village,...'3

The Governor-General agreed that the 'tract in question' meaning Panipat pargana had either been over-assessed or had suffered from the exactions of headmen,<sup>4</sup> and ordered the re-assessment of those parganas.<sup>5</sup> Similarly the Government on occasions had expressed their concern at the enormous increase in the assessment of land.<sup>6</sup> The Court of Directors

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1. Minute, 21 June 1824, Bo.Coll.30954, Vol.1214, p.829. Also Joint Committee of C.Elliott, Batson and Ewer on over-assessment, n.d., Bo.Coll.30952, Vol.1212, pp.251-57.
  2. Minute, 22 June 1824, Bo.Coll. 30954, Vol.1214, p.831.
  3. Batson's Minute, 28 June 1825, Bo.Coll.30952, Vol.1212, p.305. The 'report' mentioned in the minute obviously referred to Fortescue's Revenue Report of 28 April 1820, op.cit.
  4. Beng.Govt. to Board, 6 Aug.1824, Bo.Coll.30954, Vol.1214, pp.851-863.
  5. Ibid., 17 Sept.1824, Ibid., pp.869-75.
  6. Beng.Govt. to Metcalfe, 19 April 1827, 21 June 1827, Bo.Coll. 30953, Vol.1213, pp.493-507, 687-89.

while referring to the large-scale desertions in the same region declared:

'We cannot but fear that over-assessment has been a great share in producing the evil,...' 1

and were sorry to note the lamentable ignorance in which the Government was as to the cause of these desertions. Metcalfe himself had candidly admitted

'that our former assessment [made between 1822 and 1825] in the Delhi Territory had been on a high scale.' 2

Such authoritative observations command respect. Nevertheless, it seems proper that the question of over-assessment should be adequately investigated. Also it should be asked whether Metcalfe's system had been an unmitigated evil, over-assessment being an inevitable concomitant to it.

Though Metcalfe as Resident had been criticised by the Board it should be noted that the allegations largely related to the period later than 1819. No doubt during the first fifteen years of British rule in Delhi, an enormous land revenue had been obtained which also suggests the general prosperity of the territory. During Seton's tenure within the four years from 1806-7 to 1810-11 the land assessment had increased by two and a half, from Rs.3,22,117 to Rs.8,60,884.<sup>3</sup>

The following table shows the rate of increase, the outstanding balances, and the remissions granted between

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1. Revenue Dispatch to Bengal, 22 Dec.1830, para.7.
  2. Metcalfe to Beng.Govt., 16 May 1827, Bo.Coll.30953, Vol. 1213, pp.
  3. Seton to Beng. Govt., 3 Jan.1810, Beng.Rev.Cons., 19 Jan. 1810, 32; Metcalfe's Revenue Report, 4 Sept.1815, para.3, Beng.Rev.Cons., 16 Sept.1820, 81.

1811-12 and 1818-19 when Metcalfe was Resident of Delhi:

Table 1

Year	Land assessment in Rs.	Outstanding Balances	Remissions
1811-12	9,87,030-11-6	10,073- 6-11	254-8-0    1
1812-13	10,39,560- 0-0	60,304-15- 6	283-6-0    2
1813-14	12,56,502-12-0	18,967- 3- 1	0-0-0    3
1814-15	12,15,470-13-6	34,215- 8- 3	0-0-0    4
1815-16	13,88,978- 0-0	95,918- 3- 0	0-0-0    }
1816-17	17,01,663- 0-0	1,24,318- 0- 0	0-0-0    } 5
1817-18	17,23,691- 0-0	2,68,797- 0- 0	0-0-0    }
1818-19	19,50,488- 0-0	0- 0- 0	0-0-0    6

The table shows that the revenue of the territory had been doubled by 1819. It may be of interest to know the reasons and circumstances that led to the increase in revenue. In 1811 when Metcalfe took over from Seton a rise of Rs.1,26,146-2-6 was recorded in the assessment. Out of this amount Rs.14,402 were obtained from the resumption of jagirs hitherto held by individuals under invalid title.<sup>7</sup> Fatiahabad, which was acquired in 1811, gave a moderate jama of Rs.4109-8-0.<sup>8</sup> It

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1. Metcalfe to Beng.Govt., 21 Jan. 1813, Beng.Rev.Cons., 1 April 1813, 29.
  2. Revenue Dispatch to Bengal, 2 April 1817, paras.32-33. Vol.
  3. Metcalfe to Beng.Govt., 15 Oct.1814, Beng.Rev.Cons., 5 Nov. 1814, 59.
  4. Ibid., 3 Nov.1815, Ibid., 24 Nov.1815, 62.
  5. Revenue Dispatch to Bengal, 9 Sept.1821, paras.100-101, Vol.
  6. Revenue Letter from Bengal, 19 Feb.1820, Vol.10, p.39.
  7. Metcalfe to Beng.Govt., 22 Aug.1811, Beng.Rev.Cons., 5 Nov.1811, 26.
  8. E. Gardner to Metcalfe, 11 May 1811, Ibid., 25 June 1811, 34.

was also reported by Metcalfe that more than a 100 villages had been rehabilitated and settled for in 1810-11. These villages had remained waste for more than 50 years.<sup>1</sup> A most significant addition to revenue was made in 1812-13 when jagirs and istimrars lapsed to the Government yielding a revenue of Rs.2,35,661-8-0.<sup>2</sup> Hodal fell to the government in 1813 at the death of the istimrardar, giving a net gain of Rs.40,000 to the government.<sup>3</sup>

In 1816-17 again a big increase is shown which reached the large figure of about 19½ lakhs in 1818-19. The jagirs of Palwal, Gohana, Mandouti and Barset fell to the government in 1818 on the death of Sardar Bhai Lal Singh.<sup>4</sup> Whenever a jagir was resumed a great increase of revenue was expected. When Palwal lapsed, its value was estimated at Rs.1,20,000, whereas the jagirdar paid only Rs.40,000 to the government.<sup>5</sup> Simultaneously with this rise, a progressive increase in the balances is noticeable during the same period. The reasons for the outstanding balances were officially given as successive bad seasons.<sup>6</sup> Sometimes, as in 1811-12, the price of grain having been low, the cultivators lost heavily, hence the accumulation of dues.<sup>7</sup> Notwithstanding a considerable increase in the

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1. Metcalfe to Beng.Govt., 11 June 1811, Ibid., 2 July 1811, 41.
  2. Ibid., 22 Sept.1813, Ibid., 7 Nov.1818, 67-8. Details of lands acquired are given here.
  3. Ibid., 23 March 1818, Beng.Pol.Cons., 17 April 1818, 59.
  4. Metcalfe to Beng.Govt., 3 Nov.1818, Beng.Rev.Cons., 20 Nov. 1818, 87.
  5. Ibid., Also 8 March 1818, Ibid., 27 March 1818, 45.
  6. W.Fraser to Accountant-General, 12 July 1818, Beng.Rev. Cons., 14 Aug.1818, 47.
  7. Revenue Dispatch to Bengal, 9 June 1815, para.16, Vol.

revenue of 1819, the demand was punctually realized. Remissions granted during the entire period as table I shows, had been negligible, which presupposed the ability of the tax payers to discharge their obligations.

According to Fortescue more than 400 erstwhile waste villages had been brought under cultivation during Metcalfe's period as Resident.<sup>1</sup> The acquisition of rent-free and partially rent-free lands was a remarkable fact of this period. This gave a substantial and unexpected increase in the revenue of the territory. The total estimated revenue from the lands thus resumed was Rs.4,34,313 according to the Government who based their calculations on Fraser's report.<sup>2</sup> Fortescue's report gave the total at Rs.5,37,163.<sup>3</sup> If the revenue thus obtained were to be deducted from the jama of 1818-19, the actual rise in the assessment during 8 years of Metcalfe's administration would amount to Rs.4,26,295 only, which indeed appeared quite reasonable and natural, since the territory had enjoyed the blessings of peace and the benefits of an organised system of administration unknown to Delhi for decades. It should be remembered that the parganas comprising the Delhi territory during the reign of Akbar or more recently under George

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1. Fortescue's Revenue Report, 28 April 1820, para.162, Beng. Rev. Cons., 13 Nov.1820, 26.
  2. Political Letter from Bengal, 9 May 1823, para.93, Bo.Coll. 21420, Vol. p.18.
  3. Fortescue's Report on Jagir lands, 4 Dec. 1819, paras. 71-72, Beng.Pol. Cons., 28 Oct.1820, 28. According to him 188 villages valued at Rs.2,51,871 given in jagir by native rulers were attached, while 158 villages granted by British Government estimated at Rs.2,85,292 had so far been resumed, the total amount being 5,37,163.



Thomas, paid larger sums of revenue and yet the country had been one of the most prosperous in India.<sup>1</sup>

Metcalf indeed appears a 'pacificator' according to the above analysis, although, basing his judgement on John Lawrence's observations, Dr. Spear is inclined to think that there had been 'gross over-assessment' resulting in 'impoverishment' and 'depopulation' of the country. And that in Rewari 'the revenue had actually declined between 1810 and 1837 from Rs.214,503 to Rs.184,383.'<sup>2</sup> In the first place, Rewari was settled by William Fraser in 1810-11 for Rs.2,25,064-15-0 and the revenue demand in 1837-8 was fixed at Rs.1,95,200-12-3.<sup>3</sup> Secondly, a general decline in revenue had occurred in 1837-8 on account of a severe famine which had hit the entire Western Provinces touching many parts of the Delhi territory. Auckland regretted that the famine had thrown the revenue 'in jeopardy' and felt deeply concerned at the impact of the 'dreadful

1. See Metcalfe's 'Memoir of Hindustan West of the Jumna in 1805', Home Misc. Series, 506A, pp.3,5. It seems that Rewari paid Rs.1,40,000 only 75 years ago and was assessed at Rs.2,98,921 during Akbar's rule. Hansi paid Rs.2,50,000 to George Thomas; In 1805 it paid only Rs.60,000. Hissar paid Rs.300,000 to George Thomas; In 1805 it paid only Rs.10,000.
2. Spear, Twilight of the Mughuls, p.101.
3. Seton to Beng. Govt., 30 Jan. 1811, Beng.Rev.Cons., 6 March 1811, 54; and John Lawrence's report on Rewari pargana, 22 July 1838, para.26. Selected Reports on the Revision of Settlement under Reg. IX of 1833 in the Delhi Territory, I.O.L., Record Dept., List 9, 341/8, p.11.

visitation'.<sup>1</sup> Besides Rewari had suffered from an epidemic during the years 1835-37, as Lawrence reported.<sup>2</sup> Furthermore, the revenue of Rewari increased rapidly soon afterwards and paid Rs.2,49,639 in 1846-7.<sup>3</sup>

Metcalfe was an advocate of moderate settlements although he was not in favour of sacrificing unnecessarily the government revenue. Whenever possible he had reduced the demand. While making a settlement allowance for bad seasons and drought was made. The jama of over-assessed villages were brought down and were granted remissions.<sup>4</sup> On the other hand, in the 76 villages which he had settled in 1807 a progressive demand was stipulated for a period of five years since the villages were prosperous.<sup>5</sup> Increase or decrease in the rates of assessment depended on the circumstances in which the village and the land were found to exist. This formed the basis of all settlements. For instance, land revenue in Hariana continually fluctuated. In 1810-11 the land assessment in Rohtak, Maham and Beree declined on account of the failure of rains.<sup>6</sup> Locust devastations in Bhewani brought down the jama by a half in the same year.<sup>7</sup> In 1810 Hariana paid a revenue

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1. Auckland to Hobhouse, J.C. (Later Lord Broughton, President of Board of Control), 13 Feb.1838 & 9 April 1838, Broughton Papers, B.M. Add.MSS. 36473, f232 and f238.
  2. Selected Reports, op.cit., para.34, p.14.
  3. Shakespeare, A., Memoirs on the Statistics of the North-Western Provinces, p.39.
  4. Metcalfe's Memo., 10 Jan.1807, op.cit.
  5. Ibid., See village-wise statement of settlements.
  6. Gardner to Metcalfe, 26 Jan.1811, Beng.Rev.Cons., 6 March 1811, 53.
  7. Ibid., 27 Oct.1811, Ibid., 12 Nov. 1811, 40.

of Rs.2,37,361 while in the following year under Metcalfe it was settled for Rs.2,35,176. i.e. about Rs.2,000 less. In 1812 it showed a rise of more than Rs.50,000 over the demand of the previous year, whereas in 1813, the jama dropped to Rs. 2,23,766 i.e. even less than that of 1810.<sup>1</sup> Hariana was a problem district and depended exclusively on rains for its prosperity. In Hariana a triennial settlement was proposed in 1812 but the landholders felt diffident since they were habituated to enter into a settlement at an advanced period of the year after their crops had fairly grown. They engaged for three years only when assurances of liberal remissions in the case of bad seasons, were given to them. They would not risk engagement for longer terms.<sup>2</sup>

As Resident Metcalfe declared himself to be averse to following a 'rigid' principle in revenue management. The revenue business was a 'delicate' affair and a slight excess in demand, would bring ruin to the people and all hopes of improvement would disappear for many years to come.<sup>3</sup> Hence caution and great care was needed and the demand should not be fixed at a high level. Discretionary powers should also be used to reduce the amount as and when necessary. He deprecated

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1. Revenue Dispatch to Bengal, 6 Jan. 1815, para.69.  
Gardner to Metcalfe, 23 Feb. 1813, Beng.Rev.Cons., 20 March 1813, 35.
  2. Metcalfe to Beng.Govt., 16 Jan.1812, 18 May 1812, Beng. Rev.Cons., 10 Feb.1812, 55 and 15 June 1812, 78, respectively.
  3. Metcalfe's Revenue Report, 4 Sept.1815, paras.135-6, Beng.Rev.Cons., 16 Sept. 1820, 81.

short-term settlements since they involved an increase in demand at each settlement. Besides, as he said, the evil was 'unfortunately increased by the dutiful zeal of public officers to obtain the full dues of Government at every settlement.' 1

Although he was in favour of equal jama for a period of years yet a number of settlements were made at a progressively increasing rate. Presumably this was justified since the settlements were made according to the actual circumstances. In many cases, however, the principle of accepting an equal jama for long-terms was respected as the following instances show:

The village of Naultha<sup>2</sup> in the pargana of Panipat was settled in 1815 at an equal jama of Rs.13,250 for ten years. Before this it paid an increasing demand of Rs.10,000, 11,500 and 12,000 in the preceding three years. Again in the earlier three-yearly settlement i.e. as settled in 1809-10, it had paid an even demand of Rs.6,050 only. The land had been measured in 1812 and 1813. There were 9,320 bighas of land fit for cultivation in the village. The revenue rate per bigha therefore was Rs.1-6-4.

The village of Chichrana<sup>3</sup> in the Rohtak pargana had 6039-9 bighas of land fit for cultivation and was settled for Rs.3,750 in 1815-16 for a period of five years. According to the pargana rate which was the same as that of Sonapat the jama should have been double that of the settled amount. But

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1. Ibid., para.25.

2. Fortescue's Revenue Report, 28 April 1820, paras.70-75, Beng.Rev.Cons., 13 Nov.1820, 26.

3. Ibid., para.76.

in this case the demand was made purposely light because of the poor conditions of the cultivators. The revenue rates per bigha thus worked out to be slightly more than eight annas only.

The village of Barouli<sup>1</sup> in the Rewari pargana with 6627-7 bighas of cultivable land was settled for Rs.5000 at an equal demand for three years after it had been measured in 1810. In the subsequent settlements of 1813 and 1818 which were entered for five and ten years respectively, the jama was not increased. It stood at Rs.5,000 i.e. at the amount as fixed in 1810. It was considered that the village was in full cultivation and 'no increase by ordinary means was possible.'

Thus in the first instance, a ten-yearly settlement had given a rise and the amount of revenue had been doubled. In the second, since the potentiality of the village was considered to be meagre, the demand was fixed at a considerably lower rate. In the third case, the village had reached the margin of maximum production, hence no increase in the jama was envisaged so that the village was to pay the same amount for no less than eighteen years.

Long lease with a fixed jama therefore was as much a part of Metcalfe's revenue policy as of any other enlightened authority in India. He emphasised to his officers, that revenue rates should be moderate. He said that such a policy alone would guarantee benefits to the engagers and would encourage the spirit of industry in them thus facilitating an

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1. Ibid., paras.77-81.

accumulation of agricultural capital.

The increase in the rate of assessment during the next five years from 1819-20 to 1824-5 had been phenomenal. The same was the case in the later period as the following table shows:

Table 2

Year	Land Assessment in Rs.	Outstanding Balance	Remissions granted
1823-24	26,87,643	75,604	8,525 <sup>1</sup>
1824-25	28,72,272	3,87,260	3,69,621 } 2
1825-26	33,11,990	4,95,875	2,26,111 }
1826-27	30,66,258	82,357	12,996 } 3
1827-28	29,39,667	3,20,005	300 }

Between 1819 and 1825, by and large, it was under William Fraser's management that the revenue assessment was made and the demand collected, although after 1822 the Board of Revenue in the Western Provinces were held responsible for the administration of Delhi. Even during the Board's tenure, William Fraser as the second member of the Board directly supervised the administration of revenue. After the passing of Regulation VII of 1822, settlements in Delhi were made in accordance with its stipulations. While the settlement operations under the new system were on Metcalfe took over again as Resident and Commissioner of Delhi on 22 October 1825 for about two years. Incidentally during these years the revenue

1. Revenue Letter from Bengal, 12 Oct. 1826, Vol.12, ff.409-411. Note the demand in 1818-19 was Rs.19,50,488.

2. Ibid., 14 Oct.1827, Vol.14, ff.410-412.

3. Ibid., 22 June 1830, Vol.18, f.447.

fell from Rs.33,11,990 in 1825-6 to Rs.29,39,667 in 1827-8.

William Fraser was indeed a wayward genius. Metcalfe considered him as a man 'apt at his discussion' and of 'engaging' manners. That he was basically reasonable and was 'capable of great good, if waywardness did not spoil all.'<sup>1</sup> Even earlier Metcalfe had not been very happy with Fraser. He thought Fraser to be a bit too self-willed and over speculative.<sup>2</sup>

One of the serious evils, which the Board had faced while administering the Delhi territory, was a 'lack of information'.<sup>3</sup> William Fraser made the situation worse by not supplying relevant information even when it was demanded of him. The Board collectively were responsible for revenue management but it seems, Fraser decided many questions of importance without any reference to them. William Fraser once said:

'My ideas from experience & knowledge of the country are so widely different from those of the Board that it is quite useless to express them.'<sup>4</sup>

The Board charged him for fixing the assessment arbitrarily. They reported the matter to the government:

'Under Mr. Fraser's system, first the assessment is nominally fixed and if the amount is

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1. Metcalfe to Bentinck, 13 March 1831, Bentinck Papers, PWJf. 1551. Dr. Spear very correctly portrays him, see Twilight of the Mughuls, p.102.
  2. See Kaye, Life of Metcalfe, 2, pp.138-139. Metcalfe did not want to have Fraser at Delhi during his second residency but Fraser implored Metcalfe to take him in as his assistant.
  3. Board to Beng.Govt., 26 Aug.1824, Beng.Rev.Cons., 17 Sept. 1824, 52.
  4. Minute, 11 June 1824, Bo.Coll. 30953, Vol.1213, p.775.

not realized, remissions are granted on the authority of Mr. Fraser alone,....' 1

If in truth the revenue demand was fixed in the manner suggested by the Board, clearly this mode was very much different from what Metcalfe had followed. Probably, the allegations against Fraser had been exaggerated yet it should be remembered that he had in him a strong tendency to transgress his authority.

An interesting incident happened in 1824. It was discovered that Fraser had planned a permanent settlement for a few villages in the pargana of Gohana. Obviously this was not permissible, since the Court of Directors had ruled out such proceedings a long way back in 1811. The Board demanded an explanation from Fraser who evaded a categorical answer. The Government ordered an enquiry and it was found that the charges against Fraser were substantially correct.<sup>2</sup>

In 1824 rains failed and famine conditions developed in many parts of the territory. Hariana so famous for its luxuriant grass was now barren.<sup>3</sup> William Fraser felt convinced that revenue could be demanded only at the risk of 'driving the people to rebellion or expatriation'.<sup>4</sup> Such severe conditions continued in 1825. In Rohtak people were compelled

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1. Board to Beng.Govt., 4 Aug.1825, para.8, Beng.Crim.Jud. Cons., (W.P.), 11 Aug.1825, 14.
  2. Board to W.Fraser, 27 May 1824, Bo.Coll.30954, pp.953-5. W.Fraser to Board, 11 June 1824, Ibid., pp.955-6; G.R. Campbell, Principal Assistant, Rohtak Dn. to Metcalfe, 27 Sept.1826, Ibid., p.965.
  3. H.Graham, Principal Asstt. Western Dn. to Board, 20 Sept. 1824, Bo.Coll.30957, Vol.1216, p.7.
  4. W.Fraser to Beng.Govt., 8 Oct.1824, 12 Sept.1825, Ibid., p.25 and pp.28-9.



to send their cattle to 200 to 300 miles away for grass and water and the old people recalled the misfortunes of the notorious famine of 1840 sambat, corresponding to 1783 A.D.<sup>1</sup> As a result out of a total of Rs.21,38,401-6-0 remission of Rs.1,66,262-6-1 i.e. more than 66%, was granted.<sup>2</sup> Similarly in the southern division more than 3 lakhs of rupees were written off from the revenue demand as irrecoverable.<sup>3</sup> In the western division the Board gave up the whole revenue of the kharif crop of 1825.<sup>4</sup> The revenue of the Northern division decreased by Rs.50,061-12-6 only since it was relatively less affected.<sup>5</sup> Large-scale desertions therefore became common, the worst regions affected were Panipat and Hariana. Even in 1826 when the season had improved emigration of cultivators was still taking place. It was then that the Court of Directors thought that over assessment and not 'temporary causes' like the unexpected drought might be the root cause of the evil.<sup>6</sup> The truth appears to be that both these factors might have combined to bring misery to the people. But the severity of the famine must have been felt by them for a considerable period of time.

It is surprising that in spite of the famine conditions in 1824 and 1825 the revenue demand increased by five lakhs in the very next year.<sup>7</sup> Metcalfe joined Delhi at a late season

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1. G.R.Campbell to Board, 19 Jan.1825, Ibid., pp.269-289.

2. Ibid., pp.319,323.

3. Beng.Govt. to Board, 13 July 1826, Ibid., p.115.

4. Board to Beng.Govt., 17 Dec.1824, Ibid., pp.137,159,255.

5. Ibid., p.3.

6. Revenue Dispatch to Bengal, 22 Dec.1830, para.27.

7. See above table 2, p.81.

and by then settlement had already been made at several places according to Regulation VII of 1822. Metcalfe on his part, nevertheless, proposed a reduction of the assessment to the level of 1821 especially at Panipat, Hariana and other northern parganas.<sup>1</sup> In a long and revealing letter privately written to William Fraser some time in 1826 he made a strong plea for a light assessment and for a long-term settlement. Since the assessment was to be light he advised not to be meticulous about details and asked him to look to the future and not merely to the present while settling for revenue. The letter shows deep concern felt by Metcalfe for the welfare of the people besides pronouncing basic principles of his revenue management. He wrote:

'The difference between the system you follow and that which I would like to see established appears to me to be this: you insist on the full share of government and make that your principal, if not your sole, object. I think that the established share of government is too much, that it ought never to be rigidly exacted, that the interests of government would be more promoted by taking less, and that the revenue in time would be more increased if the cultivators were allowed to enjoy in greater freedom the produce of their own industry.

...  
'The justice, the benevolence, the wisdom, the expediency, the necessity of a system of conciliation towards the Zumeendars, would appear to me to be indisputable, were it not that you apparently pursue one of compulsion.

'If you think that force alone is calculated for the management of these people, I shall respect both your opinion and your experience, but it will require strong proofs to convince me.

...  
'You appear to be convinced that your assessments have been fair and moderate....

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1. Kaye, Papers of Metcalfe, pp.48-53.

but, judging from the consequences, I should suppose that they had borne hard on the people. Has it not been a common practice to sell cattle, jewels, and other property for the realisation of revenue, ..?' 1

He asked William Fraser to enter 'into a light and indulgent settlement' for a long term of years especially in Hariana

'... even without an accurate knowledge of the means of each village, because I believe that the interests of government eventually be much more benefitted by the confidence and prosperity which a long and easy settlement would diffuse among the people, than by the exaction of the amount of its full share of the produce.... As you warned me against taking too little from Hureeana, let me entreat you not to take too much....' 2

Metcalfe continued:

'In short, my dear Fraser, I think that your system attends only to the present and neglects the future, sacrificing for our temporary and delusive increase of revenue the affections and prosperity of our subjects, and, of course, the real prosperity and the revenue of government....' 3

The pargana rates were assumed rates which were applied in calculating the government demand. They varied from place to place and were raised or lowered according to circumstances. Fortescue's opinion was that these rates were rather high, at least that was the prevalent impression.<sup>4</sup> In the Sonapat pargana the rates at which William Fraser had settled revenue in 1811 and 1812 were as follows:<sup>5</sup>

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1. Ibid., pp.48-50.

2. Ibid., p.51.

3. Ibid., p.52.

4. Fortescue's Revenue Report, 28 April 1820, paras.83-4, Beng.Rev.Cons., 13 Nov.1820, 26.

5. Metcalfe to Beng.Govt., 6 March 1812, Beng.Rev.Cons., 12 Dec.1812, 53.

	1811: rates per bigha	1812: rates per bigha
Cotton	Rs.4 - 0 - 0	Rs. 2 - 0 - 0
Wheat	4 - 0 - 0	4 - 0 - 0
Grain	1 - 4 - 0	1 - 4 - 0
Mustard	2 - 0 - 0	2 - 0 - 0
Jowar	1 - 8 - 0	1 -12 - 0

These rates were current from 'time immemorial' but in 1823-24 were revised by William Fraser in the following manner:<sup>1</sup>

	Earlier rates per bigha	Revised rates
Rice	Rs.3 - 0 - 0	Rs.3 - 6 - 0
Bom Cotton & Suma Hemp.	3 - 8 - 0	3 -15 - 0
Indigo	3 - 8 - 0	3 -15 - 0
<u>Chahee</u> (irrigated)		
Wheat	4 - 0 - 0	4 - 8 - 0
Barley	3 - 8 - 0	3 -15 - 0
<u>Byranee</u> (depending on rains)		
Barley	1 - 8 - 0	1 -11 - 0
Wheat	2 - 0 - 0	2 - 4 - 0
Onions	3 - 8 - 0	3 -15 - 0
Tobacco	3 - 8 - 0	3 -15 - 0
Mustard	1 -12 - 0	1 -15 - 6

On what grounds these rates were enhanced by William Fraser, no information is available. These at any rate must have pressed hard on the people especially during famine.

1. R.Cavendish to Metcalfe, [?] May 1826, Bo.Coll.30955, Vol.1215, p.1455. Settlement report of Janouli village. It is a comprehensive document.

Despite famine conditions no deaths from hunger had occurred and what was more surprising is that the price of grain had not been much higher than the general average of the last ten years as reported by Cavendish, the Principal Assistant of the Western Division. It seems, in the earlier years there had been abundant production 'far exceeding the demand and the surplus had been hoarded up by the Bunyas'.<sup>1</sup> Between 1818 and 1821 a great quantity of grain was exported from Delhi to Rajputana and to the Regulation Provinces, but during 1822-4 a bumper crop had been reaped throughout Northern India and merchants in Hariana had bought wheat at the rate of two and three maunds for a rupee and had hoarded it for a better market.<sup>2</sup>

While prices were governed by the operation of the law of supply and demand and other economic factors, it appeared that the banyans (traders and merchants) controlled the prices in an undeveloped economy. Cavendish lamented that these men regulated prices in weekly meetings and purchased grain at a cheaper rate. Lack of transport facilities to distant and favourable markets compelled the producers to be dependent on these traders, who conspired to keep down the prices at the time of purchase to the ultimate misfortune of the cultivators.<sup>3</sup> Only cotton did not suffer from this disability as it was purchased directly from the village banyans

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1. Cavendish to Board, 15 Oct. 1825, para. 22, Bo. Coll. 30957, Vol. 1216, p. 92.

2. Ibid., p. 93.

3. Cavendish to Metcalfe, [?] May 1826, Bo. Coll. 30955, Vol. 1215, pp. 1465, 1475.

and sold at competitive rates. Cavendish attributed this to the foreign demand created in his division by the agents of Mss. Mercer & Co., formerly of Mss. Morton & Co.<sup>1</sup>

Regulation VII of 1822 aimed at calculating 'rent' in exact terms.<sup>2</sup> Other synonymous terms for rent were 'unearned income', 'agricultural profits' or the 'residue' which was left out after the cost of production had been deducted from the gross produce. This method of assessing land revenue was applied to check whether assessment was correctly made and also to reduce over-assessment; at the same time it planned to safeguard the interest of government by increasing the revenue from under-assessed lands.<sup>3</sup>

It is true that revenue and not rent formed the basis of settlement in the system followed by Metcalfe. Besides, in principle, as was the practice in India, the gross produce and the government share of the produce was first ascertained. But in practice, every possible data regarding land, its produce and the people connected with the soil was collected. Even the expense of labour and of raising the crops in a vague way was given weight while calculating the revenue. Furthermore, market prices were ascertained before forming the assessment. William Fraser observed:

'The former basis of assessment is a calculation of a money value of one half the produce of

1. Ibid.

2. This question is discussed in the next chapter.

3. Beng. Govt. to Metcalfe, 14 Dec. 1826, Bo. Coll. 30952, Vol. 1212, p. 172.

cultivated lands upon the last 20 years' prices,...<sup>1</sup>  
 Yet there is no doubt that the principle of assessment as advocated by Regulation VII of 1822 was a novel one, different from what had been adopted in Delhi.

Cavendish was of the opinion that the 'present assessment yields to a cultivator a fair subsistence, but no rent for the zumeenders...'<sup>2</sup> The rate of assessment as applied by him were,  $\frac{2}{5}$  of the byranee (unirrigated) produce excluding 'the value of the stocks etc.',  $\frac{1}{3}$  of the chahee (irrigated) produce,  $\frac{1}{4}$  of cotton, carrots and tobacco and  $\frac{2}{5}$  or  $\frac{1}{3}$  of the rabi (spring ) produce.<sup>3</sup> Lands which produced cotton, sugar and tobacco paid the revenue easily even if they were charged higher rates. The cultivation in his pargana had increased from 96,961 bighas in 1820, to 2,05,645 bighas in 1825 paying a revenue of Rs.2,19,580.<sup>4</sup> This improvement was remarkable and would hardly have been possible had the area been under over-assessment. Of course, here richer and cash crops were also produced. The average rate per bigha of cultivated lands was Rs.1-7-0 in the entire region under his charge.<sup>5</sup>

According to the calculations of George Ramsay Campbell the average rate per bigha in his parganas was as follows:<sup>6</sup>

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1. W.Fraser to Board, 12 June 1824, Bo.Coll.30953, Vol.1213, p.775.
  2. Cavendish to Metcalfe, [?] May 1826, Bo.Coll.30955, Vol.1215, p.1492.
  3. Ibid., p.1542.
  4. Ibid., p.1546.
  5. Ibid., p.1545.
  6. Campbell, Principal Asstt. Rohtak Dn., to Metcalfe, 24 April 1827, Bo.Coll.30954, Vol.1214, pp.1167-9. Note Metcalfe's pargana rates were lower. See above, p.79.

Khorkhoda	-	Rs. 1 - 12 - 7 $\frac{5}{26}$
Gohana	-	Rs. 1 - 9 - 11 $\frac{15}{16}$
Beree	-	Rs. 1 - 5 - 2 $\frac{1}{16}$
Rohtak	-	Rs. 1 - 2 - 5 $\frac{9}{16}$
Maham	-	Rs. 1 - 3 - 11 $\frac{17}{32}$

Many villages of Khorkhoda were watered by the Grand Canal therefore a higher rate of assessment was demanded.

Campbell settled village Khanda in Khor Khoda pargana in 1827 for Rs.9,178-5-0 which was less by Rs.821 from that of the previous settlement.<sup>1</sup> But many other villages gave a big rise in revenue even when it was assumed that only  $\frac{1}{3}$  of the gross produce was being demanded as rent. In 1826 village Katwal paid only Rs.1,012 but in the next years it entered into a settlement for Rs.2,700.<sup>2</sup> Another village by name Thasla in the pargana of Gohana had been paying Rs.305 per year in the earlier decennial settlement, but in 1826 the rent was increased to Rs.900, and Campbell declared that the demand should have been fixed at Rs.1,209 according to the application of the standard estimate of  $\frac{1}{3}$  of the gross produce being the share of government.<sup>3</sup> It implied that the village had greatly improved, or something was wrong with the calculations, since the last settlement which had been entered in 1816. The rent of Madana in Beree pargana similarly was raised from Rs.450

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1. Campbell to E.Colebrooke (He succeeded Metcalfe as Resident in 1827 at Delhi), n.d., Bo.Coll. 30955, Vol.1215, p.1383.
  2. Metcalfe to Beng.Govt., 2 May 1826, Bo.Coll. 30954, Vol. 1214, p.1015.
  3. Campbell to Metcalfe, 14 May 1827, Ibid., pp.1085-7.



to Rs.560 in 1826. Had the full share i.e.  $\frac{1}{3}$  of the gross produce been exacted the rent should have been fixed for Rs.944-8-5.<sup>1</sup>

The settlement of all these villages were formed according to Regulation VII of 1822. The settlement of Sessana in pargana Khorkhoda took five months to complete with three clerks constantly on attendance on Campbell. The report covered 242 pages and was regarded as 'most complete' and 'perfect' by <sup>the</sup> government; and Campbell was praised as being one of 'the ablest of Revenue Officers' in the country. Before calculating rent, the census of the village was taken, lands measured, their quality and produce ascertained and the cost of production calculated. And it was maintained that the rent should not exceed  $\frac{1}{3}$  of the gross produce. Still the revenue increased by about three times in these villages. This was the story of Rohtak division.

In the Northern division J.Vaughan formed the assessment. The following abstract gives an interesting data of the settlements made by him:<sup>2</sup>

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1. Ibid., 13 May 1827, Ibid., p.1227.
  2. Beng.Govt. to Metcalfe, 19 April 1827, Bo.Coll.30953, Vol.1213, pp.499-507.

Culti- vated Land in Bighas	Years of Set- tlement	Village	Nature of Settle- ment	Assumed Produce	Jama 1233 Fasli or 1826	Proposed Jama from 1234 Fasli or 1827
1234-5	10 years	Holamba Kalan	Zamindari Or	2046-12- 6	931-12-9½	2014-14- 7½
829-13	"	Holamba Kurd	Village- Settlement	1490- 2-	637- 9-7½	1449- 1- 6½
1503-8	"	Nag Taskoda	"	2871-11- 8	1390- 0-0	2518- 0- 0
2576-1	"	Retala	Farm	2265- 2-11½	1075- 0-0	2200- 0- 0
1316-15	"	Iradatnagar	Zamindari or Village- Settlement	2107- 0- 8	600- 0-0	1926- 7- 8½
4723-12	"	Kasba Bowana	"	10097- 3-10½	4700- 0-0	7500- 0- 0
1159-11	"	Sultanpur	"	1444- 5- 5¼	962- 9-7	1516- 9- 6½
2707-8	"	Kanjhouli	"	3682- 2- 5½	3300- 0-0	3766- 5- 5
2287-1	"	Ladpur	"	3103-11- 8	2367- 3-2½	2980-12-10½

The settlement had been made mostly for ten years and the jama was approximately in the proportion of  $\frac{1}{4}$  of the gross produce according to Vaughan's calculations. The 'assumed produce' indicated exactly  $\frac{1}{4}$  of the gross produce. In calculating the government demand he had applied the prevalent pargana rates as ascertained from the records of his office and those of the kanungoes.<sup>1</sup> The jama proposed for 1827-8 was in many cases more than double that of the demand of 1826. In the case of Iradatnagar it was more than treble. The Bengal Government considered the enhancements abnormal and 'too high' and advised reduction. Metcalfe was surprised to find that the village landholders had agreed to engage at such high rates.<sup>2</sup>

Campbell stated 'that one-third is the largest proportion of the gross produce of the land that the Government can take as Revenue' without 'trenching' upon the resources of the cultivating classes.<sup>3</sup> Cavendish was of the same opinion.<sup>4</sup> Vaughan's assessments proved the same point. Metcalfe felt satisfied that  $\frac{1}{3}$  of the gross produce as a general rule was preferable to  $\frac{1}{2}$  though in his opinion

'neither  $\frac{1}{3}$  nor  $\frac{1}{2}$  nor any other proportion can be undeviatingly applied to all cases. In

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1. J. Vaughan to Metcalfe, 6 Jan. 1827, Ibid., p. 439. A detailed account of settlement of each village is available in this collection. I have checked up that the demand, according to the data, was based on  $\frac{1}{4}$  of the gross produce.
  2. Beng. Govt. to Metcalfe, 19 April 1827, Ibid., pp. 499-507. Metcalfe to Beng. Govt., 16 May 1827, Ibid., p.
  3. Campbell to Metcalfe, 16 Oct. 1826, Bo. Coll. 30954, Vol. 1214, p. 1045.
  4. Cavendish to Metcalfe, 13 Dec. 1825, Bo. Coll. 30955, Vol. 1215, p. 1577.

some places in this territory, assessment had been concluded on the principle of taking one fourth....' 1

Holt Mackenzie reminded Metcalfe that  $\frac{1}{3}$  of the gross produce seemed reasonable but a more important problem was to ascertain the probable profits which the cultivators were to derive from such engagements.<sup>2</sup> This, in essence, was supposed to be one of the aims of Regulation VII of 1822.

Notwithstanding the application of the standard of either  $\frac{1}{3}$  or  $\frac{1}{4}$  of the gross produce as the rent, the settlements specially concluded by Vaughan and Campbell had shown a great rise. Either their calculations were incorrect or extensive improvements had taken place in the territory. We have no means of ascertaining conclusively the facts relating to this question. It is significant that even when the rate of assessment was assumed to be only  $\frac{1}{3}$  or  $\frac{1}{4}$  of the gross produce, Metcalfe had kept on warning that

'that class of our subjects from whom our Revenue is mainly drawn, ... may be crushed and ruined by the slightest over-assessment.' 3

This probably implied that the assessment had reached the maximum and further increase could not be expected at least for a pretty long time.

Furthermore, much depended upon the accuracy in calculating rent rates. The government were conscious of this when they observed:

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1. Metcalfe to Beng.Govt., 25 Oct.1826, Ibid., pp.1721-7.
  2. Holt Mackenzie to Metcalfe, 13 July 1826, Bo.Coll.30954, Vol.1214, pp.1031-3.
  3. Metcalfe to Beng.Govt., 21 June 1826, Bo.Coll.30955, Vol.1215, pp.1690-1.

'everything depends on the correctness or otherwise of the settling officers' estimate of the fertility and probable produce of a given area of cultivation.' 1

Also, no reliance could be placed on the pargana rates or on the records of the Kanungoes and Patwaris. Vaughan's mistakes might well have been due to the application of the traditional pargana rates in his calculations.

The abnormal enhancement of revenue which had taken place in 1826 and 1827, although based on supposedly scientific data as propounded by Regulation VII of 1822, had made the situation only worse. Later, the assessment had to be lowered and at several places remissions were granted.<sup>2</sup> When Bentinck paid a visit to the Delhi territory in 1832, he observed that Haryana (that is comprising of Rohtak and Hissar parganas) and other northern districts required delicate management.<sup>3</sup>

It is probable that the revenue assessment in Delhi tended to be on a high scale. But until 1819-20 the rate of increase seemed to <sup>have been</sup> quite normal, especially when a considerable amount had been obtained ~~by~~ the resumption of Jagirs. Much confusion occurred later, the responsibility of which must rest on the Board of Revenue and William Fraser. There was nothing wrong with the system followed by Metcalfe, in fact it was based on enlightened principles although native in origin. In practice also, the assessment then formed had been

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1. Beng. Govt. to Metcalfe, 22 Feb. 1827, Bo. Coll. 30954, Vol. 1214, p. 1065.
  2. See Bo. Coll. 58971, Vol. 1504, pp. 6, 111-112, 149-150, 255, 294.
  3. G.G.'s Minute, 9 May 1832, Beng. Civil Jud. Cons., (W.P.), 29 May 1832, 14.

fairly moderate. Regulation VII of 1822 proposed a system of meticulous calculation with a view

'to ascertain and determine a just and equitable appropriation of the surplus profits amongst the Village Community, besides protecting them from over-assessment by the Revenue Officer on the one hand, and Government on the other from fraud and embezzlement....' 1

But as we have seen, it had not succeeded in obviating the risks of faulty or over-assessment. Furthermore, the Regulation was found to be unworkable.<sup>2</sup>

Land being the only source of industry and income for the occupant of the soil, he held on to it even when the assessment was high. He would not leave his lands in spite of high rates or exactions from landlords until the land became absolutely unremunerative. Therefore his willingness to engage for a revenue demand did not necessarily mean that he had done so with any consciousness of deriving economic profits. Also, the outstanding balances in payment of revenue on the part of the cultivation could by no means be regarded as a decisive proof of over-assessment. In fact, a conclusion reached on the question of assessment was likely to be inaccurate without a study of the market-behaviour and the price structure of the trade in grain. Should the price of grain remain low the debit balances in the revenue account of the peasants are likely to mount up even in an abundant season; while in bad seasons it was but natural for the peasants to suffer. Besides this, it

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1. Beng.Govt. to Metcalfe, 14 Dec.1826, Bo.Coll.30952, Vol.1212, p.172.

2. See below chapter 3, p.155.

has been already observed that in certain circumstances prices did not necessarily show a tendency to rise abnormally even in famine conditions. This subject however, is beyond the scope of this analysis.

Furthermore, the revenue demand was regulated by the needs of government and not always by the capabilities of the soil. Munro's observations that

'the present secure state of India will, I hope, enable us to lower the assessment gradually in all those districts in which it is too high,...' 1

implied that assessment at times was subject to political exigencies. Metcalfe also favoured at one stage, an imposition of a tax on grain in spite of obvious economic reasons against it. He observed:

'I want the Government to increase its army and levy a duty on grain to pay it....' 2

Holt Mackenzie, about whom we will have more occasions to know; later, admitted that revenue had been raised by the government 'considering itself to be poor.'<sup>3</sup>

Even so, Metcalfe's management of revenue was in many respects far more satisfactory than that of Munro. Munro gave a very gloomy picture of the state of affairs in some districts in Madras Presidency. He said:

'Out of 2,644 villages composing the collectorate, [Bellari] 1,788 have reverted to Government, yielding a revenue of about twenty lakhs of

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1. Munro to Hon'ble C.B. Bathhurst, 28 Sept.1821, Gleig, Life of Munro, 2, p.29.
  2. Metcalfe to Elphinstone, 29 Nov.1811, Elphinstone Papers, MSS.EUR. F.88, Box 14, k.46(c).
  3. Evidence, 6 March 1832, (885), P.P. Minutes of Evidence, Public, 1, p.143.

rupees. The revenue of the villages still in lease is only  $6\frac{1}{2}$  lakhs. Villages with more than three fourths of the revenue have, therefore, come back to the hands of Government, all of them reduced in their means, unable to pay their rents, and all of them reluctantly thrown up, for no man throws up while the kists can by any exertion be drawn from the ryots. It is in fact an insolvency of nearly 1800 villages.' <sup>1</sup>

It is again well known that the law of sales had created havoc in Bengal, more than  $\frac{1}{3}$  of the entire land in Bengal having changed hands by 1805.<sup>2</sup> In Delhi, no sales of land had ever taken place and nothing of the kind depicted by Munro had ever happened.

When the causes and circumstances of desertions were investigated under the instructions of the Court of Directors<sup>3</sup> it was found that migrations of population from the Delhi territory had neither been frequent nor general. On the contrary the population <sup>had</sup> increased owing to several hundreds of persons <sup>having</sup> come from the distant places like Multan and Bhawalpur.<sup>4</sup> William Fraser was of the opinion that most of the persons who had left the territory were those who belonged to the 'West country' and were now returning back to their homes.<sup>5</sup> Obviously this mobile population had no permanent interest in the soil. They were at best itinerant ryots. W.B.Martin, the Resident and Chief Commissioner of Delhi, explained that the

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1. Minute, 31 Aug. 1820, Arbuthnot, Writings of Munro, p. 112.
  2. See Appendix 7, Papers Regarding Judicial System in Bengal Presidency, 1814-18, pp. 48-49. Also Minute, J. Stuart, n.d., para. 66, p. 26; I.O.L. Record Dept. (71) 197.
  3. Revenue Dispatch to Bengal, 22 Dec. 1830, para. 27.
  4. Revenue Letter from Bengal, 24 Sept. 1833, para. 7.
  5. W. Fraser to W.B. Martin, 9 Sept. 1831, para. 4, Bo. Coll. 59317, Vol. 1509, p. 7.



desertions were

'not due to any peculiar vice in the administration of this territory, nor to any other local cause than the state of the North-Western frontier the limit of which is not yet precisely ascertained.' 1

The boundaries of Patiala and Jhind met with those of the parganas of Panipat in the north and Hissar in the west of the territory. The non-stationary population of the regions were tempted to go to these places seeing tracts of fertile lands on the other side.

Another probable factor which encouraged migratory movements might have been owing to the practice in Delhi by which village landholders retained their right of returning ~~back~~ to their lands even after a lapse of a considerable period of time. In the Regulation Provinces once the land was given up it could not be recovered from the new occupants except by the decree of the court. In Delhi such serious implications were not involved in deserting one's land. This question however, was mixed up with the rights of the village communities which ~~will~~ be discussed in the next chapter.

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1. W.B.Martin to G.G., 9 Feb.1832, para.16, Ibid., p.26.

Thus the Delhi system on the one hand sanctioned, although somewhat vaguely, the proprietary rights of the village communities in the soil, whereas on the other, it adopted the indigenous principles and methods of assessing land. According to this technique lands were measured, an estimate of produce was made, and the circumstances of the land and the occupant were ascertained before finally arriving at the amount of the assessment. It envisaged a detailed investigation. However in actual practice, it may be doubted whether the settlement was based on minute details since the settlement mechanism used for the purpose was far from being adequate. Metcalfe had therefore recommended that the lands should be assessed on general considerations in case the principle of assessing in detail could not always be followed.

Nevertheless, the economy of the Delhi territory had improved. In Palwal, as has been seen, the area of cultivation had increased by more than two times between 1820 and 1826. Rice and wheat had been exported in great quantities. Furthermore, if the export of the agricultural products from the Delhi territory was an indication of a growing state of economy, then it would appear that the villages had overgrown their self-sufficiency. It is interesting to note that in 1819-1820 more than 17 lakhs worth of local produce was

exported from Delhi.<sup>1</sup>

The Regulation VII of 1822 followed a very minute and exacting process. The net produce principle was made the theoretical basis of assessment. But in practice, the achievements fell short of expectations. In fact the situation became worse and over-assessment seems to have been the result. This happened not only because of the lack of proper understanding of the principle and technique of <sup>the</sup> new settlement, but also because of the basic flaws in it. William Fraser who according to Bentinck had taken great pains to put into practice the new principles sensibly stated the peculiar difficulties arising out of the application of Regulation VII of 1822. He observed:

'They [assessments] seemed to be made on different grounds, some by rates on produce, some on estimate of gross produce, taking a half or a third as the right of Govt; others on a classification of soils and rates applied, some on the year's produce, a great number on bargain; i.e., how much the people will give and not go away; not one that I have seen on a thorough based estimate of cost, produce, and profit, as the groundwork, and advertence to local free-will rent as the rule.' 2

He also exposed a serious defect in the principles:

'The mode of using the land, the extent of capital, the application of labour among the different classes, are very different; how can it be calculated, and then formed into the shape of a rule for the Western Provinces?

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1. Some of the major articles of exports were: Cotton - worth Rs.7,00,000, Salt - Rs.400,000, mustard & oil seeds - Rs.300,000, grain - Rs.200,000; salt-petre - Rs.100,000 and manufactures - Rs.300,000. Fortescue's Report on Customs and Town Duties, 22 July 1820, para.260, Delhi Residency Agency, pp.179-180.
  2. Cited by Bentinck, Minute, 20 Jan. 1832, para.54, SRR. NWP, 2, p.369.

What charges bring down gross to net rent for these different classes? Any fixed rule bearing upon people in such widely-different predicaments, and of different nations and tribes, must inevitably be futile.<sup>1</sup>

In other words he said:

'To ascertain profits or ... to convert gross into net produce by any general rule, seems to be decidedly impracticable.'<sup>2</sup>

Bentinck fully shared Fraser's opinion on this point.<sup>3</sup> Later, by the Regulation IX of 1833 new rules of assessment were laid down which did away with the net produce principle, thus modifying it in a manner suitable to the actual realities.

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1. Ibid., para.57, p.371.

2. Ibid.

3. Ibid., para. 55, 58, pp.370, 371.

### Chapter III

#### Metcalfe's Ideas on Land Revenue

Metcalfe as an upholder of the rights of the village communities set himself against the zamindars, talukdars and jagirdars, most of whom, in his opinion, possessed lands without valid title.

In the early days of British rule in the Delhi territory, the Bengal Government had followed the practice of making total or partial rent-free grants of lands to individuals. Metcalfe had lamented as early as 1807 that the most prosperous and fertile regions had been alienated in this way.<sup>1</sup> Between 1803 and 1805 as many as 896 villages, estimated to produce Rs.11,93,945, were given away in jagirs and istimrars either for life or in perpetuity. Out of the total number of villages thus granted, 328 villages yielding Rs. 4,52,681 had been offered by the earlier rulers whereas the rest of the villages numbering 568 and valued at Rs.7,41,284 were bestowed by the British Government, thus surpassing the preceding governments in generosity.<sup>2</sup> A comprehensive scrutiny of these titles was instituted by Metcalfe when he was Resident at Delhi. By 1819, lands paying about five lakhs of rupees as revenue were resumed on grounds of the expiry or invalidity of the tenures.<sup>3</sup>

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1. Metcalfe's Memo., 10 Jan. 1807, Beng. Rev. Cons., 12 Feb. 1807, 33, Enclosure 2.
  2. Fortescue's Report on Jagir Lands, 4 Dec. 1819, paras. 69, 70, 78; Beng. Pol. Cons., 28 Oct. 1820, 28.
  3. See above Chapter 2, pp. 74-75.

If Fortescue is to be believed, it seems that during 274 years of the Mughul rule in India i.e. from Babar's reign to Aurangzeb's, only 66 villages had been granted in perpetuity to persons. Shah Alam, the Emperor with whom the British came into contact in 1803, however, had made a gift of 122 villages in 48 years of his rule.<sup>1</sup> The jagir system appeared to have gained ground in the eighteenth century when the Mughul government was in a state of decadence and chaos. Several powerful men acquired lands either by fraud or by force and later claimed possession of them as jagirs or royal grants. However, in Delhi such rajas and talukdars as enjoying proprietary rights over villages were not to be found.<sup>2</sup> Metcalfe was convinced that these persons had been officers of the then governments who collected revenue on their behalf. Their pretensions to proprietary right therefore were untenable. The only proprietors of the soil, according to him, were the village communities; at any rate, next to the Government, they had the most paramount claim to it.<sup>3</sup>

As a matter of policy Metcalfe wished to resume as many jagirs as possible, consistent with justice. Each resumption added to the state revenue besides increasing the influence of the government in that quarter.<sup>4</sup> He therefore proposed that all lands held under illegal titles should be

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1. Fortescue's Report on Jagir lands, op.cit., paras.19-20.
  2. Fortescue's Revenue Report, 28 April 1820, paras.58 & 62. Beng. Rev. Cons., 13 Nov. 1820, 26.
  3. Metcalfe to Beng. Govt., 30 June 1815, paras. 10 & 18, Beng. Pol. Cons., 26 July 1815, 55.
  4. Metcalfe to Beng. Govt., 2 Jan. 1819, Beng. Pol. Cons., 9 Jan. 1819, 30.

attached by <sup>the</sup> government. Furthermore, in the case of lands whose validity of tenure was admitted, he contemplated a full compensation at market rates to the affected individuals.<sup>1</sup> As far as Metcalfe's first proposition was concerned, it did not differ from the principles laid down in the Regulation 36 of 1803 except that he seemed to throw upon the landowner a greater onus of proof in support of his title. The Bengal Government however, entertained serious doubts as to the expediency of adopting the latter course.<sup>2</sup>

But it is not to be supposed that Metcalfe was bent upon expropriating the big landowning class, nor was he dogmatic in his approach. A perusal of remarks recorded by him in each case of proposed resumption, investigated and submitted by William Fraser, showed that he was willing to consider each case on its merits without being influenced by doctrines or preconceived notions. The villages belonging to Qudsiah Begum, the King's mother, were confirmed in her possession not because her right was unquestionable but because of 'considerations of respect and delicacy for her.' Shamsuddin's right over his possession was granted since 'such a long possession (from Aurangzeb's time) gives a strong claim to continuance...'. Kalhoji, however, owned a village under a grant from the Sindia, hence he was recommended pecuniary compensation.<sup>3</sup> Similarly when the pargana

1. Same to same, 1 Feb. 1813, 6 Feb. 1814, Beng. Pol.Cons., 7 Nov. 1818, 65 & 69.

2. Beng. Govt. to Metcalfe, 7 Nov. 1818, ibid., 71.

3. Fraser to Metcalfe, 14 Nov. 1812, ibid., 65a. Metcalfe sent this interesting and long report to Beng. Govt. adding his remarks on each case.

of Palwal lapsed to the government on the death of the jagirdar, Murtezakhan in 1818, he strongly urged upon the government to grant liberal allowances to his family which consisted of four widows, five sons, four daughters, one concubine and some collateral dependents and relatives. To reinforce his arguments he cited the instance of the nephew of the jagirdar of Hodal, who had been provided for by the government at his request.<sup>1</sup>

His policy indeed was far from being a grasping one. He maintained that 'a Jageerdar or an Istumrardar cannot be justly dispossessed if he has just possession....'<sup>2</sup> In an incident which took place in 1816, William Fraser abruptly attached a portion of the jagir situated in the pargana of Karnal belonging to Muhmmudi Ali Khan and his family, on the ground that the land was occupied in violation of the terms of the grant of 1806. The area in question was held by the Chiefs under two successive Sanads. Fraser argued that the second had cancelled the first grant but Metcalfe considered the two grants separate, complementary and valid and asked him to restore the jagir to the Chiefs. Fraser however, insisted that he was right, and a reference was made to the Bengal Government for decision. While vindicating Metcalfe's stand, the government expressed regret at the hasty action of Fraser.<sup>3</sup>

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1. Metcalfe to Beng. Govt., 27 March 1818, Beng. Pol.Cons., 17 April 1818, 59.

2. Ibid., 30 June 1815, para.3, Ibid., 26 July 1815, 55.

3. Ibid., 30 Jan. 1817, Ibid., 15 March 1817, 13-19.  
Beng. Govt. Orders, Ibid., 18.



Nevertheless, Metcalfe had little sympathy with the feudal remains of the ancien-régime. In his attitude towards the nobility, he differed entirely from Elphinstone and Malcolm. Both of them aimed at preserving the privileged orders first. Elphinstone was not even enthusiastic about the idea of settling with the petty peasant-proprietors as against the substantial landholding class. He wrote:

'I am not democratic enough to insist on a ryotwar system; I think the aristocracy of the country whether it consists of heads of villages or heads of zemindarees should be kept up but I also think its rights and the opposite rights of the ryots should be clearly defined and the latter especially effectually defended.' 1

In effect, Elphinstone wished to preserve the existing social order. Malcolm also followed in his foot-steps. But Malcolm was more fascinated by the rich variety of Indian life than Elphinstone and he opposed any move which tended to reduce the social institutions to a dull uniformity by destroying 'the gradations of society'.<sup>2</sup>

Metcalfe was not so much worried about the apparently growing trend for the unity as well as uniformity of principles in administration. When he made a strong plea for the superior rights of the village zamindars in opposition to the claims of <sup>the</sup> big landed class, whose power and influence he deliberately planned to reduce, he was seeking to adopt a uniform principle; since he believed in the prevalence of a

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1. Ballhatchet, Social Policy and Social Change, p.32.

2. Malcolm, Political History, 2, pp.142 & 161. Also Stokes, op.cit., pp.22-5.

uniform system of land tenures in India 'from Cape Comorin to Cashmere universally', a system in which the rights of the village communities were 'established and acknowledged'.<sup>1</sup> Evidently this was far from being a correct assessment of the nature of land tenures in India. As Bentinck observed there were persons whose rights to property in the soil could not be doubted, and ~~these~~ rights had been expressly recognized by the regulations both in Bengal and Madras. There were also villages of the ryotwar type. But it was equally indisputable he said, that in the several villages, for instance, as found in the Western Provinces or the Delhi territory, there were no individual claimants, and the proprietary right was vested in the whole village brotherhood or in a few village headmen.<sup>2</sup>

. This policy of reducing the power and influence of the higher classes so as to weaken their hold on the masses was not peculiar to Metcalfe's ideas alone. Such a policy had been consistently advocated ever since the emergence of the ryotwar system as an alternative to the Bengal principles. Generally speaking, the effect of the Bengal judicial system also had been to undermine the importance of the upper class. No caste distinctions were made either in the procedure of taking oaths or examination of witnesses; nor did the punishment differ for crimes committed by either a Brahmin or a sudra. Apart from this, as Lord Hastings observed, the holders of large estates in the Western Provinces felt

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1. Metcalfe to Bentinck, 13 March 1831, Bentinck Papers, PWJf. 1551.

2. Bentinck's Minute, 20 Jan. 1832, para.4, SRR NWP., 2, p.352.

insecure in their possessions because of the attitude of the government. He agreed:

'... certainly it must be admitted to have been the object of our system to keep down this class [talukdars and zamindars].'

They were however, not proprietors of the soil although they had some sort of a permanent interest in the grant of lease to them.<sup>1</sup>

This process of uplifting one class of persons and depressing another, was indeed very significant. It meant a reorganization of the social forces. In other words a social revolution was on the agenda. And this was being achieved by means of regulating the revenue system of the country. Metcalfe's insistence on a recognition of the rights of the village landholders therefore was not actuated by the motive of preserving the existing order alone. Although the rights of the village communities had the sanction of time immemorial yet the institution of aristocracy in India was not altogether of recent origin.<sup>2</sup> Granting that they had no legal claims to proprietary rights, yet a case could be made out for confirming those rights on them. In fact, on these grounds the Court of Directors vigorously maintained the soundness of the Bengal principles of settlement.<sup>3</sup> Metcalfe's attachment for the past, at any rate, was therefore qualified.

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1. Hastings' Minute, 21 Sept. 1815, para.105, Beng. Rev. Cons., 16 Sept. 1820, 33.

Sudra = a person belonging to what are known as depressed classes or untouchables.

2. Habīb, I., Agrarian System of the Mughals, Chapter 5.

3. Court to Board, 2 Aug. 1817, 5, pp.201-216.

Also a sense of social justice seems to have prompted Metcalfe to support the lower order of the landholding classes. This might well have been the result of some influence of Rousseau's concepts of equality on him. Besides he had seen the ill effects of the permanent settlement of Bengal on the peasantry. In spite of the noble aims and benevolent intentions underlying the Bengal settlement which created landlords on the western model, the system in effect reduced the peasantry to the status of Irish cottier-tenants. Metcalfe considered this to be a great injustice and wished to make amends for it.

Metcalfe was a member of the Governor-General's Council between 1827 and 1834. Bentinck came to India as the Governor-General in July 1828. From 1830 until the passing of the Regulation IX of 1833 a thorough and intensive discussion took place between the Council and the Sadr Board of Revenue on Deputation in the Western Provinces as to the desirability of proceeding with the task of revenue settlement in the Western Provinces according to the provisions of the Regulation VII of 1822. Metcalfe involved himself in a sharp controversy with the Members of the Sadr Board, especially William Fane and Richard Milbank Tilghman on the one hand and Bentinck on the other. Fane and Tilghman had been on deputation in this province, supervising the scheme of settlement as conducted under the Regulation of 1822. In

1830, the Board reported that little progress had been made in the settlement operations and they admitted that they were in complete darkness with regard to the way the settlement was being made. Metcalfe was surprised to find that eight years had passed since the inauguration of the Regulation and yet the Board were ignorant of the happenings. He remarked that the Board were negligent and inefficient in the discharge of their duties; to which the Board retorted that had Metcalfe understood the nature of the stupendous task of the revenue settlement underlying the Regulation, he would have spared them the allegations.<sup>1</sup> Thus right from the start of the debate a tense atmosphere came into being which remained so until 1833, yet the debate was very lively, Metcalfe fully participating in it.

Metcalfe joined issues with the Board because of the 'intrinsic importance' of the subject,

'... for I believe that the happiness of the bulk of the inhabitants of the Western Provinces depends more on revenue settlements than any other thing whatever.' 2

No doubt the questions raised in the course of these discussions were of great significance on account of the ideas and principles involved in them as also for the methods used in executing them. But more than that, the conflict was not of ideas alone but was of personalities, moods and emphasis.

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1. Sadr Board to G.G., 3 Sept. 1830, Metcalfe's Minute, 7 Nov. 1830, SRR NWP. 2, pp.203 et seq.

2. Metcalfe's Minute, 7 Nov. 1830. SRR NWP., 2, pp.208,224.

Fane and Tilghman were revenue officers of great distinction. Both of them had served in the revenue line throughout their careers. Fane's first important assignment was that of Collector of Government customs and Town duties at Hugli in 1815. Earlier he served in subordinate capacities on the Boards of Trade as well as of Revenue. In 1829, he became Commissioner of Revenue and Circuit at Kanpur. In 1830, he was on deputation to the Sadr Board of Revenue in the Western Provinces.<sup>1</sup> Tilghman was equally an eminent revenue expert. He was Secretary of the Board of Revenue in the Central Provinces in 1822 and became Senior Secretary of the Sadr Board of Revenue and was on Deputation with the Governor-General in the Western Provinces in 1829. When a Sadr Board of Revenue was formed in the Western Provinces at Allahabad, he again became its senior secretary. He died at Hamirpur in 1834.<sup>2</sup> They were in fact the most distinguished men who influenced the reshaping of the revenue policy of the time.<sup>3</sup> Robert Mertins Bird, whose name is usually associated with the settlement of the Western Provinces in fact was concerned with the execution of the policies. He seems to have been influenced by the Ricardian concepts of rent theory, but his viewpoint was by and large rejected by Bentinck. Metcalfe was not a revenue expert. He was a builder of an edifice and preferred to leave the details to be worked out by technicians. His contribution in essence was in laying

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1. Personal Records, 16, ff.1015-1024.

2. Prinsep, General Register, p.383.

3. This was Bentinck's opinion, Bentinck to Ellenborough, 9 Nov. 1830, Colchester Papers, PRO. 30/9/4 Part 2.2.

down broad principles. All the same, his influence at the time of the revision of the revenue policy was immense. William Blunt, a Cornwallisian was another councillor, who took his seat at the Council in 1830 after the retirement of William Butterworth Bayley. He supported Metcalfe in several issues of the debate.<sup>1</sup>

But before we probe into the discussions it is necessary to recall in brief the main lines of policy and principles so far followed in the formation of revenue settlement.

Ever since the inauguration of the permanent settlement of Bengal, another system ryotwar by name was being adopted in Madras.<sup>2</sup> The ultimate objectives of both the zamindari and ryotwari systems of revenue settlement were the same. The aims were firstly, the economic well-being of the people; secondly, increase of revenue to the state and stability of British rule in India. But the guiding principles and the methods employed for the attainment of these objectives were different. The Cornwallis system derived its faith from the Whig concepts of private property and the laissez-faire doctrine. Therefore, a settlement was entered <sup>into</sup> with big landowners in Bengal fixing an invariable demand on the revenue to be paid by them. These concepts undoubtedly were

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1. W. Blunt arrived 1794, Judge & Mag. Jungle Mahals 1807, Supdt. of Police Bengal Behar 1810, Judge Prov. Court of Appeal at Benares 1817, Member Board of Revenue, L.P. 1824, Member Sadr Bo. of Rev. 1828, Member Council 1830, Governor Agra 1835. Personal Records, 16, ff. 137-175.
  2. See above Chapter 1, pp. 17-18 and below, Chapter 4, pp. 181-185.

of European origin and the influence of Adam Smith and Malthus was fairly obvious in them. Malthus wished to create a leisured class i.e. a proprietary class to share the rent property to build a richer human civilization and a better world. That was the traditional concept which was current in England. The Court of Directors while condemning the ryotwar mode of settlement upheld those principles. They quoted from one of their dispatches to prove the point 'that a system of this kind [ryotwar] is liable to very grave objections, and that both in principle and detail, it is in direct and uniform hostility with the doctrines of Political Economy which, in this part of the world, have been considered not only as theoretically true, but practically beneficial, does not admit of doubt. And though it might be perilous in every case to act conformably with the doctrines without regard to local circumstances, which may occasionally prescribe a deviation from them,...'.<sup>1</sup>

The ryotwar system rejected abstract theories of economy and entered <sup>into</sup> the task of settlement making by taking into consideration the actual circumstances of the soil and its occupant. The approach was pragmatic. By measurement, survey and estimate it fixed the revenue to be obtained from each field. The government was regarded <sup>as</sup> the proprietor of the soil, but the cultivators of the soil enjoyed the undisturbed rights of occupancy. But by permanently fixing the

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1. Court to Board, 2 Aug. 1817, 5, p.216; Quoting from the Revenue Dispatch to Bombay, 10 Jan. 1810, para.115.



the rent or revenue to be paid by each field it gave the ryot full freedom to improve it. However this system of field assessment or ketwar settlement as the Sadr Board of Revenue termed it,<sup>1</sup> concerned itself with the field rather than with its proprietor. The occupant of the fields cultivated them and paid the fixed rent of the fields to the government. The concept of private property in the sense as it was understood in the west did not seem to have been in the mind of Munro when he entered into this system of settlement-making.

It was hoped that the effect of this system would be to uplift the whole mass of the cultivating community. With a light revenue demand it was thought that the lands under this system would be better cultivated since it granted as much security of tenure as the other, besides it encouraged the occupant of the soil to use his initiative, skill and capital for his own benefit. Thus economic prosperity would ensue from it. The agricultural community would then be more loyal to the government. The support to government therefore would be broad-based.

In the meantime the peasantry in Bengal had been rack-rented and dispossessed by the oppressive conduct of the zamindars, in spite of the fact that the revenue demand to be paid by the ryots was recorded in the patta or title deed. As is well known the Courts failed to protect the ryots from their exactions. Even the zamindars suffered. The law of

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1. Sadr Board to G.G., 3 Sept. 1830, para.5, SRR NWP., 2, p.205.

sales was applied on the defaulters and more than 1/3 of the land was sold out in Bengal by 1801.<sup>1</sup>

Consequently by 1811, the principles of revenue settlement to be followed in the Western Provinces underwent a change. Firstly, a periodical settlement was to be made and secondly, proprietors were not to be created where none existed. In 1812, 1813 and 1815 the Bengal Government was asked to follow the ryotwar principle in the management of revenue, mainly as a result of the directives sent by the India Board in opposition to the wishes of the Court.<sup>2</sup>

But soon objections were raised against the ryotwar principle itself. Lord Hastings felt that it was impracticable. It required a minute inspection and mastery of details. The Court also attacked it on grounds of its being 'troublesome', 'irksome', besides it retarded progress.<sup>3</sup>

Nevertheless, Lord Hastings accepted that measurement and survey of the extent of land to be settled was the only sure ground <sup>on which</sup> to form an <sup>estimate of the</sup> average produce of the land. Although he was against a minute survey since it consumed enormous time and ~~that~~ it could not be completed 'within a very long period', yet he respected the principle and asked to conduct pargana surveys instead.<sup>4</sup> Another suitable method was to enter into a mauzawar or village settlements with the village

1. See Chapter 2, pp. 99.

2. Court to Board, 2 Aug. 1817, 5, pp. 218-221.

3. Ibid., pp. 216-218, Hasting's Minute, 21 Sept. 1815, para. 31, Beng. Rev. Cons., 16 Sept. 1820, 53.

4. Ibid., paras. 33, 55-61, Ibid.

as a whole.<sup>1</sup> He had in mind the type of settlement as adopted by Metcalfe. Even the Court seemed favourably disposed towards this kind of settlement. They felt happy that the government had 'invariably found the settlements with the [village landholders] to be most beneficial and substantial of all other arrangements,'<sup>2</sup> and added that the ryotwar system could not be applied to India as a uniform principle 'because village and not Ryotwar Settlements are in the natural order of things in India.'<sup>3</sup> While stating these views the Court were nonetheless in favour of the Bengal system since according to them it had seeds of growth and self-improvement. If the rights of the ryots were recorded and protected, the evils of the Bengal system would cease to exist.

As the President of the India Board Canning defined in clear terms his lines of policy. He declared that the revenue demand was not to be fixed permanently; secondly, he ruled out measures tending to create an artificial class of intermediate proprietors, thirdly,

'that no conclusive step ought to be taken towards a final settlement of the yet unsettled Provinces until it shall have been examined and if possible ascertained by diligent research, and comparison of collected testimonies, as well as by accurate survey of the lands to be settled how far the principles of a system which should bring the Government into immediate contact with the great body of the People can be practically and usefully applied to them...'

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1. Hastings' Minute, 21 Sept. 1815, paras. 83-106. Ibid.

2. Court to Board, 2 Aug. 1817, 5, p.226.

3. Ibid., pp.243-4.

And finally he was against application of 'any European scheme of fiscal policy to a country in which the Government derives its Revenue from a direct participation in the produce of the soil.'<sup>1</sup>

To sum up, the principles which were agreed upon and so far laid down were these. They rejected the basic principles of the Bengal system. Neither were the proprietors to be created nor was the revenue demand to be fixed for ever. It proposed to conduct <sup>an</sup> accurate survey to ascertain the produce of the land and to ascertain and record the rights of the agricultural classes. Lord Hastings' suggestion for pargana survey and village settlement also were important points to be taken into consideration.

On the basis of these principles, Holt Mackenzie framed his massive memorandum of 1 July 1819. After a considerable discussion the Regulation VII of 1822, the author of which is also said to be Holt Mackenzie, was passed and enforced. It is asserted that they contained the basic principles of economic growth as propounded by Ricardo and James Mill. According to these concepts, firstly, the state as the proprietor of the soil enjoyed the right to exact the full economic rent of the soil as land revenue. In other words no proprietors were to be created: Secondly, that the appropriation of rent by the state even in full did not affect either the cultivator or the prices of the agricultural commodities. Thirdly, rent was nothing but 'net produce';

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1. Board to Court, 16 Aug. 1817, 4, pp.448-454.

fourthly, to calculate the net produce, a minute enquiry was necessary to ascertain the yield of the different kinds of soil, costs of production and agricultural prices, and finally, the land revenue was not to be fixed for a permanent period. For the adoption of this, a highly trained and efficient administration was required.

All these have been very ably discussed by Dr. Stokes<sup>1</sup> followed by Dr. Gupta<sup>2</sup>

The most striking feature of the new principles was the application of the net produce doctrine to the assessment of land. But there was nothing new in the other propositions. Even with regard to the net produce principle this was quite well known to the Bengal Government long before the coming of either Holt Mackenzie in Bengal or James Mill at the India House. Bentinck observed in his minute quoting from sub-section 1, Section 27, Regulation 25 of 1803 which defined the net produce in the following words:

"The neat [net] annual produce is to be understood to be the neat [sic] annual rent or other neat [sic] produce receivable by the proprietor after deducting from the gross rent or other gross produce, the actual expenses of collection and other usual charges of management, inclusive of the expenses of embankment and other similar incidental expenses, where such may be paid by the proprietor for his gross receipts but exclusive of the malikana, nankar or other proprietary income and all other personal appropriations of the gross produce of his Estate; as such can have no claim to consideration in determining the neat [sic] produce for an

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1. Stokes, op.cit., pp.79-80, Chapter 2.

2. Gupta, S.C., Agrarian Relations and Early British Rule, Chapters 7 & 8.

equal division of landed property or for the allotment of the public assessment thereon.' 1

Thus the principle theoretically speaking was recognized as early as 1803, although it did not seem to have been acted upon before 1822.

It was in this background that the subject of the revenue settlement received fresh attention in 1830.

As we have seen Metcalfe was also of the view that the right to property induced an individual to make rapid progress. But the fundamental question soon cropped up at the start of the discussion itself. Who was to be the proprietor of the soil? All agreed that according to the oriental practice the British Government should enjoy the exclusive right to the soil. Metcalfe also was not against this theory but he suspected that those who advanced this argument were aiming at a creation of a class of proprietors in India over and above the landholders.

Metcalfe felt that the Sadr Board on deputation favoured a plan of settlement similar to the Zamindari Settlement of Bengal. They had declared earlier that the permanent settlement had been 'the great creator of private property in land in India.' Metcalfe retorted with vehemence:

'Private Property in land in India existed long before Lord Cornwallis and his permanent settlement tended to destroy it.... That he was the

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1. Bentinck's Minute, 4 Sept. 1833, Beng. Rev. Cons., 9 Sept. 1833, 60. Adam Smith published The Wealth of Nations in 1776, and Malthus propounded his doctrine on Population in 1798 which gave origin to the concept of rent. The rent theory was later perfected by Malthus and Ricardo.

creator of private property in the State Revenue and the great destroyer of private property in land in India destroying hundreds and thousands of proprietors for every one that he gratuitously created ....<sup>1</sup>

and contemptuously called these proprietors thus created as the 'fictitious Regulation Proprietors'.<sup>2</sup> Bentinck seemed to agree with Metcalfe when he observed that the Zamindari or Talukdari tenure was 'adventitious' and 'artificial' created by the Mughuls, pattidari or biswadari tenure being the original one.<sup>3</sup>

But he did not believe that

'a class of proprietary inhabitants ever existed in India before the introduction of British Rule, who operated collectively or individually, a right to enter into a permanent or temporary contract with the Government by making a specific payment in full satisfaction of the public demand, and to appropriate the residuum to their own use.'<sup>4</sup>

On the contrary Bentinck thought that the public demand was always variable at the discretion of the Sovereign. Even in respect of the settlement in Bengal, the British Government had only conceded proprietary rights without ever abandoning it.<sup>5</sup>

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1. Minute, 31 Oct. 1831, Note 5, Beng.Rev.Cons., 27 Dec.1832, 43.

2. Minute, n.d., Ibid., 93.

3. G.G.'s Minute, 26 Sept. 1832, para.18, Ibid., 79.

4. G.G.'s letter to Vice-President in Council, 2 April 1831, para.4, in reply to Metcalfe's Minute, 29 Jan.1831 in which he questioned the right of the Raja of Banaras to be the sole proprietor of the villages. This discussion emerged as a consequence of the Memorial presented by the Raja for recognizing his title to the villages. Other participants in the discussion were: H.T.Prinsep, R.N.C. Hamilton, T. Pakenham, W. Fane, W.H.Macnaghten, W.W.Bird, W.Blunt and Metcalfe. Beng.Rev.Cons., 26 July 1831, 25-47] G.G.'s Letter, 2 April 1831, Ibid., 44; Metcalfe's Minute, 29 Jan. 1831, Ibid., 40.

5. G.G.'s Letter, 2 April 1831, para.5, Ibid., 44.

R.M. Bird, usually recognised as one of the authors of <sup>the</sup> 1833 settlement in the Western Provinces, expressed the same sentiments with greater emphasis. According to him: 'It was the duty and prerogative of the Sovereign to fix the proportion of the produce to be taken from the cultivators' and it was the right of the ryots to have 'their payments fixed by the direct authority of Government.'<sup>1</sup> Metcalfe rightly argued that various classes of landholders with varying rights existed between the 'Regulation Proprietors' and the labourer in the village. The members of the village communities were neither labourers nor like cottier-tenants as found in Ireland. To give them a status of labourers, as R.M.Bird seemed to have done, was gross injustice.<sup>2</sup> Metcalfe asserted that the revenue payable by the cultivators or the village zamindars as he called them was 'not fixed by the mere will of the ruler'. He also said: 'Everywhere the portion in kind or the same in money due as the revenue to the Government is understood and acknowledged' and 'is wonderfully uniform.'<sup>3</sup> Only an oppressive and tyrannical government which did not recognize any rights would exact more than this acknowledged amount.<sup>4</sup> Although R.M.Bird's arguments seemed disputable,

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1. R.M. Bird, 'Note on the Rights of the Resident Ryots', n.d., Enclosed in G.G.'s Letter, 6 Oct. 1832, Beng.Rev. Cons., 27 Dec. 1832, 84.  
Robert Mertins Bird, Judge & Magistrate Gorakhpur 1820, Commissioner Rev. & Circuit Gorakhpur 1829, Offg.Member Sadr B.Bo. of Rev. Allahabad 1831, Member same 1834, Retired 1842.  
Personal Records, 20, pp. 57-58.
  2. Minute, in reply to the above, n.d., Ibid., 93.
  3. Ibid.
  4. Ibid.



Bentinck's opinion in this regard appeared conclusive. After all, the revenue demanded by the government had always been fixed by the Sovereign ruler of the time. This demand also varied from time to time and from ruler to ruler even within the framework of the customary practice of taking one half of the gross produce as the share of the government. Yet Metcalfe's analysis of the existing revenue system cannot be discarded as inaccurate. He agreed that the government was universally acknowledged as entitled to a major share of the produce of the land as revenue. But the government in the ultimate analysis, in his opinion, exercised the proprietary right only nominally since no government would throw the cultivator out of his land as long as he paid the demand.<sup>1</sup> Only juristically speaking, therefore, the right of the government in the soil remained unchallenged and all-pervasive. In actual fact the village landholder was still the master and proprietor of the land he possessed.

The Court of Directors appeared to receive with favour the definition given by Alexander Ross, to whom 'the Right of property in the soil' meant 'a right to realize and appropriate the whole of that portion of the produce of the soil which constitutes rent.'<sup>2</sup> The right to appropriate the

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1. Metcalfe to Government, 30 June 1815, para.30, Beng.Pol. Cons., 26 July 1815, 55.

2. Revenue Dispatch to Bengal, 2 Jan. 1830, para.19. Alexander Ross, Collector Gorakhpur, Agra, Allahabad 1804-07, Senior Member Board of Commissioners C.&. C.P. 1820, Member Supreme Council 1833, Provisional Governor Agra 1835, Personal Records, 18, pp.745-804.

rent was vested from time immemorial on the 'Ruling Powers of India', hence it now devolved on the British Government to exact it. The Government expressed the same opinion as early as 1821:

'Whatever questions may have been agitated in regard to the property of the soil, it has never been disputed that — on the side of India at least — that the Government was entitled by usage co-existent with the origin of all private property, to the chief share of the net rent of the country.' 1

Metcalf tried to convince Lord Bentinck once again:

'The Government is not Proprietor of the Land. The real proprietors of the land are generally individuals of the village communities, who are also for the most part the natural occupiers and cultivators of the land. The Great Zameendars, Talookdars etc. whom our Regulation Men recognize as Proprietors, are not so, but Representatives of the Government. We may confer on them as great a portion as we chuse of the Government Rights, but we have no right to give the property of the land which belongs to others. I believe these principles to be established and acknowledged from Cape Comorin to Cashmere universally, where we do not destroy them — and these form the grounds of my differences both with your Revenue Board and your Benares Committee.' 2

Some of Metcalfe's arguments no doubt were tinged with vagueness. He seemed to think that occupancy rights and proprietary rights were identical. At any rate he thought in the context of <sup>the</sup> Indian system that the proprietary right could not be real and meaningful without having acquired the occupancy right. Bentinck and the Sadr Board of Revenue considered the difference between the two forms of rights as

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1. Revenue Letter from Bengal, 28 Dec. 1821, para.28. Also Resolution 1 Aug. 1822, para.58. This resolution passed as Regulation VII of 1822.
  2. Metcalfe to Bentinck, 13 March 1831, Bentinck Papers, PWJf. 1551, also 16 April 1831, Ibid., 1558.

significant and real. Moreover, this clearly had been recognized in the Resolution of the Government of 1 August 1822. Hence there was no going back. The Board were in fact inclined towards a policy of conferring proprietary rights on bigger landowners, whereas Bentinck considered it desirable to recognize and confirm the class of Sadr malguzars, not necessarily the zamindars of the Bengal type, as 'the surplus and rent-owners'. He further maintained that he was not contemplating either a destruction of existing rights or a creation of new ones. But he conceded to Metcalfe when he proposed that the biswadars or village-zamindars were to be confirmed in their rights, treating them as proprietors wherever malguzars were not to be found.<sup>1</sup> Metcalfe however, was out and out for the village communities, and would not accept any intermediary except the mukaddams or headmen of the villages between the government and the landholders to appropriate the rent product.

The whole controversy turned on an important point. The question at issue was the distribution or appropriation of 'surplus profits' or the 'rent product'; What proportion of the surplus and to whom this was to be assigned, apart from the government which was entitled to a major share of it. Fane and Tilghman wished to relinquish 30% to 35% of the gross rental to the proprietors. Bentinck while concurring

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1. G.G.'s Minute, 26 Sept. 1832, para.42, Beng. Rev. Cons., 27 Dec. 1832, 79.

2. Malguzar = A person who pays revenue for himself or on behalf of others to government or to a proprietor.

Biswadar = A co-sharer of the village lands.

with them in principle, kept 30% as the maximum which could be granted to the malguzars.<sup>1</sup> Metcalfe was prepared to grant the huq-mukaddami or the allowance of the mukaddams which usually stood at about 10% of the jama to be given to the mukaddams or the managing heads of the village. He objected to the proposal of the Board on the ground that it would tend to create a class over and above the landholding class in the village and secondly, it involved a loss of revenue to the government. The best mode in his view of giving incentives to the village communities was to reduce the assessment.<sup>2</sup>

Metcalfe's approach also differed from that of Munro, even though in effect both favoured small landholders in their schemes. But Metcalfe's village zamindar sounded somewhat more respectable than the ryot of Munro's scheme. In Metcalfe's plan the village communities as represented through the headmen engaged as a corporate body, in a mass, with <sup>the</sup> government. In principle he admired the ryotwar technique, but he would adopt it only as an alternative and a remedy:

'When the village institutions have been destroyed or impaired by internal dissensions or other incurable causes, the ryotwar system appears to be the proper remedy to be applied and the best settlement that can be effected.' 3

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1. Ibid., paras. 11-14; also G.G.'s Minute, 29 Feb. 1832, para.22, Ibid., 52.
  2. Metcalfe's Minute, 15 Nov. 1832, Ibid., 92.
  3. Minute, 7 Nov. 1830, SRR NWP, 2, p.222. Also Minute, 31 Oct. 1831, Note 3, Beng. Rev. Cons., 27 Dec. 1832, 43. Minute, 8 Sept. 1833, para.2, Ibid., 9 Sept. 1833, 61.

Thus while he was decidedly opposed to the Bengal settlement his choice of the ryotwar system was not spontaneous as is usually supposed. He accepted the ryotwar system under the force of circumstances. In almost every minute he wrote, he explained that his advocacy of the ryotwar system was conditional and was relevant in as much as it was opposed to the permanent system of Bengal. He preferred a village settlement in which the co-sharing village brotherhood engaged for the revenue as a whole. He emphasised that this mode of settlement was the best. In every other system the landholders remained in a permanent state of stagnation and depression.<sup>1</sup> Individually the co-sharing village zamindar may have corresponded to the ryot of Madras but in union the community was formidable in power. Also Munro and Metcalfe refused to recognize an intermediate agent enjoying and exercising proprietary right between the village landholder and the government. Yet the difference between Metcalfe's system and the ryotwar one was significant and the two could not be equated.<sup>2</sup>

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1. Metcalfe's Revenue Report, 4 Sept. 1815, paras.163-4, Beng. Rev. Cons., 16 Sept 1820, 81.
  2. According to Dr. B.B.Misra, Metcalfe recommended a ryotwar settlement for the Western Provinces. In fact, he did not do so, though in principle, he thought that ryotwar or 'ketwar' system of assessment could equally be applied to the state of property prevalent in the W.P. Metcalfe then reminded that he would not like to see the system adopted in the W.P. as long as the village system existed intact. Misra - The Central Administration, p.219.

Metcalfe clearly set forth that the asamiwar settlement which in essentials was like the ryotwar one was preferable to the permanent settlement, but he would not advocate the introduction of the former system, because

'... whatever may be the advantages of the assameewar system they would be too dearly purchased at such a price.' 1

He was convinced that the system would bring about the disintegration of the village system. He conceived that

'the internal management may be safely entrusted to the community itself, which forms a little republic and I apprehend that interference of Government officers in internal details will subvert the village constitution, sever the link by which the community is bound together, and cause its dissolution, a result which I should think most to be deprecated.' 2

These 'little republics' with democratic and aristocratic forms of government had fascinated him ever since he came in contact with him. The government was in agreement with Metcalfe's views on this question and declared that the ryotwar settlement was no more favoured. They were inclined towards 'the mauzawar plan of settlement' in which the principle of recording and confirming the rights of all classes was to be followed.<sup>3</sup> In contrast to this the Court

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1. Metcalfe to Campbell, 15 May 1827, Bo.Coll.30954, Vol.1214, p.1137.

2. Ibid., p.1109. Metcalfe's obsession and admiration for the 'little republics' and 'a state in itself' which seemed 'to last where nothing else lasts' is well known. See his classic minute, 7 Nov. 1830 SRR NWP. 2, pp.218-9. But this feeling had grown in him ever since 1811 when he spoke with as much enthusiasm as at present, of the 'petty republics' with 'Democratical' and 'Aristocratical' forms of government existing in them. See his letter, 11 June 1811, paras. 5,7, Beng.Rev.Cons., 2 July 1811, 43.

3. Government to Metcalfe, 7 June 1827, Ibid., p.1141.

of Directors appeared to appreciate Campbell's proposition for an asamiwar settlement in Delhi. The Court were surprised at the unequivocal declaration made by the government in favour of a mauzawar or village settlement - which had neither been discussed nor sanctioned by them. Evidently the Court were still advocates of the ryotwar scheme, and not being in sympathy with the village system, somewhat scornfully observed that no damage would be done to the so-called village system, considered by Metcalfe, 'as the greatest blessing possessed by India.'<sup>1</sup>

Metcalfe's arguments for the maintenance of village institutions and the rights of the village landholding class were actuated by practical considerations also. It was found that over-assessment was one of the evils which ruined the good effects of both types of settlements as followed in Bengal and Madras.<sup>2</sup> In Delhi, in times of need the cultivators who were joined by common sympathies and interests helped each other. Besides, they were able to collect the revenue demand by mutual contribution, even when the lands happened to be over-assessed. This was one of the great advantages of the system.<sup>3</sup> The whole village thus was saved from being sold out. In the case of small ryots, as found in Madras, the effect of over-assessment or natural calamities was sure ruin.

1. Revenue Dispatch to Bengal, 22 Dec. 1830, paras. 14, 16, 17.

2. See above Chapter 2, pp. 98-99.

3. W.B. Martin to G.G., 9 Feb. 1832, paras. 9-15, Bo. Coll. 59317, Vol. 1509, pp. 22-6.

According to the classical economic thinkers individual initiative was a pre-requisite of economic advancement. They therefore were prepared to support measures leading to the breaking of traditional bonds of union. But in India, the basic question at that stage was how to stop the continuing state of degradation of the agricultural classes. Metcalfe did not hope - contradictory as it would appear - of continuing the system of communal ownership for a very long period of time. Indeed, he was advocating at that time to give the village landholding classes a respite from distress and guarantee them a stable base for future growth. Experience had shown that a sudden breakdown of the system usually led to the weakness and economic ruin of the individual cultivator. Metcalfe thought that the system eventually might disintegrate in spite of his earnest desire to preserve them. But his main anxiety was to save them at that time from economic distress and to use subsequently the village institutions as instruments of civil administration in the country. He was therefore concerned to offer his system of village settlements as an alternative to both the ryotwar and zamindari systems of settlements. In short he wished to see the process of change to be gradual and painless.

Indeed there has never been a greater champion than Metcalfe, of the rights of the village landholders or the co-sharing village brotherhood in the annals of Indian history. Since the village system was so highly valued by him, it



would be proper that the system in its operation should be investigated.

In the village Thaska<sup>1</sup> in the Gohana pargana the proprietary right belonged to thirty Brahmin families of the Meharwant Gotra or sub-caste and a Jat family of Katwall gotra. Other cultivators consisted of six families of recent settlers and fifty-six pahi-kasht or itinerant ryots. Land was held and cultivated in common and the engagement for the jama was made through the mukaddams. Internal adjustment of the shares and the collection of revenue was made harmoniously. The village paid Rs.900 as revenue in 1826.

The village Kewali<sup>2</sup> in the Khor Khoda pargana had somewhat different organization. The village lands were shared by thirty-four Jat families. Apart from many itinerant cultivators, there were ten Jat families and six families of Brahmins who were resident cultivators. Their rights over the lands they cultivated ~~were~~ considered as strong as those of the proprietors themselves, since they had been in occupation of their lands for a long time, beyond living memory.

The village was divided into four panas or divisions, each pana having its own managing head and organization for its internal management. These panas were distinct from each other as far as their internal economy was concerned and possessed their own shares of the tillable lands and contributed a distinct quota of the government revenue.

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1. Campbell to Metcalfe, 14 May 1827, Bo.Coll.30954, Vol.1214, pp.1083-1103.

2. Ibid., 8 April 1827, Ibid., pp.1145-61.

The village had 2,720 bighas of cultivable land which was grouped in 15 parcels according to its fertility, quality and local advantages. The parcels were divided into four equal shares; each share having 680 bighas of land was assigned to one pana. The land allotted to each pana was again sub-divided into  $4\frac{1}{4}$  equal shares called jhundies, each jhundi comprising 160 bighas was finally distributed among the community of the pond.

Grazing grounds, tanks, charity lands and thoroughfares were held in common by the entire village. Each pana had its own crematory ground adjacent to its location. A small lane or ground separated one pana from the other.

The village work was performed by elected men.

In the village Katwal<sup>1</sup> communal ownership of land prevailed, the proprietary right having been enjoyed by the whole body of 100 Jat families. They possessed land 'in coparcenery', all having perfect equality of status in all matters, enjoying the same rights and privileges. Without common consent no land could by sale, mortgage or bequest, be alienated to a stranger. Tribal rivalry between this village and the adjoining ones had been raging until British rule came. The village was depopulated as a result. Its settlement however, was slowly taking place. The revenue was raised by imposing four types of taxes known as choubach surbala: the khudi or the house tax, pag or capitation tax, aug or tax on

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1. Ibid., 16 Nov. 1826, Ibid., pp.1045-63.

cattle and zamin bach amounting to Rs.3.6.6 per kacha bigha.

In the last two years the village had undergone the usual division into four panas and jhundies, the biswadari shares having been allotted to each pana. Each sharer paid the government demand whether he cultivated his lands or laid it waste.

The village of Khanda<sup>1</sup> in Khorkhoda pargana was a typical caste-ridden village. The proprietary right was claimed by 159 Jat families. Other occupants were 65 families of Brahmins, 39 families of hereditary or non-ejectable cultivators, 162 families of ejectable cultivators, 21 mortgages and 38 pahikasht ryots. The last four classes were composed of various castes - Jats, Brahmins, Bungars, Jagas, etc. The village was divided into four panas in the usual manner. 'The individual distribution of the assessed revenue is effected without trouble or dispute.' Settlement had been concluded separately with the panas through their mukaddams.

The village Sisana<sup>2</sup> in the pargana of Khorkhoda was a large one with 20,736 bighas of land under cultivation. Proprietary right over the village was shared among 254 Jat families of Deheea Gotra, 7 Jat families of different sub-caste, and 22 families of Brahmins. Among other residents were 44 non-ejectable cultivators who could not be ousted

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1. Campbell to E.Colebrooke, Civil Commissioner Delhi, n.d., transmitted to Government on 30 Oct. 1827, Bo.Coll.30955, Vol. 1215, pp.1381-1405.
  2. Ibid., 12 July 1827, Ibid., pp.1325-1365.

from possession as long as they paid the stipulated revenue. They, however, had no right to alienate their fields by sale or bequest. The village was divided into four usual divisions.

The revenue payable by each sharer was adjusted by mutual distribution in proportion to the extent of land possessed by that individual. The rich and the poor lands were equally divided among the landholders, the best and the worst lands paying the same rates.<sup>1</sup>

The hereditary cultivators or mourosi tenants did not claim any proprietary rights. In the village Janouli there were 31 of them along with 94 non-hereditary cultivators. Their lands could be resumed by the zamindars. They could neither sell nor mortgage their lands. They could not even build a pakka well.<sup>2</sup> The itinerant or pahi kasht cultivators were normally residents of other villages who contracted to cultivate land belonging to others. Kamins were partial cultivators, who usually belonged to a professional class and cultivated at leisure. Kumeras were village servants or hired for cultivation and possessed no rights.<sup>3</sup>

The rights of all these classes were regulated according to the laws of the village. The sharers or coparceners enjoyed equality of status in the village in all

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1. Campbell to Metcalfe, 19 Aug. 1826, Bo.Coll. 30952, Vol.1212 pp.129-141.
  2. Cavendish to Metcalfe [?] May 1826, Bo.Coll.30955, Vol.1215 p.1485.
  3. Fortescue's Revenue Report, 28 April 1820, paras.35-43, Beng. Rev.Cons., 13 Nov. 1820, 26.

matters in spite of distinctions of caste or wealth. Even the relation between the biswadars and 'ejectable' or 'non-ejectable' tenants or cultivators appeared to have been regulated by the laws of the village. The term 'ejectable' suggests an element of contract in it. It is not possible to ascertain the precise laws which may have governed such contracts. As far as the rights of the co-sharers and the village divisions were concerned, Lord Hastings confidently asserted that

'the rights of all were well ascertained and defined and though the divisions and subdivisions appear intricate to a distant observer they are productive of no confusion amongst themselves, it being only when disturbed by the operation of external causes that the general harmony suffers interruption.'

He remarked further that not even a most oppressive government

'had the hardihood to attempt to interfere with this state of real property. The village community was thus complete....' 1

Our investigation of the organization and working of the village system enables us to establish that the land-owners of the village did not necessarily belong to one caste or clan or tribe. In the village Sisana, the right of ownership belonged to three caste groups, one caste-group having numerical superiority over the others. Since the village was divided into four equal divisions, the caste-groups were bound to be split up, getting mixed up in the

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1. Hastings' Minute, 21 Sept. 1815, paras.81-2, Beng.Rev. Cons., 16 Sept. 1820, 33.

process with other caste groups different from their own - as far as the ownership of the land and its management was concerned. In Thaska 30 Brahmin families, shared the village lands with one Jat family. On the other hand, although the proprietary right in Kewali lay with one clan, yet the village was divided into four equal panas, each pana having its own headman and an independent village organization. Thus each pana became a small village inside the village of Kewali.

It is interesting to note that in 1842, there were as many as 16 out of 105 villages which were owned by mixed communities in the pargana of Panipat.<sup>1</sup> Similarly in the pargana of Panipat Kadar there were 44 villages owned by mixed communities and <sup>which</sup> paid Rs.57,817 as revenue.<sup>2</sup> This trend proves the changes <sup>which</sup> ~~as~~ had set in <sup>in</sup> the composition of the villages. The villages did not necessarily belong to one clan having blood relationship.<sup>3</sup>

The village as a whole presumably met on occasions for community dinners or to decide important issues relating to caste or matters concerning the village as a whole. Other residents of these villages were of various castes; the individual members of the caste enjoying varying degrees of rights relating to land according to the terms of contract

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1. Settlement Report, 31 Oct. 1842, para.57, Selected Reports on the Revision of Settlement under Regulation IX of 1833 in Delhi, I.O.L. Record Dept., List 9, 341/9, p.39.
  2. Ibid., para.67, p.44.
  3. Maine, Village Communities, pp.175-6. Also Spear, Twilight of the Mughuls, p.118. Dr. Spear maintains that 'the proprietors of the village were naturally of one caste.'

with the land owners or the period of occupation of the land he cultivated. However, the customary laws of the village appeared to have governed all dealings in this regard.

In this intricate system the share of each owner was clearly defined. This was true of both types of villages in which common ownership of land prevailed or otherwise. In the former there was, by and large, equal division of shares, whereas in the latter, the shares were larger or smaller depending upon inheritance. However, the largest and the smallest landowners enjoyed absolute equality of status in all matters in the village.<sup>1</sup> No oppression was ever alleged against the bigger landowners.<sup>2</sup> They amicably cultivated lands and helped each other in distress. A wilfully negligent landholder was forced by the brotherhood to discharge his obligations in some way or the other.<sup>3</sup> No one could dispose of his landed property to a stranger without the consent of the brotherhood. Proprietary right in other respects was full and even if the landowner absented <sup>himself</sup> from his lands for any period of time, his share remained intact and was restored to him on his return.<sup>4</sup>

Some doubted the prevalence of community of property in the village land, since each sharer paid his due in proportion to the land he owned. In their opinion, the joint

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1. Fortescue's Revenue Report, 28 April 1820, para.59, Beng.Rev.Cons., 13 Nov. 1820, 26.
  2. Cavendish to Metcalfe, 4 Dec. 1826, Bo.Coll.30956, Vol.1215 p.1737.
  3. Fortescue's Revenue Report, op.cit. para.59.
  4. See below, pp.144.

responsibility of the villages for the public revenue could not be equated with the common ownership of land. The community of property existed only on the uncultivated land.

Elphinstone believed that this agreed 'entirely with the account given by the Commissioners of the Deccan Survey....'<sup>1</sup> Even so, the organization of the village and its rights did not materially differ from what has been discussed so far.

The mukaddams were elected or self-elected, depending upon their competence and ability and the respect they commanded in the village. The office tended to become hereditary, but essentially merit was the criterion for holding the job. The mukaddams were managers of the village and were given an allowance known as mukaddami by the government for their labour. They formed a little aristocracy in the village and were usually men of means.<sup>2</sup> Metcalfe fully supported them. They did not enjoy any special privileges in the village on account of their position. Since the proprietors were strongly united, the mukaddams could not carry any measure into execution in opposition to the voice of the brotherhood.<sup>3</sup>

Fortescue reported that the village assemblies or panchayats<sup>4</sup> worked remarkably well. All disputes relating to

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1. Elphinstone's Notes, Elphinstone Papers, MSS.EUR. F.88, Box 15, Portfolio 2(22), p.10.
  2. Metcalfe's Revenue Report, 11 June 1811, Beng.Rev.Cons., 2 July 1811, 43.
  3. Cavendish to Metcalfe, 4 Dec. 1826, Bo.Coll.30956, Vol.1215 p.1737.
  4. Fortescue's Revenue Report, 28 April 1820, paras.206-219, Beng.Rev.Cons., 13 Nov.1820, 26. See also Chapter 2, pp.



land and rent, sale or mortgage were decided by them. They made arrangements for liquidating the public demand. The defaulters were brought to book by some means or the other. Cavendish remarked from his experience of the Western Provinces that the authority of the panchayat tended to be weakened because of the judicial tribunals. In the Western Provinces he found that the panchayat did not possess its former means of enforcing its decision. No fines could be imposed on the defaulter. Dharna was prohibited. The guilty could not be ejected 'from caste, society or table'. Hence, only the respectable persons paid deference to the voice of the panchayat, whereas the loose characters could set its authority at naught.<sup>1</sup> In spite of all this the decision of the panchayat was effective, and by and large people of the village respected the authority of the panchayat since it was held as an upright body. Cavendish maintained that it was not easy 'to corrupt or mislead a Panchayet'.<sup>2</sup> These assemblies were corporate and representative bodies and performed useful functions. The basis of the organization was mutual respect, confidence and co-operation and recognition of each other's rights, the members of the assembly and the village performing their duties as a moral obligation.

In the villages where the system of baytch<sup>3</sup> as a mode of collection prevailed, the constitution of the village

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1. Cavendish to Metcalfe, 23 Oct. 1826, paras.13-16, Bo.Coll. 30949, Vol.

2. Ibid.

3. Baytch = Dividing the village or estate or produce in separate portions among co-sharers.

was found to be 'democratic', the division of property being nearly equal. Where batai<sup>1</sup> was practised, the village was governed by an 'oligarchy' or 'aristocracy', the land being under fewer hands.<sup>2</sup> These characteristic features of the village societies had caught the imagination of Metcalfe. A caste-stratified society of the Indian village essentially built on disparity was being governed by the secular laws of the village. More remarkable was the fact that rights and duties were acknowledged and administered on the basis of equality. Bentinck agreed that the village system recognized and maintained, even though somewhat vaguely, a concept of rights and duties. He wrote:

'... though the subordination of the village constitution may not be regular, yet there are duties performed, and corresponding rights acknowledged, in every village; and that in some instances the rules by which they are governed are maintained in force by the influence of the governing authority....' 3

Metcalfe's love of nature and the countryside must have made him admire the village life which appeared so close to the life of nature. These impressions characteristic of a romantic, combined with a practical instinct of the administrator in him, made him advocate their preservation. The village system had been useful and had stood the test of time. This had fostered 'freedom' in its component units and had been

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1. Batai = Division of crop between the cultivators and landlords or government.
  2. Metcalfe's Revenue Report, 4 Sept. 1815, para.131, Beng. Rev.Cons., 16 Sept. 1820, 81.
  3. G.G.'s Minute, 20 Jan.1832, para.14, SRR NWP., 2,p.356.

conducive to the happiness of the community at large. These 'village corporations', with the advance of knowledge and culture, could be trained as local self-governing institutions in the country. This would be the logical and ultimate, though a distant objective. For the present, however, the first task was to preserve and nourish them. Metcalfe's aim was not to perpetuate the primitive integrity of the institution for ever. Their 'improvement' and 'amendment' was not 'precluded' from his scheme.<sup>1</sup> The improvements ultimately would offer the 'blessings of independence and education' to the inhabitants of the Indian village.<sup>2</sup>

The Resolution of 1 August 1822 which laid the foundation of the new revenue settlement under the Regulation VII of 1822, also aimed at the preservation and reorganization of the village societies so that they could be transformed into suitable agencies of civil administration at the village level.<sup>3</sup> The Resolution further envisaged a plan for a determination and recording of the rights of the sharers or landowners, the ryots and tenants, disavowing any intention on the part of the government of minutely interfering with the village system. It is said that the Resolution was framed mainly by Holt Mackenzie. As Secretary to the Government of Bengal in the Territorial Department, Holt Mackenzie

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1. Metcalfe's Revenue Report, 4 Sept. 1815, op.cit., para. 132.

2. Ibid., para. 161.

3. Resolution, para. 58. Also Revenue Letter from Bengal, (Ceded & Conquered Provinces) 28 Dec. 1821, para. 33.

wrote to the Board of Revenue in the Western Provinces at Delhi that the Government only 'wished a minute ascertainment and Record of the Mofussil tenures',<sup>1</sup> commensurate with the expediency of maintaining the village Institution. It is not intelligible how 'minute ascertainment' was possible without 'minute interference'. Metcalfe was decidedly of the opinion that it would inevitably lead to interference, which all professed to avoid, and the mode thus envisaged by the government would necessarily destroy rather than preserve the village system. W.B. Martin, Resident and Chief Commissioner of Delhi, endorsed Metcalfe's point of view and questioned 'whether the most perfect definition would be sufficient to counterbalance the mischief and vexations which are almost inseparable for a detailed interference in the regulation of the village economy by the officers of Government.'<sup>2</sup>

Apparently the village system was not without flaws. The right to sale, mortgage or gift was limited. The sharers could not sell their lands in an open market without the consent of the brotherhood. The purchasers, if there were any, hesitated to buy them since the land was not completely a freehold property, it being attached to the community as a whole. This was likely to depress the value of the land.

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1. 31 Oct. 1823, para.18, Bo.Coll. 30949, Vol.1211, pp.217-221.

2. W.B. Martin to Government, 31 May 1831, para.9. Enclosure A, to G.G.'s letter, 14 June 1831; SRR NWP., 2, 289. William Byran Martin, Resident Amboyana 1810, Junior Member Board of Commissioners Behar & Benaras 1820, Resident Hyderabad 1825, Resident Delhi 1830, Indore 1832, Retired 1836. Personal Records, 7, ff.787-

The Delhi administration had rejected the principle of law of sales for recovery of revenue altogether. Another singular feature of the Delhi system tended to impede economic activity and progress. In Delhi the village zamindar recovered back his lands on his return after he had deserted the village for any number of years. Metcalfe proposed re-imbusement of the expenses incurred by the new occupant of the soil when restoration took place.<sup>1</sup> But it was indeed a partial remedy as the Court of Directors aptly observed.<sup>2</sup> The new occupant of the soil remained constantly under threat of being turned out. Under such circumstances he would hardly be expected to invest his capital for a long-term project of improvement, the promised compensation for his labour and capital not being<sup>an</sup> adequate incentive. In the Regulation Provinces, possession once relinquished could not be regained without the verdict of the court. Cavendish therefore felt that some law regulating the right of the occupier of land vis-a-vis the deserted owner was necessary to make land more valuable.<sup>3</sup> Nevertheless, the practice did give considerable security to the owner of the soil. This, in a sense, could also be regarded as an attribute of his proprietary right.

These features fairly indicate that land in Delhi and far less the rent-property in land had not yet become a marketable commodity which was symptomatic of the undeveloped

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1. Metcalfe to Government, 25 Oct. 1826, Bo.Coll.30955, Vol.1215 p.1727.
  2. Revenue Dispatch to Bengal, 22 Dec. 1830, para.19.
  3. Cavendish to Metcalfe, [?] May 1826, Bo.Coll.30955, Vol.1215 p.1567.

state of economy.

It has been noticed that the lands of the sharers were scattered and far apart. The community divided the best and the worst lands equally among the sharers to do justice to all. The holdings tended to become uneconomic in the end, since more expense would necessarily be incurred in such a situation for smaller output. However, the irrigational schemes at the village level on<sup>a</sup> community basis could be worked out easily, though such schemes under individual initiative might have been difficult if not impossible of execution.

The Hindu Law of inheritance led to further fragmentation of holdings. This had been the bane of Indian agriculture. Here again, the evil could possibly be mitigated by making agricultural operations a co-operative effort of the community as a whole. Since the villages were jointly held and the village societies were bound by strong bonds of union and association such ventures offered prospects of success.

Much depended upon the behaviour of the mukaddams. The Court of Directors warned that the mukaddams were capable of mischief in Delhi, as they had been so in the Western Provinces.<sup>1</sup> Cavendish reported that in the Western Provinces the mukaddams actually at times became farmers of revenue and oppressed the under tenants.<sup>2</sup> They either over-measured or under-measured the land according to their

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1. Revenue Dispatch to Bengal, 22 Dec. 1830, para.16.

2. Ibid.

preference. In Delhi, however, he testified, that he had not seen this evil practice flourishing because the village landholders were strongly united. The mukaddams in their own interest could not afford to be oppressive being helpless against such combinations.<sup>1</sup>

Lack of knowledge of better methods of cultivation and superior technique of farming and husbandry made agriculture in Delhi backward and primitive. The village would not break away from the established customary methods. It also lacked capital for organizing schemes of improvement. Furthermore, the Indian husbandman though known to be thrifty, squandered away his life's savings on frivolities like a marriage ceremony. A man of means was inclined to hoard gold by purchasing ornaments for his wife or daughters rather than invest it in economic undertakings. Cavendish observed that a Rajput purchased a wife and a muslim, a horse, if he happened to acquire some wealth. 'Not a rupee was laid out for improving or beautifying', he asserted.<sup>2</sup> These traits were true of the village life in India as a whole. This state of affairs may have been due to a lack of economic incentives also, but the ignorance and lack of enterprise of the fatalistic village landholders must mainly be held responsible for their backwardness. Their condition could be improved only by disseminating knowledge

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1. Cavendish to Metcalfe, 4 Dec. 1826, Bo.Coll.30956, Vol.1215, p.1737.
  2. Same to same, [?] May 1826, Bo.Coll.30955, Vol.1215, p.1485.

and education among them. Metcalfe always considered this to be a prerequisite for a better life for them.<sup>1</sup> The cultivators must be goaded to activity and examples of better means of production should be set before them. The stud-farming in Hissar in 1815,<sup>2</sup> the proposed cultivation of potatoes and North American cotton by Capt. R. Macpherson in Delhi in 1812,<sup>3</sup> and the establishment of an experimental farm of about 200 bighas in Gurgaon by Cavendish for the purpose of introducing better husbandry and new articles of cultivation,<sup>4</sup> were steps taken in the right direction.

A more radical proposition suggested by Metcalfe for a speedier economic development related to the free admission of British nationals to settle down in India.<sup>5</sup> It was one of his favourite themes which he advocated from time to time ever since 1815. He conceived that India could not make rapid progress unless she borrowed English knowledge, skill,

1. Metcalfe's Revenue Report, 4 Sept. 1815, para.161, Beng. Rev. Cons., 16 Sept. 1820, 81.
2. The farm mainly established for the use of the army appears to have stimulated the population of the region to take steps for breeding better horses and bullocks and maintain them accordingly. Punjab Govt. Records, Delhi Residency & Agency, 1, Chapters 3 & 4.
3. Capt. R. Macpherson, Commanding Regiment at the Royal Palace at Delhi to Beng. Govt., 15 April 1812, Beng. Rev. Cons., 2 May 1812, 41.
4. This was sanctioned by the government. Beng. Govt. to Metcalfe, 14 Dec. 1826, Bo. Coll. 30955, vol. 1215, p. 169.
5. Metcalfe's Revenue Report, 4 Sept. 1815, paras. 186-9. Beng. Rev. Cons., 16 Sept. 1820, 81. Minute, 19 Feb. 1829, Rev. Letter from Bengal, 1 Sept. 1829, Enclosure 4, 17, pp. 460-466; Metcalfe's Memo, 11 Oct. 1829, Colchester Papers, PRO. 30/9/4, part 2.2.



capital and applied them to her benefit. But Englishmen would not invest their capital in India unless they were granted 'unlimited liberty to acquire property by lawful means.' If this were allowed then the state of Indian economy would improve. It would profit the state as well in-as-much as it would add a much needed revenue, thus enabling the government to meet the ever increasing expenditure of administration.<sup>1</sup> Bentinck was one with the plan but the Home Authorities put a seal of disapproval to such a scheme. This subject however formed part of a bigger issue.

In the first place, it was obvious that no Englishman could have ever settled down in India and colonized large tracts of land without having acquired a permanent interest in the soil. Metcalfe therefore recommended that they be granted unlimited rights. This meant<sup>that</sup> he was prepared to create British proprietors of the soil in India, which ran counter to his strongly held belief that a creation of proprietary right in opposition to the established rights of the village landholders was unjust and detrimental to the economic well-being of a vast majority of <sup>the</sup> Indian agricultural community. But presumably, he felt that Englishmen would in all probability colonize areas of waste and unoccupied yet productive lands mainly for the purposes of plantation and producing cash crops like coffee, tea, sugar, jute and indigo. This had in fact been the trend so far in some respects.<sup>2</sup>

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1. Metcalfe's Memo, Ibid.

2. Bentinck's Minute, 1 Dec. 1829, Revenue Letter from Bengal, 1 Jan. 1830, 18, pp.39-40.

Secondly, there was the question of the laws to be followed in respect of European settlers in India. Metcalfe declared that no distinctions should be made between the two communities. The divergence of laws to be applied to the English and Indians must cease. All should be governed by the same set of laws. He went a step further and proposed that the 'mischievous' differences existing between the King's and Company's Courts should also go. If injustice and oppression were to be removed, either the powers of the King's Courts should be properly defined and strictly limited, or the jurisdiction of the local and King's Courts should be amalgamated 'under a code of laws fitted for local purposes and calculated to bestow real and equal justice in all classes of subjects under British Dominion in India.'<sup>1</sup>

Furthermore, he advanced another very pertinent argument in favour of European Colonization. He believed that the tenure of British rule in India was precarious ; hence he wished to see a class of people living in India who would be attached to the British Government by common interest and sympathies. Such a measure would ensure the stability of British rule, apart from being conducive to the welfare of Indians as a whole.<sup>2</sup> Metcalfe observed that the interests of the rulers and of the ruled were identical. In several respects all these questions were linked up with each other. The land revenue settlement itself posed a problem of this

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1. Metcalfe's Minute, 19 Feb. 1829, Revenue Letter from Bengal, 17, pp.460-466.

2. Ibid., Also Minute, 13 Dec. 1829, Revenue Letter from Bengal, 1 Jan. 1830, 18, pp.79-80.

nature. A stable, wealthier and happier society also meant an increase of revenue and strength of the government.

The major objection against the policy of colonization arose out of the fear that British settlers might abuse their rights and privileges resulting in the oppression of Indians, which might lead to mutual discord, ill-feeling and conflict between the two races. Besides the settlers after a time might become so strong as to throw off their allegiance to British rule just as Americans had done fifty years before. These fears were however discounted by Metcalfe and Bentinck.

Bentinck was in full accord with Metcalfe's viewpoint. He agreed that the Government in India was not popular, and its difficulties increased with the length of possession. Furthermore, Indian agriculture was primitive and was managed by meagre stock. Manufactures were in a degraded condition. He therefore asked:

'... how will it be possible for Commerce to be carried on and how can any remittances in private or public amount be made to Europe? 1

He did not anticipate dangers from Indians, who seemed to be favourably disposed towards Western influences; nor were the English in his opinion, likely to settle in such large numbers as to threaten the security of <sup>the</sup> British Empire in India.<sup>2</sup>

Thus although Bentinck strongly supported Metcalfe in

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1. Bentinck's Minute, 1 Sept. 1829, Revenue Letter from Bengal, 1 Sept. 1829, Enclosure 4, 17, p.483.
  2. Ibid., pp.489-507.

his proposition yet he had other reasons to recommend free admission of Europeans into India. He observed that the rules of May 1824 which gave security of tenure to the coffee and indigo planters by granting them long lease of land, were intended to make India a 'source of supplying articles for which England is mainly dependent on foreign countries.'<sup>1</sup> The basic question which agitated his mind was how to procure cheaper goods for the use of Great Britain.

The same anxiety was to be found in him when he accepted the Court's instructions to assess lands according to the capabilities of the soil and not according to its produce. Although the principle of assessment based on land was in conformity with the classical economic theory of differential fertility of the soil, yet there were other considerations involved in it also.<sup>2</sup>

Incidentally, it is interesting to note that Munro and Malcolm were least enthusiastic about such a plan. Elphinstone felt that the scheme of colonization was visionary. In his opinion it was neither likely to promote the morals of the people nor was there any possibility of absorption of the English community into the Indian fold.<sup>3</sup>

The Directors however, did not approve of the scheme, although they were prepared to encourage British investments by giving favourable opportunities for the cultivation of

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1. Bentinck's Minute, 1 Dec. 1829, Revenue Letter from Bengal, 1 Jan. 1830, 18, pp.39-66.

2. See below, pp.157-165.

3. Elphinstone's Notes, Elphinstone Papers, MSS.EUR. F.88, Box 15, Portfolio, 2 (22).

coffee, sugar, indigo and tea.

It has been argued that large farms under men of means were indispensable for quicker economic progress. This had been the experience of England in the late eighteenth and early nineteenth centuries. This however, could hardly have applied to Indian conditions. The Industrial Revolution could not be transplanted overnight to an alien soil. The permanent settlement of Bengal had been introduced, perhaps, with some such objective in view. Since its introduction, it seemed, great increase in cultivation in Bengal had taken place, but the truth was, as Metcalfe argued, increase in cultivation in India was possible under any mode of settlement with good management, provided that the land assessment was moderate and taxes light.<sup>1</sup> The improvement in Bengal had taken place in spite of the zamindars. Metcalfe reacted sharply against ~~this~~ class since experience had shown their utter worthlessness. In his view, they were mostly indolent, extravagant and devoid of intelligence.<sup>2</sup> Elphinstone who sympathised with the privileged order, regretted that 'the ryots were reduced to entire dependence and almost to bondage' in the Cornwallis system. Another effect however incidental yet regrettable had been 'the overthrow of the village-corporations'.<sup>3</sup> Added to all this, the zamindars had

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1. Metcalfe's Minute, 29 June 1832, Beng.Rev.Cons., 27 Dec. 1832, 66.

2. Metcalfe to Beng.Govt., 30 June 1815, paras.42,50,51. Beng.Rev.Cons., 26 July 1815, 55.  
Also Minute, 7 Nov. 1830, SRRNWP, 2, p.223.

3. Elphinstone to Strachey, 3 Sept. 1820, Colebrooke, Life of Elphinstone, 2, p.117.

no pretence of a right to arrogate to themselves the title of proprietors. Under such circumstances, if the village communities were revitalised they could be turned into instruments of progress. The village system was eminently suited for co-operative ventures. The co-sharing village brotherhood had a tradition of working in co-operation for mutual benefit. Their assemblies were known to have conducted their business in a most harmonious fashion. They could even provide adequate capital for a project of considerable magnitude. Many villages paid fair amounts of revenue to the government and had sufficient land for cultivation. Since individual enterprise and resources were not forthcoming, the village society as one unit in a village could possibly act as an entrepreneur providing capital and organizing economic activity.

In the twenties and thirties of the last century in India, theories for effecting economic growth were being debated. Echoing Ricardo, Robert Mertins Bird asserted that 'a tax on the rent of land' would promote accumulation of agricultural capital, since 'it was the least objectionable of all taxes.'<sup>1</sup> Similarly Bentinck defined gross rent

'as the proportion of the produce or the value of the produce remaining after defraying the wages of labour and profits of stock.'<sup>2</sup>

To Fane and Tilghman, 'Revenue' meant 'the proportion of

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1. R.M.Bird, Minute, 8 May 1832, para.22, Beng.Rev.Cons., 27 Dec.1832, 88.

2. G.G.'s Minute, 26 Sept. 1832, para.11, Ibid., 79.

the existing land rent.'<sup>1</sup> Alexander Ross maintained that a tax on rent would not injure the interests of anybody:

'Rent being the surplus of the Produce of the Land after the capital expended in its cultivation has been returned with as large a net profit as could be derived from the employment of the same capital in any other way, it is the source from which the Revenue required for Public purposes may be taken with the least impediment to the exertions of the Individual Industry and the accumulation of wealth.'<sup>2</sup>

Equivalent terms for 'rent' were 'net produce', 'unearned income' or 'agricultural profits'.<sup>3</sup>

The Regulation VII of 1822 intended to calculate in exact terms the rent-product. It aimed at regulating the assessment of land after allowing a net profit of about 20% to the 'rent-owners'. It also professed to define and record the rights of not only the 'owning' but 'cultivating' classes also, so as to safeguard the latter from extortion and injustice of the former. These rights were justiciable. Bentinck, Fane and Tilghman were willing to share the net profit with the proprietary classes by relinquishing 20% to 35% of the gross rental in their favour; while R.M. Bird and Alexander Ross would have had the entire rent property exacted by the state. Ricardo advocated an extraction of the entire net profit by the state so that it was not frittered away uneconomically by the needy cultivators, while Malthus preferred sharing it with 'a leisured class' implying

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1. Sadr Board of Revenue to G.G., 31 Jan. 1832, para. 5.

Ibid., 51.

2. A. Ross's Minute, 27 July 1833, paras. 11, 12, Beng. Rev. Cons., 9 Sept. 1833, 36.

3. Stokes, op.cit., pp. 49, 89.

proprietors. As such in the former set of men Malthus seemed to have a greater influence, whereas in the latter, Ricardo's hold apparently was more predominant.

Eight years of settlement operations as conducted under the Regulation VII of 1822 had proved 'the complete failure' of the scheme, as Bentinck candidly admitted. He accepted the 'soundness of its theory' but doubted its 'practical application'.<sup>1</sup> It entailed enormous expense and time and appeared impossible of execution. The cost of musahut establishment i.e. for survey alone in the Western Provinces during the eight years, had been Rs.7,24,340 and the total amount of the jama surveyed by it stood at only Rs.27,270,93.<sup>2</sup> At this rate of progress, Bentinck remarked that a century would elapse before the Western Provinces could be settled wholly. The net-produce criterion of assessment thus had proved not only to be too theoretical but also an expensive one. Clearly it was an impossible venture to calculate in precise terms the cost of production, wages of labour and profits of stock under the existing conditions in India. The cultivators as well as the proprietors were too ignorant to keep an account of their enterprise, as such an estimate of everything including petty little details of expenditure had to be made by the assessing officer before rent was calculated.

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1. G.G.'s Letter to Sadr Board of Revenue on Deputation, 7 April 1831, para.72, SRR NWP., 2, p.253.
  2. G.G.'s Minute, 29 Sept. 1832, paras.62,75,81, Beng.Rev. Cons., 27 Dec. 1832, 79. Also W.Fane's Minute, 4 Sept. 1832, Ibid., 88.



Metcalfe considered that the Regulation in itself was not entirely impracticable, had some of the unnecessary details been left out of the investigation.<sup>1</sup> Pragmatic as his approach was he maintained that the term 'rent' in the context of Indian land revenue system, had been unnecessarily mystified; when in an intelligible manner the land revenue could be said to consist of a portion of the gross produce.<sup>2</sup> If a 'jumble between revenue and rent' or a 'confusion seemingly present' in the minds of many in the application of terms like 'estate' for 'village' or 'proprietor' for 'village community' was avoided, the problem would become smoother and workable.<sup>3</sup> The process simply should be to ascertain the government share of the produce after acquiring, as far as possible, 'the most minute information' about the land, crops and the occupants of the soil. Maybe this approach was devoid of English theories and 'unenlightened' yet it was the safest since in any other mode, the government was liable to commit mistakes.<sup>4</sup> Nothing better could be envisaged 'at present'.<sup>5</sup> Similarly, when he forcefully though erroneously defended the Munro system as having proceeded from 'detail to aggregate', he was accepting the validity of the principle.<sup>6</sup>

On the question whether land or crop should form the

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1. Metcalfe, Minute, 15 Nov. 1832, Ibid., 92.

2. Minute, 31 Oct. 1831, Ibid., 43.

3. Minute, 7 Nov. 1830, SRR NWP., 2, p. 214.

4. Ibid., pp. 209, 210, 215.

5. Minute, 29 June 1832, Beng. Rev. Cons., 27 Dec. 1832, 66.

6. Minute, 31 Oct. 1831, Ibid., 43; also Minute, n.d., Ibid., 93.

basis of assessment, the views of Bentinck and Metcalfe appeared irreconcilable. Bentinck urged that 'the simple and infallible' criterion of assessment consisted in assessing land according to its quality and not according to its produce. The 'tax' on the crops discouraged their production and interfered with 'the natural course of agricultural operations', being tantamount to taxing 'improvement'.<sup>1</sup> Crop assessment could be applicable to annual settlements only. For a settlement for a term of years the quality of land could be the only true criterion of assessment.<sup>2</sup> Fane and Tilghman, however, were prepared to concede that the crop rent induced the landlord to encourage the cultivation of more profitable products. The only objection to this process was that no allowance could be made for difference in the fertility of the soil and favourableness of its position, to counteract which, frequent adjustment would be necessary.<sup>3</sup> This controversy cropped up as a sequel to the Court's instructions to the Bombay Government in their letter of 22 December 1830 to subject lands 'appropriated to the growth of richer products to the same assessment as land of the same quality under ordinary crops.' In their order they contemplated 'a reduction in the rate of assessment of cotton-growing lands'. The Court had been advocating, for a

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1. G.G.'s Minute, 29 Feb. 1832, para.6, Ibid., 52. Also Letter to Sadr Board on Deputation, 30 June 1831, para.3, Beng.Rev.Cons., 1 Nov.1831, 2.
  2. G.G.'s Letter to Sadr Board on Deputation, 20 July 1831, para.13, Ibid., 4.
  3. Sadr Board on Deputation to G.G., 12 July 1831, Ibid., Enclosure.

considerable time now, the propriety of assessing lands according to the 'productive powers' and not according to the actual produce. This order, therefore, was not the first of its kind, but it now lent added importance and colour to the whole controversy.

The Cotton Policy of the Court as directed by the India Board from time to time tended to influence to a considerable extent, the land assessment in India. Three facets of Ellenborough's policy, as President of the Board of Control between 1828 and 1830, had been reduction of taxation, effecting economy in the administration and encouraging the growth of cotton in India. By a reduction of taxes, especially in the land revenue demand it was hoped that India would grow richer. A prosperous and rich India alone in their opinion, could be a recipient of English manufactures. Ellenborough wrote to Lord Harris:

'There can be no very profitable commerce with a Pauper people' <sup>1</sup>

and advised Bentinck:

'India cannot rise under the pressure of the present taxation and to make the people of that country consumers of the manufactures of England, we must make them rich. That object is remote indeed, but we must endeavour to attain it. The first [tax] I should wish to see removed is that levied on the transit of commodities.'<sup>2</sup>

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1. 19 April, 1829, Ellenborough Papers, PRO. 30/12/6, 14.  
 2. 19 May 1829, Colchester Papers, PRO. 30/9/4. Part 5, I.

In this policy the Court had entirely agreed with Ellenborough and had sent the injunction to the Government of Bengal to abolish

'duties on cotton, all internal duties on cotton piece goods (whether mixed with silk or not, but no piece goods entirely silk) or raw cotton, with the exportation [sic], exempt from duty on cotton piece goods, we wish to retain the impost upon the exportation of Raw Cotton to all places other than the United Kingdom to the extent now levied as Transit Duty, imposing a direct duty on such export equal to the present transit duty which we desire to abolish.' 1

Ellenborough repeatedly impressed on Bentinck the growing importance of cotton in the economy of Great Britain and India:

'I am sure you must be as anxious as I am to improve the cotton of India. It is everyday of more importance to us not only for Indian interests but English Independence.' 2

Soon afterwards Bentinck went to Bundelkhand, 'the great cotton growing district' of the north to get personally acquainted with the problem of improving cotton in India. The principle of soil assessment though in itself justifiable and reasonable, must have been actuated in some measure by the necessity of giving a premium on the production of cotton in India.

The Bombay Government had refused to adopt the Court's suggestion for a reduction in the revenue demand on the cotton-growing lands. Metcalfe considered the decision of

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1. Revenue Dispatch to Bengal, 27 Jan. 1830, 10, pp.379-89.
  2. Ellenborough to Bentinck, 15 May 1830, Colchester Papers, PRO. 30/9/4, part 5, 1.

the Bombay Government a right one. He feared that the orders of the Court would, in effect, lead to a serious loss of revenue and questioned the policy of 'abandoning the fair revenue of the richer products and exact in full from the poorer.'<sup>1</sup> It was intelligible, he said,

'if it were intended to promote the cultivation of a particular article by a premium and revenue were avowedly relinquished for that purpose, that would be a distinct proposition which might be considered in its own merits.'

In his opinion, however, this proposition was unnecessary and inexpedient.<sup>2</sup> Metcalfe's opposition to this measure was also based on a distinct principle which reflected his administrative ideas in general. To him political needs of the state appeared sacred and were of paramount importance. Needs of economy must remain subjected to the political exigencies confronting the British Government. The security and strength of the Empire was fundamental and came first before 'economical' and 'commercial' views could be respected. Land Revenue was 'the chief resource that maintains the state' and even if it tended to be high the government could ill afford its reduction.<sup>3</sup>

But apart from this argument Metcalfe suspected that behind the principle of reducing land revenue demand of the cotton growing lands was the anxiety of the Authorities at Home to procure cheaper raw material. Metcalfe declared that

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1. Minute, 29 June 1832, Beng.Rev.Cons., 27 Dec. 1832, 66.

2. Ibid., Also Minute, 17 Oct. 1831, Beng.Rev.Cons., 1 Nov. 1831, 5.

3. Metcalfe's Memo., 11 Oct. 1829, Colchester Papers, PRO. 30/9/4 part 2.2.

the price of commodities was regulated by the laws of supply and demand and lowering of land revenue would not necessarily make cotton cheaper. At any rate, he said it was not a sound economic policy to follow the practice of giving<sup>a</sup> premium to one article at the expense of others.<sup>1</sup>

Again he regretted that the duties on the import of British goods to India were reduced, while the Indian goods were debarred from entering European markets on account of heavy taxes on them. He believed that unless the restrictions were removed, no prosperity could be attained. He therefore advocated

'the abolition of those unjust distinctions which exclude the products of India from the markets of Great Britain and Ireland, the consequences of which abolition are at present incalculable, and may be immense.' 2

He was aware that British merchants would be affected by such a policy, yet in his opinion that was the only way of improving the financial condition of India, He said:

'The Sea Customs, now exceedingly low, are susceptible of improvement, but it can only be by levying higher duties on the trade with Europe, to which the merchants of England would object.' 3

In Metcalfe's opinion the expenditure of administration in India was enormous but there was little prospect of economising in this sphere. Besides the state revenue was not sufficient to support the expenses and 'judging from

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1. Metcalfe's Minute, 17 Oct. 1831, Beng. Rev. Cons., 1 Nov. 1831, 5.
  2. Metcalfe's Memo, 11 Oct. 1829, Colchester Papers, PRO.30/9/4, Part 2.2.
  3. Ibid.

past experience are not likely to become so.' He therefore suggested measures for a radical departure from the policy of protecting British interests at the expense of the Indian. Bentinck however did not agree with him in this regard. He did not think that the prospect of Indian revenue was so bleak,<sup>1</sup> nor was he disposed to adopt a policy of taxing British goods. He was fully aware of the attitude of the Directors and the India Board, besides he was himself inclined to follow that policy.

Evidently Metcalfe was arguing in favour of Indian interests. As an 'old Indian' he repeated often this theme of his. For instance, Metcalfe felt worried to see the approaching end of the Company's monopoly of trade with China, for the same reason. He exclaimed:

'Where will the East India Proprietors get their Dividends after the end of the monopoly? They cannot mean to take them from the Territorial Revenue?' 2

That the land policy relating to the cotton growing areas was actuated by the motive of acquiring cheaper cotton was quite manifest in the mind of the Authorities at Home. Metcalfe with courage opposed the policy of a search for raw cotton. His stand was vindicated when Auckland followed him in unreserved condemnation of the proclamation of the Bombay Government, which exempted cotton producing lands from all assessment for five years in Ahmednagar. Along with this,

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1. Marginal notes by Bentinck, Ibid.

2. Metcalfe to Bentinck, 16 June 1831, Bentinck Papers, PWJf. 1586. Even earlier Metcalfe observed that the Company's profits came from the China trade, thus supporting its finances. The India trade was a losing concern. Memo., 11 Oct. 1829, op.cit.

lands producing a particular variety of sugar cane were also declared free of assessment for five years, whereas an inferior variety of sugar-cane-cultivating land in Poona was to pay half the usual rent for a number of years. Auckland received the news with 'astonishment and regret'. He saw in it 'a seriously injurious tendency either to one Presidency, or to the Empire at large,...'<sup>1</sup> He strongly deprecated the policy of unequal distribution of tax burdens,

'the certain result of which is in themselves to do mischief and by absorbing revenue to cripple the general means of doing good, ...'<sup>2</sup>

and added:

'A bounty is a payment made by a Government at the expense of its own subjects [so] that foreigners may buy cheaper, and it taxes one class of its subjects for the immediate benefit of another.'<sup>3</sup>

It was in this context that the discussions on the question whether soil or crop assessment was desirable, were revived in 1830, and Metcalfe opposed these measures on those grounds.

In respect of the controversy whether land-assessment or crop-assessment should be regarded as the infallible criterion, he declared that the differences between the productive powers and the actual produce as the criterion of assessment were 'little more than nominal'. But

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1. Auckland's Minute, 30 Nov. 1836, Auckland Papers, B M. Add.MSS. 37709, f.171.
  2. Ibid., f.172.
  3. Ibid., f.173.



'the only true criterion of productive power is actual produce.... Actual Produce is a proof of productive powers.... Actual produce was the real basis of assessment, as well as the indispensable requisite for the realisation of revenue. It is the beginning and end, the alpha and omega of all settlements.' <sup>1</sup>

In yearly settlements it was the only safe criterion. In settlements for a term of years, it did not matter whichever criterion was adopted, since allowance must be made for accidents and circumstances that might affect the owner's ability to pay revenue.<sup>2</sup> No principle in this regard could be rigorously followed.

Land producing richer crops should pay higher rates, allowance having been made for ample return of the capital laid out for improvement of the soil. This would not be tantamount to taxing improvement, on the other hand, this would be a reliable criterion of assessment. Crop assessment was like taxing an income which was known and duly ascertained, whereas the land assessment could be 'fanciful' and 'ruinous' since it could be a tax on no income at all.<sup>3</sup> Bentinck on the other hand imagined that Metcalfe's proposition would virtually establish a property-tax of 'the most objectionable description.'<sup>4</sup> The best mode of assessment was to classify land according to its quality. This would not

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1. Metcalfe's Minute, 29 June 1832, Beng. Rev. Cons., 27 Dec. 1832, 66.

2. Ibid.

3. Ibid.

4. G.G.'s Minute, 2 Jan. 1832, para.37, Beng. Rev. Cons., 27 Dec. 1832, 48.

lead to a loss of revenue because the lands producing richer crops would be classed as lands of higher quality and charged a higher rate, thus allaying all fears of any loss of revenue. Besides it would lead to general prosperity.<sup>1</sup>

Nevertheless, in the midst of these seemingly irreconcilable differences, Metcalfe and Bentinck agreed with each other on many vital points. Bentinck ultimately admitted that the term 'revenue' was more appropriate than 'rent' or 'tax' to be applied to the public demand.<sup>2</sup> That land was not like a commodity reacting in all respects to market behaviour. He also realized that

'it was extremely difficult to proceed from the detail to the aggregate and to fix the amount of the public demand with reference exclusively either to actual produce or the capabilities of individual field, and in all assessments, on whatever principles founded, the average collections of former years must form the practical basis of settlement where the natural course of agricultural prosperity has not been obstructed and cultivation has reached its proper limit, no better criterion than this would be desired.'<sup>3</sup>

This appeared a perfect portrayal of Metcalfe's views.

Bentinck further agreed that 'it is impracticable also to fix an invariable standard of demand even on net produce.'<sup>4</sup>

A series of enquiries and the discussion which followed between 1830 and 1833, before the enactment of Regulation IX of 1833, convinced Bentinck that a more summary

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1. G.G.'s Minute, 2 Jan. 1832, paras. 18, 35-40, Ibid.

2. G.G. to Sadr Board on Deputation, 20 July 1831, para.5, Beng. Rev. Cons., 1 Nov. 1831, 4.

3. Ibid., para.3.

4. Minute, 26 Sept. 1832, para.11, Beng.Rev.Cons., 27 Dec. 1832, 79.

and a simpler mode of settlement than that adopted under the Regulation VII of 1822 was required, for ascertaining and recognizing the land tenures and for a speedy and equitable assessment of land revenue. He reviewed the whole history of settlement operations in the Western Provinces in his masterly Minute of 26 September 1832 endorsing and confirming much of the views of the Sadr Board of Revenue at the same time following Metcalfe's advice. He summed up the principles of the revised plan of settlement as follows:<sup>1</sup>

1. 'The assessment to be fixed on an ascertainment in the aggregate of the cultivated area of each estate, and as observed in the Minute of the 29th February, a general acquaintance with the advantages possessed by each village as regards fertility, position, population and any other matter which require to be taken into consideration when regulating the Government demand.
2. 'The apportionment in detail of the assessment so fixed to be left to the village communities or the Zemindars, and the preparation of records of lands in detail to be exacted from the village accountants.
3. 'Existing institutions to be maintained and prevailing systems of village management not to be interfered with except for exceptional reasons.'
4. 'All the parties to be secured in the enjoyment of whatever rights and privileges they may be in possession of or establish a claim to, subject to the limitations above noted; but no new rights to be created and all cultivators who hold as mere tenants-at-will to be left to make their own bargains as heretofore.'
5. 'The professional survey to be substituted for the native ameen establishment.'

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1. Ibid., para.99.

The Settlement Conference held at Allahabad on 21, 22 and 23 January 1833 presided over by Bentinck deliberated upon and confirmed these propositions. The decisions that emerged were incorporated in the Regulation IX of 1833. The new enactment substantially modifying the provisions of Regulation VII of 1822 set forth:<sup>1</sup>

1. That 'so much of Regulation VII of 1822 as pre-scribed or has been understood to prescribe, that the amount of Jumma to be demanded for any mehal shall be calculated on an ascertainment of the quantity and value of actual produce or on a comparison between the costs of production and value of produce is hereby rescinded.'
2. The judicial issues of settlement was to be determined by a panchayat or arbitration, to be appointed by the Collector on the failure of parties concerned to produce an award within the time specified. The decision of the panchayat was to be final and was to be immediately executed.
3. The office of Deputy Collector was thrown open to Indians of any class or religious persuasion.

Other clauses dealt with the task of expediting the survey and settlement proceedings and confirmed the principles as laid down by the Governor-General in his Minute of 26 September 1832.

A lone voice, that of Alexander Ross, a member of the Supreme Council protested against the modification of 'the sound principle' of assessment based on the net produce criterion.<sup>2</sup> Metcalfe gave his concurrence to the principles enunciated by Bentinck since, according to him, the new plan of settlement

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1. Draft Regulation of 1833, passed on 9 Sept. 1833, Beng. Rev. Cons., 9 Sept. 1833, 37.

2. Minute, 27 July 1833, Ibid., 36.

'contemplated for the most part a village settlement for a considerable term of years, a mode of settlement for the Land Revenue of which I have always been an advocate,...'.<sup>1</sup>

It is true that Metcalfe's proposal for the maintenance and non-interference in the concerns of the village communities was accepted. Also the settlement now was to be made on general considerations, avoiding the meticulous calculations as envisaged by Regulation VII of 1822. In all this Metcalfe's contribution was considerable indeed. Yet the plan went far beyond Metcalfe's propositions. A distinct record of all contracts and engagements that might have passed between the landlords and the tenants was to be maintained to protect the latter from exploitation. In the zamindari villages, the sadr malguzars were to furnish to the government a copy of the rent-rolls, with<sup>a</sup> detailed statement of the amount which the asamis or the hereditary tenants agreed to pay.<sup>2</sup> In cases of villages, where no 'middlemen' were to be found, the lands which were parcelled out in separate tenures among the inhabitants, a record of similar nature was to be kept in order to prevent exaction on the part of the mukaddam or lambardar. In the circular of Instructions sent by the Sadr Board of Revenue in the Western Provinces to all Commissioners, after the passing of the Regulation IX of 1833, attention to these questions was specifically drawn and the Commissioners

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1. Minute, 15 Nov. 1832, Beng. Rev. Cons., 27 Dec. 1832, 92.

2. G.G.'s Minute, 26 Sept. 1832, paras. 61, 68. Beng. Rev. Cons., 27 Dec. 1832, 79.

were asked to take immediate steps for their implementation.<sup>1</sup> Metcalfe was averse to the process of recording separately the shares or rights of the members of the brotherhood, but he was not opposed to this procedure in the case of the raiyati villages of the Madras type since recording of the rights of each ryot was basic to it. But it should not be supposed that the Regulation IX of 1833 contemplated a recording of rights of all classes of the cultivating community. R.M.Bird had asked for the definition of rights of the resident or hereditary ryots, as well as <sup>of</sup> others if possible.<sup>2</sup> But Bentinck had refused declaring that the government did not regulate the rights of industrial labourers, and there was therefore no necessity of legislating on behalf of agricultural labourers.<sup>3</sup> Only pattas or certificate of lease were to be granted to the hereditary ryots. The recording of the rights was to be done in the case of the sadr malguzars or village headmen, or those with whom the government engaged for revenue.

Bentinck's scheme of settlement in principle was indeed a comprehensive and all-pervasive one, touching and protecting all interests connected with the soil. Metcalfe, while passionately advocating the indestructible rights of the village communities, had overlooked or under-estimated the rights of others. Then there were villages which were

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1. Revised Circular of Instructions, Beng.Rev.Cons., 9 Sept. 1833, 38.
  2. R.M. Bird's Note on Resident Ryots, n.d. Beng. Rev. Cons., 27 Dec. 1832, 84.
  3. Bentinck's Minute, 26 Sept. 1832, para.67, Ibid., 79.

owned by the village communities but were not cultivated by them since they inhabited other villages.<sup>1</sup> Since 'proprietary right unconnected with cultivating rights' did not exist, was it to be supposed that the rights of the village communities in these cases were ipso facto cancelled? There were also instances of a village community having cultivated the entire village without claiming the proprietary right in it.<sup>2</sup> Furthermore, the Sadr Board of Revenue emphasised that a class of 'middlemen' existed at various places in the Western Provinces, whose origin could be traced far beyond the period of the British conquest.<sup>3</sup> Obviously, they did deserve recognition. Metcalfe had vehemently condemned the permanent settlement for having swept off the rights of the cultivating community, but in his anxiety to advocate the rights of this class, he failed to see the irony of his proposal which, if implemented, would have led to similar sweeping confiscations. Bentinck therefore recognized 'the existing institutions', meaning thereby tenures of all kinds inclusive of the village communities thus disregarding fundamental precepts of the Utilitarians. Metcalfe and Bentinck both admired the village institutions, and their measure saved them from spoliation. Metcalfe was happy that the self-governing institutions were also saved. Twenty-five years later when J.S. Mill drew his Memorandum in praise of the achievements of the East India

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1. Holt Mackenzie's Memorandum, 19 Oct. 1826, paras. 93, 57, 172; SRR.N.P., 2, pp. 104, 99, 111.
  2. Ibid., paras. 91, 93, 172, Ibid., pp. 104, 111.
  3. G.G.'s Minute, 4 Sept. 1833, Beng. Rev. Cons., 9 Sept. 1833, 60.

Company's administration in India, he maintained that the survival of the village communities was one of them.<sup>1</sup> In several ways Metcalfe and Bentinck had agreed with each other and the revised scheme of the settlement of 1833 was a compromise between their views.

In the new scheme the Ricardian principles had been either altogether rejected or considerably diluted. Another subject that received the consideration of the government related to the tenure of the settlement. When Metcalfe became Governor of Agra, which so far was known as the Western Provinces, for a few months between November 1834 and March 1835, he proposed that the revenue demand as corn rent should be fixed for ever. In his judgement this policy was expedient and the cultivation had reached the margin of maximum production, to demand such an action.<sup>2</sup> This showed the vigour and resilience of Metcalfe's mind and action. Hobhouse, the President of the Board of Control thought that Metcalfe was 'differing with himself'.<sup>3</sup> But Metcalfe was not opposed to a permanent settlement provided it was made with the village zamindars.<sup>4</sup> Bentinck supported Metcalfe and declared that the British Government in fact was pledged to fix an unalterable demand.<sup>5</sup> Thus the Ricardian concepts received

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1. J.S. Mill, Memorandum of 1858, pp.10-11.
  2. Metcalfe as Governor of Agra to Court, 28 Feb. 1835, Bo.Coll. 63873, Vol.1559, pp.9-11.
  3. Hobhouse to Auckland, 26 Jan. 1837, Broughton Papers, Home Misc. Series, 837, p.171.
  4. Minute, 29 June 1832, Beng. Rev. Cons., 27 Dec. 1832, 66.
  5. Bentinck's Minute, 19 March 1835, Bo.Coll. 63873, Vol. 1559, pp.13-19. Bentinck held exactly the same views in 1804, see below Chapter 4, pp. Bentinck to Petrie, 8 Nov. 1804, Bentinck Papers, PWSb, [File boxes, 343-584].



another significant jolt. Metcalfe arguing from the Indian viewpoint had opposed the cotton policy, considering it to be injurious to the Indian interests. Also he approached the problem of European colonization from a different angle and saw in its adoption a sure mode of economic advancement of India.

Chapter IVThe Delhi System : Judiciary, 1806-1827

The supreme object of the judiciary, in Metcalfe's opinion, should be the protection of the community. An efficient judiciary, by administering prompt and impartial justice, guaranteed security of life and property to the people. But efficiency was only possible of achievement when the laws and the machinery employed to enforce them, were simple, free from artificial and cumbersome procedure and easily accessible to all. Metcalfe believed that the judicial system as set up by him in Delhi during his residency between 1811 and 1818 fulfilled these aims. The Delhi system was simple and seemed to have served the purposes of the society for whose benefit and security it was established. No institution, however perfect it may be in theory, could be beneficial unless it was in harmony with established tradition. It must have its roots in the soil. The indigenous system therefore, he observed, should be preserved if it did not militate against reason, justice and humanity. A new structure could also be created on the old foundations. By accepting these aims Metcalfe in some respects followed in the footsteps of Warren Hastings who appreciated the intrinsic merits of the native tradition in administration. But it was not so much the love of the past, as its utility that prompted him to adopt the Indian system.

With the breakdown of the Mughal administration in

the later half of the eighteenth century, the Delhi territory was in a state of chaos. The Mughal emperor ever since Nadir Shah's invasion had reigned only in name, but was in fact, without an empire or authority. The law of the sword had become the law of the land. Each village had become 'a state in itself' ready with its armed bands to fight for its survival either against the Maratha plunderers or the oppressive amildars. The community having lived for years in such unsettled conditions had lost the virtues of obedience to the laws of civilized society and the authority of the state. When Metcalfe came to Delhi first as a young Assistant in 1806 and later as Resident in 1811 he found that each village virtually was 'a den of robbers'. His first experiences of Delhi left a deep mark in his mind. He realized that revenue was collected not in the name of the Collector or under the regulations but by means of military force. Law and order was maintained only by the power of the ruling authority. The rough and independent manners of the Jats which had pleased Bishop Heber in 1824 must have been of a much grosser sort at the beginning of British rule in Delhi. Heber did not fail to notice that the barkandazes or police troopers sat their horses better and had a martial air about them, a quality which was absent in men of similar situation in the Doab and Rohilkhand.<sup>1</sup>

The situation of the territory facilitated the growth

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1. Bishop Heber, Narrative of a Journey, 2, p.395, 1, p.576.

of lawless conditions. The boundaries of as many as 23 states met with those of the Delhi territory. Some of the states were independent of British rule while others, though they owed allegiance to it, enjoyed full freedom in internal administration. The roads from Delhi to Karnal, Rewari, Hansi (the towns inside the jurisdiction of Delhi, not to speak of Mathura and other adjoining towns) passed through a number of territories over which Delhi had no control whatever,<sup>1</sup> Delhi was obliged to depend upon their good offices for tracking down the criminals in their jurisdiction. As a result, the lawless elements passed from one place to another with impunity. Under such hazards an effective plan of apprehending criminals had to be discovered and a judicial system at once efficient in maintaining peace and prompt in imparting justice had to be devised. Metcalfe therefore decided to establish a strong government, allowing wide discretionary powers to his assistants uniting in their persons the functions of Collector, judge and magistrate, thus conforming to the native traditions. The cardinal virtues of the system were avowedly economy, efficiency, speed and simplicity.

The formal and legal judicial procedure of the

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1. Metcalfe's Judicial Report, 12 Dec. 1815, paras. 28-30, Beng. Civil Jud. Cons. (L.P.), 12 Aug. 1817, 44. The territories of the following chiefs touched and intersected the Delhi territory: The Nawabs of Kunjpura, Dadree, Narnool; The Sardars of Thanesar, Ajamgarh; the Rajas of Jhind, Patiala, Nabha; the Bhai of Kythal; the Rajas of Bikaner, Jeypur, Khetri, Alwar, Macheri, Bharatpur; the Khan of Bhattis; the Thakurs of Shahjahanpur, Bassau; the Plunderers of Sidmuk, Bahadura, Dwdra; Nawab Ahmed Buksh Khan and Begum Samroo.

Regulation system was considered unsuitable to a society composed of the simple, rough and tradition-ridden village communities. Besides, the political duties of the Resident were numerous and consumed an enormous amount of time so that there was hardly any scope for an elaborate judicial process. The Resident was in charge of relations with Ranjit Singh and the Sikh Chieftains of the Cis-Sutlej region. The Rajput states in the south were as yet independent and it was Metcalfe's duty to bring them into the political system of the British Empire. This meant incessant diplomatic activity at Delhi. By 1817-18 the Rajputs accepted the British suzerainty, an achievement that was primarily Metcalfe's.

Moreover, the finances of Delhi did not warrant an expensive machinery of administration which the Regulation system necessarily demanded. For the first time in 1813-14, the gross revenues of Delhi showed a surplus. The expenses charged against the revenues were those incurred in the revenue and judicial departments and the allowances granted to the royal family at Delhi. Expenditure relating to political and military establishments was considerable and Metcalfe did not see the possibility of meeting <sup>it</sup> ~~them~~ from the internal resources. This might be possible in future, he thought, if the canal waters replenished the territory and more jagirs were resumed; until then the territory would, financially

continue to be a liability rather than an asset.<sup>1</sup> In 1818-19 the charges increased to Rs.354,376-3-8 commensurable with the increase in receipts which amounted to Rs.26,89,341-0-3.<sup>2</sup> When the Board of Commissioners in the Western Provinces took over the territory under their supervision, their expenses in 1824-25 went up by Rs.8,35,805 as compared to the charges of 1818-19.<sup>3</sup>

In principle, a simple and quick justice was preferable to a legal justice full of forms. The dictum that even short injustice was better than protracted justice had much relevance in Indian conditions. Distance, expense and inconvenience involved in procuring justice reduced the utility of delayed though correct justice. To Metcalfe, 'the regulations of 1793' did not appear to be an embodiment of 'all perfection',<sup>4</sup> on the contrary, he favoured a scheme which was quite opposed to the Cornwallis system.

By 1811 or so the Cornwallis system had come under repeated fire owing to the defects which had been exposed in the course of its working. Metcalfe was at this time in the process of establishing a system of administration in the

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1. Metcalfe to Beng. Govt., 15 Oct. 1814, Beng.Rev.Cons., 5 Nov. 1814, 59.

Total gross receipts of land revenue, excise & customs,		Rs.16,46,289- 6-10
1813-14 - Ordinary charges		1,72,033-13- 5
Royal allowances		12,00,000- 0- 0
Surplus		2,74,255- 9- 5

2. Fortescue to Beng.Govt., 8 June 1820, Beng.Rev.Cons., 7 July 1820, 27.

3. Revenue letter from Bengal, 4 Oct. 1827, Vol.14, pp.410-435.

4. Private letter, Metcalfe to [?], 14 Oct. 1819; Kaye, Papers of Metcalfe, p.150.

Delhi territory. But the foundation of the administrative structure and the principles of the system had been already laid by the Governor-General-in-Council. In 1805 the Delhi Resident had been given considerable powers in all branches of administration. As the head of the territory the Resident was vested with political, revenue and judicial powers and acted under the direct control of the Governor-General. One civil servant assisted the Resident in superintending the collection of revenue and the administration of justice. He was expected to send periodical reports to the Governor-General and received instructions from him.<sup>1</sup>

However, by the time Metcalfe took over as Resident, the business in the territory had increased. In 1813 therefore, Metcalfe had four assistants, each one of whom was in charge of a separate department. The branches of administration then were: Revenue, Police, Police and Criminal Justice of the City and Civil Justice of the city.<sup>2</sup> In 1816, Metcalfe asked for the sanction of six assistants, each assistant having again an exclusive charge of a department. The departments were: Revenue Inclusive of Customs and sair<sup>3</sup> duties, Political, Police, Criminal Justice and Police of the City and Civil Justice. One assistant was kept on reserve for miscellaneous duties and to fill any leave vacancy. But this was not a part of his permanent scheme. As early as 1815 he

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1. Beng. Govt. to Ochterlony, 23 May 1805, Bo.Coll.4432, Vol.196, pp.104-107.

2. Metcalfe to Beng. Govt., 11 Mar. 1813, Beng. Rev. Cons., 27 Nov. 1813, 34.

3. Sair = The term denotes the remaining or all other sources of revenue accruing to the government.

reported that the territory would have to be divided into smaller areas with the increase in population, prosperity and administrative business. Each sub-division then would be placed under a European assistant who would combine the functions of collector, judge and magistrate.<sup>1</sup>

In 1819 after his departure his plan was put into practice. Thomas Fortescue who succeeded Metcalfe at Delhi in 1819 as Civil Commissioner was educated in the regulation system all his life, yet he unhesitatingly abided by the government instructions to re-organize the territory according to the plan of Metcalfe. The territory was divided into four zones and was re-divided into five in 1823. Each zone was placed under an assistant having all powers combined in himself. Metcalfe had delegated much of his power to the assistants following the principle as he defined it himself:

, 'Union not division should be the order of our rule, confidence not distrust should be the engine to work with.' 2

The assistants exercised wide discretionary powers and worked under his authority and control. They were assisted by Hindu and Muslim law officers in the administration of justice; in revenue matters they were aided by tahsildars and his assistants. The tahsildar's job was confined to the collection and management of revenue in his jurisdiction, without having any police duties to perform. Just as

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1. Metcalfe's Judicial Report, 12 Dec. 1815, paras. 69-85.  
op.cit.

2. Private letter, 29 June 1820, Kaye, Papers of Metcalfe, p.151.



tahsildari establishments had been placed at suitable places throughout the territory, similarly a police thana or post under an Indian police officer was established at each pargana under the direct management of Edward Gardner, the second assistant. The total expenditure on the native police establishments in the territory as a whole amounted to Rs. 3,189-8-0 per month.<sup>1</sup>

Fortescue as required by the government attempted to regulate the conduct of the assistants by means of a summary of regulations which he prepared himself with great pains. Yet in effect, the success of the system depended upon the individual who held the office. It was an informal system of administration where men ruled unhampered by forms and ceremonies of regulations. Also it envisaged a strong executive government, the basis of which was union of powers and unity of command.

The Delhi system not only conformed to native tradition but was also consonant with the Munro pattern in Madras. With the inauguration of the permanent settlement and the Code of 1793 in Bengal, Cornwallis wished to extend the same principles to Madras and Bombay. But the Madras government, while still engaged in acquiring more information of the land tenures in their territory, were reluctant to adopt the plan immediately. It was Lord Wellesley who with his usual vigour

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1. Metcalfe to Beng. Govt., 3 Dec. 1812, Beng. Crim. Jud. Cons., 24 Dec. 1812, 37.

pushed the Bengal principles into Madras during his tenure as Governor-General. Between the years 1801 and 1805, the Northern Circars, the Jaghir, the Pollam Lands, Salem, Ramnad, Dindigal and Kishnagiri were settled in perpetuity with the zamindars. In most of these places, the lands were divided into lots and sold to those who came forward to buy the proprietary right in the soil.<sup>1</sup> Meanwhile a new experience was being gained in the Baramahal Districts which were acquired from Tipu Sultan in 1792. Captain Alexander Read with the help of three military officers, one of whom was Thomas Munro established a ryotwar settlement, so-called because it was based on the principle of assessing each field of the ryots. This system was extended to the Ceded Districts and Canara by Munro. In 1806, in his well-known report Munro explained the principles of the ryotwar settlement which attracted the attention of the Court of Directors.

While the ryotwar plan was recognized to be the work of Munro, the policy of adhering to the indigenous system of administration was originally not his, nor should it be regarded as an essential corollary of the former. Although the process of Europeanisation had already started during the period of Warren Hastings, yet he and many under him were of the view that Indian methods and institutions with suitable modifications should be used in administration. The union of functions was the foundation on which the Indian traditional system was based. The Madras government, even during the

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1. Firminger, Fifth Report of 1812, i, pp.314-15, 217.

Governor-Generalship of Cornwallis had issued a regulation on 24 June 1791 authorising the Collectors to be in charge of 'the revenue as well as justice'. These instructions were re-issued by Lord Hobart in 1794.<sup>1</sup> As Governor of Madras from 1794 to 1798 he had sanctioned the Munro plan of revenue management and had advocated the continuance of the Indian system. Later when he became the President of the Board of Control as Earl of Buckinghamshire in 1812 he continued to support the same policy. Munro fully conversant with native customs and languages had toured Baramahal as Collector, moving from one village to another assessing lands, hearing complaints and dispensing justice unhampered by forms and regulations.

However, when Metcalfe was first assistant in Delhi he was in charge of revenue matters having little to do with the administration of justice, although he was political adviser to Seton. But later when Metcalfe became Resident of Delhi he allowed William Fraser not only to settle the revenue demand of the government but also to hear complaints and resolve the village disputes while Fraser was on tour. In Madras, however, Munro's plan was not put into practice immediately since Sir George Barlow, as Governor of Madras, after the departure of Bentinck introduced the Bengal Judicial Code in 1807.

It is interesting to note that Bentinck as Governor

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1. Fifth Report, op.cit., pp.179-180; Regulation, 24 June 1791, Ibid., 3, Appendix 15, pp.140-149.

of Madras from August 1803 until September 1807 had watched Munro develop the principles of his system but with little enthusiasm. Although Bentinck agreed with Munro and William Thackeray, a revenue officer of great ability and distinction and a disciple of Munro, that the policy of creating proprietors where none existed was politically unwise and unsuitable to the country under his charge, yet Bentinck was not a convert to Munro's system. He feared that the rights of others might be violated by the arbitrary creation of zamindars, consequently threatening the peace and depressing the lower classes of the agricultural community, and therefore he agreed with Munro.<sup>1</sup> Expediency thus determined his policy, in principle and faith his allegiance to the Cornwallis system was undoubted and profound as his private letters show. As an administrator he succumbed to the dictates of necessity, restraining, even sacrificing his faith. In a letter to his father, the Duke of Portland he regretted that the Collector in Madras still enjoyed

'... despotic power. In the same person has been vested the duties of assessing and collecting the revenue, the authority of both magistrate and judge & the right of executing his own decrees.' 2

But he was happy that

'... a new order of things has been introduced a blessing which this country owes to the wisdom & benevolence of Lord Cornwallis and for the first time the unfortunate people are likely to enjoy something like civil liberty

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1. Fifth Report, op.cit., 1, p.308.

2. 3 Feb. 1805, Bentinck Papers, Letter Books, FWJb.723.

by which, I mean security of person & property.'<sup>1</sup>

In fact his belief in the soundness and efficacy of the Cornwallis system was more profound than it is usually supposed. He wished

'... to establish a uniformity of system in every Department under this Government with that of Bengal.... I think we can't do better than follow the example of the Supreme Government. Particular local circumstances may occasionally render the same rules inapplicable but I am satisfied that it will be in general found that no deviation need be made.'<sup>2</sup>

Bentinck indeed was a whig and remained so all his life.

The Delhi system which drew inspiration from the indigenous source was given a fresh vigour by Metcalfe. He preferred a structure in which the head of the executive united all powers and functions. At the district level he wished to have European officers acting under the immediate control and supervision of the superior authority. In his opinion, this system was better than the system based on separation of powers. It avoided collusion of authority and precluded intrigues of individuals. Besides, it was efficient, prompt and economical.<sup>3</sup> Twenty years later, in praise of the administration as established by himself in Delhi, he observed:

'Completeness of control and unity of authority were the remarkable parts of the Dihly system of administration as distinguished from that which prevailed in other Provinces....'<sup>4</sup>

1. Ibid.

2. Bentinck to Sir George Barlow, 8 March 1806, Bentinck Papers, Letter Books, PWJb, 726.

3. Minute, 23 Aug. 1830, Beng. Rev. Cons., 31 Aug. 1830, 36.

4. Ibid.

In fact this was the system or something very like it which was frequently adopted in the territories newly acquired from the Indian Chiefs in the initial stages of their administration.

Owing to a variety of factors and influences the Authorities at Home favoured the Munro system. Munro's stay in England between 1808 and 1814 was partly responsible for the change of attitude in favour of his system.<sup>1</sup> During this period he came in close contact with many influential members of the Court and the Board and impressed on them the impolicy, even a risk of following the Bengal system as a principle of government in India. The Fifth Report of 1812 categorically stated that all was not well with the Cornwallis measures. The ever-increasing arrears of suits pending trial at various courts, the abnormal rise in the incidence of crime in Bengal, created suspicions in their minds about the practicability of the Cornwallis principles. A natural question was asked whether it was not worthwhile giving a fair trial to the Madras system. The Earl of Buckinghamshire who was President of the Board of Control from 1812 until his death in 1816 vigorously lent his support to Munro. He had seen and supported Munro in his work in Madras when he was its Governor between 1794 and 1798. James Cumming, an exceptionally able official held a position of importance at the Board's office as the head of the revenue and judicial

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1. Philips, East India Company, p.202.

department from 1807 to 1823. It was Cumming who wrote the Madras part of the Fifth Report of 1812. Being in touch with Munro and convinced of the suitability of the system as advocated by Munro, he exercised considerable influence in favour of its adoption. Canning succeeded Buckinghamshire in 1816 at the Board. Apprehensive of the Bengal principles which in the main drew inspiration from the English system, he thought that there was no comparison between European and Indian situations; hence European ideas could not be applied everywhere on the grounds of their superiority as a principle alone.<sup>1</sup> Contrary to the Board's views the Court of Directors favoured the Bengal principles. Although the Court had sent the famous judicial dispatch of 9 November 1814 enjoining that the Bengal government be guided by the Madras experience, thus forbidding them to apply the principle of separation of powers or the policy of entire dependence on the European agency, yet they were not convinced of the superiority of the union of powers as a principle of administration. An omnipotent collector, if indiscreet, in their opinion 'may plunder the country worse than a Maratha Army'.<sup>2</sup> Nevertheless the Court as urged by the Board continually asked the Bengal authorities, ever since 1814, not to adopt a principle for its own sake. They confessed, however, that an advocacy on their part of a policy of uniting the functions of collector

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1. Canning to Court, 16 Aug. 1817, Letters from Board to Court, 4, pp.452-3. Philips, East India Company, p.212.
  2. Correspondence between Court and Board, 3, 2 Aug. 1817, pp.436 and 438.

and magistrate in one officer was the outcome of the need of economy and expediency, although they held the principle of division of judicial and executive and fiscal duties as a sacred one.<sup>1</sup> However, with the arrival of Elphinstone in Bombay in 1819 and Munro in Madras in 1820 as Governors, the future of the Munro system was assured. Metcalfe was applying those principles in Delhi as well.

No doubt the principles of the Delhi system militated against the Cornwallis system. But it had its justification. The laws were simple, so was the procedure. The people understood them well and were used to them. No innovation had been made. As was the practice in Bengal Mohamedan law without its barbarous punishments was applied to criminal cases. In civil cases rules had been framed but technicalities and forms were avoided.

In Bengal, the abnormal increase in the mass of litigation was attributed to the Permanent Settlement. The law of sales, boundary disputes, and cases connected with the rights, tenures and interests of various classes of proprietors and occupiers of land were universally acknowledged to be the real causes of litigations as well as of the breach of peace.<sup>2</sup>

Delay in dispensing justice as a serious evil had become proverbial in Bengal. Inconvenience of travel, the expense involved in protracted trial, the miserable plight of the plaintiffs, defendents and witnesses alike, who came

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1. Revenue Dispatch to Bengal, 15 Jan. 1819, paras.79-81.

2. Judicial Dispatch to Bengal, 9 Nov. 1814, para.35;

Judicial Letter from Bengal, 27 Feb. 1827, paras.116,133.



from long distances neglecting their cultivation, the only means of subsistence for them, were difficulties which added to the seriousness of the problem.

The inadequacy and the defects of the judicial system as established by Cornwallis resulted in overwhelming the courts with business. The arrears of undecided suits continued to accumulate at an alarming rate. In 1792 the number of civil suits pending decision stood at 60,000. This had increased to 121,453 on 1 January 1807. Six years later 142,406 cases were still pending trial.<sup>1</sup> Most of these cases related to land, rent and undue exactions on the part of zamindars. It was reported that a general system of rack-renting and oppression prevailed in many districts and the courts were flooded with complaints as a result. But the law took its own course without giving a speedy remedy. A munsif who decided ten cases per month on an average had still 2,000 to deal with.<sup>2</sup> When cases had awaited hearing for years, the patience of the aggrieved parties was bound to be exhausted. In desperation they usually took the law into their own hands. Thomas Fortescue reported in 1812 from Allahabad an instance in which a thousand persons 'fought a battle' over a dispute for a few bighas of land, leaving ten dead and many wounded. A discriminating collector 'on the spot' might have decided such cases probably to the satisfaction of all.<sup>3</sup> Bayley who was judge and magistrate of Bardwan in 1811 observed that

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1. Judicial Dispatch to Bengal, 9 Nov. 1814, para.3.

2. Ibid., paras. 8,9,10.

3. Ibid., paras. 26, 33.

unless cases affecting the rights of possession to disputed crops, boundaries and water-courses were settled immediately, violence and breach of peace would certainly result from them. Even the summary suits for rent had been pending for years at many places.<sup>1</sup>

In Delhi the complications arising out of the law of sales and disputes regarding the tenural rights did not arise at all. The rights in the soil were fairly understood in Delhi. The village communities were confirmed in their possessions of land and their rights were duly recognized and declared sacred and inviolate. No new rights had been created. Hence there was no question of violating the rights of others. Thus there was no scope for unnecessary litigation. Since the rights of the members of the co-sharing brotherhood were secure and properly understood and recognized by all, the disputes which arose from time to time were such as could be easily solved in the village assemblies. In case of failure to reach an agreement, the assistants lent their good offices in bringing about amicable settlement amongst them. All matters relating to rent, sale, mortgage of the village lands were decided by the village assemblies themselves. No transfer or sale could take place without the common consent of the village. In a legal sense, it was difficult to distinguish the rights in clear terms from the mass of customary laws which regulated the life of the society in Delhi. The

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1. Judicial Dispatch to Bengal, 9 Nov. 1814, paras. 21, 28.

communal ownership of land, according to Mill, reflected a primitive state of existence both in terms of economic enterprise as well as the definition of the rights of an individual.<sup>1</sup> But Metcalfe was not prepared to break violently with the past nor was he in full agreement with the notions of property as propounded by some people, irrespective of the context of prevailing institutions in India. At any rate the voluminous codes were not meant to be introduced in Delhi at this stage since their adoption presupposed a certain level of advancement. He maintained, however, that his system at Delhi imbibed in essence the spirit of the Regulation system, besides being open to all influences which might be suitably employed for improvement of the system. It also derived lessons from the mistakes of others and avoided them.<sup>2</sup>

Village disputes generally were decided by panchayats. If civil cases of some importance came up they were settled by arbitration.<sup>3</sup> The object and the proceedings of both were similar. Panchayats properly speaking were convened to decide issues relating to the same caste group, whereas arbitration was meant for all irrespective of distinctions of caste, clan and religion. William Fraser developed the system of panchayat partly on the principle of a jury. By this method he decided as many as 300 cases of boundary disputes to the

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1. Mill, British India, 1, p.257.

2. Metcalfe's Minute, 23 Aug. 1830, Beng. Rev. Cons., 31 Aug. 1830, 36.

3. Fortescue's Judicial Report, 12 May 1820, para.69, Beng. Civil Jud. Cons., (W.P.), 29 Dec. 1820, 3.

satisfaction of all. The boundary disputes generally occurred between two villages or the communities of two villages. In such a case the heads of the contending villages, acting for and in the presence of the whole body, nominated six members on each side thus making the number of the members of the jury to twelve. These members were selected from amongst the respectable persons of the villages of the same pargana or local sub-division. The right of challenge was freely allowed and the jury was required to be unanimous. William Fraser was of the opinion that this body was above the party interest and could not be intimidated. Their decision was usually satisfactory and respected by all.<sup>1</sup>

These panchayats sprang from the people themselves. They regulated all matters connected with their security and rights. When disputes in a village occurred a panchayat was summoned. The number of the members of the panchayat differed according to the seriousness of the case. In ordinary cases one or two headmen, friends or neighbours of the party formed the panchayat. In important matters, or when the party was not convinced, more were called in, sometimes the whole village zamindars sat down to decide the case. Usually the decisions were reached with great fairness and charges of injustice or impartiality against the tribunal were not usually made.<sup>2</sup>

Cavendish also reported that it was not easy to

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1. Holt Mackenzie's evidence, 16 March 1832, 212, P.P. Minutes of Evidence, 1832, IV, Judicial, pp.23-24.
  2. Fortescue's Revenue Report, 28 April 1820, paras. 206-219. Beng. Rev. Cons., 13 Nov. 1820, 26.

deceive the panchayat since the character of the suspected persons was well known to the members of the panchayat; also they were fully acquainted with the circumstances in which the offence was committed. Of course there were some loose characters who might defy the decisions of this body, hoping that the case ultimately might go to the courts.<sup>1</sup> But such instances were rare. Besides the village zamindars had the means of compelling the wrong doers to obey them. Moreover the village practised a code of honour and those who rebelled against the verdict of the tribunal would have to face disgrace.<sup>2</sup>

Although precise rules for conducting business in these tribunals were not to be found yet, Fortescue argued that no attempt to regulate these bodies by rules and forms should be made. Their laws and the principles were fairly established and understood although to a distant observer they might appear vague.<sup>3</sup>

At the city, there were three gradations of civil courts, the sessions of which were held at Delhi. The lowest court was the Court of Petty Suits which was placed under the native commissioners. They had original jurisdiction over cases involving not more than Rs.100, and summary jurisdiction on amounts not exceeding Rs.10. These courts were useful and did enormous business. Between 13 May 1811 and 10 July

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1. Cavendish to Metcalfe, 23 Oct. 1826, paras. 13-16, Bo. Coll. 30949, Vol.1211, pp.66-7.
  2. Fortescue's Revenue Report, op.cit., paras. 208-211.
  3. Ibid., paras. 217 -219.

1815 they decided as many as 8,559 cases; 102 cases were under trial and 667 were awaiting trial on 12 July 1815. The Mohamedan and Hindu law officers attached to the criminal courts at Delhi performed the duties of this court as well, in addition to their duties as law officers. Metcalfe wished to establish these courts in all towns in the territory, but the expenses involved in such a move deterred him from doing so. He fully realised their value and necessity, but on second thoughts postponed their establishment, since the civil courts usually provoked more litigation.<sup>1</sup> The higher court known as the Court of Ordinary Suits was presided<sup>over</sup> by the European Assistant who was empowered to take cognizance of suits involving any amount. The Resident's Court which was the highest civil court was normally an appellate one but he also tried cases in the absence of the Assistant. When Delhi was divided into four zones in 1819, the Assistants Courts were stationed at their respective headquarters and were likewise assisted by the amins in charge of petty suits. Until then one European Assistant was exclusively in charge of the civil court at Delhi. A striking feature of the civil judicature related to the debtors. A debtor having once undergone imprisonment for his failure to pay off the debt was still required to discharge the old debt when he had acquired sufficient property, failing which he was liable to be prosecuted again.<sup>2</sup>

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1. Metcalfe's Judicial Report, 12 Dec. 1815, paras. 8,9; Beng. Civil Jud. Cons., (L.P.), 12 Aug. 1817, 44.

2. Ibid., para.16.

O obeying the detailed instructions<sup>1</sup> from the Bengal government Fortescue, the newly appointed Civil Commissioner reorganized the courts in Delhi. The amins were now up-graded and were called sadr amins and were given more responsibility. The government proposed to appoint men of respectability to these posts on fixed salaries. They were to be empowered to try summary suits of Rs.100 instead of Rs.10 and original suits involving an amount of Rs.1,000. Their salaries which had ranged from Rs.100 to Rs.200, earlier were increased to Rs.250 per month. They were asked to encourage arbitration in civil suits by reference to heads of castes and professions; the decisions, on proof of partiality and corruption, being liable to revision. Between March and December 1819, the sadr amins tried 1,219 summary suits of Rs.4,897-15-3. Only one appeal was referred to the Assistant's or Zillah Court. In their regular jurisdiction these native commissioners tried 1,438 cases involving an aggregate amount of Rs. 72,880-8-2, during the same period. Ninety-seven parties appealed against their decisions, one of whom reaching the Civil Commissioner's Court, the highest civil court in Delhi.<sup>2</sup> The Assistant's Court was allowed to take cognizance of suits of any amount. Cases of rents were to be summarily adjudged by him with the help of Indian revenue officers.

The procedure followed in the courts was remarkably

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1. Beng. Govt. to Fortescue, 26 March 1819, Beng. Civil Jud. Cons. (W.P.), 26 March 1819, 8. See Chapter 2, p.
  2. Fortescue's Judicial Report, 12 May 1820, paras.7-14, Beng. Civil Jud. Cons., (W.P.), 29 Dec. 1820, 3.

Zillah = District.

simple. Plaint and answers were the only pleadings allowed. Answers were noted down on the back of the plaint itself. Witnesses were examined at length and the exhibits recorded. Pleadings were pointed and short.<sup>1</sup> No stamp duties were charged. Institution fees were fixed according to the rates prescribed by the Regulation 43 of 1803.<sup>2</sup> Fortescue admitted that rules were fewer in number and far simpler. There were no mukhtars or the native pleaders to keep alive the intrigues. Probably as a result of this, instances of perjury, fabrications etc. were far less. He vouchsafed:

'I have no where heard such fair, plain and intelligible reasoning.' <sup>3</sup>

The same simplicity of aims and procedure was followed in the administration of criminal justice. The Resident with the help of two European assistants administered justice. The city of Delhi and its environs was under one of the assistants. The other assistant with a separate establishment policed the rest of the territory and dispensed justice. Heinous offences were tried at Delhi by the Resident. But the assistants had also powers of inflicting long periods of sentences. Wilder, the fourth assistant had sentenced quite a few convicts to ten years imprisonment with hard labour. In one case, a prisoner was sentenced to 28 years of imprisonment by Metcalfe on 12 January 1814. The sentence on the same prisoner was doubled by Wilder on 16 August 1814 on

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1. Ibid., paras. 7,14,46.  
 2. Ibid., paras. 24,75.  
 3. Ibid., paras. 52,51,50.



charges of attempting to escape from the jail.<sup>1</sup> Of course, Wilder acted according to the rules as laid down by the Resident, but the fact remains that he was empowered to award the highest punishment short of death in the Delhi territory. Thus Metcalfe delegated wide discretionary powers to his young assistants whose powers increased considerably by following the principle of union of functions. The assistants were collectors, judges and magistrates at the same time. This delegation of authority to his subordinates and the policy of uniting the various offices in the same person was the outcome of his belief in the efficacy of a strong and discretionary government.

After his departure from Delhi, the Board of Commissioners raised a storm for having given the young and inexperienced assistants almost unlimited powers without the guidance of proper rules and codes. Metcalfe was aware that such powers of punishment tend<sup>ed</sup> to make a person arbitrary in his dealings. He wrote to Elphinstone,<sup>2</sup>

'By habit in the Udalat, you see, I have acquired rather an arbitrary disposition, and expect that my purwanas are to take effect without any person's presuming to dispute the justice of them.'

These remarks observed in a light vein contained an element of truth and the young officers under similar situation were liable to misuse their discretion.

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1. Board to Beng. Govt., 2 May 1823, Enclosure. Beng. Crim. Jud. Cons., 25 Sept. 1823, 14.
  2. 29 Nov. [?], Elphinstone Papers, MSS.EUR. F.88. Box 14. K.46(c).

However, Metcalfe as Resident had the reputation of keeping effective control over his assistants although few could possibly have controlled William Fraser. The bulk of criminal business was, in fact, done by Metcalfe himself. Between 1811 and 1815, he had decided 2,219 cases whereas the five assistants altogether had tried 918 cases only during the same period.<sup>1</sup>

However in the re-organized administration in 1819 under Fortescue much of the powers of the assistants was reduced. Fortescue was instructed to follow the spirit of the regulations in all matters dealing with the administration of justice. New rules were to be framed and measures were to be adopted to keep a check on the assistants. They were now, as district judges and magistrates, empowered to give a sentence of two years with or without labour and chains, 30 stripes or a fine of Rs.200, commutable in default to a further period of imprisonment not exceeding one year. They were also asked to submit monthly returns of criminal business conducted by them. Even the Civil Commissioner was advised not to exceed fourteen years of sentence while punishing any offender. Life imprisonment was to be given

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1. Metcalfe's Judicial Report, 12 Dec. 1815, paras. Beng. Civil Jud. Cons., (L.P.) 12 Aug. 1817, 44. The number of cases tried by the assistants were as follows:

First Assistant,	William Fraser	in 1811-12	= 30
Third "	, A. Fraser	in 1812-13	= 37
Fourth "	, Wilder	in 1811-14	= 679
Fifth "	, T. Metcalfe	in 1814-15	= 6
Sixth "	, A. Stirling	in 1815	= 166

as an exception.<sup>1</sup>

Metcalf who had complained that each village was 'a den of plunderers' reported confidently in 1815 that dacoity was hardly known in his territory. Murders, highway robbery were not so frequent as might be expected from the character of the people and the extent and peculiar situation of the territory under his charge.<sup>2</sup> In 1814, the total number of crimes of all descriptions was only 355 of which 7 were murders, 27 highway robberies, 14 burglaries and 3 violent affrays.<sup>3</sup> Between May and December 1819 under Fortescue's supervision 401 cases of crime were reported; of which 93 were burglaries, 23 violent affrays, 7 dacoities with murder and 25 without murder and 8 murders.<sup>4</sup> These crimes were committed by residents of foreign countries mostly belonging to the protected Sikh Chief's territories. One case of gang-robbery when detected proved that such gangs carried their depredations as far as Allahabad and Benares. The profession of gang-robbery had long been a heritage of these families.<sup>5</sup> Nevertheless, the incidence of crime in Delhi was under control. A slight deterioration had occurred in 1819 which

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1. Beng. Govt. Resolution, 6 Feb. 1819, Beng. Civil Jud. Cons., (W.P.) 26 March 1819, 7. See also Instructions to Fortescue, 26 March 1819, Ibid., 8.
  2. Metcalfe's Judicial Report, 12 Dec. 1815, paras. 32, 37, Beng. Civil Jud. Cons. (L.P.), 12 Aug. 1817, 44.
  3. Ibid., para. 25.
  4. Fortescue's Judicial Report, 12 May 1820, paras. 94-118, Beng. Civil Jud. Cons. (W.P.), 29 Dec. 1820, 3.
  5. Ibid., para. 103.

may have been due to the particular circumstances of the year. The remarkable check had been possible on account of the adoption of a method for the apprehension of criminals. This method was based on what has been called 'the system of responsibility'. When a theft or robbery was committed in a village the landholders of the village were held responsible to deliver the guilty to the government or compensate the suffering party for the loss. The onus of proof of the innocence of the village rested on them.

To track down the criminals expert village detectives known as khojis were employed. These khojis were extraordinary persons, who rarely seemed to have failed in their mission. In the company of the headmen and landholders they usually followed the criminal's track. If the prints led to another village, the responsibility of finding the culprits devolved on the residents of that village who in the same manner proceeded in pursuit. When the track was untraceable beyond a village, that village was declared criminal and was asked to hand over the guilty, failing which the whole village was obliged to pay the value of the property lost. If the robbers were delivered the village was not bound to pay any reparation.<sup>1</sup>

This practice was an ancient one. It was followed by

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1. Metcalfe's Judicial Report, 12 Dec. 1815, paras. 45-48, 54-60, Beng. Civil Jud. Cons. (L.P.), 12 Aug. 1817, 44. Also Fortescue's Judicial Report, 12 May 1820, paras. 126-144, Beng. Civil Jud. Cons. (W.P.), 29 Dec. 1820, 3.

Metcalfe since it was effective and secured the whole-hearted co-operation of the villages not only in finding the law-breakers but also making them interested in the prevention of the crime. This method was adopted on account of a conviction that the criminals were usually in league with the headmen of the village. Should this assumption be wrong, it was certain that they had some accomplices in the village. The habits of men and the life of the village was such <sup>that it</sup> as was impossible for a neighbour not to know about the happenings next door. Under such circumstances if the principle of responsibility was practised, the members with any inkling of the crime would voluntarily report it.<sup>1</sup> Metcalfe gave another interesting and sly reason for following this method. It would set the inhabitants of the village one against the other as spies for common security.<sup>2</sup> To avoid the danger of putting the innocents to loss and inconvenience, discretionary power was given to the European assistant to enforce, relax or suspend the operation of responsibility according to the circumstances. Experience however, seems to have proved that innocents rarely suffered.<sup>3</sup> The efficacy of the system was also asserted by Fortescue. The villages agreed that this was a source of great security to them. In the Regulation Provinces where this practise was not enforced, the indifference of the villages was known. This system in fact, fulfilled the need of an efficient village police which was

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1. Metcalfe's Judicial Report, paras. 41-44, Ibid.

2. Ibid., para. 37.

3. Ibid., paras. 52, 53, 59, 60.

entertained without expense at all. Although the practice violated the principles of the Regulations, yet Fortescue strongly urged upon the government to continue it as long as possible.<sup>1</sup> He went a step further and proposed that the task of the police might with advantage be entrusted to the people themselves, thus enabling the government to withdraw the stipendiary police, which in his opinion were a curse to the society.<sup>2</sup>

The system, however, could hardly be a fool-proof one. During the rains the foot-prints of the offenders could be traced only with difficulty. The verdict of the khoji however correct, could not be regarded as conclusive though complaints against his opinion were not common. Moreover, the principle of demanding reparation from the whole village violated the principle of individual liberty held so sacred in the Cornwallis' Regulations. The main principle of English justice was to give the individual a maximum amount of security against oppression. Non-interference with the individual assured that security. Another tenet of English law was to allow the benefit of the doubt to the accused. It was better that a man suspected of crime should go unpunished rather than an innocent should suffer. In the Delhi system of police administration even the innocents appeared to be first treated as accused and were asked to prove their innocence.

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1. Fortescue's Judicial Report, 12 May 1820, paras. 126-144. Beng. Civil Jud. Cons. (W.P.), 12 Dec. 1820, 3.
  2. Fortescue to Fraser, 23 Sept. 1820, paras. 27-28, Ibid., 29 Dec. 1820, 7.

But too much of reliance on principles irrespective of the circumstances may not produce the desired results. It was accepted on all hands that crimes of all descriptions, gang-robbery and dacoity in particular, had increased in Bengal since 1793 to an extent that threatened the prosperity, happiness and freedom of the individual; the very objects for the attainment of which the Cornwallis system was established. Henry Strachey, an able judge of circuit of the Calcutta division observed in 1803 that out of 4,000 convicts of the six districts of his division, nine-tenths of them were dacoits or gang-robbers.<sup>1</sup> He also asserted that

'the guilty very often, according to the best of my observation, escape conviction.'

False alibi were usually put up in defence on oath resulting in the release of the culprits.<sup>2</sup> Fortescue, as judge and magistrate of Allahabad similarly reported in 1814 that contradictory statements of the witnesses led to the acquittal of those who should have been held as criminals. Since several months lapsed between commitment and trial, the witnesses either did not remember accurately what they had earlier deposed or came out with more stories which they might have heard in the meantime thus cancelling, in effect, the previous evidence. On account of such discrepancies the criminal was given the benefit of the doubt.<sup>3</sup> George Dowdeswell, who was Secretary to the Bengal Government in the

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1. Misra, Central Administration, p.341.

2. Firminger, Fifth Report, 1, p.121.

3. Misra, Central Administration, p.336.

judicial department for a number of years, vouchsafed that the crimes not only had increased but were frequently committed with revolting cruelty without any fear of being detected. He agreed with John Lumsden, a member of the Supreme Council during Lord Minto's governor-generalship, who wrote in his Minute:

'That the existing system of police has entirely failed in its object, and that the detestable crime of gang-robbery and murder are now equally prevalent, in every part of Bengal (the division of Dacca, perhaps excepted) as at any former period, are truths of too much notoriety to admit of dispute. The details of the enormities which are still committed with impunity, in the immediate vicinity of the capital of British India, as described in the report, are not too highly coloured.' <sup>1</sup>

Kaye also believed that 'police is the weakest point of our administration.'<sup>2</sup> Lord Moira ascribed the cause of 'the wretched state of the country' as much to the defective and inefficient condition of the criminal courts, as to the mismanagement of the police.<sup>3</sup>

The several factors that combined to defeat the ends of justice in Bengal are not the subject of this analysis. But the fact remains that the thanadari system of police established in Bengal in 1792 had failed more or less to suppress crime. In the Mughal system the zamindars or faujdars were made responsible for maintaining peace in their

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1. Fifth Report, ii, p.711. G. Dowdeswell's Report on the general state of the Police in Bengal, 22 Sept.1809, Appendix 12.
  2. Kaye, Administration of the East India Company, p.352.
  3. Minute, 2 Oct. 1815, para.15, Beng. Civil Jud.Cons., (L.P.), 12 Aug. 1817, 16.



jurisdiction. When these zamindars were turned into proprietors of the soil by Cornwallis, they were divested of the police authority, firstly, because it was considered incompatible with the principle of separation of functions; and secondly, the government was afraid of entrusting more powers to the big landlords who <sup>would</sup> ~~will~~ have added economic power to themselves by virtue of their property in the soil. In times of crisis they might indulge in subversive activities. As an alternative as well as to strengthen the arm of the magistrate, as Lord Moira remarked,<sup>1</sup> each district was divided into thanas, each thana covering an area of 100 to 300 square miles was placed under a daroga or police officer who acted on the orders of the magistrate. The police officer with the help of 10 to 50 barkandazes or police troopers policed his jurisdiction. The zamindars having thus lost power and influence became indifferent, if not actively disposed to counteract the efforts of the police to maintain law and order. The village watchmen and the servants continued in the village as before but they could not be expected to serve two masters with equal zeal. Quite often the village servants looked to the zamindars rather than the daroga for protection and favour. In effect this undermined the sense of responsibility of the village and the ancient system of rural police began decaying till at last it lost the favour and confidence of the government. In turn, although it still was

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1. Minute, 2 Oct. 1815, para.18, Ibid.

at the disposal of the daroga for performing the police duties, it got alienated.<sup>1</sup> In the Delhi territory also thanas were established under a police officer who along with a few barkandazes helped the assistants in maintaining law and order, but the main strength of the police came from the operation of the system of responsibility, which enabled the officers ~~to~~ successfully detecting crime. In the exposed situation of Delhi this system served the purposes of society as well as the government with remarkable success.

The underlying principle behind the police system in Delhi was that the support for measures to protect the community should come from the society itself. The village system as prevalent in the Delhi territory was admirably suited to following such a system. Besides, the European assistant who was both Collector and magistrate was in touch with the people and therefore he could grasp the nature of the problem properly. In Bengal, the judge and magistrate without close contact with the people, often failed to understand the needs and the actual conditions of the people; consequently judgements at times were faulty. In Delhi, significantly enough, cases of violence, affrays, and robberies were far less in number as compared to the districts of Bengal. It is also interesting to note that wherever the land revenue was collected by the government straight from the ryots, as was the case in Madras, even civil suits at various courts were fewer.<sup>2</sup>

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1. Misra, Central Administration, p.346.

2. Judicial Dispatch to Bengal, 28 Oct. 1814, para.35.

In 1814 the Court of Directors after taking stock of the working of the Bengal system advised the government to apply various measures to minimise the ill-effects of the system, making favourable mention of the Delhi police system as adopted by Metcalfe. In their judicial dispatches of 29 April 1814 to Madras and 9 November 1814 to Bengal they suggested a complete reversal of the principles of administering justice as prevalent in Bengal. These dispatches between them express the attitude of the Court in the clearest possible manner. They asked the government to simplify the procedure relating to petitions, replication, rejoinder and supplemental answers etc.; at the same time <sup>they</sup> strongly recommended ~~to~~ <sup>of</sup> union ~~the~~ the powers of judge and magistrate with the functions of the collector. The plea of the court for a simplification of procedure, reduction of expenses of trial and union of powers emerged from their belief that indigenous remedies must be applied to the evils of the Bengal system. They firmly rejected the introduction of any 'novel or untried principles' and were against 'any essential departure from an ancient and long-established order of things.' They preferred 'rather the revision and amendment of one of the ancient creation.'<sup>1</sup>

Some of the measures as suggested by the court for the reorganization of the administrative system accorded well with the Delhi system. According to these, in the first place, the Collectors were to be empowered to settle all

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1. Judicial Dispatch to Madras, 29 April 1814, para.4.

disputes relating to land, rent, questions of dispossession and undue exactions in a summary fashion. The Collector was also to be entrusted with the administration of police in his district as a magistrate, with authority to try some criminal cases. This conformed to the native practice. The revenue and police functions could not be separated without disadvantage. The two branches, they said, when separate were paralysed, hence all these complications in Bengal. The Collector alone could regulate the village police which should be made the foundation of the new police system. In this connection the Delhi police system was referred to with favourable remarks.<sup>1</sup> Secondly, more reliance should be laid on the process of arbitration and the panchayat system at the village level. This was best suited to adjusting of boundary disputes and petty civil cases. Powers of adjudication relating to caste as well as land should be granted to village headmen, heads of professions and castes if possible. The Court were gratified to note that the government had requested the Nizam-at Adalat to frame regulations for referring cases of landed property to arbitration, to be done 'on the spot' under the superintendence of the Collector.<sup>2</sup>

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1. Judicial Dispatch to Bengal, 9 Nov. 1814, paras. 68,78, 168,134,145,179,181.  
Also Judicial Dispatch to Madras, 29 April 1814, paras. 89,90.
  2. Judicial Dispatch to Bengal, 9 Nov.1814, paras.45-61, 88-89. Also Judicial Dispatch to Bengal, 30 Sept.1814, paras. 28-29. The suggestion for arbitration under the Collector's superintendence came from Fortescue in 1812 which was adopted by the government.

Thirdly, the procedure in the courts, especially in the Zillah Courts should be abridged. Simple language devoid of technical terms should be normally used. If expenses of trial were felt to be too much, a reduction should be made in the institution fees, and stamp duties.<sup>1</sup>

And finally, Indians in large numbers should be employed in administration, giving them respectable allowances and offices of trust and responsibility. Since there was no question of increasing <sup>the</sup> European establishment for reasons of economy and lack of qualified personnel, the only alternative was to follow this policy. It was 'in the necessity of things' that such a policy should be followed in 'a foreign dominion like India'. Moreover it behoved a liberal government to follow such measures.<sup>2</sup>

The Bengal government did not receive these suggestions with much favour or enthusiasm. They considered that the Court's proposal would in fact be an attempt to switch back the clock. On the plea that the Court had suggested a radical departure from the past practice, they asked for time to deliberate on them. They took thirteen years for deliberation; and when they replied back in their judicial letter of 22 February 1827, it was simply to reject the entire proposal of 9 November 1814. The government had systematically and successfully followed the policy of silent opposition to the Court's instructions in this regard. The

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1. Judicial Dispatch to Bengal, 9 Nov. 1814, paras. 65-67.

2. Ibid., paras. 42, 161.

Court indeed with rare insight had touched the heart of the problem and had suggested far reaching changes in the administration of Bengal. But the source of inspiration clearly was empiricism and, in some measure, a respect for tradition. It was Bentinck who as the Governor-General between 1828 and 1835 supported by Metcalfe, his Councillor, followed them and invoked the authority of this dispatch as a justification of his measures.

Metcalfe as well as Fortescue maintained that the system of responsibility as operating in Delhi was efficient. The innocents usually did not suffer from its effects, while the guilty seems to have rarely escaped detection. Lord Hastings himself was in favour of arousing the people to such a sense of duty but he admitted that the system as followed in Delhi was not common in Bengal.<sup>1</sup> A very interesting incident occurred in 1824. While a village fair was on at Beree, a robbery took place. More than 600 heads of cattle along with some cash from persons, were taken away by the robbers. The government sent the village landholders in track of them; and during the course of a few weeks not only several of the plundered cattle were recovered but also the money value of the lost property was obtained without difficulty. As many as 28 villages were involved in the incident and they all combined to repair the loss to the sufferers.<sup>2</sup>

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1. Minute, 2 Oct. 1815, paras. 17-19, 54, P.S., Beng. Civil Jud. Cons., (L.P.), 12 Aug. 1817, 16.

2. Board and Campbell, Principal Asstt, Rohtak Dv., Correspondence, Beng. Crim. Jud. Cons., 24 March 1825, 34-39.

Nevertheless, the practice of demanding compensation was open to objection on other grounds. Should the amount of theft or robbery be large, the village would be obliged to pay not without considerable difficulties and hardship. Their miseries would indeed be greater if the inhabitants of the same village were frequently condemned to restore the loss.<sup>1</sup> Innocents then were bound to suffer. Walter Ewer, the Officiating Junior member of the Board of Commissioners in Delhi between 1822 and 1825, considered this mode of recovering property 'unjust and unreasonable'. He gave his own version of the actual operation of the measure. It seems, when a man was robbed, he had to go to the magistrate and report. The magistrate 'immediately reimbursed from the Treasury and the amount is afterwards realized from the village, the inhabitants of which are supposed to be connected in the offence.' He also asserted that false reports were made and old worthless articles were concealed to recover better ones. That each village aimed at shifting the responsibility from itself.<sup>2</sup> He suggested that the police function should be taken over by the government by extending the Regulation 20 of 1817 (which prescribed a manual of rules for the police officers) to Delhi. The value of the stolen property ought not to be given without clear proof of its loss and the villages must not be asked to compensate without conclusive proof of their connivance or guilt.<sup>3</sup>

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1. Fortescue's Judicial Report, 12 May 1820, para. 138. Beng. Civil Jud. Cons., (W.P.), 29 Dec. 1820, 3.
  2. Minute, 15 March 1824, Board to Beng. Govt., 28 April 1824, Beng. Crim. Jud. Cons., (W.P.), 4 April 1825, 44.
  3. Ibid.

Ewer evidently presented a common-sense point of view. If by merely complaining a person was sure of getting back the value of not only what he had lost but actually much more than this, surely thousands would have taken advantage of such a profitable proposition. But it is highly improbable that the officers of Delhi if they at all did reimburse immediately, did so without satisfying themselves about the truth of the complaint. The fact is that Ewer's regulation-attitude of mind was appalled by the informal system of Delhi and vehemently attacked it sometimes with half-truths, often with exaggeration even combined with malice.

Soon after the departure of Fortescue<sup>1</sup> the management of the Delhi territory, except for a brief interlude when William Fraser in the first instance and Henry Middleton later held charge of its administration as superintendent of the territory, was transferred to the Board of Commissioners in the Western Provinces. The Board took over from Middleton in May 1822. The need for the change of control from an individual officer to the Board was keenly felt by Lord Hastings as is evident from his minute of 26 January 1822.<sup>2</sup> Much power and authority had been vested in an individual with a view to impart vigour and promptness to his proceedings. Now the need was more for a deliberative body

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1. See above Chapter 2, pp. 63-66, for discussion of the re-organization of administration in Delhi from 1819 to 1822.

2. Beng. Civil Jud. Cons., (W.P.), 1 March 1823, 1.



like the Board so that the administration was run in 'a regular and systematic manner'. During the two decades of British rule Lord Hastings observed that the territory had made considerable progress. The population and commerce had increased, violence and disorders had been controlled, confidence in the mind of the people had been restored. A time had come ~~when~~ the country ~~may~~<sup>the</sup> be declared an integral part of British dominions. But in his opinion the time for introducing the full code was still far off; only the spirit of the regulations should be instilled in the system in stronger doses. No separation of powers could be introduced at this stage. Therefore the Board should enjoy both revenue as well as judicial powers. Hence, as the Board of Revenue they were to be in charge of the revenue management and settlement operations of the territory. As a judicial body in their collective capacity, they were given the powers of Sadr Nizamut Adalat; individually each member was to act as a Judge of Circuit. With these underlying principles the Board were furnished with a comprehensive list of instructions<sup>1</sup> which prescribed a mode of conduct for the administration of civil and criminal justice. In principle the instructions of 26 March 1819 sent to Fortescue, the then Civil Commissioner, were still to be in force. In criminal matters no change whatever was proposed except that rules for holding sessions and jail deliveries were laid down. In civil matters

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1. Beng. Govt. to Board, 1 March 1822, Beng. Civil Jud. Cons., (W.P.), 1 March 1822, 3.

more rules were framed enhancing the powers of the Sadr Amins. The Board were specifically asked to lay down additional rules with a view to exercise more efficient control over the assistants. Charles Elliott, William Fraser, Henry Batson and Walter Ewer were appointed members of the Board. William Fraser had an experience of the Delhi administration, the rest had been judges primarily and were regulation men.

In the course of their administration the Board noticed quite a few instances of indiscretion committed by the preceding government. Biased as they were in favour of the regulation system, they instantly launched a vehement attack on the earlier system. Walter Ewer, the most violent of the critics, declared that the territory was governed without any laws at all.<sup>1</sup> As early as 25 October 1822, he appealed to the government to bring about a 'thorough reformation' of the administration. The assistants, he said, enjoyed 'almost independent authority' and since they were utterly inexperienced passed absurd sentences on the convicts.<sup>2</sup> The government were shocked to hear such unreserved condemnation of the earlier measures since they had entertained a high opinion of the preceding administration. Furthermore, Fortescue's well-informed report had unequivocally supported the continuation of the Metcalfe system. The government

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1. Minute, n.d., Beng. Rev. Cons., 5 June 1823, 57.

2. Board to Beng. Govt., 23 Jan. 1823, transmitting Ewer's letter, Beng. Crim. Jud. Cons., (W.P.), 27 Feb. 1823, 5. Enclosure.

asked the Board to be temperate in their criticism and drew their attention to what Fortescue had written about the suitability of the system to the territory under their control.<sup>1</sup> Yet the criticism kept on mounting. Ewer took exception to the way the police responsibility was entrusted to the people, <sup>the way</sup> ~~How~~ the goindas or secret agents were employed in detecting crime and ~~how~~ the accomplices were granted pardon in the event of their helping the assistants in apprehending criminals. He suggested an immediate adoption of the principle of separation of functions as envisaged by the regulations.<sup>2</sup> In these sentiments Elliott concurred with Ewer.<sup>3</sup> Batson, the third Member, while objecting to the discretionary powers given to the assistants who gave 'disproportionate' and 'excessive' punishments, lamented that there was no appeal over the assistants and no 'writ of certiorari' was allowed. Even death punishments could be given without printed regulations.<sup>4</sup>

The Board claimed that there were more than 200 instances which could be cited as having received unequal and severe punishments <sup>5</sup> from the assistants. Metcalfe himself was condemned for prescribing heavy penalties for offences.<sup>6</sup> A rule permitted a doubling of the sentence for

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1. Beng. Govt. to Board, 27 Feb. 1823, Ibid., 7.
  2. Minute, 15 March 1824, Beng. Crim. Jud. Cons., (W.P.), 4 April 1825, 44. Enclosure.
  3. Minute, 20 March 1824, Ibid.
  4. Minute, 14 April 1824, Ibid.
  5. Board to Beng. Govt., 20 Sept. 1825, Beng. Crim. Jud. Cons., (W.P.), 27 October 1825, 10.
  6. Board to Beng. Govt., 2 May 1823, Beng. Crim. Jud. Cons., (W.P.), 25 Sept. 1823, 14, Enclosure.

an attempted escape from the jail. On 27 December 1815, Ramdaya was sentenced to seven years imprisonment on a charge of theft. For thrice attempting to escape, his sentence was enhanced in progression to 56 years. Similar circumstances led to the increase of the term of imprisonment to 56 years in the case of Makhna. Hardayal was sentenced to seven years on suspicion of forging Metcalfe's signature. Roshan Khan a barkandaz or police guard, was suspected of the theft of 7 lbs. of thread. He was given a life imprisonment with hard labour, as an example to other barkandazes.

Thomas Metcalfe was similarly charged <sup>with</sup> exceeding his authority when he kept a few persons in irons for an indefinite period. They were concerned in a violent affray accompanied by homicide. Later they were sent to their villages in irons, as Thomas Metcalfe explained,

'to enable them to cultivate their lands and thereby prevent a loss of revenue to Government.'<sup>1</sup>

In another instance of affray he passed judgement on the absconders who were absent and who had had no benefit of a defence so far.<sup>2</sup> In both cases, in fact, no trial had taken place. The government rightly reprimanded Thomas Metcalfe for over-looking such simple and essential procedure in conducting judicial business.<sup>3</sup> Henry Middleton as Superintendent of the Delhi territory had issued rules for trying cases of larceny,

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1. Thomas Metcalfe to Board, 29 April 1823, Beng. Crim. Jud. Cons., (W.P.), 25 Sept. 1823, 15.
  2. Ibid., 2 Sept. 1825, Ibid., 27 Oct. 1825, 10.
  3. Beng. Govt. to Board, 4 April 1825, Ibid., 4 April 1825, 53.

allowing the assistants powers of punishing the offenders with solitary confinement for life on reduced diet.<sup>1</sup> Middleton was supposed to have followed the spirit of the regulations which evidently he had not done so. The Bengal Government condemned Middleton's measures when the irregularity was brought to their attention by the Board. Middleton not only had disregarded the government's instructions but had also violated the principles of the regulations. In his rules no distinction had been made between larceny and other offences and a scale of punishments was provided nowhere sanctioned by the regulations. As a result of such actions miscarriage of justice must have taken place.<sup>2</sup> While Thomas Metcalfe had probably been guilty of ignorance of procedure Middleton was suspected of wilful neglect. A saving feature of Middleton's administration was, as he claimed, that these rules were never acted upon to their letter. The fear they created was sufficient to reduce the incidence of crime during his regime.<sup>3</sup>

While much of these criticisms were justified and credit should go to the Board for bringing instances of mal-administration to the notice of the superior authority so that better systems could be established; yet it appeared as though the Board were busy only in exposing errors of judgement and acts of indiscretion committed during the

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1. Circular order, 26 Dec. 1821, Ibid., 25 Sept. 1823, 16.

2. Beng. Govt. to H. Middleton, 25 Sept. 1823, Beng. Crim. Jud. Cons., (W.P.), 25 Sept. 1823, 31.

3. H. Middleton to Beng. Govt., 23 Aug. 1823, Ibid., 29.

earlier period. Much of these abuses could have been remedied with a more vigilant control over the assistants. Since the voluminous codes were not to be introduced, it implied that more efforts and industry would be required of the Board to exercise a proper check on their subordinates. After all these evils were not inherent in the Delhi system and instances of injudicious and irregular proceedings in the Regulation Provinces were doubtless frequent, as was observed in their letter by the government sent through their Chief Secretary, W.B. Bayley, to the Board.<sup>1</sup>

The administration of the territory under the Board itself was far from being satisfactory. Crimes showed an abnormal tendency to increase. When Metcalfe was Resident, 355 crimes were committed in 1814. Between 1 July 1822 and 30 June 1823, the number of crimes reached a figure of 1,756, being five times more than what it had been nine years earlier.<sup>2</sup> Mob violence and disregard of the authority of the government was likewise on the increase. In 1824, H.S. Oldfield, the Principal Assistant of Rohtak division, was actually attacked by a mob. He managed to escape sustaining injuries.<sup>3</sup> In the same year, a market place at Beree was plundered in daylight, and robbery was committed on the same day in many villages.<sup>4</sup> Lawless conditions as seen in 1824

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1. 27 Oct. 1825, Beng. Crim. Jud. Cons. (W.P.), 27 Oct. 1825, 13.

2. Judicial Letter from Bengal (W.P.), 12 July 1827, para. 27. For details of crimes in 1814 see above, p. 199.

3. W. Fraser to Government, 13 Dec. 1824, Beng. Crim. Jud. Cons., 24 March 1825, 41-43.

4. Campbell to Board, Correspondence, Ibid., 34-39.

may have been due to scarcity of the season, but no other reason than inefficiency could be assigned for the growth of crimes in 1822-23. While the situation was getting worse in the country no police-posts except at a couple of places were established by the Board. It was the Bengal Government, which suggested such establishments at new stations.<sup>1</sup>

As early as 25 September 1823 the Board were asked by the supreme government to report on the expediency of enacting rules for better management of the judicial affairs of the territory. Neither a full report nor specific suggestions ever came from the Board. The only information which the government received from time to time was contained in the disjointed minutes of the members of the Board or in the statements of crimes occasionally sent by them to the government. Even these statements were not complete, no sessions having taken place in the first and fourth quarters of 1824.<sup>2</sup> In fact the government had been groping in the dark ever since 23 September 1820 when Fortescue laid down office. No information on the state of police and judicial administration was received in 1820 and 1821. The Board's achievement was disappointing. During the three years, between 1822 and 1825, when they held charge of the civil administration of the Delhi territory the incidence of crime had been increasing, the revenue assessment tended to be on a higher scale. Added to this the famine of 1824-5 made the situation much worse.

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1. Judicial Letter from Bengal (W.P.), 12 July 1827, para.55.

2. Ibid., paras. 58,59,42.

Apart from this the Board was itself much to be blamed for the inefficiency in management. The fact was the Board was a divided house. Intense discord existing between the two sets of officials resulted into confusion and mischief. The subordinate officers revised their proceedings to suit the inclination of the visiting member of the Board. This was the most important factor which led to the decline of efficiency in administration.<sup>1</sup> The government therefore withdrew the Board and brought back Metcalfe again as Resident and Civil Commissioner to Delhi in October 1825, to set things right.

A perusal of Metcalfe's judicial report of 12 December 1815 led the Court of Directors to ask whether Delhi like Bengal was being governed by fixed and determinate rules and principles. They observed:

'In Bengal the Regulations as they are termed form the law; they contain the constitution of the courts with their forms of procedure and their principles of judicial decision; crimes are defined and punishments authorised and the rights and duties of the various classes of the community ascertained.' 2

They also wished to be informed whether the sentence of solitary confinement in chains for life was practised with the same amount of rigour as depicted by Metcalfe.<sup>3</sup> This letter which enunciated in brief the principles of the Bengal system seems to have been written by Edward Strachey who

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1. Ibid., para.57.

2. Judicial Dispatch to Bengal (W.P.), 13 Sept. 1822, para.182.

3. Ibid., paras. 185-187.



after retirement from Bengal as a judge joined the East India House in 1819, as assistant examiner in charge of the judicial department. He held this post until 1832 when he died. David Hill, a retired Madras Civil Servant who rose to the office of Chief Secretary in Madras succeeded him. He was a supporter of the Munro system. Strachey was an admirer of the Cornwallis system of justice although Carlyle called him an utilitarian.<sup>1</sup> Just before his death Strachey drew<sup>up</sup> a memorandum on the administration of justice in Bengal and compared the figures of crimes with England, Wales and Scotland. The memorandum was inclined to show the Bengal system in a favourable light.<sup>2</sup>

At a time when the Court's letter was being dispatched from London, the Board of Commissioners in Delhi were busy exposing the shortcomings of the Delhi administration. Meanwhile Metcalfe was in Hyderabad as Resident. The Palmer controversy had recently been laid to rest, Lord Moira having left for England. While Metcalfe was busy rooting out corruption and maladministration under the Nizam, he felt somewhat irked at the receipt of the packet of correspondence<sup>3</sup> that had passed between the Board and the Government in connection with the mode of administering justice and the severe penalties imposed on the criminals in Delhi. Metcalfe drew up a long letter in defence as he called it. The

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1. Ballhatchet, Social Policy and Social Change, p.32.
  2. The Memorandum was presented by Bayley to the Select Committee of the House of Commons. Evidence, 16 April 1832, P.P. Minutes of Evidence, 1832, IV, Judicial. Memo. pp.92-105
  3. Govt. to Metcalfe, 3 July 1823, Beng. Crim. Jud. Cons., (W.P.), 25 Sept. 1823, 23.

document is of interest to us since it elaborated the principles of punishment as he understood them.<sup>1</sup>

The true object of punishment was the protection of the community. The protection could be assured if the punishment was such as would help in preventing the recurrence of crime. When a convict was removed from the society by confinement in a jail, the ability to injure the society was taken away from him. His confinement in the jail should be made as painful as would deter him from committing the crime again. This element of deterrence was an essential quality of efficacious punishment. Punishment also should be severe and certain and serve as an example to others. When the term of imprisonment for jail-breaking was doubled, the punishment had been made with a design. Should a criminal yet dare break the law, his term of sentence was doubled without hesitation in conformity with the standing order, thus safeguarding the principle of certainty. When Roshan Khan, a police guard committed theft, a crime which it was his duty to prevent, he was given life imprisonment with hard labour as a deterrent and an example.

The law should further be the same for all, high and low, rich and poor. When a goat of a poor man was wounded in revenge by another, Metcalfe inflicted on the culprit a sentence of ten years. The Board thought that this was the

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1. Metcalfe to Govt., 16 Aug. 1823, Ibid., 28. Also Kaye, Papers, pp.59-64, in answer to another letter from the government, 25 Sept. 1823.

height of absurdity. Metcalfe observed that this was done to protect the property of the poor. Should a person be found guilty of maiming a King's Horse in England he would be given a most exemplary punishment. In the case of a poor man being the victim there was no reason why the guilty should not be punished for a long term.

Above all, the punishment and the mode of administering it must suit the character of the people and the society for whose benefit the punishment was instituted. Their well-being was the foremost concern of the state. Individual suffering may at times be great, but would be justified if this helped to promote the welfare of the community. During the period of his residency in Delhi, villages were armed to the teeth and each village was a den of robbers. They openly disregarded the authority of the Resident and were prepared to fight until they were vanquished. Not a rupee of revenue was collected without the aid of a strong military force. His system of administering justice had turned swords literally into plough-shares, and people had become orderly and law-abiding. The prosperity and security which the territory now enjoyed was the outcome of those years of strong rule.

Relating to solitary confinement in chains for life as a mode of punishment, Metcalfe argued that the punishment was a substitute for the death sentence. Death punishment was not given in Delhi, as it were, it was banned totally. Life was a sacred trust and a gift of God. The sinner must be left

to repent for the evil deeds he had committed. Hence life was spared and the convict was kept in a cell in chains, but he was not absolutely confined to his place. He could be seen and talked to now and then. However, the dread of this punishment was so great that the guilty asked to be hanged instead. Murders in Delhi were committed but not too often, this proved the efficiency of this mode of punishment.<sup>1</sup> The government however, considered the punishment too severe and wished that this should be discontinued.<sup>2</sup>

Moral reform was another object of punishment. Metcalfe asked what moral reform could be expected from the hardened criminals when hundreds of them were kept in a common jail. Reform was possible in the juvenile offenders of impressionable age. For these, most of whom were pick-pockets, Metcalfe had established a reformatory where they were given some training in useful crafts like spinning, weaving, basket-making etc. so that they could make a living when they were made free. This had not worked well but with better classification and by grouping children according to their age, this institution could be made a useful one.<sup>3</sup>

The end of punishment in all cases was to cause

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1. Metcalfe to Beng. Govt., 28 April 1826 & 16 March 1826, Beng. Crim. Jud. Cons., (W.P.), 18 May 1826, 10 and 6 April 1826, 11 respectively.
  2. Beng. Govt. to Metcalfe, 6 April 1826, Ibid., 6 April 1826, 11. Relating to the views of the government on jail-breaking etc. see their letter, 25 Sept. 1823, Ibid., 25 Sept. 1823, 30.
  3. Metcalfe's Judicial Report, 12 Dec. 1815, paras. 153-160, op.cit., Government Resolution n.d., Beng. Civil Jud. Cons., (W.P.), 29 Dec. 1820, 5.

suffering to the accused. The process of liberalisation of the principles of punishment was already taking place in England. In the early nineteenth century about 200 offences were considered as capital offences in England. Forgeries and offences like petty larceny were punishable by death. Between 1822 and 1830 the death sentence on numerous offences were reduced; but it was not until 1837 that offences like house-breaking, horse-stealing, sheep-stealing, coining and almost all forgeries were struck off the list of capital crimes.<sup>1</sup> Yet the principle of deterrence as the essential principle of punishment still held the ground. Bentham's idea of a penitentiary house on the panopticon model was given a trial but by 1810 or so, it was recognized that the institution 'contemplated by Mr. Bentham was merely a great manufactory, - without regard having been had either to the penal or moral objects of a prison',<sup>2</sup> and was given up. Bentham wished to inflict punishment:

'For the sake of producing the appearance of it. Upon the principle of utility, except as to so much as is necessary for reformation and compensation for this reason, and for no other whatever.'<sup>3</sup>

He aimed at measuring the quantity of punishment given for an offence in relation to its utility with a mathematical accuracy. That the labour of the prisoners should be

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1. Adams, Constitutional History of England, pp.453-454. Halevy, The Triumph of Reform, p.102.
  2. Third Report of the Inspector-General of Prisons in England, 1 May 1838, p.4. I.O.L. pamphlets, P/T.509-513.
  3. Bentham, The Rationale of Punishment, p.29. Also Mill, J., Essays on Government, Jurisprudence, p.23.

productive was recognized as a sound principle ever since the dawn of civilization. The prisoners were made to work on the roads, build tanks and forts etc. Even inside the jail they were engaged in some trade or crafts certainly during the medieval days under enlightened rule.

In India under British rule some liberalisation of punishment had taken place. Crimes were defined and punishments authorised. Ever since 1793 classification of prisoners was practised although in a rudimentary form. Debtors, criminals, women and prisoners on trial were kept separate. Death penalty had been made rare, only the most serious offences were punished with death. Flogging was abolished, transportation was less favoured since it involved expense. Imprisonment was the only punishment which was used often. No wonder, as Lord Macaulay put it, that imprisonment should be made 'a terror to wrong-doers.'<sup>1</sup>

Following Bentinck's wish the Delhi administration was reorganized in 1832. He had toured the Delhi territory and felt convinced<sup>2</sup> that the union of functions of Collector, magistrate and judge in one person was no more desirable. Similarly the young assistants who had hitherto worked without 'settled notions of business' were to be brought under a system of regular control. According to his views the functions of the collector and magistrate remained united

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1. Minute, 14 Dec. 1835, Dharkar, Lord Macaulay's Legislative Minutes, pp.278-279.

2. Minute, 9 May 1832, Beng. Civil Jud. Cons., (W.P.), 29 May 1832, 14.

But not that of a judge. Metcalfe regretted that the principle of union was diluted.<sup>1</sup> By Regulation V of 1832 the Delhi territory was brought under the jurisdiction of the Sadr Diwani and Nizamat Adalat and the Sadr Board of Revenue in the Western Provinces, situated at Allahabad. The office of Resident and Chief Commissioner was abolished and instead a Commissioner and Agent to <sup>the</sup> Governor-General was appointed at Delhi.<sup>2</sup>

Recently this practice of uniting the office of collector and magistrate had been adopted in the Regulation Provinces where the Cornwallis principle of separation of the functions of collector and magistrate had so far held ground. This principle of union as introduced was a mere modification of the native principle, native in origin and character. The bitter conflict between the two systems went on with more or less vigour from time to time during the greater part of the nineteenth century. But it was the Cornwallis principle embodying the liberal English tradition which proved the stronger; although in actual practice the native tradition in administration made inroads, not infrequently, in Bengal, the homeland of the Cornwallis principles, according to the needs and circumstances.

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1. Minute, 29 May 1892, Ibid., 15.

2. Beng. Civil Jud. Cons., (W.P.), 29 May 1832, 18.

## Chapter V

### Remodelling of the Judiciary and Government

1827 - 1834

The period of Bentinck's Governor-Generalship was opportune for reform. Ellenborough, President of the Board of Control from 1828 to 1830 had often stressed the need of 'economical reform', pledging his full support to Bentinck for such measures.<sup>1</sup> And true to his promise he stood by Bentinck during the half-batta crisis. Much was expected of Bentinck. The Burmese War had jeopardized the finances of the government. His task was to reduce the margin of deficits as well as of the public debts. But more important than this he was expected to carry out reforms in various fields so that the East India Company could approach Parliament for a renewal of the Charter with a fair record of achievement behind it. Independent of these considerations, however, a thorough reformation of the administration could not be long delayed without doing harm to the public welfare.

Besides, a general decline in the standard of administration had taken place. The discipline both in the army as well as in the civil service had slackened. The supervisory duties of the boards over the collectors were hampered on account of various reasons. Ellenborough rightly advised Bentinck to devise ways and means 'to re-establish the full

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1. Ellenborough to Bentinck, 26 Nov. 1830, Colchester Papers, P.R.O. 30/9/4, Part 5/1.

For half-batta question see correspondence between Ellenborough and Duke of Wellington, 1829-30. PRO.30/9/4, Part 1, with Bentinck, PRO.30/9/4, part 2.1.



authority of the Govt and to restore a proper tone to the minds of the civil and military servants of the State of India.<sup>1</sup> Similarly the courts were unable to cope with the ever increasing number of civil suits.

Metcalfe joined the Council with<sup>a</sup> ripe experience of administration. But as has been seen, he was decidedly opposed to the principle of administration based on the separation of powers, technical and legal forms of justice, and the cumbersome procedure of the Boards. He valued the principle of unity of command at the head and union of functions for officers from the top to the bottom of administrative hierarchy. His mind was fully formed in this respect, yet he was conscious that arbitrary authority was not good in all hands. He was therefore in favour of defining the powers of various offices. Indeed this change of outlook in him can be seen when he argued for a reorganization of judiciary and administration during Bentinck's time. But this is not to deny that his faith in a strong executive government was still unshaken. Nevertheless he maintained that the jurisdiction of various branches of administration should be clearly earmarked and especially the powers of the courts needed to be properly defined. This question had assumed importance owing to the conflicting jurisdiction which prevailed between the King's and Company's Courts. The recent tendency of the King's Courts to extend their authority

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1. Ellenborough to Bentinck, 2 Jan. 1830, Colchester Papers, PRO. 30/9/4, Part 2.2.

according to their own notions of the applicability of English laws had produced embarrassing situations for the government. The Malcolm-Grant dispute of Bombay had become an eye-opener to many. Metcalfe therefore considered it imperative that the authority of the Supreme Government should prevail over that of the Supreme Court in case 'the safety of welfare of the State' was threatened. He declared that in such circumstances,

'the Government ought to possess authority to suspend the functions of the Court, ... and the Court be bound to acknowledge and abide by the restrictive power of the Government, pending a reference to superior authority in England.' 1

While he strongly felt the necessity of such powers for the Supreme Government he was far from advocating the destruction of independence of the judiciary; nor did he propose a change in the structure of the Sadr Court. He argued:

'What the Legislature is to Courts of justice in England the local government in India ought in reason to be to courts here; that is temporarily, and until the result of a reference to England can be known. If not so perfect and satisfactory an instrument of control as the Imperial Legislature, it is the best that can be had on the spot.' 2

After all even in an independent, sovereign democratic government, Parliament was supreme over all branches, therefore, there was no reason, he thought, why in India it should be otherwise.

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1. Metcalfe's Minute, 15 April 1829, P.P. East India Company, 7, 'Code of Laws', p.13.
  2. Ibid.

He also wished to extend the 'controlling and directing' authority of the Supreme Government, over the subordinate governments leaving them the details of the internal administration.<sup>1</sup> On the one hand again, he preferred combining the office of the Commander-in-Chief with that of the Governor-General; on the other he maintained that the Governor-General should in all respects act in consultation with his Council except when he chose to act on his own responsibility.<sup>2</sup> Following the principle of unified structure of government for the whole of India he proposed to bring, if possible without incurring 'inconvenience and dissatisfaction', the armies of different presidencies into one command under the Governor-General. For the same reasons he wished to see the Civil Service formed into one cadre.<sup>3</sup> This persistent urge to see a unity of authority established in all branches of administration was actuated by the motive of safeguarding the principles of economy, efficiency, simplicity and promptness in administration.

Also for the protection of the people he wanted to have a Code of laws prepared. In his opinion the courts were

'beset by unintelligible forms and bewildering complexities, and ruined by intolerable expense.'<sup>4</sup>

It was necessary that people should know to what courts and laws they were amenable. His theme was to have a Code of laws

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1. Metcalfe's Memo, 11 Oct. 1829, Colchester Papers, PRO. 30/9/4, part 2.2.
  2. Metcalfe to Bentinck, 30 March 1834, Bentinck Papers, PWJf. 1681,
  3. Metcalfe's Memo, 11 Oct. 1829, op.cit.
  4. Metcalfe's Minute, 15 April 1829, op.cit., p.14.

for all while leaving the peculiar customs of each nationality outside the scope of the Code.<sup>1</sup>

Since <sup>the</sup> European population was continually on the increase, more reliance would have to be placed on the tenets of English law. This meant such functionaries as had European education and proficiency in English law needed to be employed as judges. Besides he proposed an abolition of distinction between the King's and the Company's Courts. This could be achieved by amalgamating the two. He was of the view that Europeans must be made amenable to local courts but there was no need of a separate code of laws for them.

'All must be united in one system. There must be a local Code for India and a local Legislature. All our subjects, European Christian, native Christian, Hindoo, Mahomedan, foreigners, & c., ought to be under one Code of laws in whatever concerns them in common, returning their own in whatever is peculiar to each sect.' 2

Also he advocated an adoption of the trial by jury in criminal cases.<sup>3</sup> In several ways these views were radical indeed. He desired a proper definition of powers as well as of laws affecting the people at large.

In addition to this, Metcalfe advocated the desirability of using indigenous institutions of panchayats for amicable settlement of disputes as well as an instrument of arbitration. By this means the village disputes would be speedily decided to the satisfaction of all. The Civil Courts

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1. Metcalfe's Memo. 11 Oct. 1829, op.cit.

2. Ibid.

3. Metcalfe's Minute, 11 April 1831, Beng. Civil. Jud. Cons., (L.P.), 19 April 1831, 20.

of the government would then be free to deal with cases of serious import.

He disliked the system of administration which was being carried on in Bengal through the Boards. The recent experience of Delhi had confirmed his belief in their worthlessness. The members of the Board of Commissioners in the Western Provinces at Delhi, as has been seen, were engaged in endless bickerings between 1822 and 1825. The re-constituted Board of Revenue in the Western Provinces, as Metcalfe observed, had not met to transact business as a board even once in the preceding two years before 1828 and had asked for its abolition as early as in April.<sup>1</sup> Many instances of embezzlement had occurred in which the guilty had misused their authority without check for a considerably long time. Had a vigilant control been exercised over the district administration such instances might not have occurred. Similarly misunderstanding between collectors and boards was often noticed. A close personal contact would have promoted better understanding doing away with the necessity of long written correspondence for trifles which not only wasted the time of the officers but sapped his vitality also. An on-the-spot enquiry and energetic control over the subordinates was indispensable to instil efficiency in the system.<sup>2</sup> The same was

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1. Metcalfe's Minute, 5 April 1828, P.P. East India Company, 12, 1832, p.408.

2. The Bengal Govt. fully accepted this viewpoint. Resolution of Government, 10 Dec. 1828. Ibid., pp.440-441.

the case in the judicial department. The judges of circuit paid hurried visits to various stations, hardly finding time to spot abuses of authority or errors in judgement on the part of superintendents of police or the judge and magistrate of the district. Jail deliveries were done with much irregularity. All this demanded a remedy. But the remedy should be such as would not increase the expenses. On the contrary, if possible, it should lead to some saving.<sup>1</sup>

At Home, the India Board also renewed their attack on the Bengal judicial system in 1824. They urged the Bengal Government to preserve the native institutions wherever they were fit to be maintained. They also insisted that panchayats should be used as an integral part of the judicial system in India, in spite of the objections of the Court who saw in the panchayat system a challenge to <sup>a</sup> 'code of just and impartial laws' since the whole basis of the system lay in the discretion of individuals. A continuance of this and similar other native practices was meant, in their opinion, to perpetuate 'a state of barbarism' in India.<sup>2</sup> The Board also preferred a continuation of the Commissioner system, which had so far been practised in places like Delhi and set aside the objections of the Court against the measure. The Court argued that Commissioners exercising various powers were appointed only

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1. Resolution, 10 Dec. 1828, Ibid., p.442.

2. Philips, East India Company, pp.244-5.

Appendix to Court Minutes, 4, 18 Feb. 1827, pp.260-287; 12 Feb. 1827, pp.283-293; 14 Feb. 1827, pp.294-95.

The objections were raised by N.B. Edmonstone and Henry St. G. Tucker of Bengal experience, other Directors supported them.

in the newly acquired territories as a temporary measure.<sup>1</sup>

The line of thought of the Board was in accord with Metcalfe's views and these had <sup>an</sup> important bearing in the formation of policy during Bentinck's time.

On Bentinck's arrival soon an urgent problem presented itself. The question was how best the pace of the settlement operations in the Western Provinces could be accelerated. Although six years had passed since the inauguration of the Regulation VII of 1822, no appreciable progress had been attained. The Regulation was ambitious. Aiming at an accurate assessment of land with a view to calculating the rent product, it envisaged a detailed census of each village with a measurement of fields. A thorough and on the spot investigation was necessary for this purpose. The Collectors and the Boards of Revenue had to be vigorous in their work. The whole machinery of administration had to be geared to achieve these ends. Holt Mackenzie, the author of the Regulation had accompanied Amherst on a tour of the Upper Provinces to enquire into the obviously slow rate of progress of the operations. Judging from what had been happening at Delhi and other places he thought that the main reason for this was the laxity of control and supervision exercised by the Board over the district officers. When Bentinck asked him to suggest a plan, to improve the situation he produced a scheme, after consulting several persons in Bengal, which led to the establishment of the Commissioner system in 1829.

According to Holt Mackenzie's suggestions, the Central

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1. Court to Board, 8, 9 Dec. 1824, pp.241-256.

and Western Boards of Revenue along with the Mufassil Commission were to be abolished. The Bengal Presidency including the Western Provinces was to be divided into twenty divisions. Each division, comprising five or six districts according to their size, population and the yield in terms of land revenue, was entrusted to the charge of a Commissioner of Revenue and Circuit. The discussions on these suggestions seems to have taken place in November and early December of 1828, the Resolution having been passed on 10 December 1828. Without belittling the initiative of Holt Mackenzie in this regard, it is noteworthy to mention that Metcalfe had suggested the substitution of Boards by single officers as early as April 1828, i.e. before the coming of Bentinck to India.

The effect of the change was to unite the powers of a member of a Board of Revenue with that of a Circuit judge of a provincial court, without in the least modifying the structure or the character of the district administration in which the principle of separation of powers and functions was adhered to. Furthermore, by this measure the civil and criminal jurisdiction of the provincial courts was separated. The Commissioner now being in charge of circuit duties, ~~and~~ the provincial courts were left with only the administration of civil justice. The Boards of Revenue except the Sadr Board at the Presidency were done away with and single Commissioners were appointed in their place. Thus the change involved two basic principles - union of powers and 'single-seatedness'.



This was the first stage in the process of change.

Dr. Eric Stokes sees in the establishment of the Commissioner system a victory of Benthamite principles. This is consistent with his inclination to see in law and administration, as it were, a paramount influence of Bentham's teachings during Bentinck's governor-generalship in India.

Holt Mackenzie as we have seen him in action in the revenue department was a man of exceptional abilities. His mastery of detail, competence to plan and indefatigable energy were well recognized. Ever since 1817 as Secretary to Government in the Territorial department he was closely associated with every decision concerning the financial and revenue policy of Bengal. Sir John Malcolm, while commending his many-sided genius, warned Bentinck against his views which, in his opinion, showed 'too much reliance on the principles of Political Economy'.<sup>1</sup> Indeed Holt Mackenzie seems to have been very familiar with the writings of Bentham, as his private letter to Bentinck written in praise of Bentham's plan on the usury laws indicates.<sup>2</sup> When Bentinck came to know him better he described him as 'the cleverest man in India', but with a reputation of being somewhat speculative. Bentinck however rated Mackenzie's services high particularly in the revenue field.<sup>3</sup> Holt Mackenzie was now in the last stage of his stay in India. He sailed for England

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1. Malcolm to Bentinck, 24 Jan. 1828, Bentinck Papers, PWJf. 1404.

2. 24 Oct. 1829, Bentinck Papers, PWJf. 1348.

3. Bentinck to Ellenborough, 30 Sept. 1829, Colchester Papers, PRO. 30/9/4, Part 5.1.

in December 1830. His single great achievement of this period was the planning of the new system which came into force in 1829.

But he was not the only adviser to whom Bentinck lent his ear. There was William Butterworth Bayley, the veteran Bengal civilian now a member of the Supreme Council and a firm believer in Cornwallis principles. His influence ever since 1814 had been considerable in the remoulding of the judicial system of Bengal. Bayley, a judge and magistrate of Bardwan until 1813 and a fourth judge of the Provincial Court of Appeal at Bareilly in 1814, had been praised for his diligence, judgement and talent. He was appointed Secretary in the judicial department in 1815 and became Chief Secretary to Government in 1819. Until his appointment to the Supreme Council as a permanent member in 1827, he held this office although he sat in the Council chamber for some months in 1822 and 1825 as an acting member.<sup>1</sup> He left India for Europe in December 1830 and was elected a Director of the East India Company in 1833 and a Tory Member of Parliament in 1840. His views on judicial matters were greatly respected by Bentinck and the judicial changes as introduced in 1831 were based on Bayley's Minute of 5 November 1829.

Metcalfe was a most friendly colleague of Bentinck in whose judgement Bentinck placed great reliance. Although Bentinck had not developed friendship immediately after his

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1. Bayley, W.B., Personal Records, 7, ff.587-607.

arrival, yet when he came to know him better he showed immense respect for his views and in many ways was guided by them. He wrote to Ellenborough in praise of Metcalfe when the Governorship of <sup>Bombay</sup> ~~Bengal~~ was likely to be vacant. He said that there was 'no man in India' who had stronger claim for such office than Metcalfe. Bentinck continued:

'He is very able, upright, highminded, very fair, while very conciliatory, and extremely careful of the public money. I have no doubt of his being the first man in India and by the side of Malcolm. I think he is truly [ ] independent mind, for above all jobbery and has most enlightened view of all questions of Indian Policy. He would make an admirable governor for Bombay where economy is so much required.' <sup>1</sup>

Again before sending a reply to Ellenborough's questions in which he had sought to know the sentiments of Bentinck whether India should be better governed by the Crown or through the channel of the Company, Bentinck asked <sup>for</sup> Metcalfe's considered opinion on them. Metcalfe drew <sup>up</sup> a memorandum in reply. On most issues Bentinck and Metcalfe were in complete agreement,<sup>2</sup> and several of the measures adopted in the Charter Act of 1833, seem to have been the result of the discussions that had taken place in India during this period. It is interesting to note that Holt Mackenzie was also asked by Bentinck to submit a paper on the subject. Holt Mackenzie's paper is dated 13 October 1829 and is available in this Collection.<sup>3</sup> A perusal of the two papers shows a great

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1. 2 Aug. 1829, Colchester Papers, PRO.30/9/4, Part 2.2.
  2. Bentinck to Metcalfe, 16 Sept. 1829, Colchester Papers, PRO.30/9/4, Part 2.2., Metcalfe's Memo, 11 Oct. 1829. Ibid.
  3. Ibid.

difference of personalities. Metcalfe clearly, was a man of vision and an architect. Holt Mackenzie with all his great qualities gives an impression of being at best a financier, a calculator of expenses required to construct that edifice. Metcalfe had long outgrown the Civil Service attitude. Incidentally, this aspect of Metcalfe's personality was once emphasised by Malcolm to Bentinck.<sup>1</sup>

Bentinck himself had been a staunch liberal and some even regarded him as a radical. In the twenties he had frequently visited the house of Mrs. Grote which was supposed to be a meeting place of 'the philosophical radicals'. Mrs. Grote further tells us that whenever Bentinck dined with them, after being appointed Governor-General of India, James Mill was usually present.<sup>2</sup> James Mill the 'trumpeter' of the panoptican had often tried to impress upon Bentinck the utility of a panoptican penitentiary in India. And Bentinck was said to have declared himself to be a disciple of Bentham.<sup>3</sup> Bentinck had a varied experience of life. His official career had taken him to the Netherlands, Italy, Switzerland, Egypt besides India. He had sympathised with the national aspirations of the Italians and was open to fresh impulses. It should not therefore be surprising if he had been influenced in some way by utilitarian thought. Also the spirit of the age of enlightenment so characteristic of the revolutionary era in Europe may well have made an impact on

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1. 24 Jan. 1828, Bentinck Papers, PWJf.1404.

2. Mrs. Grote, Personal Life of George Grote, pp.42,57.

3. Bowring, Bentham's Works, X, p.577.

his mind; although in James Mill's judgement, Bentinck was 'a well-intentioned but not a very well-instructed man.'<sup>1</sup> Metcalfe's impression was that Bentinck came with an open mind willing to be instructed and without any 'fixed principles'.<sup>2</sup> The fact is that a successful administrator, however strong his belief in theories may be, must invariably be guided by practical considerations rather than by abstract principles.

However it would be of interest to examine whether realism constituted the basis of Bentinck's policy; whether it was an enlightened Whig pragmatism that gave a direction to his reforms. Furthermore, if in his schemes an interaction between ideals and actual necessities was to be found, it may be worthwhile knowing the motive force which eventually shaped the policy of his administration.

While the ideas of governors-general necessarily wielded great influence in the formation of policies in India, the views of the Home Authorities were of no less importance in this respect. At Home, in turn, the Board of Control possessed constitutional authority to either accept, recast or reject the opinion of the Court of Directors on any issue whatever. In actual fact the Board did exercise its amending or over-riding powers as often as the situation demanded.<sup>3</sup> The attitude of the Board depended upon the

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1. Ibid.

2. (Private Letter) Metcalfe to [?], 22 July 1828, Kaye, *Life of Metcalfe*, 2, p.160.

3. See above, Chapter 4, pp. 186-7, also pp. Chapter 3, pp. 118-9, and Chapter 6, pp. 307-08.

strength of the government in power and the personality of the president of the Board and the officers who assisted him at the Board. When Ellenborough asked Bentinck to pay greater attention (than had hitherto been done by his predecessors) to the instructions of the Court since those orders in fact were 'the King's orders transmitted through the Channel of the Court & of the Board',<sup>1</sup> he was not simply explaining the constitutional position.

James Cumming, a sympathiser of the Munro system, as head of <sup>the</sup> revenue and judicial department at the Board's office until 1823, exercised considerable influence. Thomas Courtney as Secretary of the Board ever since 1812 until 1828 continued the policy of Buckinghamshire and James Cumming. Charles Watkin Williams Wynn as President of the Board from 1822 to 1828 depended much on Courtney for his decisions on Indian policy. Afterwards Benjamin Jones in charge of the political department exercised much influence.<sup>2</sup>

Ellenborough from 1828 to 1830 followed the traditional policy of the Board. He was most interested in the political and economic problems facing the government of Bengal. Also he was engaged in devising ways and means for bringing the Company under a full control of the Crown. Yet he was conscious of the growing importance of law. Irritated by the unseemly quarrel between the Governor and the Chief Justice of Bombay he declared his contempt for lawyers:

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1. Ellenborough to Bentinck, 6 July 1829, Colchester Papers, PRO. 30/9/4, Part 5.1.
  2. Philips, C.H., East India Company, pp. 245.

'India was won by soldiers and statesmen & we must not allow lawyers to lose it.' 1

He was at the same time anxious to find a solution for the difficult problem of bringing the Europeans and the Indians into a system of law in which both would be satisfied.<sup>2</sup> Another question which agitated his mind related to the education of Indians so that they could be employed in responsible posts. He said:

'We cannot govern India financially without the change of system. We cannot govern it well without it & we do not deserve to be permitted to govern it at all without it; still we must be very cautious and circumspect.' 3

, Economy was the watch-word of Ellenborough's policy and every measure introduced by Bentinck was actuated, first and foremost, by motives of economy, commensurate with the needs of administration.

Charles Grant held his office as President of the Board until 1834. His period was one of political excitement in England on account of the Reform Bill. Simultaneously with the passage of the Reform Bill, the Charter negotiations consumed much of the time of the Board. It was Macaulay who ably conducted the negotiations as Secretary of the Board. Grant, however, did not have much time to devote himself to Indian problems except those which related to matters of conscience like sati, slavery, the pilgrim tax etc. Grant was a man of evangelical sympathies. Bentinck considered

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1. Ellenborough to Bentinck, 23 May 1830, Colchester Papers, PRO. 30/9/4, Part 5/1.
  2. Ellenborough to Bentinck, 15 May 1830, Ibid.
  3. 23 Sept. 1830, Ibid.

Grant as his 'particular friend' and was hopeful of his support.<sup>1</sup> Most of Bentinck's reforms were completed between 1828 and 1832.

The replacing of the Boards of Revenue by Commissioners of revenue and circuit was an event of importance in the administrative reorganization of Bengal. It was indeed a prelude to a big change, but the concept of the change itself was not a composite one. During Bentinck's Governor-Generalship three distinct stages in reform can be discerned. In 1829 the Commissioner system was established; in 1831 the plan of transferring judicial powers to native judges was adopted eliminating in effect the need of the provincial courts and registers, and in 1832 the principle of union of the functions of collector and magistrate and separation of that of the judge was accepted as a matter of general policy. In the course of these discussions questions relating to the structure of government were raised. Although inconclusive in themselves, the discussions were important not only because they took place on the eve of the renewal of the Charter but also because they gave an indication of a broad pattern to follow. The stages in the change, in actual results, supplemented each other yet they were neither essential parts of an organic whole nor were they contemplated in 1828 although the roots of the changes could be traced even

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1. Bentinck to Lord Gosford, 2 Aug. 1832, Bentinck Papers, PWJf.2513. When Bentinck proposed to resign, he asked Lord Gosford to discuss the matter first confidentially with Charles Grant.



earlier than 1828. The administrative requirements compelled the government to take one step after another until the process of change was completed.

The plan for the Commissioner system originated in the revenue department to meet, first and foremost, the needs of the revenue administration. The object was not an 'improvement' of a system which might have answered the purposes for which it was built, but it was to get rid of the 'glaring' defects' which called for a speedy remedy that the plan was asked for.<sup>1</sup> Besides, it emerged out of a firm conviction that land revenue was the mainstay of the government, that whoever collected the revenue ruled the territory and whoever held the strings of revenue powers should also exercise the powers of magistrate for the sake of efficiency, maintenance of peace and meeting out speedy justice to the people. 'In a word', the Resolution declared 'to frame judicial measures under such circumstances without a full advertence to Revenue arrangements, is to build in the dark and without a foundation.'<sup>2</sup> Evidently the teachings of Munro and surely the advice of Metcalfe at the Council Chamber were being recapitulated again.

The Commissioner system, it seems, was particularly suited to conditions in the Western Provinces. To justify this the resolution cited the instance of the Delhi territory which in many ways was like the Western Provinces and had

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1. Resolution of Government, 10 Dec. 1828, P.P. East India Company, 12, p.443.

2. Ibid., p.443.

prospered greatly under the system. From 'utter disorganization' the territory had achieved order and progress. The Commissioner of Delhi in the past had been too powerful but in the proposed arrangement the powers of the Commissioners were much limited and accurately defined.<sup>1</sup> He was no more charged with political duties and even in respect of revenue and judicial powers he only enjoyed supervisory jurisdiction. The government went on to praise the achievements of the Delhi administration. It had preserved village communities and popular institutions. Not an acre of land had been sold. Rights had not been destroyed. They were great achievements indeed they said. In the same vein the Resolution affirmed that the government had no desire to innovate. They aimed at preservation rather than destruction and building anew. To restore what was lost or disintegrated was difficult but preservation was something which could easily be achieved. It would therefore be 'an object of our most anxious care' to see those institutions maintained and nourished.<sup>2</sup>

Institutions in their opinion, should not be up-rooted. They had their usefulness. For instance, efficiency in police administration could hardly be achieved without being aided by native institutions. 'In truth;' the Resolution said, 'every scheme of police not built upon the institutions of the people, or fashioned to meet them, must be inefficient if not mischievous.'<sup>3</sup> Here again the tribute was being paid

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1. Resolution, Ibid., p.443.

2. Ibid., p.445.

3. Ibid., p.443.

to the system of Metcalfe.

The emphasis laid on the maintenance of the village communities and popular institutions along with the ancient customary police organization is highly significant since it expressed the trend in the thinking of the government. The very fact that these principles were discussed at great length in the resolution, citing experiences from the Delhi administration suggested their preference for the principles advocated by Metcalfe. The trend was also to exalt the revenue line which was again characteristic of the system built by him. The Commissioners were given revenue and magisterial powers but not those of a judge. Thus to this extent, the concept of the union of powers had been diluted. Furthermore, the powers of the Commissioners were accurately defined, thus signifying the impact of the Cornwallis principles on the institution. In other words a synthesis between the Cornwallis<sup>principles</sup>/and the principles as advocated by Metcalfe was visible.

That the achievements of the Delhi system were especially recalled in the resolution, was not mere accident. Besides ensuring economic progress, political stability 'the

'the existence of such communities, like that of parish and country associations appear to offer to Government invaluable facility in the administration of affairs; the details of which, if not administered by the people for themselves, can never be well administered.' 1

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1. Resolution, 10 Dec. 1828, op.cit., p.445.

It is these aspects apart from others which had fascinated Metcalfe who wished to turn these institutions into effective instruments of civil administration when a time came for such a venture. Holt Mackenzie, Bentinck and in fact every Englishman who was familiar with the working of these institutions wished to preserve them for the same purpose. Here a question may be asked why anyone influenced by utilitarian thought should have ever wished a countenance of the Delhi system which according to Mill's notions should have been regarded as primitive, traditional and rude? Besides, all through the resolution the Delhi system was shown as if it served as a model of<sup>a</sup> future administrative system.

Bentinck agreed to the proposal since he saw in the new arrangement a mere modification but a distinct improvement of the Munro system. Ever since he had come, the reports reaching him from all quarters convinced him that

'the administration of civil and criminal justice, if not a complete failure, was so defective and inefficient as to demand our instant and most serious attention.' 1

The Commissioner system perhaps would solve much of the problem. While a Commissioner was to unite functions concerning revenue and magistracy yet a sacrifice of 'the established principle' was not intended since the controlling and executive authorities were being kept distinct. The system was like the one followed in Madras where principal and subordinate collectors functioned combining both revenue and judicial powers in their persons.<sup>2</sup> He asked Bayley, whose knowledge on

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1. G.G.'s Minute, n.d., P.P. East India Company, 12, p.385.

2. Ibid.

judicial affairs was profound, to give his opinion on the matter.

Metcalfe appreciated and gave his full approval to the scheme but regretted that the reform was not to be more complete. He himself had often urged an abolition of the Boards of Revenue, the office of Superintendent of Police and was for appointing single officers who should exercise the powers of judge, magistrate and collector. The object of the government should be to establish a simple form of government for the people in India. An informal system free from artificiality alone could ensure happiness to them 'in their present state'. Similarly the interest of the British Government would be best served by such a system in which all powers were united in one person so as to safeguard against the danger of 'collision and counteraction'. This promoted economy in administration which was an important consideration especially in the present precarious state of finances.<sup>1</sup>

If he were to devise a system of administration, he<sup>6</sup> would divide the territory into districts of suitable size and place each district in charge of a European civil functionary, who would exercise all powers of judicature, police and revenue in all its branches. Indians would be appointed in all branches under him. Administration of justice especially should be entrusted to the Indians. A few districts grouped together were to form a division. Each division was to be under a Commissioner, who was to enjoy all

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1. Metcalfe's Minute, n.d., Ibid., p.407.

powers and exercise full control over the subordinate officers. The Commissioners in turn were to be responsible for their actions to the Board of Control stationed at the Presidency. The Board composed of a few best servants of the government was to act under the direct orders of government. The Governor-General-in-Council was to be supreme in all affairs including <sup>the</sup> judiciary. All officers were 'to strive to make the administration of our Government beneficial and paternal;...'. Metcalfe was aware that such a plan would not be adopted hence he did not enter into details.<sup>1</sup>

Haunted by a fear of approaching bankruptcy of the state and conscious of the precarious and fragile nature of British rule in India Metcalfe asked for an adoption of such measures. However there was nothing extraordinary in these views but the forceful manner in which he expressed those views made them look so. Many shared with him the anxiety arising out of the uncertain character of British rule. Bentinck agreed with Metcalfe that 'our downfall may be short work' and that the loyalty of the European soldiers could alone be unquestioned.<sup>2</sup> Even Holt Mackenzie was not oblivious of this fact, but he attributed the prevalent disaffection among the Indians against the government to defects in administration since Indians were used to alien rulers.<sup>3</sup> Metcalfe did not agree with him and observed that the main

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1. Metcalfe's Minute, n.d., Ibid., pp.407-08.

2. Marginal notes, Metcalfe's Memo., 11 Oct. 1829, op.cit.

3. Holt Mackenzie's Minute, 1 Oct. 1830, para.66, P.P. East India Company, 8, p.153.

cause of their disaffection was 'a natural antipathy against foreign conquerors' who were so different from them in every respect.<sup>1</sup> Such feelings in greater or smaller degree were present in the minds of those who were responsible for Indian administration.

Bayley supported the plan because the union of functions was firstly only partial and secondly, it related to a higher level than the district. The Commissioner was to exercise supervisory and controlling authority free from executive passion and haste. Besides the duties of the judge of circuit combined more agreeably and advantageously with that of a revenue commissioner rather than with the civil judge of appeal. This was his considered opinion. The more he thought the more he was convinced that the civil and criminal functions were incompatible with each other and must be kept separate.<sup>2</sup> Lord Hastings thought the same. In fact ever since the introduction of the Cornwallis system in 1793, opinion among the judges themselves had been strong against the union and was held to be a serious defect in Cornwallis's laws. The resolution of the government acknowledged the strength of Bayley's argument and declared that a separation of such functions was a step forward.<sup>3</sup> Even so, Bayley further observed that he would wish to see a civil judge, a magistrate and a collector in each district. He would not favour a union

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1. Metcalfe's Minute, 11 April 1831, Beng. Civil Jud. Cons., (L.P.), 19 April 1831, 20.

2. Minute, n.d., P.P. East India Company, 12, p.405.

3. Resolution, Ibid., p.442.

of powers of collector and magistrate in the district.

'Unity of purpose, singleness of authority and concentration of knowledge' might be good in particular situations, but could not be followed as a general principle at the district level.<sup>1</sup>

Holt Mackenzie began with the conviction that the separation of lines was 'an inherent defect' of the system followed so far and the want of popular institutions made it more so. Full of anxious thoughts for a speedy and effective prosecution of the Regulation VII of 1822, he wished to establish a system of vigorous check and control over all grades of officials. A personal and on-the-spot enquiry and check was the proper remedy for laxity in discipline and obedience so manifest in the Civil Service. The Commissioners of revenue and circuit should exercise such control over the collectors and the magistrates, the collectors over tahsildars and the latter over the amins and village servants in gradation. A Board at the Presidency, strictly under the orders of the Governor-General-in-Council should likewise supervise the activities of the commissioners. The divisions in the Western Provinces should be made smaller since the collectors at many places were also in charge of judicial functions. Moreover, settlement operations were on which would demand greater attention from both the district officers as well as the commissioners, unlike the permanently settled areas in Bengal. Although the separation of powers

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1. Bayley's Minute, n.d., P.P. East India Company, 12, p.404.



was not desirable, he wished to see the executive and controlling powers kept separate from each other. Similarly, the civil and criminal jurisdictions should remain distinct. In such a system an exercise of energetic control was possible. It would also ensure responsibility for actions which was most essential if efficiency were to be attained. There should be 'no mincing the matter of personal control and responsibility.'<sup>1</sup>

Such a system would ensure economy, efficiency, consistency of views, principles and actions. This would also result in reducing litigation. Furthermore, while it would impart justice to the people, it would at the same time add strength to government.<sup>2</sup>

Apparently there was much in the thinking of Holt Mackenzie which would pass for Benthamism. All the same his report did not represent his full views. His Minute of 1 October 1830, which he recorded as a member of the Civil Finance Committee expressed his principles and faith in a more explicit manner.

However, Metcalfe wished to be understood that he was for a universal adoption of the principles of union of powers and 'single-seatedness'. In fact he considered that the two principles ran side by side. Under all circumstances powers should be united in one officer. If the business became too unmanageable, it was better to divide the districts or

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1. Holt Mackenzie's Report, n.d., Ibid., pp.385-389.

2. Ibid., Enclosure B, p.394.

divisions into smaller units rather than increase officers in districts giving them charge of independent departments. All varieties of boards should be done away with.<sup>1</sup>

Like Metcalfe, Holt Mackenzie advocated

'the completest possible unity of purpose through out all the departments and in all their grades, otherwise the subordinate functionaries will be frequently thrown into a position of hostility and counteraction.' 2

It was not possible to practise on 'an arbitrary and absolute' division of revenue and judicial functions in the unsettled country like the Western Provinces. Moreover the police function rightly belonged to the executive branch. Conditions in India were different and a complete separation between judicial and executive authority

'if elsewhere sound is here misplaced. The judicial is the chief branch of the executive administration. Though in free countries it may belong to the people, in a despotism, it must belong to the ruler or his delegates; and to put judges arbitrarily over the people, whom the people cannot control, and to leave them uncontrolled, is to abandon the most sacred duty of supreme power.' 3

Hence the government should possess supreme judicial power along with political powers. The Sadr courts should therefore be made subordinate, just as the boards were subordinate to <sup>the</sup> government. The independence of the judiciary so highly respected in the Cornwallis system was misconceived.

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1. Minute, 11 April 1831, Beng. Civil Jud. Cons., (L.P.), 19 April 1831, 20.
  2. Minute, 1 Oct. 1830, para.6, P.P. East India Company, 8, p.136.
  3. Ibid., paras. 4,8, pp.135-136.

'The establishment of a court so entirely free from check is indeed an unexampled tyranny.'

The government should possess supreme political as well as judicial powers.<sup>1</sup> Thus Holt Mackenzie went a step farther than Metcalfe in decrying the evils of <sup>an</sup> independent and separate judiciary.

Thus Holt Mackenzie was for a union of powers from top to bottom. At the top he wished to see absolute union. But he realized that at lower levels too much concentration of powers would not work efficiently. Hence he was willing to keep the functions of civil and criminal judges separate just as he would prefer to see the executive aloof from the deliberative authority.<sup>2</sup> This however was a modification of his principles on practical grounds. Above all, he declared, the general principles must conform to 'the accidental and temporary circumstances.'<sup>3</sup>

David Hill, the senior members of the Civil Finance Committee agreed with these views although his opinions differed extensively from Holt Mackenzie's. Hill, till recently Chief Secretary to <sup>the</sup> Madras Government belonged to the Madras Civil Service and was educated in the system built by Munro. He succeeded Edward Strachey as assistant examiner in the judicial department at the East India House in 1832. John Bax, another member of the committee represented Bombay Government, while Holt Mackenzie was Bengal's representative.

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1. Ibid., paras.40-41. 8, p.148.

2. Ibid., para. 20; Also paras.11,15,18.

3. Ibid., para.3.

Hill accepted that separation of powers and independence of judiciary violated the principle of introducing unity of purpose in the civil institutions in the country with a view to render them efficient.<sup>1</sup> John Bax followed suit.

Metcalfе willingly supported them. He had no doubt that in certain circumstances, the government should be supreme over the judiciary. What the Legislature was to the Courts of justice in England, the Supreme Governments in India ought to be to the Courts. In the absence of a legislature in India the Supreme Government should necessarily act as a supreme law-making body. The Courts were free to apply the law as made by the government but they could not be permitted to threaten the security of the state.<sup>2</sup> The judges had neither practical experience nor a set of well-defined laws to guide them. They were themselves subordinate servants of the government. Their decisions, he thought, were mostly 'tendentious' and 'arbitrary' <sup>and</sup> could put the government to unforeseen inconvenience. The government when necessary should even exercise powers of revision of courts' judgements.<sup>3</sup> But Metcalfe argued, fully conscious of the fact that it was inexpedient and harmful to tamper with the decisions of the court. He would interfere only on one consideration, that is when the security of the state was threatened. Of course, it would be the Supreme Government which should decide when that

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1. David Hill, Minute, 8 March 1830, paras.1-2, Ibid., p.128.

2. Minute, 15 April 1829, P.P. East India Company, 7, pp.13-14.

3. Minute, 11 April 1831, Beng. Civil Jud. Cons., (L.P.), 19 April 1831, 20.

security was endangered. Yet, it was precisely for this reason that he wanted a clear-cut definition of the powers and jurisdiction of the Supreme Court as well as the inferior courts.

Bentinck refused to yield to these views, expressed<sup>o</sup> by some of the best men in the country, and a representation of a majority of those who did not express them, even under the circumstances created by the dispute in Bombay. He affirmed that the delegation of the judicial powers of the Governor-General-in-Council to the Courts involved a sacred and upright principle. Independence of the judiciary was something to cherish and symbolised 'a self-evident and unalterable truth'. It was indeed indispensable for an impartial, prompt and efficient justice.<sup>1</sup> Even in actual working, there was no necessity of increasing the powers of the government in this regard. Occasionally whenever need arose the government in its legislative capacity could interfere under the existing set of laws guaranteed to it. But such occasions rarely occurred. Interference with the judiciary, unless absolutely necessary, should not be indulged in. Moreover it was neither expedient nor practical to do so. After all, he asked, what was to be the precise nature of interference?<sup>2</sup> The supreme influence of Cornwallis's principles on Bentinck is thus quite obvious.

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1. G.G.'s letter to Vice-President-in-Council, 26 Jan. 1831, para.5, Beng. Civil Jud. Cons., (L.P.), 19 April 1831,17.
2. Ibid., paras. 6-10,

In the course of discussions for the establishment of a Commissioner system, Metcalfe had urged an abolition of all boards in all the presidencies. The work done by the boards could be done more economically and efficiently by single officers. This would make the individual officers more responsible also. In Bengal the duties of superintendence might be heavy if one individual was to be in charge of a department but then the presidency was being divided into two parts hence this difficulty also would be solved.<sup>1</sup> It is remarkable that both Holt Mackenzie and Metcalfe advanced exactly similar arguments for the adoption of the same measure.

Hill was in favour of boards in spite of his allegiance to the Munro tradition and the principle of the union of powers. Individual agency ~~might~~ be good for vigour and promptness of action, but boards had many advantages. Boards never died. They imbibed the quality of continuity, stability and steadiness. Deliberation was of as much importance, if not more, than dispatch. Discussions in a well-composed body invariably led to better understanding of the problem, resulting in a balanced decision. In matters of revenue, a board and, in the realm of law, a Sadr Court were indispensable.<sup>2</sup> Bentinck was in complete agreement with Hill's opinion.

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1. Metcalfe's Minute, 18 Oct. 1830, Papers Relating to Constitution of Indian Governments, I.O.L., Record Dept., (19), 1085, p.39.
  2. David Hill, Minute, 8 March 1830, paras.10-16, P.P. East India Company, 8, pp.130-131.

The line of argument in favour of a union of powers and individual agency did not go altogether unchallenged. The challenge came from Bayley, William Blunt and the majority of the Sadr judges as was expected, but also from Bentinck himself. In 1828 when the commissioner system was being evolved none of them had favoured a union in the districts. The raison d'être of the Commissioner system was this. That the union was achieved at the level of the supervisory and controlling authority, the nature of the Commissioners' function being essentially deliberative. Secondly, the union was partial, being that of revenue and magisterial powers only which in the context of Indian situations was not incompatible with each other.

Two years later the government again confirmed their faith in the separation of powers. They said,<sup>1</sup>

'Upon the whole, the information elicited by this enquiry is not calculated to excite any regret that this Government has refrained from uniting generally the duties of the Collector and magistrate, .... It has indeed served to strengthen the opinions ... of the superior advantages of placing the management of the police in the hands of an officer who can devote the whole of his attention to the subject, without being distracted by the duties of the civil court, or of the revenue department.'

Bentinck's attitude against the universal application of the single-seated principle was born as much out of his

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1. Judicial Letter from Bengal, 15 June 1830, para.22. The enquiry referred to above related to 'The practical operation of the changes made of late years in the system for administration of justice and police in the Madras Presidency'. The correspondence is available in P.P. East India Company, 12, pp.281-349.

Whig sympathies as from his pragmatic instinct. Boards were essential to the system. They promoted a free exchange of views so necessary to form correct judgements on matters of vital importance especially relating to revenue and judicial questions. When a revision of a system and policies were being made, great caution and cool deliberation were required. Questions of rights over land or matters of details of administration at a high level could not be decided by individual will. Only a joint control and superintendence of a board was likely to guarantee right decisions. Government must safeguard itself against misguidance. Only a board could supply this demand. Amongst the boards, some were of more importance than others. Perhaps <sup>the</sup> board of salt and opium might be dispensed with by appointing an individual commissioner in its place, but not the board of revenue or the military board. He further continued:

'The Board of Revenue is to the Supreme Government what the latter is to the Home Authorities.' 1

He agreed with Hill that a revenue board was indispensable in Madras. For the same reason a revenue board and a Sadr Court were necessary in the Western Provinces.<sup>2</sup>

The Court of Directors received the account of the reorganization of administration with a marked hostility. They felt unhappy at the violation of the sacred principle

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1. Minute, 24 Jan. 1831, Beng. Civil Jud. Cons., (L.P.), 19 April 1831, 18.
  2. G.G.'s letter, 26 Jan. 1831, paras. 29-30, Beng. Civil Jud. Cons., (L.P.), 19 April 1831, 17.



of separation of powers. They represented against Bentinck's measures to the Board armed with an unanimous disapproval of Bentinck's measures in uniting judicial and revenue powers in the person of the Commissioner of revenue and circuit in 1829. The India Board rejected their protest maintaining that the issue involved was not one of principle but of the suitability of a measure to the peculiar circumstances of the people and the country. Moreover, such condemnation of measures already adopted did not solve the problem.<sup>1</sup> Ellenborough was then at the head of the Board, being succeeded by Charles Grant in December 1830. Quite obviously the decisions of the Board reached during this period had an important bearing on the policy of Bengal. It is noteworthy that no influence of either Benthamism or James Mill could be noticed in the thinking of either the Court or the Board.

At each district Metcalfe proposed to have a European officer armed with the powers of the collector, judge and magistrate. Under the district officers there were to be Indian judges, sadr amins with civil and criminal jurisdiction. At each town a sadr amin was to be appointed to try suits depending upon the finances. Tahsildars were to exercise powers of police as well, that is the office of the thamadar was combined with him. At villages there were village assemblies or panchayats and village headmen who acted as revenue and police officers. All disputes of the villages

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1. Philips, East India Company, p. 245      Appendix to Court's Minutes, 5, 18 Nov. 1830, pp.60-65. Board's replies, 19 Oct. 1830, p.64 and 22 Nov. 1830, pp.65-6.

were decided practically by these bodies. Also the principles of the jury system were adopted in Delhi. In the police system of Delhi the entire villages co-operated actively for mutual security and happiness. During Bentinck's Governor-Generalship these measures were adopted. However, only the powers of the collector and magistrate were united in the district officer.<sup>1</sup>

In Madras each village had its village headman as a revenue and police officer as well as a judge. A village munsif was also to be found in larger villages. In smaller villages the headman was also a munsif. Each district had its district munsif. Cases were decided by arbitration and compromise mostly, through the medium of juries or panchayats. Each district had its collector and magistrate, assisted by sub-collectors and magistrates. Over a few districts was placed a principal Collector who was responsible to the Board of revenue and finally to the government. This scheme had Metcalfe's approval. Under both schemes change would ensue.

Metcalfe's and Holt Mackenzie's attitude to change was somewhat similar. The difference although sharp was one of degree and emphasis. Mackenzie was naturally cautious. The desire for change he thought should come from the people themselves. A sudden introduction of reform would not give the best results. It was true that people were averse to change yet:

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1. Metcalfe's Minute, 11 April 1831, Beng. Civil Jud. Cons., (L.P.), 19 April 1831, 20.

'There must not of course be any attempt suddenly to introduce what we desire to establish everywhere, or in many places at once. If in a hundred years the object be attained, there will be abundant glory for our country. Nor must we think of tying the people down too strictly by forms: much must be left to the discretion of judicial functionaries, with the general understanding that, as their leading principle, they are to study and follow the wishes of the people.' 1

And significantly enough he went on to praise the popular institutions like the village police system and those which were preserved in the villages in their community life. Much of these had been preserved in Delhi, hence the people were happier than ever before under the security granted by British rule. The Codes had not touched Delhi; the lesser the Codes, he observed, the happier the people were.<sup>2</sup> More discretionary powers to judges. less precipitate legislations, less dependence on the Code, and a preservation of popular institutions were advocated as much by Metcalfe as by Holt Mackenzie. Both conceived of a distant future when the people might come forward and take <sup>the</sup> initiative in bringing about reforms in their system. But Metcalfe believed in preservation first; Holt Mackenzie wanted both preservation and regulation.<sup>3</sup>

Hence Holt Mackenzie outlined a scheme 'for the purposes of local administration, direction and control' as well as 'to establish regular courts, original, appellate and corrective' from the village upwards.

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1. Minute, 1 Oct. 1830, paras. 63-64. P.P. East India Company, 8, p.152.

2. Ibid., paras. 62-63, 70.

3. Note - Holt Mackenzie had no practical experience of district administration. His plan in many respects was visionary and was not accepted.

According to his plan, each village, each minor division of towns or cities was to have a headman as a revenue and police officer: each pargana to have a native magistrate and collector, each district was to be under a European Collector and magistrate with sub-collectors and magistrates for sub-divisions. For each circle of districts, a commissioner of revenue and circuit and another commissioner for civil and criminal administration were to be appointed. The control of police and revenue in the permanently settled areas was to rest with the government and its secretaries; whereas in the unsettled areas/<sup>it was to rest</sup> with the commissioners.

Each pargana was to have a native judge, each district a European judge with native judges as assistants. Juries without any defined powers were to arbitrate, advise and decide cases.<sup>1</sup>

Indeed Holt Mackenzie's plan was a comprehensive one and touched the life of every part of society. His suggestion that a secretary of a department should be in charge of revenue and police in Bengal was remarkable. His aim was to link up a village in a chain of command with the seat of government itself. Incidentally, it may be worth noticing that instead of tahsildars or thanadars, we find a native magistrate and collector at each pargana. The office of magistrate and judge were separated in his scheme below the district, although united in the person of a Commissioner. None of Holt Mackenzie's proposition relating to<sup>the</sup> district

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1. Minute, 1 Oct. 1830, paras. 53-61, p.151. Ibid.

was followed.

Apparently the Madras or Delhi plan was as much an instrument of change as the plan of Holt Mackenzie. Both wanted to avoid sudden innovations and opted for gradual changes by stages. What then was the difference between the two systems? The difference lay first, in their willingness to recognize the necessity of a change itself, and secondly, to plan accordingly for reconstruction. Holt Mackenzie's observation is significant:

'If it be objected to our plans, that they involve much change, I can only say, admitting the expediency of making all alterations gradually, that here at least great changes appear to be indispensably necessary, nay unavoidable. Everywhere indeed the causes of change are at work; and the real question is not how things can be made stationary, but how mischievous, or mischievously sudden, changes are to be avoided.' 1

Metcalfe saw a desirability but not the urgency of such a change. They took the path of a slow but steady progress without break from the past. Metcalfe did not conceive of a stagnant society although he did not visualize that administrative artifices were also likely to bring striking changes. In his opinion education and public opinion alone could accelerate the pace of change. Holt Mackenzie was an expert craftsman, a planner and a master of detail. By devising a minute mechanism he intended to march ahead. But there was no question of adopting his proposals. Bentinck also

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1. Minute, 1 Oct. 1830, para.66, P.P. East India Company, 8, p.153.

politely refused to consider them.<sup>1</sup>

Coming to the question of actual administration at the district, Bentinck agreed that an arbitrary division of functions was not desirable. Nor could the principle of union be followed rigidly. A combination of functions was of distinct advantage in the Western Provinces where the revenue settlement was being made. In the permanently settled province like Bengal, financial benefit was likely to be the most important benefit derived from such a union. In any case it was desirable that collectors should be immediately empowered to try all suits of rents and claims and all cases of such nature should be transferred from the courts of civil judges to the collectors' courts. Should the work of the collector and magistrate be heavy a deputy collector and magistrate might be appointed in such districts. Although he was not against union of the office of civil and criminal judge, he would establish it as a temporary measure only, under special circumstances.<sup>2</sup>

Bentinck for the first time appeared willing to give the powers of magistrate to the collector in 1831, after touring the unsettled districts of the Western Provinces, since he found that every 'fiscal question' was linked with 'judicial investigation'.<sup>3</sup> This willingness on his part was

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- to Vice President-in-Council*
1. G.G.'s letter, 26 Jan. 1831, para.42, Beng. Civil Jud. Cons. (L.P.), 19 April 1831, 17.
  2. G.G.'s letter, 15 June 1831, paras.6,7,8,17,24. Beng. Civil Jud. Cons. (L.P.), 2 Aug. 1831, 1.
  3. G.G.'s letter, 26 Jan. 1831, para.11. Beng. Civil Jud. Cons. (L.P.), 19 April 1831, 17.

the outcome of the frustrating knowledge acquired in the course of the tour undertaken by him during the end of 1830 and the early months of 1831. It was now acknowledged that no progress or very little progress had been made in the settlement operations in the Western Provinces although eight years had passed since the inauguration of Regulation VII of 1822. Another eight months of intense discussion followed before Bentinck declared that the policy of uniting the magistrate's powers with those of Collector could not long be delayed.<sup>1</sup> But it was not until 1832 that a resolution for a union of functions of the Collector and magistrate in one person was finally adopted. But the functions of the judge were kept separate. Years back the Court of Directors in their letter of 9 November 1814 had asked for some such policy. Bentinck acted upon it under the force of circumstances after a period of long deliberation and quoted this letter as a justification of his measures.

After a long and serious consideration the Bengal Government had rejected in 1827 the practicability of dealing with 360,000 to 400,000 village headmen as representatives of government entrusted with the task of civil administration. It was equally impossible to define the powers of panchayats and the representatives of villages, heads of castes or professions so as to make them effective instruments of a formal and legalised part of the judicial system.<sup>2</sup> Metcalfe

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1. G.G.'s letter to Court, 15 Sept. 1831, para.17, Judicial Letter from Bengal (L. & W.P.), 6 Sept. 1831, Vol.15, pp.142 xy.

2. Judicial Letter from Bengal, 22 Feb. 1827, paras. 22-29, 30-35, 70-72.

was prepared to have these men rather than destroy their influence altogether. Bengal was too much preoccupied with forms and disregarded the utility of the institutions. However in 1833 the verdict of panchayats was held as final in cases of rent and boundary disputes.

Meanwhile Bayley's proposals of 5 November 1829<sup>1</sup> had found favour with Bentinck. They were adopted in 1831 after a thorough discussion but without making any substantial change. The new scheme modified also the Commissioner system the working of which had disappointed Bentinck. Especially on account of heavy duties and union of functions their circuit duties had suffered. Justice had not been dispensed with promptness.<sup>2</sup>

The effects of the change were significant.<sup>3</sup> In the first place it transferred the bulk of the judicial business to the native judges of three categories, known as munsifs, sadr amins and principal sadr amins. Secondly, it decentralized judicial powers. The duties formerly performed by district judges, registers and assistants were now given to the native judges. The jurisdiction of the provincial courts of appeal as well as the duties of the circuit judges now performed by commissioners of revenue and circuit were assigned to the district and city judges. Two Sadr courts

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1. Bayley's Minute, Beng. Civil Jud. Cons. (L.P.), 12 Oct. 1830, 69. *to Vice-President in Council,*
  2. G.G.'s letter, 26 Jan. 1831, para. 26. Beng. Civil Jud. Cons., (L.P.), 19 April 1831, 17. *to Court*  
Also G.G.'s letter, 15 Sept 1831, paras. 16, 22, Vol. pp. 142 xy. Enclosure to Judicial Letter from Bengal, 6 Sept. 1831.
  3. Judicial Dispatch to Bengal, (L. & W.P.), 11 Sept. 1833, paras. 9-12, Vol. 9, ff. 1-19.



were established, one for Bengal and another for the Western Provinces.

Thirdly, the provincial courts and the registers' courts were abolished.

Fourthly, the commissioners of revenue and circuit were turned into Commissioners of revenue and police being shorn of the duties of judges of circuit.

The fundamental principle of change lay in the delegation of powers to the native judges, which facilitated the reorganization of judiciary with minimum of expense. In the new scheme the munsifs and sadramins were empowered to try original suits involving Rs.300 and Rs.1,000 respectively instead of Rs.150 and 500 as hitherto done. The powers of district judges who, in the old system, could take cognizance of suits not exceeding Rs.5,000 were now transferred to principal sadramins. Their salaries were substantially increased. Munsifs were to receive a fixed monthly salary of Rs.100, the sadramins, a consolidated pay of Rs.300 per month, whereas a principal sadramin received Rs.500 per month.<sup>1</sup> The jurisdiction of district and city judges was made unlimited. All appeals from the native judges were heard by the district and city judges, whose decision was final except in the cases tried by principal Sadramins when a special appeal was granted over the district court's judgement to the Sadr Diwani Adalat, the chief civil court.

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1. Resolution of Government, 12 Oct. 1830, Beng. Civil Jud. Cons., (L.P.), 12 Oct. 1830, 80.

All summary suits, cases of rents and arrears etc. were decided by collectors. By this arrangement 79/80 part of the whole judicial business was conducted by native judges.<sup>1</sup>

Metcalfe gave his concurrence to the changes, declaring that they were a distinct improvement upon the existing system although the scheme was not precisely the one which he would have suggested.<sup>2</sup> As far as the proposal to institute a separate Sadr Court was concerned it was not new. While the discussions for an establishment of another province were on, Metcalfe had suggested the desirability of having both a new province and a Sadr Court. The abolition of the provincial courts and registers was opposed by Blunt. Metcalfe was a staunch supporter of a move which did away with the provincial courts/<sup>so as</sup> to have single judges instead. The changes were significant. The duties of the Courts of Appeal and Circuit were transferred to the district and city judges and those of the latter for the most part to the sadr amins and principal sadr amins. The European judges were practically left with only the appellate jurisdiction. Earlier in Bengal the office of the judge and magistrate was combined, but the new system combined the duties of a magistrate with that of a collector. Metcalfe agreed with these changes with one reservation.<sup>3</sup>

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1. Judicial Dispatch to Bengal (L. & W.P.), 11 Sept. 1833, paras. 9-12, Vol.9, ff.1-19.
  2. Minute, 29 Oct. 1831, Beng. Civil Jud. Cons., (L.P.), 8 Nov. 1831, 20.
  3. Minutes, 5 Nov. 1831, 29 Oct. 1831, Beng. Civil Jud. Cons., (L.P.), 8 Nov. 1831, 22, 20.

He did not object to the change although in spirit he was not one with it.<sup>1</sup> This indeed reveals a contradiction in his thought. His opposition to the scheme of enlarging the functions of Indian judges was born out of his belief that too much of sharing of powers with Indians would result in a sure downfall.<sup>2</sup> However, there was another aspect of the question which deserved attention. Metcalfe's plan was to introduce English in the Courts. Also he wanted to give to the district and superior courts jurisdiction over Europeans. This presupposed a competence of English and of English law, which he did not think that Indian judges would soon acquire.<sup>3</sup> All the same it was quite clear that his distrust of Indian agency was the result of political considerations. He was in favour of employing Indians to various offices but as subordinates. Perhaps, he thought that the time for extensive employment of Indians had not yet come. When Western education would be imparted to them, then more Indians would be qualified for such jobs. Since he believed that with the advance of Western education a class of Indians more favourable to British rule would emerge, then perhaps he would have liked them to be employed in several offices. However, in the arrangement of 1831 the native judges had no jurisdiction over the British subjects, Europeans as well as on subjects affecting public revenue or 'interests' of the state, and

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1. Minute, 13 April 1831, Beng. Civil Jud. Cons., (L.P.), 19 July 1831, 15.

2. Metcalfe's Memo. 11 Oct. 1829, Colchester Papers, 30/9/4 Part 2.2.

3. Minute, n.d., Beng. Civil Jud. Cons., (L.P.), 10 July 1832, 4.

that appeals from their decisions in all cases were to be heard by European judges. These suggestions came from Metcalfe and Blunt but all agreed in their wisdom in the then circumstances in India.<sup>1</sup>

Although in the new judicial arrangement powers were being decentralized, yet it was not the central theme of the reforms of this period. The trend, on the contrary, was for centralization of powers and unity in administration whether in the district, where the offices of collector and magistrate were united; or in a sub-division where a tahsildar also functioned as a thanadar; or in the case of a commissioner who exercised powers of control and supervision over revenue and police affairs the urge was for unity and concentration of powers. This trend was all the more manifest in the contemplated reorganization of the powers of the Supreme Government. The Civil Finance Committee and Metcalfe, partly supported with certain reservations by Bayley and Bentinck, strongly advocated a move of this nature. They all agreed that the Supreme Government exercised very little control over subordinate presidencies. Discipline in the army - (half-batta crisis and the insolent behaviour of the Commander-in-Chief was a reminder) - and the Civil Service had declined. Conflicting jurisdiction between Company's and King's Courts added confusion and at times disgrace to the proceedings of

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1. Metcalfe's Minute, 13 April 1831, Beng. Civil Jud. Cons. (L.P.), 19 April 1831, 15.

the courts. The Grant-Malcolm episode in Bombay was very fresh in the minds of all. The Supreme Government was hampered by details of administration of which it must be relieved to enable it to exercise its powers of direction and control effectively in all branches of administration and over the subordinate governments. Hence the powers of the Supreme Government should be increased, simultaneously curtailing those of the provinces. For the same reason the armies and the civil service of the three presidencies should be merged into one under one command.<sup>1</sup> These suggestions as has been seen were submitted long before by Metcalfe.<sup>2</sup>

Metcalfe recommended a Governor-General for India to be assisted by an executive council and a legislative council for the whole of India with the armies, the civil service united under the Supreme Government. All courts similarly were to be amalgamated into one system. The presidencies were to be under Lt. Governors assisted by a council or a board. The presidencies were to be subordinate entirely in all respects, except on matters of local importance, to the Supreme Government.<sup>3</sup> The debate however remained inconclusive, the Home Authorities being ultimately the deciding authorities in these matters.

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1. Letter of Civil Finance Committee to G.G. 2 Aug. 1830, Papers relating to the Constitution of Indian Governments, Record Dept. I.O.L. (19), 1085, pp. Also Minute, Holt Mackenzie, 20 July 1830, pp.15-27. Minute, Metcalfe, 18 Oct. 1830, pp.37-45.
  2. See above, pp. 228-231.
  3. Minute, 18 Oct. 1830, Ibid., pp.37-45. Also Metcalfe's Memo. 11 Oct. 1829, op.cit.

Before the passing of the Charter Act of 1833 by the British Parliament, Macaulay enunciated the principles of the Act in his famous speech of 10 July 1833 in the House of Commons.<sup>1</sup> He referred to these suggestions making particular reference to Metcalfe in the House. The theme of the Act was also unity of authority and centralization of powers in the Supreme Government. The Governor-General, now became the Governor-General of India. He was granted the powers of 'superintendence, direction and control' of the whole Civil and military administration of India. The Governor-General also became the Commander-in-Chief of all the forces in India. Secondly, the Governor-General-in-Council was empowered to make, repeal and amend the laws relating to the entire territory of India. Also laws affecting the British, natives or foreigners could be made by the Supreme Government. Thirdly, a general system of judicial and police establishments ~~was~~ to be introduced. Fourthly, a code of laws was to be prepared for the purpose of which a Law Commission was appointed and finally, Indians were to be employed according to their competence irrespective of their religion, caste and creed.<sup>2</sup>

The task of codification was left to the Law Commission, more appropriately to Lord Macaulay who joined the Supreme Council as Law Member in 1834. The penal code was drafted by 1837 and Lord Auckland confessed to John Cam

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1. Keith, Speeches & Documents on Indian Policy, 1, pp.226-266. 0

2. Ibid., pp.266-274.

Hobhouse:

'... between you and me, I thought that enough of pure Benthamism was already secured to our code.'<sup>1</sup>

Macaulay himself acknowledged that he thought very highly of Bentham's jurisprudence.<sup>2</sup> Stephen however saw in the penal code the substance of criminal law of England.<sup>3</sup> Macaulay was not wedded to utilitarian thought; far from it.

The fundamental question discussed during the period related to the adoption of union of powers. This remained a burning problem of the latter period as well. Auckland regretted that 'justice and revenue were sadly intermixed.'<sup>4</sup> In 1837 again the trend for separating the functions of collector and magistrate began culminating in complete separation in 1848 in Bengal. But the union of powers as a principle continued to be respected elsewhere. Metcalfe was indeed a key figure of the North-Western India just as Munro had been of Madras or Elphinstone of Bombay. The forces unleashed by two opposing systems - one believing in separation and the other in union - were at work during the period of our study. Benthamism may have made some appeal to some persons like Holt Mackenzie but it does not seem to have been a major force. Evidently there was much which might pass for Benthamism both in the Cornwallis as well as Munro

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1. Auckland to Hobhouse, President of Board of Control, 14 July 1837, Broughton Papers, BM. Add.MSS. 36473, ff.172.
  2. This subject is beyond the scope of this analysis.
  3. Trevelyan, G.O., The Life and Letters of Lord Macaulay, 1, p.303.
  4. Auckland to Hobhouse, 26 Aug. 1836, Broughton Papers, BM. Add.MSS, 36473, f.81.

principles, if picked out of their context. Bentinck derived much of his reasoning from his experience of Madras administration of which he was the head between 1803 and 1807. His faith in the independence of judiciary and the Boards as agencies of administration was never shaken. Indeed needs not principles dictated his policy. Metcalfe asserted his influence in favour of the principle that the paramount duty of a government was to govern and not to be swayed by a doctrinaire approach.



Chapter VIEarly Press Policy and Metcalfe's Attitude towards  
the Press and Education

It is accepted that an essential attribute of a modern democratic state is a free press. The character of a state is known by the extent of freedom it guarantees to its press. The press symbolises freedom of thought and expression and helps in formulating public opinion so fundamental to the development of a society which has chosen democracy as its ideal. By offering criticism of the measures and policies of government it acts as an effective instrument of public opinion. But in India public opinion could hardly be said to have existed in the early decades of the nineteenth century. Furthermore, India was neither free nor had it a representative government. It was commonly acknowledged that Britain held India by the sword. Since the government was alien it remained uninfluenced by the voice of the people it governed. The structure and character of administration, by and large, was authoritative although it was tempered by the acceptance of a rule of law as a guiding principle. Freedom of discussion and criticism in this context therefore, may be considered an anomaly. Yet Metcalfe in 1835 as the Provisional Governor-General freed the press and precisely for the same reasons his action assumed importance. And his declaration was hailed both by the British community residing in India as well as educated Indians as the herald of a new era.

This was all the more significant since, only a few months before, a decision to promote English education among

Indians had been taken by Bentinck. English education by its very nature was bound to undermine Indian age-old beliefs and superstitions. With the spread of western learning it was thought that Indians would imbibe new concepts - the concepts of liberty, democracy and science. The despotism of emperors and priests and the tyranny of dogma which had subjected the Indian mind for centuries would eventually be replaced by rationalism and liberalism. The supporters of measures for promoting western education in India, one of whom was Metcalfe hoped that the old order would give place to a new one which must emerge in the face of changing circumstances. Added to all this, the press was to be given unfettered freedom. If English education was to bring western culture to the door-steps of Indians, the press was destined to impart a political awakening in them. If that be so, India must inevitably be free some day, however distant that day may be. It was therefore not surprising that the Authorities at Home received the news of the liberation of the press with marked hostility and alarm. And Metcalfe paid a price for his action. He was bypassed for the governorship of Madras and although he was appointed provisional governor-general in the event of death or departure of Auckland it was done despite the Directors' displeasure.<sup>1</sup> The senior-most servant of the company could not

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1. Bentinck to Metcalfe, 7 March 1836, Bentinck Papers, PWJf. 1746. Metcalfe was aware of the displeasure of the Court but felt reassured that he was made Provisional Governor-General, hence he stayed on in India. Metcalfe to Elphinstone, 4 April 1836, Elphinstone Papers, MSS.EUR. F.88, Box 3, G.44.

with justice and dignity be humiliated in this respect. And the attitude of the Court as well as of the Board remained generally hostile. Hobhouse, President of the India Board saw in Metcalfe's action nothing but folly and impudence.<sup>1</sup>

The press ever since its birth had received scant respect from the government. For this <sup>the</sup> government was not entirely to be blamed. Hickey's Gazette first published in 1780 devoted itself to the private scandals of individuals and was nothing but 'a channel of public and private abuse'. Miss Margarita Barns says that the paper was 'undoubtedly vulgar' and exhibited 'the lowest forms of interest'.<sup>2</sup> Sir John Shore expressed concern at the growing 'licentiousness' of the newspapers, a situation 'too dangerous to be permitted in this country.'<sup>3</sup> Lord Wellesley would not tolerate a press if it continued to commit the 'scandalous outrages' of 1793-1798. The following words summed up the reaction of his government to the press:

'Useless to literature and to the public and dubiously profitable to the speculators they secure only to maintain, in needy indolence, a few European adventurers, who are unfit to engage in any creditable method of subsistence.'<sup>4</sup>

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1. Hobhouse to Auckland, 9 May 1838, Broughton Papers, Home Misc. Series, 838, p.296. Also 26 Jan.1837, Ibid., 837, p.170.
  2. Barns, The Indian Press, p.50. The book gives a fairly well-documented account of the growth of the press in India. Many of the documents are cited at length, sometimes in full. Miss Barns' valuable contribution is marred by a journalist's bias which is so manifest throughout, Miss Barns being a journalist herself.
  3. To Henry Dundas, 31 Dec.1794, Ibid., p.66.
  4. Quoted in Letter from Court to Board, 17 January 1823, Home Misc. Series, 535, ff.28-29.

In 1799, a regulation was passed prohibiting publication of newspapers unless inspected by the Secretary of Government or any person deputed by him. Editors and proprietors were asked to give their names and addresses to government. Henceforth the printer's name was to appear at the bottom of the paper. No paper was to be published on Sunday. The penalty for a violation of these rules was deportation to Europe.<sup>1</sup> In 1801, the rules were reinforced by further provisions which stopped the publication of any military order, army list,<sup>or</sup> any reference to the number or situation of the army without sanction of <sup>the</sup> government.

In 1813 further restrictions were imposed by asking all papers to submit the proof-sheets to the Chief Secretary for his approval before publication. These rules were rigorously enforced and violations of these rules were severely reprimanded.<sup>2</sup>

But soon a delicate and embarrassing incident occurred. In April 1818, a person by name Heatley who was editor and owner of the Morning Post refused to abide by the directives of Bayley, the Chief Secretary, on the ground that the press regulations did not apply to him, he being an Indian and the press laws being based on English law. Lord Hastings agreed that the censorship did not rest on law and it was withdrawn.<sup>3</sup>

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1. Ibid., f 23. All papers promised strict compliance. Some of them were: Bengal Hircarah, Morning Post, Calcutta Courier, Telegraph, Asiatic Mirror, Indian Gazette, Oriental Star.
  2. Ibid., ff 31, 47-49.
  3. Hastings' Minute, 7 Oct. 1822, Beng. Pub.Cons., 17 Oct. 1822, 6. Bayley's Minute, 10 Oct. 1822, Ibid., 8. Heatley was born of a European father and an Indian mother.

Thus virtue was made out of necessity. New rules were framed so as to serve as a guide to editors of papers. They were henceforth free to publish anything without prior approval. But disrespectful comments on the Authorities at Home, the Governor-General, Members of the Council, Judges of the Supreme Court and <sup>the</sup> Lord Bishop of Calcutta were prohibited. Furthermore, private scandals or religious discussions having a tendency to excite feelings of animosity among communities were to be avoided. It was hoped that a code of honour would be observed by the press and the rules followed in the spirit in which they were framed.<sup>1</sup> Thus by 1818, the policy of censorship and stiffness gave place to a policy of tolerance.

So far <sup>the</sup> British press alone enjoyed a position of pre-eminence in the field of journalism. The vernacular press was suffering from the pangs of birth and an enlightened Indian public as yet was only in the process of slow formation. Even the British public in India was not a true representative of English people, as Malcolm emphasised while defending the Adam regulations of 1823.<sup>2</sup> Lowell has remarked: 'Public opinion, to be worthy of the name ... must be really public.'<sup>3</sup>

The British community in India was composed mainly of four groups of persons. In the first place, by far the

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1. Letter from Court to Board, 17 Jan. 1823, pp. 1-343, Home Misc. Series, 535, ff. 69-73. These rules annulling the earlier ones were passed on 19 Aug. 1818.
  2. Speech, 9 July 1824, given at a General Meeting of Proprietors of the East India Stock, Adam Papers, MSS. EUR. F.109, Box e.
  3. Lowell, Public Opinion and Popular Government, pp. 14-15.

greatest majority were employed by <sup>the</sup>Government as civil and military officers. They and the government were bound together by common aims and objectives. These officers ran the administration in the name of <sup>the</sup>government and protected the empire from its external and internal enemies. In fact they were the government to the people. Normally there was no question of conflict between them and government. There might have been some rivalry between civil and army personnel but the differences, if any, were neither sharp nor unnatural. As such whenever differences arose between the administration and its officers, these usually related to questions of salary and service conditions. As long as their allowances were not in danger of being reduced, they were not likely to invoke the virtues of free expression of opinion. Apparently the letters in the newspapers of the time showed that the sentiments expressed in them had roots in personal grievances. Depending upon individual temperament and the degree of irritation caused to the person by any incident or event, the tone and the language of the protest also differed.

The second group in the British community, second only in bulk and importance and not in the volume of noise it made, was formed of merchants and members of the mercantile houses. They had an axe to grind. The East India Company monopolised both political power as well as the privileges of trade. As a political authority it imposed taxes, custom and transit duties which were liable to affect trade interests in general.

Hence, in the name of free trade they launched an attack on the Company's commercial monopoly and the policy of taxation. They sought to secure unrestricted freedom for the employment of their capital and skill in India and would naturally have felt happy if the government were lenient towards their dealings, while they were engaged in profitable enterprises like the indigo, tea and coffee plantations. Until 1833 when trade was finally made open to all they vociferously attacked the Company's policy of prohibiting European settlement. If it is true that the Act of 1833 did not permit them to settle in India as permanent residents yet they were granted some privileges such as the opening of trade to China which was a step nearer their goal. Financially powerful it was they who supported a number of papers, for instance, <sup>the</sup> John Bull, the India Gazette or the Calcutta Journal<sup>1</sup> of which James Silk Buckingham was the fiery editor until he was deported by John Adam in 1823. This group formed the most vocal portion of the English community. Adam suspected its complicity with the press.<sup>2</sup> Lord Hastings himself admitted the existence of this 'faction' and 'a mischievous set' which employed its means to ventilate its 'disappointments' and to satisfy its 'vanity' and that basically it had no ideals at all.<sup>3</sup>

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1. Calcutta Journal was owned by Messrs Palmer & Ballard; John Bull by Messrs. Cruttenden, McKillop & Co., and the India Gazette by Mackintosh & Co. Barns, The Indian Press, p.197. Also Public Letter from Bengal, 31 Dec.1823, 12, pp.715-763.
  2. Adam's Minute, 14 Aug.1822, Beng.Pub.Cons., 17 Oct.1822, 3. John Adam arrived 1796, was employed in responsible positions mostly at the Secretariat. Became Secretary, Foreign, Political & Secret Dept. 1812, Chief Secretary 1816, Member Council 1819, Acting G.G. 1823, Died 1825 on way home. Personal Records, 3, f 1; 7, ff.611-15.
  3. Hastings' Minute, 7 Oct.1822, Beng.Pub.Cons., 17 Oct.1822, 6.

The third group was composed of persons commonly described as 'adventurers' who came to India mostly without license and without fixed means of livelihood. They were condemned by all. Sandford Arnot who succeeded Buckingham as editor of the Calcutta Journal and who also met with the same fate as Buckingham soon after was branded as 'an obscure adventurer'.<sup>1</sup>

Finally, there were the Christian missionaries mostly operating from Serampur situated in the Danish territory. But ever since 1813, the Charter Act permitted them freer access to the Company's territory. Even chaplains and bishops could be sent to Calcutta. Although the Act promised greater freedom of activity to the missionaries, the Government looked at them with some suspicion. <sup>The</sup> Government was pledged to a policy of religious neutrality and would not brook criticism of the Hindu or Muslim religions or even their superstitious practices. <sup>The</sup> British Government was afraid that the missionaries, many of whom were Evangelists <sup>(as)</sup> and were imbued with religious zeal and devotion might embarrass them by their preachings and intemperate criticisms or arouse feelings of animosity among Indian communities. <sup>The</sup> Government therefore zealously watched against any infringement of rules in this regard. But the missionaries themselves soon realized that greater things could be achieved by education and social reform rather than by mere religious propaganda. Hence they began establishing schools and papers and journals mainly as organs of social

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1. Public Letter from Bengal, 30 Dec. 1823, 12, ff 761-2.



reform. Many among the missionaries were oriental scholars and Hindu religious books were translated by them into English and the Bible was translated into Bengali and other Indian languages. The Baptist Missionary Society of Serampur began publishing Dig-darshan, a monthly journal and Samachar Darpan, a weekly in Bengali in 1818, thus taking a lead in the field of vernacular journalism. They avoided, by and large, discussions on politics and religion.

Metcalf did not see any difficulty from their writings or expressions in the press. This community as a whole was a part of the parent body. It might give an occasion or two of annoyance but there was no cause for alarm, he thought.

However, soon ~~after~~ the arrival of Buckingham who began publishing the Calcutta Journal in 1818, the Bengal Government found itself in a delicate situation. Buckingham was indeed a man of some talent and ideals. A Whig in politics he was a supporter of free trade. But as a self-styled spokesman of the oppressed - free traders being some of them - he launched a virulent attack on the policies of government in general. That his tone was offensive and criticisms intemperate cannot be doubted.<sup>1</sup> All this reached a climax in 1823 when Adam officiated as Governor-General after the departure of Lord Hastings. Adam deported Buckingham home and new measures for regulating the press were adopted on 4 April 1823, thus rescinding the rules of 1818. The Press Ordinance laid down

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1. See below, pp. 266-7.

detailed rules and procedure for the licensing of the printing presses and publications. A violation of the rules was punishable by fines, imprisonment and forfeiture of the printing presses.

The year 1824 roughly marks a dividing line in the policy of <sup>the</sup>/Bengal Government on the question of the press as well as in the history of the growth of public opinion in Bengal. Metcalfe was a prominent figure of the post 1824 era. The earlier period was significant for the strained relations existing between <sup>the</sup>/government and the press; yet the seeds of growth were laid during this time.

Metcalfe was indeed fortunate to have enjoyed the confidence of almost all the governor-generals during his stay in India except for a brief period when there was a cooling of relationship between him and Lord Hastings on the notorious Palmer question. Amherst consulted Metcalfe on major political issues even though Metcalfe was some distance away as Resident and Commissioner of Delhi from 1825 to 1827. Amherst's policy on the press was one of relaxation of the Adam regulations of 1823, mainly because of the storm which the Buckingham episode had raised at Home; and the Liverpool ministry felt considerable embarrassment in facing British public opinion to justify the stand of the Bengal Government.<sup>1</sup>

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1. Bayley to Adam, 8 Nov. 1824. Adam Papers, EUR.MSS, F.109, Box f. According to Bayley, Amherst was averse to taking strong measures against the press since the authorities at Home had sounded him not to do so.

At this time when the dust of the storm had hardly settled Metcalfe expressed himself with characteristic frankness. He said while commenting on Malcolm's speech:

'... I am inclined to think that I would let it have its swing, if I were sovereign lord and master.' 1

The statement is the more interesting because it was uttered ten years before the act liberating the press was passed by him when he was Governor-General.

The Buckingham case is of significance not only because it serves to reflect the government's policy with regard to the press of that time but it tends to show the attitude of persons also. Besides it reveals Metcalfe's ideas. A few instances of Buckingham's wit may therefore be briefly told so as to form an estimate of the prevailing mood of the press.

Buckingham did not spare persons from his biting satire. The continuance of Hugh Elliott for three years more as Governor of Madras was regarded by Buckingham as 'a public calamity' since Elliott's conduct was according to him, governed by 'despotic principles' and 'unworthy motives'.<sup>2</sup> Later he attacked the Bishop of Calcutta receiving in return a sharp rejoinder from the government that should he continue to indulge in these activities his license to reside in India

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1. (Private letter) Metcalfe to [?], 2 March 1825, Kaye, Life of Metcalfe, 2, p.121. Malcolm's speech, op.cit., 9 July 1824.
  2. Home Misc. Series, 538, ff.33-81. Vols.532, 535, 538 are full of such instances and they contain long extracts from the Calcutta Journal.

would be withdrawn. In reply Buckingham preferred to give a lecture declaring that the government in that case would act as the judge of law as well as of fact besides acting as a jury, an accuser, a witness and even executioner.<sup>1</sup>

As Chief Secretary to Government Adam was responsible for scrutinizing newspapers until 1819. Later Bayley succeeded him when Adam was promoted to the Council. Both of them were disgusted with Buckingham partly on grounds of principle and also because of irritation against the man who refused to take their warnings seriously. Lord Hastings also was not happy with Buckingham's attacks on Elliot. He considered Buckingham to be guilty of 'misdeeds'. He was annoyed because such incidents as reported by Buckingham would attract the attention of the Home Authorities who might blame Lord Hastings' government 'for having opened the door to such ebullitions....'<sup>2</sup>

Indeed many of the comments in the press considered obnoxious in India would have gone unnoticed in England. But the British Government in India were alarmed mainly for two reasons. First, the Indian press might catch the infection by evil example and second, this might adversely affect the sense

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1. Barns, The Indian Press, p.98.

2. Lord Hastings to Col. James Young, 26 Jan. 1820, Col. James Young Papers, BM.Add.MSS. 38517, ff.131-2. Lt. Col. Young, a Benthamite, was military secretary to Govt., with the G.G. 1817-18. Buckingham was a close friend of Young hence he tried to save Buckingham whenever he was in trouble. Hastings was quite friendly and had great regard for Young but on many issues involving Buckingham Hastings remained firm.

of discipline and subordination in the army. On both grounds their fears were not ill-founded although hardly any danger from the native press at that stage could be anticipated.

The vernacular press was a recent arrival in the field of journalism, the first Bengali journals, Dig Darshan and Samachar Darpan having seen the light in April and May 1818 respectively. They were Baptist journals and edited by John Clark Marshman. The papers rarely touched politics and cautiously avoided religious controversies, although occasionally some attack on Hindu religious practices was made by contributors of Letters to Editor. The tone of the papers was high and showed some literary taste. These journals were of considerable educative value. Their popularity was on the increase and by 1821 as many as 61,250 copies of the first three editions of Dig Darshan had been sold to the Calcutta School Book Society alone.<sup>1</sup>

Three years later in November 1821 Ram Mohan Roy, a scholar, thinker and a Hindu reformer founded Samachar Kaumudi whose aim was to discuss 'religious, moral and political matters'. In April 1822 a Persian journal by name Mirat-ul-Ukhbar was started by him. These papers were organs of reformist Hinduism and advocated civil and religious freedom, attacked the idolatrous practices of the Hindus and declared themselves as opposed to corruption and tyranny. They were received well.<sup>2</sup>

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1. Ahmed, A.F.S., The Development of Public Opinion in Bengal 1818-35 (unpublished Ph.D. thesis, London, 1961) p.162.

2. Alexander's East-India Magazine, Dec. 1830, 1. pp.50-51.

The orthodox Hindus published Samachar Chandrika to provide a counter-argument to Ram Mohan Roy. It appeared on 5 March 1822 and was edited by Bhawani Charan Banerji who at one time was the editor of Ram Mohan Roy's journal, Samachar Kaumudi but had since become a convert to the orthodox cause.

Jam-i-Jahan-numa, a Persian weekly of note was edited by Hari Har Dutt and made its appearance on 28 March 1822. It also advocated the cause of social reform/<sup>and</sup> was moderate in its tone and avoided controversy. Andrew Stirling, Secretary in the Persian Department, who was asked in 1828 by Bentinck to report on the state of the native press considered this as the best Indian paper which had many English supporters, he being one of them.<sup>1</sup>

By 1822 thus there was a spurt in journalistic activity in Bengal. A few papers of some significance also appeared along with/<sup>a</sup> considerable amount of pamphlets and tracts. But they were not dangerous to/<sup>the</sup> government. Ram Mohan Roy, the prolific pamphleteer, was the spirit behind all discussions which were initiated in these papers. He was a staunch supporter of western culture and was conscious of the blessings of British rule, hence was loyal to/<sup>the</sup> government. His opponents by no means were against the government. All the same, a variety of subjects in the papers were commented upon and they showed a consciousness of the merits of liberty of the

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1. Andrew Stirling to G.G., n.d., (1828), Beng.Pub.Cons., 6 Jan.1829, c.

press. Although there was no cause for alarm yet suspicions were aroused in the minds of some officials especially when translations of extracts from English papers were published in the vernacular papers. Sometimes gossip about the courts of Indian princes was reproduced which was not appreciated in official circles.<sup>1</sup>

The beginning of the growth of an educated class through the medium of western learning was a striking feature of the period. Here again the missionaries were pioneers and contributed most towards the promotion of education. The Baptists claimed that they had 7,000 children in their schools in 1819 while the Church Missionary Society estimated 1,800 students in Bengal and 2,500 in the Deccan under their care. The London Missionary Society was educating more than 4,000 students in its schools. The American Board claimed 7 to 800 pupils. Seven years later 39,000 to 50,000 children were receiving instruction in the various schools run by these societies.<sup>2</sup> With the growth of education, it was also obvious that the press also would grow and receive strength from this class.

It was not likely therefore that the condition of the period down to 1822 would long continue.

Meanwhile papers like the Calcutta Journal continued with unflagging zeal its hostile tone. Military officers in larger numbers had begun giving expression to their

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1. Bayley's Minute, 10 Oct. 1822, Beng. Pub. Cons., 17 Oct, 1822, 8.

2. Ingham, The Social Reformers in India, p. 63.

grievances in the columns of the press. In February 1820 it was alleged by an officer that some of the officers through whom pay was issued to British troops in the Nizam's territory made a profit from selling the good currency received from the Company's treasury and issueing a base one to the troops. The letter boldly asked why not deduct a portion of pay of the troops instead of secretly depriving them of it?<sup>1</sup> In the Calcutta Journal of 6 November 1820 appeared yet another article entitled 'Merit and Interest' by one Aemulus. It argued that merit was no more a qualification for appointment and promotion in the army.<sup>2</sup> A libel action was instituted by the Bengal Government against Buckingham for his remarks on the above letter. Lord Hastings would not forgive Buckingham although he had no wish to put him 'to trouble or expense'.<sup>3</sup> However, Buckingham apologised in the court and the prosecution was dropped on 13 January 1821.<sup>4</sup>

Meanwhile, high-flown discussions on subjects like the freedom of the press continued in the papers. A military officer, Lt. Col. Robinson congratulated Buckingham for doing greater good to the people than all the laws of the government put together. Arguing in this vein, he observed that none in the Company's territory was safe against fraud and violence

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1. Resident Hyderabad to Beng.Govt., 15 March 1820, Beng. Pub. Cons., 5 May 1820, 1-3. There was however no basis for such allegations.

2. Home Misc. Series, 538, ff 147-175.

3. Hastings to Col. Young, [?] Nov.1820, 8 Dec. 1820, Col. James Young Papers, BM. Add.MSS. 38517, f 178, f 188 respectively.

4. See Beng. Pub. Cons., 13 Jan. 1821, 15-19.



'even in the legal courts, and under rules and regulations'.<sup>1</sup>

Robinson was asked to prove his allegation. Later he was court-martialled and deported to England.

About three weeks later, on 7 June 1822, Buckingham issued a notice that discussions on military affairs would follow regularly in his columns. The aim was to define the authority and duties of commanding officers towards their subordinates. For the sake of convenience he would put questions and officers and others were requested to answer them.<sup>2</sup>

Adam's patience was indeed exhausted. Exasperated he proposed that Buckingham should be deported. He declared that an irresponsible press could not be tolerated. The press could not 'arrogate to itself the office of correcting public abuses and of exercising a salutary check on public authority.' There was no public opinion in India. The European community resided in India by permission of <sup>the</sup> government and were liable to be removed by it at pleasure. Furthermore, an unbridled criticism of <sup>the</sup> government by subordinates could not be permitted. 'I can't imagine', he said, 'a greater political absurdity than a government controlled by the voice of its own servants.' He proposed further that the Authorities at Home should be requested to approach Parliament to pass a law empowering the government in India to stamp out such evils.<sup>3</sup> Other members of

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1. Home Misc. Series, 538, ff 303-321.

2. Home Misc. Series, 535, ff 519-520. For more letters from army personnel see Ibid., 538, ff 177-179, also, 535, ff.515-519.

3. Minute, 14 Aug. 1822, Beng. Pub. Cons., 17 Oct. 1822, 3. Adam was the senior-most member of the Council at this time.

the Council strongly supported Adam.<sup>1</sup>

Lord Hastings agreed that public opinion in the sense it was understood in Britain did not exist in India but the community at large, in his opinion, had a right to form an estimate of government activities. It was true that Buckingham was mischievous but his offence was not such as to deserve an extreme penalty. This would ruin him. Moreover, the punishment of deportation might embarrass the Authorities at Home. Also, the faction of which Buckingham was a tool would be happy to find 'an intemperate exercise of authority' which would 'bring home disgustingly to the Bosom of everyone the nature of despotic Power.' On these grounds Hastings acting on his own responsibility ruled out any action against Buckingham.<sup>2</sup>

That Adam's point of view had considerable weight could not be doubted. After all the discipline of the army was not a matter to be treated lightly. At all events, under the peculiar nature of British rule in India, if Adam considered a perfect freedom of discussion as an anomaly he had sufficient reason to do so. Hastings, however, appealed for patience, moderation, kindness and even justice, but he was not an advocate of an unlicensed freedom of the press. He was not prepared to grant the press a superior right of criticism over <sup>the</sup> government. He would not surrender the authority of the

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1. John Fendell's Minute, 8 Oct. 1822, Ibid., 7.  
Bayley's Minute, 10 Oct. 1822, Ibid., 8.

2. G.G.'s Minute, 7 Oct. 1822, Beng. Pub. Cons., 17 Oct. 1822, 6.

state in any manner.<sup>1</sup> Similarly he refused to save Buckingham whose impertinence, as Hastings observed, was unbounded. In more than one instance Buckingham had committed wrong, making libellous attacks on individuals. No libel could be tolerated. This would destroy domestic peace and individual happiness. Hastings declared:

'That is not the liberty of the Press which I have contemplated; & the abuse will never find a more active opponent than in me.' 2

These incidents aroused considerable apprehension in the minds of Munro, Malcolm and Elphinstone, although Metcalfe felt that the government was unduly concerned by them. These 'petty annoyances' or 'inconveniences', as he called them, were but harmless pranks which should be treated with indifference.<sup>3</sup> On the contrary Munro, Malcolm and Elphinstone entertained the worst fears. It would be an evil day for the empire, they maintained, if free political discussions were permitted. Munro was bitter in his attack of Hastings' press policy. By taking a strong action against Buckingham, he said:

'He [Hastings] might have saved his Government from the greatest disgrace that can fall upon authority.' 4

And Munro congratulated Baron Adam, father of Adam, for having

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1. Hastings to Col. James Young, 21 Nov. 1820, Col. James Young Papers, BM. Add. MSS. 38517, ff 185-6.
  2. Same to same, 8 Dec. 1820, Ibid., ff 188-190. Also 26 Jan. 1820, Ibid., ff 132
  3. (Private letter) 2 March 1825, Kaye, Life of Metcalfe, 2, p.121.
  4. Munro to Adam, 18 April 1823, Adam Papers, EUR. MSS. F.109, Box e.

a son who was the author of a measure of the highest importance requiring firmness and 'real patriotism'.<sup>1</sup> Elphinstone held similar strong views on the subject. He could not conceive of a press enjoying freedom. English education was good enough but a free press was a dangerous instrument 'not at all adapted to this country.'<sup>2</sup> Malcolm publicly declared himself to be an 'enemy' of such a press and Buckingham in his opinion, could not be permitted to uphold 'English liberty in that enslaved country.'<sup>3</sup>

Metcalf's views were symptomatic of a new age that was fast approaching. In 1835, when he gave liberty to the press, the foundations of a period of growth and change had been laid by him.

Bengal especially Calcutta was developing fast. As early as 1805 when Bentinck paid a visit to Calcutta on official business as Governor of Madras he was impressed by the grandeur and wealth of Calcutta. With the exception of London, he said, it was the most flourishing town in the world.<sup>4</sup> Two decades later when Bishop Heber saw Calcutta he was equally gratified with it although there was filth and squalor in parts characteristic of an oriental city.<sup>5</sup> This

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1. Munro to Baron Adam, 22 July 1824, Ibid.

2. M. Elphinstone to Adam, 24 March 1823, Adam Papers, EUR.MSS. F.109, Box f.

3. Malcolm's Speech, 9 July 1824, op.cit., Adam Papers, <sup>MSS</sup>EUR.MSS. F.109, Box e.

4. Bentinck to William Petrie, 6 July 1805, Bentinck Papers, FWJb [Letter not numbered].

5. Bishop Heber, Narrative of a Journey, 1, pp.16-31.

apparently glamorous side of Calcutta's personality was more a result of the influence of the European community. Nonetheless the growth of trade and the brisk commercial activity of the European merchants considerably benefitted the Indian bankers and banyans of Bengal. Slowly an Indian mercantile class of some consequence well-versed in western methods of business management and enterprise was emerging.

Similar changes were taking place in another sphere. As is well known the immediate effect of the sale-laws following the permanent settlement of Bengal had been one of great distress to the old landed nobility. One third of the land in Bengal had been sold off in the first decade of the operation of the settlement.<sup>1</sup> Most of the lands were purchased by opulent banyans of Calcutta. Thus the aristocracy of birth was being replaced by the aristocracy of wealth. This mobility of capital and social status was significant indeed in the re-organization of the society.

Associated with this class of aristocracy, an upper middle class was also coming into existence. Ram Mohan Roy was a typical example of the rising upper class. He began his career as a servant of the East India Company, but soon he gave it up to devote himself to the cause of social reform. Asutosh Day, a son of Ram Dulal Day, a banyan in service of Charles Cantor & Company, Ralli Brothers and others, became a leading merchant and was one of the three trustees, two of whom were Europeans, of the Union Bank in 1835. It seems out of

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1. See above, Chapter 2 , p.99.

proprietors of the bank 70 were Bengali Hindus, 2 were Bengali Muslims and one was a Parsi, the rest being Europeans. Numerous instances of this type could be cited.<sup>1</sup> On the other hand just as members of the business community were purchasing land, some landlords also began having business interests. Dwarkanath Tagore a wealthy landlord established Carr Tagore and Company in 1834 to finance <sup>an</sup> Indigo business. He incidentally had financial interests in <sup>the</sup> Bengal Herald and <sup>the</sup> Bengal Hurkaru. During the financial crash of 1830 he bought the India Gazette as well.<sup>2</sup>

Below this enterprising and accomplished class was a class composed of different professional groups, small traders and clerks. Both the upper and lower middle class evinced a lively interest in education, social reform and the discussions in the press.

It is interesting to note that while a petition was being presented on 6 February 1835 to the Governor-General by leading European and Indian journalists for the removal of the press restrictions of 1823,<sup>3</sup> another memorial, almost simultaneously, signed by 6,945 Hindus was being sent to the Supreme Government with a prayer that English should be used in the law courts.<sup>4</sup> These trends were suggestive of a period of awakening and change. A new order of ideas was slowly moulding the existing order.

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1. Misra, The Indian Middle Classes, pp.103-104.

2. Barns, The Indian Press, p.197.

3. Bo.Coll. 69139, Vol.1712, ff 1-9. Among the Indians who signed the petition were Dwarkanath Tagore, Rasomoy Dutt and Rasik Lal Mullick.

4. India Public Cons., 10 Feb. 1835, 27-28.

Again the journalistic activity was gathering strength. Between 1824 and 1828 there were six vernacular papers, three in Bengali, two in Persian and one in Hindi apart from the Serampur publications.<sup>1</sup> In 1830 there were sixteen newspapers and journals in Bengali alone; of which 3 were dailies, one tri-weekly, two bi-weekly, seven weekly, two fortnightly and one monthly. At the same time there were 33 English papers in Bengal inclusive of periodicals and daily newspapers.<sup>2</sup> The weekly circulation of some of the English papers in 1828 was as follows:<sup>3</sup>

1. Bengal Hurcaru: 1089, average daily 155 of which one was sent to a native at Santipur.
2. John Bull: 1432, average daily 204, one was sent to a native at Jankipur.
3. India Gazette (weekly): 561, average daily 180, one to a Parsi at Bombay.
4. Government Gazette: 595, average daily 297, seven were sent to Indians of various places.
5. Calcutta Chronicle: 379, average daily 189.

English newspapers commented on all subjects with more or less complete freedom, Bentinck observed. He further remarked that many among Indians were well read in European history, and politics and understood the principles of liberty and the rights and benefits of constitutional freedom, although they

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1. Andrew Stirling to G.G., n.d.(1828), Beng. Pub. Cons., 6 Jan. 1829, c.
  2. Barns, op.cit., p.189.
  3. Post Master General's report to G.G., 24 Sept. 1828, Beng. Pub. Cons., 6 Jan. 1829, b.

had hardly any influence among the masses.<sup>1</sup> Indeed, the question of influencing the inarticulate masses at that stage did not arise at all. They were, as Ellenborough considered, like <sup>an</sup> 'inanimate corpse' who lacked the will to stand and act.<sup>2</sup> The papers were meant for the rising order of Indian society, the élite and the middle class.

Bentinck as the Governor-General and Metcalfe as a Member of his Council, between 1828 and 1835 had to deal with such a state of Indian society and the press. Although the press restrictions as imposed by Adam were still in force, yet ever since 1825 few violations of those rules had taken place. Nor had the government felt the necessity of invoking the authority of the Ordinance of 1823 to enforce obedience. Despite the improved conditions, the Court of Directors were worried about the press and asked their servants not to have any connection with the press.<sup>3</sup> Even Bentinck seemed to have agreed with this policy, at any rate officially in his minute he said so.<sup>4</sup>

In the course of discussions at the Council Chamber, whenever opportunity presented itself Metcalfe took pains to

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1. Bentinck's Minute, 28 Dec. 1828, Beng. Pub. Cons., 6 Jan. 1829, A.
  2. Private notes, 4, Ellenborough Papers, PRO. 30/12/20/9.
  3. Court's Orders, Public Dispatch to Bengal, 6 July 1825, para.26, A Collection of Orders regarding the Connection of Government Officers with the Public Press, p.1, I.O.L. Record Dept., (21) 1746.
  4. Bentinck's Minute, 28 Dec. 1828, Beng. Pub. Cons., 6 Jan. 1829, A.



explain his views on the role of the press in India. But above all he was a shrewd and practical administrator and argued out his case for freedom of the press with reasonableness, earnestness and always with an eye on the possible practical effects of such a measure. In 1828, he raised his voice against the Court's Orders which prohibited the Company's servants from having any association with the press. Metcalfe asserted that the only class which took an interest in the well being of the government should not be excluded from influencing public opinion. They might not be permitted to make profits out of their connection with the press but to debar them from expressing an opinion was not a sound policy.<sup>1</sup>

Again in 1830 the press attracted the attention of the government. The half-batta measure had raised a storm of protest from those who were affected by it. In the press Bentinck was assailed, but he did not take any notice of it however irked he might have felt privately. But the moment the orders supporting Bentinck's measures arrived from London Bentinck proposed that the press should be asked to stop discussing the issue on the ground that any further discussion would mean disrespect to the Authorities at Home.<sup>2</sup> Bentinck himself was conscious of inconsistency in the policy of adopting a 'closure' to comments. Perhaps he thought that the agitation might again be revived in the columns of the press, or may be,

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1. Metcalfe's Minute, 29 Dec. 1828, Beng. Pub. Cons., 6 Jan. 1829, d.

2. Bentinck's Minute, 6 Sept. 1830, Beng. Pub. Cons., 6 Sept. 1830, 8.

he wished to please the Court by appealing to their vanity; or, may be, he was too tired of the attack made on him already and wished to see the chapter closed once for all.

This is not to say that Bentinck was opposed to free discussion in the press. On the contrary, he maintained that

'the liberty of the press is a most useful engine in promoting the good administration of the country and in some respect, supplies that lamentable imperfection of control, which from local position, extensive territory and other causes, the Supreme Council cannot adequately exercise.' <sup>1</sup>

Thus Bentinck in effect conceived of the press as an aid to the government. Metcalfe went a step further.

Metcalfe regretted Bentinck's decision to interfere with the press at that stage especially when it was unnecessary. The Court's orders created nothing new. The half-batta measure in itself was an order of the Court. Bentinck had merely followed it. Hence it was not necessary, Metcalfe argued, to stop the discussions which had already reached a climax in the earlier stages and had no more vitality. Moreover, the comments had been useful. <sup>The</sup> Government was able to understand the sentiments of their servants, at the same time the pent-up feelings of the critics were let off, leaving them healthier. The press was indeed a safety valve, he observed, which released the shocks of resentment, leaving the government unmolested. <sup>2</sup>

Again, in 1832, as Vice-President of the Council,

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1. Bentinck's Minute, 6 Sept. 1830, Ibid.

2. Metcalfe's Minute, 6 Sept. 1830, Ibid., 10.

Metcalfe advised Lord Clare, the Governor of Bombay, not to attempt to stop press criticisms. Such proceedings only added 'salt to the injury'.<sup>1</sup>

Metcalfe exercised a profound influence in the formation of press policy during the governor-generalship of Bentinck. Bentinck himself was in favour of giving as much freedom as possible to the press, yet he was cautious in his approach being aware of the sentiments of the Directors. Metcalfe on the other hand, expressed himself with great freedom. Precisely for this reason he had won respect from many quarters. Bentinck had given an assurance to the petitioners who demanded a repeal of the regulations of 1823 that the unsatisfactory state of the press regulations would soon be amended now that the Law Commission had taken upon itself the task of codifying the laws applicable to the whole of India.<sup>2</sup>

Metcalfe however, did not think it necessary to wait until the Law Commission had completed its work. In Bengal the Adam regulations were still in force; in Madras there were no laws which restricted the press from even licentiousness. Bombay was also beyond the jurisdiction of the Supreme Court, hence several anomalies were to be found in the laws relating to the press. Metcalfe as the Governor-General of India, after the departure of Bentinck in 1835 decided to end this confusion by annulling the press regulations of 1823 of Bengal and of 1825 of Bombay. Henceforth, no license for owning presses was

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1. Metcalfe to Bentinck, 17 June 1832, Bentinck Papers, PWJf. 1645.

2. Reply to the Calcutta petitioners, 6 Feb. 1835, Bo.Coll. 69139, Vol.1712, ff 15-17, See above, p.

required, nor was the prior approval of <sup>the</sup>/Government necessary for any publication. It was however stipulated that the printer or publisher should register his paper or journal with <sup>the</sup>/government giving his name and place of residence. Also the name of the printer or publisher and place of publication should appear in a legible form on the cover of the book or the journal. Punishment for violating these rules ~~was~~ severe. A fine not exceeding Rs.5,000 or two years imprisonment in default could be imposed on the guilty.

The press reform was the first major act of Metcalfe as the Governor-General. The Act was passed on 3 August 1835, deliberations in the Council having taken place in April. The Act was received <sup>well</sup>/by the people in general but not by the Directors. Metcalfe was blamed for taking a hasty decision. But he was far from being reckless in his measure. The impact of a free press, in his opinion, both in the immediate and distant future was not likely to be felt in a manner prejudicial to the state. Moreover, he had not lost sight of the then existing circumstances or requirements. The limited circulation of papers both in English and vernacular languages precluded the possibility of any danger to the state. The press although inclined to be vivacious, was not such as to worry the government. At all events, the press had not received a licence to preach sedition or offend the feelings of the community or disturb the peace and comfort of the people. Law was supreme and the press was to function within the bounds of <sup>the</sup>/law. Should the press, despite rules and regulations governing the state,

still threaten the security of the state,

'the power of providing for the safety of the state is inherent in the Legislature and the Government of every country.' <sup>1</sup>

The forces of law would then operate and effective means could be taken to curb lawless tendencies. However, Metcalfe did not anticipate such exigencies.

Nevertheless, the significance of the measure lay in the concept it embodied. Many at Home and in India associated a free press with a free government and felt alarmed to see the prospect of an unrestrained press operating under a foreign government in the midst of a subject people. An unrestricted expression of opinion, it was argued, tended by its very nature to weaken the authority of the state and was likely to lead to its final overthrow. Hence an opposition to the measure, as Auckland explained, even by persons having good sense. However, Auckland hoped that the 'fatuity' would soon disappear.<sup>2</sup> Not that Metcalfe was oblivious of such dangers. In fact, he admitted that a free press might enable 'the natives to throw off our yoke.' Even if this happens, he said, it would be 'ultimately beneficial to India.'<sup>3</sup> It is true that an empire would be lost but then the empire was not likely to last for ever. It was therefore better to lose India by giving her the greatest of benefits, namely freedom

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1. Metcalfe's Minute, 27 April 1835, India Civil Jud. Cons., 18 May 1835, 6.

2. Auckland to Metcalfe, 24 Sept. 1836, Auckland Papers, BM. Add.MSS. 37708, f 3.

3. (Private letter), 2 March 1825, Kaye, Life of Metcalfe, 2, p.121.

and knowledge. Evidently Metcalfe's vision and outlook was remarkable for his age and he showed himself to be far ahead of his times in this regard.

Consistent with the safety of the state he declared that the press should invariably be kept free. It was an organ of public opinion, a vehicle of thought and knowledge allowing ample scope for different points of view to exist side by side. It acted as a sobering influence on the state as well as a finger on the pulse of the community. Furthermore, it was a good check on public functionaries who were liable to act arbitrarily whenever they were possessed of considerable power.<sup>1</sup>

Macaulay was at this time the Law member in the Governor-General's Council. He in his forceful style, supported Metcalfe declaring that it was ridiculous for a government to incur public annoyance on account of a law which had been for years a dead letter. Better by far to get rid of this.<sup>2</sup> Thoby Prinsep and Col. Morrison, other members of the Council accepted the proposition with some reservation. Prinsep was not sure of the future though he did not foresee any danger from the press at that moment.<sup>3</sup> Col. Morrison raised doubts about the possible impact of a free press on the Indian newspapers and the Indian mind.<sup>4</sup> Alexander Ross followed the line taken by Macaulay.

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1. Minute, 17 April 1835, India Civil Jud.Cons., 18 May 1835, 2.

2. Minute, 16 April 1835, Ibid., 1.

3. Prinsep's Minute, 17 April 1835, Ibid., 3.

4. Morrison's Minute, 25 April 1835, Ibid., 4.

Metcalfe ruled out any suggestion which proposed a regulation of the Indian press and freedom for the European press. No distinction whatever could be made between the two. Secondly, there was no cause to worry about the future. The government as a supreme authority was armed with sufficient powers to safeguard itself against any eventualities. And finally, the progress of knowledge could not be thwarted. He declared:

'A tenure dependent on attempts to suppress the communication of public opinion could not be lasting; both because such a tenure must be rotten and because such attempts must fail.'

In his opinion India could no longer be retained by the sword alone.<sup>1</sup>

The Court of Directors condemned the passing of the Act guaranteeing freedom to the press in no unmistakable terms. It was impertinent of Metcalfe to have passed the law, they said, without reference Home especially when there was no urgency.<sup>2</sup> That the Court entertained strong opinions against relaxation of control over the press was well known. As early as 1820, Hastings was saved from incurring their censure by the intervention of the Board of Control.<sup>3</sup> Hastings had withdrawn the censorship in 1818. The Board on their part were no lovers of liberty of the press but they were afraid of the

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1. Metcalfe's Minute, 27 April 1835, Ibid., 6.

2. Legislative Dispatch to India, 1 Feb. 1836, paras. 3, 4, 8.

3. Court to Board, 17 Jan. 1823, 7, ff. 170-254. Also Letters from Board to Court, 5 April 1823; 8 July 1823, 6, ff. 35, 96, 98.

effect on British public opinion.<sup>1</sup> When Adam deported Buckingham, Henry St. George Tucker, a man of great influence at the Court applauded 'the manly stand' taken by Adam 'to arrest the progress of a great public evil', i.e. arising out of the unlicensed press.<sup>2</sup> Loch informed Adam that the Court were pleased with him for his action and added that he had rendered 'the most essential service' to Amherst by his measure.<sup>3</sup>

Hence Metcalfe should have realized that the measure he was taking was not likely to be popular with the Court. Auckland did his best to dispel fears from the mind of the Home Authorities. Officially he vigorously supported Metcalfe declaring that if he had erred in favour of free institutions, Auckland also would have done the same.<sup>4</sup> He maintained that Metcalfe's decision was wise and removed an unnecessary source of irritation and complaint. That the English press was powerless to do any mischief and the Indian press as yet was not capable of arousing the Indians from their traditional apathy and that the circulation of vernacular papers was limited. Not one Indian member of the army subscribed to them.<sup>5</sup> Auckland also in vain attempted to soften the feelings of annoyance against Metcalfe by appealing to Hobhouse, President of the

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1. John Loch to Adam, 22 May 1823, Adam Papers, MSS. EUR. F.109, Box f.

2. Tucker to Adam, 18 July 1823, Adam Papers, Ibid.  
Tucker was Director for two terms in 1826 and 1831.

3. Loch to Adam, 22 May 1823; 23 July 1823, Adam Papers,  
↑EUR.MSS. F.109, Box f, John Loch was Chairman of the  
Court 1828, Dy. Chairman 1829, Director 1821, 1826, 1831.

4. Auckland's Minute, 8 Aug. 1836, Auckland Papers, BM. Add.  
MSS. 37709, f.88.

5. Ibid., ff.90-92.



India Board and Carnac, Chairman of the Court. The press had long been uncontrolled and in his opinion, was beyond the power of control.<sup>1</sup>

Nevertheless what Metcalfe did was decisive. It was a thought-provoking milestone. Apart from the obvious dangers of the move it helped to change the pattern of thinking and life in general, sometimes faster than people realized. Interwoven with the question of the press was education, considered by Metcalfe another effective instrument of change.

Metcalfe visualized the need of bringing moral and intellectual upliftment of Indians through education. He asserted that the salvation of India depended upon the dissemination of European science and thought which English education and a free press alone, could offer. In 1827, while he was Resident at Delhi, he conveyed his views, contrary to the opinion of the Committee of management of Delhi college, in the following words:

'I take the liberty of observing, that the establishment of an English Professorship in the College would, it seems to me, be more valuable than all the other arrangements of that Institution.' 2

Although he himself was a scholar of Arabic and Persian, he was a staunch champion of European learning. In this, in fact, he forestalled Macaulay. But his attitude, unlike Macaulay's towards Indian learning was not contemptuous.

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1. Auckland to Hobhouse. 16 April 1837, 6 Jan. 1838. Broughton Papers, BM. Add.MSS. 36473, f.150; ff.216.  
To Carnac, 28 May 1836, Ibid., ff.51.
  2. Metcalfe to Prinsep, 6 Feb. 1827, Beng.Rev. Cons., 22 Feb. 1827, 63.

For the purpose of educating ~~the~~ Indians, he divided them into two classes. Such people as possessing average intelligence craved for ordinary acquirements in reading and writing; they could be given Oriental education for the instruction of which ample means already existed in the country. But for a higher class, i.e. for persons possessing a higher rate of intelligence,

'... the only benefit of importance, that we could render would be the opening to them of the stores of European Literature and Science by providing the means of Instruction in the English Language.' 1

As far as the lower order of the society was concerned, he pointed out that although it was desirable to extend facilities for educating them yet he doubted whether much benefit would arise from it. Besides, it was an expensive proposition.<sup>2</sup> Thus he felt that a real scope for improving the lot of a class of intelligent people lay in giving English education alone to them.

He was not only in favour of giving European education through the medium of English language, but was also for the use of English in the courts. Here again he repeated his old theme of the superiority of English and western education over Persian and the Oriental learning:

'The English language seems to be the channel through which we are most likely to convey improvements to the natives of India. I should

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1. Metcalfe to Prinsep, 15 June 1827, paras. 4 & 3. Beng. Pol. Cons., 5 June 1829, 87.  
2. Ibid., para.5.

therefore be disposed to promote the use of it as much as possible, in our Courts of Justice.<sup>1</sup>

Ever since the institution of the Committee of Public Instruction in Bengal in 1823 efforts at spreading education were being made by the Bengal Government but as yet the emphasis was on the traditional learning through the medium of Indian languages. During the days when the educational policy was finally being evolved Metcalfe was Governor of Agra from November 1834 to March 1835. On 7 March 1835 Bentinck's government decided to promote the cause of western learning. This was indeed nearer Metcalfe's ideal.

Another favourite theme of Metcalfe was to encourage Europeans to settle in India so that European capital and skill would flow into India energizing the slumbering state of <sup>the</sup> Indian economy. Indians would then learn from the example of Europeans, the arts of enterprise and skilful management. With the combination of these three vital forces i.e. of a free press, European education and European settlement effective change and progress would be attained.

Munro, Malcolm and Elphinstone took a different view. It is true that each of them wished to see education being given to Indians so that they could be honourably employed in positions of responsibility in <sup>the</sup> government. But they, first and foremost, were inclined to promote Oriental education, and secondly, when they advocated increased employment of Indians they meant to conciliate the higher classes of Indian society

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1. Minute, n.d., Beng. Civil Jud. Cons., 10 July 1832, 4.

- men of influence and high caste or princes - who had lost power and influence with the coming of British rule. Malcolm's field of action having been primarily Rajasthan, the stronghold of princes, his sympathy was for the princes and nobles. Elphinstone's experience was of the Marathas, hence the claims of Brahmins and jagirdars were uppermost in his mind. Munro also although a builder of the ryotwar system championed the cause of the upper strata of the social hierarchy.

Metcalfe's stand was entirely different. He was against the landed aristocracy but stressed the need of uplifting the village 'aristocracy' i.e. of headmen by giving them rights over land. At the same time he wished to see an emergence of a new class, the urban middle class intelligentsia which would essentially be the product of western culture; a class of men who, as Macaulay put it in rhetoric but with some truth, would be Indians but alike to Englishmen in taste, morals and thought. These men would be loyal and attached to British rule. And supposing that they were not, they would be more qualified, at any rate, to bring real benefits to India.

He recognized a greater danger to the security of the state from ignorant, orthodox and fanatical people rather than from the enlightened. In his opinion the press performed useful service to the community at large as well as to government. In a country like India its significant function would be to extend the frontiers of knowledge thus helping the people in shedding their ignorance and superstitions. The more the people were enlightened the greater would be the appreciation

of the benefits of English rule. They would then be less desirous of overthrowing the foreign yoke realizing that none but they would suffer from a change of rulers.<sup>1</sup>

But supposing, Metcalfe argued, that

'The extension of knowledge is to be a new source of danger - and I will not pretend confidently to predict the contrary - it is one altogether unavoidable. It is our duty to extend knowledge whatever may be the result; and spread it would, even if we impeded it. The time is passed when the operations of the Press could be effectually restrained, even if that course would be any source of safety, which must be very doubtful. Nothing so precarious could in prudence be trusted to. If, therefore, increase of danger be really to be apprehended from increase of knowledge, it is what we must cheerfully submit to. We must not try to avert it, and if we did we should fail.' 2

It was out of this robust commonsense of Metcalfe that the press laws were rescinded in 1835. Doubtless had Metcalfe lived to see the dreadful days of the sepoy mutiny of 1857-8, he would have felt reassured to find that the Indian élite in fact remained loyal to the English in India despite great provocations and danger to themselves from the mutineers.

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1. Minute, 16 May 1835, Kaye, Papers of Metcalfe, p.197.

2. Minute, 16 May 1835, Ibid.

Some Conclusions

The objectives of the Delhi land revenue system were similar to those followed by the British elsewhere. They were, promotion of agriculture, the well-being of the agricultural communities and security of revenue to the State. But the methods employed for the attainment of those objectives were different. Land was a major source of happiness to the people. Property formed the basis of human endeavour. A right to property guaranteed individual initiative and promoted social good. Guided by western notions of private property rights, big landlords were created in Bengal. In Madras the ryots were given possession of their lands as long as they paid the revenue of the fields they cultivated to the government. The revenue demand of the fields in Madras was permanently fixed which gave an incentive to production. In Delhi the rights of the village landholders were ascertained and confirmed. The land of the village was measured, a survey was conducted, <sup>the</sup> condition of the occupant as well as of the soil was investigated and an estimate of gross produce was made. Before finally arriving at the revenue rates the prices of the last twenty years were taken into consideration. The engagements for revenue were entered with the village headmen or zamindars for a term of years. But the aim was to fix an unalterable demand as Metcalfe had proposed in Agra while he was ~~the~~ Governor.

In India, the institution of <sup>the</sup> village <sup>seemed to be</sup> ~~was~~ in the natural order of things. A village was a settlement as well as a social and cultural unit. It possessed self-governing institutions which could be transformed into effective instruments of civil administration in the country. In some villages there were a few headmen, in others, only one zamindar, who also acted as a headman, owned the whole village; while there were such villages <sup>also</sup> as were jointly owned by the entire community. In all these categories of villages however not only the rights of the co-sharers but also of other classes of the community were distinctly and accurately recognised. This was affirmed by Lord Hastings, Bentinck and Metcalfe apart from <sup>being substantiated by</sup> several collectors who came into contact with these institutions. Thus, although the village smacked of communal ownership, so repugnant to western ideas of private property rights, yet in reality the individual rights were properly defined and understood. The village was bound by common sentiments forged by feelings of caste. In the case of villages owned by mixed communities, common consent and appreciation of each other's rights formed the basis of their union.

The composition and structure of the village communities was changing. The village had started with a common ancestor but as has been seen, with the advance of time many villages jointly owned by persons of different castes had sprung up. The right to sale, transfer and gift was allowed which must have brought about significant changes. Although

Metcalfe was arguing in favour of their preservation he knew well in his heart that the integrity of the institutions could not be continued for ever. He was even prepared to introduce reforms for their improvement. He was fascinated essentially by the democratic institutions existing in these villages.

Furthermore the village settlements gave security to individual cultivators. Also, should the village suffer from over-assessment, or be a victim of natural calamities, the inhabitants of the village helped each other and were saved from ruin. Land revenue of the State was also not jeopardised. In Madras the ryot was bound to be ruined in such situations. In Bengal the big landlords oppressed and rack-rented the peasantry. Thus the village settlements of Delhi offered another alternative to other systems with a fair prospect of success. The aim was to provide a stable social base for future growth. It was in fact a programme of rural uplift.

Metcalfe built such a system in the Delhi territory. During his period of administration new villages were founded, the forsaken ones were rehabilitated. Agricultural expansion had taken place. Even in the later period as Cavendish reported, large tracts of land in his region were brought under cultivation between 1820 and 1826. Considerable quantities of agricultural products had been exported from Delhi in 1819-20. The village economy apparently had outgrown its limits. Besides, the revenue demand had been



punctually and regularly collected until 1820. Land must have had acquired some value. In the years following 1820 the revenue administration of the territory seemed to have failed. Over-assessment and desertions had taken place. A severe famine also ravaged the country. Furthermore the Board of Revenue had mismanaged the affairs on account of their incompetence and mutual discord. Added to that the net produce principle - which few understood and <sup>which</sup> was too complex to be practicable - was applied to assess land. As has been seen in Delhi this also seemed to have led to over-assessment. In any case the principles and the methods employed by Metcalfe in Delhi were sound.

According to the Regulation VII of 1822, the determination of the net produce or surplus profits became the centre of investigation. The concepts involved in the Regulation were not new. The recording of the rights of the ryots had been regarded as fundamental - to any new system to be evolved - ever since the misfortunes of the Bengal peasantry were known. The method of assessment by measurement, survey and census of the village was in essence an Indian practice so far followed in Madras as well as in Delhi. That no new proprietors were to be created where none existed was a policy accepted both by the Madras and Delhi systems. Metcalfe even wished to reduce the power and influence of the existing landlords to a minimum by a deliberate process of legislation. The only departure made by the Regulation was in respect of the application of the

rent theory to the assessment of land. The principle again was quite well known to the Bengal Government as early as 1803. In other respects also broad principles and policies to be followed had been agreed upon, under the directives of the Board of Control, between 1814 and 1817.

The Regulation VII of 1822 had failed in actual practice. It was unreservedly acknowledged by Bentinck, the Sadr Board and others. In 1833 therefore new rules were framed. Bentinck worked out a compromise. The main principles of the Delhi system were incorporated in the new scheme. The village settlement became the order of the day. The assessment was made on general considerations. The technique of ascertaining the demand was the same as had been followed in Delhi and Madras. New rights were not created. Bentinck was pledged to maintain existing institutions. Metcalfe on the other hand had actually advocated ~~for~~ an adoption of a revolutionary principle of confirming the rights of the village communities in the soil, thus disregarding the rights of big landed interest. Although Bentinck did not aim at creating a zamindar of the Bengal type since it was impossible to do so he was in favour of creating an upper middle class. In fact, a reorganisation of social and economic forces was being undertaken. While the landed gentry was being dispossessed of its privileges, the middle order of the society and a village aristocracy ~~were~~ being built.

However the principle of soil assessment was

recognised as a valid one. In Metcalfe's opinion this was being mixed up with the cotton policy as directed by the Authorities at Home. He felt that this might be injurious to Indian interests. He wished to put the commercial relation between India and Great Britain on a liberal and equal footing so that both sides would derive benefits from this. Similarly, he wished to encourage European settlement in India to regenerate Indian economy. Indian agriculture was far too primitive. Only new ideas, better methods of agricultural management and use of greater skill and capital would lead to economic growth. India must be open to these impulses.

Thus as a romantic, if Metcalfe was inclined to look back to the past, as a realist, he was conscious of the present. Besides, with a robust commonsense he planned for the future.

The same trends could be seen in his programme for a reorganization of <sup>the</sup> judiciary and government. In Delhi he had followed the principle of unity of authority and completeness of control. The system of administration conformed to Indian practice. The aims were avowedly economy, efficiency, simplicity and promptness in administration. The executive arm of the government was made stronger, and as a general principle the union of powers was held sacred. But he was also for a definition of the powers of various branches of administration. The Supreme Government as a law-making body was to possess superior powers over the

judiciary without destroying its independence. Since the Supreme Government in India occupied a position of pre-eminence it ought to possess what Metcalfe called a 'saving power' with a view to safeguard the security of the State. He wished to entrust in the hands of the Supreme Government the directing and controlling authority over the subordinate ones. The main aim was to bring the administration into one system.

To safeguard the interest of the people a code of laws was to be prepared. The underlying principle was the protection of the community by making the people know to what codes and laws they were amenable. All subjects of the government irrespective of caste, creed, race and religion were to be subjected to one code of laws. The principle of equality of status for all was to be adopted. More and more reliance however was to be placed on the principles of English law. English language was to be used in the district and superior courts. At the same time Indian institutions of justice were to be used at the village level. Thus an amalgam of two systems was being planned. Indian judges were to be allowed jurisdiction over criminal cases in which Indians were involved. Trial by jury was also to be adopted. It was hoped that these precautions would lead to a curtailment of the discretionary powers of district officers. Metcalfe however did not give a detailed plan of the administrative and judicial reorganization which he aimed to establish. His contribution lay in enunciating broad

principles and ideas in administration.

Although social change was to be effected through administrative artifices, a greater reliance was to be placed on intellectual awakening of the people. By this means the society was to be reformed as well as reconstructed. The Indian society lacked vitality and impetus to change. By means of European education, freedom of expression and thought the spirit of India was to be regenerated. The social evils, born out of age-old superstitions and blind faith to customs were to be eradicated by persuasion and legislation. The effect of such measures would be felt by the rising middle classes in India. The country was growing fast. The aristocracy of birth was giving place to an aristocracy of wealth. Similarly the rural society was being given a sense of purpose, direction and respectability by revenue and judicial reforms. Public opinion was in the process of formation, but the change was to be gradual. No miracles could be achieved in India. Neither the country nor the government was as yet prepared for a radical change. Only a foundation of the change to come was to be laid first. This mood to reform and change was consistent with the spirit of the times.

The forces unleashed by two opposing systems - one believing in the Cornwallis principles and the other deriving its inspiration from indigenous sources - were at

work during the period of our study. The principle of the Delhi system based on the concept of union of powers had been diluted. Similarly the Bengal system based on the principles of absolute separation of powers was regarded as unpractical. Therefore it had undergone a change for a partial union of functions. The same was true in the field of revenue administration. Indeed India was to provide a meeting ground of the West and the East in administration. "

Metcalfe's role in all this was significant. Although all his views were not implemented yet he asserted his influence, in the ultimate analysis, in bringing about a happy compromise between the two sets of ideas and principles. A reflection of the synthesising trends is to be seen in his personality, attitude and outlook as well. Until the last days of his life he continued to show interest in Indian affairs. His love for Persian and Arabic never left him.<sup>1</sup> So also his devotion to the cause of reform and peace, and his zeal for the adoption of the policy of non-interference, equality and freedom remained unimpaired. In public affairs, Metcalfe showed great width of vision combined with a sense of hard realism. Bentinck once wrote to Lord Melbourne about Metcalfe:

'... I think no man has shown greater rectitude of conduct or more independence of mind.... We served together for nearly seven years. His behaviour for me was of the noblest kind. He never cavilled upon a trifle, and never yielded

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1. Metcalfe to Elphinstone, 5 May 1841. Elphinstone Papers, MSS.EUR. F.88, Box 4, B.10.

to me on a point of importance.'<sup>1</sup>

Auckland also considered him to be without an equal in India. He observed that he

'would rather have his opinion and his reasons and his co-operation with me on any great measure than any other man in India, and yet he has differed from me more than once and warmly and widely but even when differing he has in public worked for me with a zeal & directness as honourable to him as advantageous to me.'

He was the 'one', he said, 'it is impossible to know without regard or to act without respect...'.<sup>2</sup>

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1. Aug. 1836, Kaye, Life of Metcalfe, 2, p.361.  
The copy of the letter was sent by Lady William to Metcalfe in August 1842.
  2. Auckland to Hobhouse, 20 June 1836. Broughton Papers  
BM. Add.MSS, 36473. f.76, 16 April 1837, f.150, 6 Jan.  
1838, f.216.

APPENDIX A

Some of the important documents, reports, memoranda and minutes written by Sir Charles Metcalfe from time to time are stated below. The statement, however, is by no means exhaustive, since a considerable amount of material is to be found in the regular correspondence that took place between him as Resident of the Delhi territory and the Bengal Government. Nevertheless, the list includes a fair number of substantial documents which would enable us to form a general estimate of his administrative ideas and principles. Such documents as have a bearing on political and military matters are excluded from this list.

The following primarily deal with Land Revenue, but also include other subjects.

'Memoir of Hindustan West of the Jumna in 1805'.  
Home Misc. Series, 506 A.

'Memorandum respecting the present state of the parganas composing the Assigned Territory'.  
10 Jan. 1807, Beng. Rev. Cons., 12 Feb. 1807, 33,  
Enclosure 2.

Revenue Report.  
11 June 1811, Beng. Rev. Cons., 2 July 1811, 43.

Revenue Report.  
4 Sept. 1815, Beng. Rev. Cons., 16 Sept. 1820, 81.



On the Jagir System.

14 Nov. 1812	Beng. Pol. Cons.,	7 Nov. 1818, 65a
1 Feb. 1813	" " "	7 Nov. 1818, 65
6 Feb. 1814	" " "	7 Nov. 1818, 69
30 June 1815	" " "	26 July 1815, 55

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Correspondence Jagirs 1817

Beng. Pol. Cons., 15 March 1817, 13-15

8 March 1818	" " "	27 March 1818, 20.
23 March 1818	" " "	17 April 1818, 59.

For a detailed account of Revenue matters for the period 1822-1827 the following volumes have been consulted.

Board's Collections:	30949-50	Vol. 1211
	30951, 30952	" 1212
	30953	" 1213
	30954	" 1214
	30955-6	" <del>1215</del>
	30957	" <del>1216</del>

Vols. 1212, 1213, 1214, 1215, contain valuable correspondence when Metcalfe was Resident of Delhi between 1825 and 1827.

Minutes.

7 Nov. 1830,	Selections from Revenue Records of the North-Western Provinces. 1822-33, 2, 1872 (SRR N.W.P.) pp.208-224. [Also extracts in Kaye, <u>Papers of Lord Metcalfe</u> ].
30 Dec. 1830	Beng. Rev. Cons., 22 March 1831, 25.
29 Jan. 1831	Beng. Rev. Cons., 26 July 1831, 40.
3 Feb. 1831	Beng. Rev. Cons., 22 March 1831, 31. (Also in SRR N.W.P.2.,)[A few extracts in Kaye, <u>Papers of Lord Metcalfe</u> ].
17 Oct. 1831	Beng. Rev. Cons., 1 Nov. 1831, 5.
31 Oct. 1831	Beng. Rev. Cons., 27 Dec. 1832, 43.
29 June 1832	Beng. Rev. Cons., 27 Dec. 1832, 66. [Some extracts from this minute are given by Kaye, <u>Papers of Lord Metcalfe</u> ]
15 Nov. 1832	Beng. Rev. Cons., 27 Dec. 1832, 92.
n.d. [Probably 29 Nov. 1832]	Beng. Rev. Cons., 27 Dec. 1832, 93.
8 Sept. 1833	Beng. Rev. Cons., 9 Sept. 1833, 61.

European Colonization

Minute, 19 Feb. 1829, Revenue letter from Bengal.  
1 Sept. 1829, Enclosure 4. Vol.17,  
pp.460-66.

13 Dec. 1829, Revenue letter from Bengal.  
1 Jan. 1830, Vol.18, pp.79-88.

Revenue letter to Bengal.  
1 Jan. 1830, Vol.18, pp.1-39.

Metcalfe's Memorandum, 11 Oct. 1829, in reply to Lord  
Ellenborough's queries on improvement of India.  
Colchester Papers, PRO 30/9/4 Part 2.2.  
[Extracts available in Kaye, Papers of Lord Metcalfe].

Judiciary and Form of Government.

Judicial Report. 12 Dec. 1815, Beng. Civil Jud. Cons.,  
(L.P.) 12 Aug. 1817, 44.

Theory of Punishment.

16 Aug. 1823, Beng. Crim. Jud. Cons., (W.P.),  
25 Sept. 1823, 28 [Also in Kaye,  
Papers of Lord Metcalfe].

Solitary Confinement. 28 April 1826, Beng. Criminal Jud.  
Cons., (W.P.) 18 May 1826, 10.  
16 March 1826, Beng. Criminal Jud.  
Cons., (W.P.) 6 April 1826, 11.

Minutes

5 April 1828, P.P. East India Company, 8.  
n.d. " " " "

15 April 1829 P.P. East India Company, 7.  
[Extracts in Kaye, Papers of Lord  
Metcalfe]

18 Oct. 1830 Papers Relating to the Constitution  
of Indian Governments 1830, [I.O.L.  
Record Dept., 19(1085)]

23 Aug. 1830, Beng. Rev. Cons., 31 Aug. 1830, 36.  
[Extracts in Kaye, Papers of Lord  
Metcalfe]

11 April 1831 Beng. Civil Jud. Cons., (L.P.)  
19 April 1831, 20.

13 April 1831	Beng. Civil Jud. Cons., (L.P.) 19 July 1831, 15.
23 July 1831,	Beng. Civil Jud. Cons., (L.P.) 2 Aug. 1831, 7.
27 July 1831,	Beng. Civil Jud. Cons., (L.P.) 27 Dec. 1831, 3.
28 July 1831,	Beng. Civil Jud. Cons., (L.P.) 27 Dec. 1831, 9.
30 July 1831,	Beng. Civil Jud. Cons., (L.P.) 2 Aug. 1831, 11.
29 Oct. 1831,	Beng. Civil Jud. Cons., (L.P.) 8 Nov. 1831, 20.
5 Nov. 1831,	Beng. Civil Jud. Cons., (L.P.) 8 Nov. 1831, 22.
29 May 1832,	Beng. Civil Jud. Cons., (W.P.) 29 May 1832, 15.
20 June 1832,	Beng. Rev. Cons., 24 July 1832, 16.
6 July 1832,	Beng. Rev. Cons., 24 July 1832, 20.
n.d.	Ben. Civil Jud. Cons., (L.P.) 10 July 1832, 4.
Metcalfe's <u>Memorandum</u> ,	11 Oct. 1829, op.cit., <u>Colchester Papers</u> , 30/9/4, Part 2.2.

### Press and Education

III	<u>Minutes</u> ,	17 Feb. 1835,	India Civil Jud. Cons.,	18 May 1835,	2.
IV	"	27 April 1835,	" " " "	"	6.
II	"	6 Sept. 1830,	Beng. Public Cons.,	6 Sept. 1830,	8.
I	"	29 Dec. 1828,	" " "	6 Jan, 1829,	d.
V	Minute,	n.d.	Beng. Jud. Cons.,	10 July 1832,	4.
		15 June 1827,	Beng. Pol. Cons.,	5 June 1829,	87.
		6 Feb. 1827,	Beng. Rev. Cons.,	22 Feb. 1827,	63.
VI	Minute,	16 May 1835,	Kaye, <u>Papers of Lord Metcalfe</u> .		

BIBLIOGRAPHYManuscript Sources1. Private Papers.A. The Auckland Papers at the British Museum.

B M. Add MSS. 37708-9, 37708. Private Correspondence between Sir Charles Metcalfe and Lord Auckland (1836-38). Also between John Cam Hobhouse, Lord Broughton, President of the Board of Control, 1835-1841.

Subjects discussed include the Press, Central India and Afghan policies.

37709. Minute Books.

B. The Bentinck Papers in the Portland Collection at the Nottingham University Library. PWJb Private Correspondence of Lord William Bentinck as Governor of Madras, 1803-07, particularly the following:  
Lord William Bentinck to his father, Duke of Portland and other relatives in England: Also to Lord Minto, Sir George Barlow and others:  
 Letter Books, 722-727.  
 Lord William Bentinck to Sir William Petrie,  
 File Boxes, 343-584.

Bentinck Journal, 672/1, 677/1.

PWJf. Private Correspondence as the Governor-General.

Sir Charles Metcalfe's letters to Lord William Bentinck (1829-1838).  
 Nos. 1510-1698.

Lord William Bentinck and Lady William Bentinck's letters to Sir Charles Metcalfe, 1700-1798.

Also letters from (Lord William Bentinck) ~~to~~ the following correspondents ~~have~~ been consulted:

T.B. Macaulay,	1326-34
Holt Mackenzie,	1340-51
James Mill,	1799-1800
W.B. Bayley,	413-418
William Fane,	953-4
Sir John Malcolm,	1404-1408
Louis Phillippe,	1230-46
Col. James Young,	2374-87
William Fraser,	961-63.

Lord William Bentinck to Sir Charles Grey, 2660.

Lord William Bentinck to Charles William Wynn,  
2368-72.

To and from Charles Grant, President, Board of  
Control, 1830-34. 1054-1071.

Folders. Nos. 2566, 2571, 2634, 2653, 2715.

C. The Elphinstone Papers at the India Office Library,  
MSS. EUR. F.88.

It is a well-indexed collection. Only letters of  
Sir Charles Metcalfe written to Mountstuart  
Elphinstone have been consulted. The earliest period  
of correspondence dates from 1811, and closes in  
1842. There is also a letter from Sir Charles Metcalfe  
to Edward Strachey. These letters are available in  
the following boxes:

Boxes, 3, 4, 5, 8, 14.

Box 15, Portfolio 2 (22). M. Elphinstone's private  
Notes on various subjects.

D. The Adam Papers at the India Office Library,  
MSS. EUR. F.109.

Particularly the following have been consulted:

Box E. Private letters of Mountstuart Elphinstone,  
Sir Thomas Munro, Sir John Malcolm, Henry St. G.  
Tucker, John Loch and others to John Adam.

Box F. Private Correspondence between M. Elphinstone  
and John Adam, John Adam and W.B. Bayley and others.

On the press and sati.

E. The Bentham Papers, University College, London,  
Bentham MSS.

Box X, 174-185.

There are half a dozen draft letters addressed to  
Lord William Bentinck by Jeremy Bentham. Bentham  
was not personally acquainted with Lord Bentinck.  
There is no evidence to show that these letters were  
actually sent.

F. The Broughton Papers in the British Museum.

Papers of John Cam Hobhouse, Lord Broughton, President of the Board of Control, 1835-1841.

BM. Add. MSS. Nos. 36455-36483, particularly the following:

36473, 36467.

Private Correspondence between Lord Auckland and John Cam Hobhouse, Lord Auckland and Sir James Carnac, Chairman of the Court. Considerable discussion on the Press law of Sir Charles Metcalfe is to be found in these volumes. Also various subjects are discussed. Other volumes primarily contain discussions on the Afghan War.

G. The Broughton Papers, at the India Office Library.

Home Misc. Series, Vols. 833-862.

They are copies of the Broughton Papers found in the British Museum. But some of these volumes are not available in the British Museum.

The following volumes have been consulted.

833, 837, 838, 841.

They contain private correspondence between John Cam Hobhouse and Lord Auckland as well as several persons.

H. The Colchester Papers at the Public Record Office  
P R O. 30/9.

Private correspondence between Lord Ellenborough as the Resident, Board of Control and Lord William Bentinck as the Governor-General, 1828-1830, 1834.

Particularly Box 4.

I. The Ellenborough Papers, at the Public Record Office.  
PRO. 30/12.

Correspondence between Lord Ellenborough and Lord William Bentinck between 1828-1830.

Particularly Box 20.

J. Col. James Young Papers at the British Museum,  
BM. Add.MSS. 38516-18.

Particularly 38517.

Col. James Young was Secretary in the Military Dept.

with the Governor-General during 1817-18, and resigned in 1818. Even after his resignation Lord Hastings and Col. Young maintained a friendly correspondence.

Private Correspondence between Lord Hastings and Col. James Young between 1 Jan. 1817 to 8 Dec. 1820, 38517.

II. Some information on the Metcalfe family can be had from the following collections.

A. At the India Office Library,

Microfilm, Reel 576.

This was made in 1959 from papers now in the possession of Lt. Col. J.M. Ricketts. One reel contains papers relating to the Ricketts, Metcalfe. (Thomas Theophilus Metcalfe, younger brother of Sir Charles Metcalfe) and Bayley families.

B. At the India Office Library.

Photo. Eur. 31.

This is a ~~Xep~~ograph copy of three volumes of Family Records (referred to in the Preface, p. of this thesis) compiled by Mary Stuart Theophila Clive Bayley, now in the possession of Miss Félicité Hardcastle of Burley, Ringwood, Hampshire.

These volumes were very kindly lent to me by Miss Hardcastle.

III. Records at the India Office Library.

A. Records in the Revenue Department.

Bengal Revenue Consultations relating to the Delhi Territory, 1805-1833.

Bengal Revenue Consultations, 1828-1835.

Revenue letters from Bengal to the Court of Directors, Board's Copies, 1805-1835. (Only relevant letters.)

Revenue Dispatches from the Court to Bengal, Boards' Copies (only relevant Dispatches).

B. Records in the Judicial Department.

Bengal Judicial Civil as well as Criminal Consultations relating to the Delhi Territory 1805-1833.

Bengal Judicial Civil as well as Criminal Consultations, 1828-1835; only relevant volumes have been consulted.

Judicial letters from Bengal to Court, Board's Copies, 1805-1835, (only relevant Letters).

Judicial Dispatches to Bengal from Court, Boards Copies, 1805-1835, (only relevant Dispatches).

C. Records in the General / Public Department, relating to Press and Education.

Bengal Public Consultations, 1818-1835.

D. Records in the Political Department.

Bengal Political Consultations, 1806-1835,  
Only relevant volumes relating to the jagirs in the  
Delhi Territory and Education consulted.

E. India Civil Judicial Consultations 1835.

India Legislative Consultations. 1835.

India Public Consultations. 1835.

Legislative Dispatches from Court to Bengal, 1836.

F. Records of the Home Authorities; at the India Office  
Library.

Appendix to Courts Minutes, Minutes of Dissent,  
Vols. 4, 5, 6.

Correspondence between the Court of Directors and  
Board of Control, Vol.3.

Letters from East India Company to Board of Control.  
Vols. 4, 5, 7, 8

Letters from Board of Control to East India Company,  
Vols. 4, 6.



## Board's Collections;

Nos. 4432, 13981, 14284, 15417.  
 19526, 21419-20, 30949-50, 30951-2,  
 30953, 30954, 30955-6, 30957,  
 53663-5, 58971, 63873,  
 67823-5, 69139, 69493, 71071-2,

## G. Other Records:

## Home Miscellaneous Series.

Vols. 455a, 506A, 532-39, 674, 833,  
 837, 838, 841.

H. Personal Records. Vols. 3, 5, 7, 9, 10, 12,  
 16, 17, 18, 19, 20.

Published Records and Documents

A Collection of Orders Regarding the Connection of Government Officers with the Public Press, [I.O.L. Record Dept, (21) 1746]

Firminger, J.W. (ed.) The Fifth Report From the Select Committee on the Affairs of the East India Company, 1812, 3 Vols., Calcutta, 1917.

Harington, J.H., An Elementary Analysis of the Laws and Regulations enacted by the Governor-General in Council at Fort William, Vol. I, Calcutta, 1820.

Mill, J.S., Memorandum of the Improvements in the Administration of India during the last thirty years, And the Petition of the East India Company to Parliament, London, 1858.

Parliamentary Papers. [P.P.]

1. Minutes of Evidence on the Affairs of the East India Company and Appendix, IV. Judicial, 1832 [P.P. East India Company, 12]
2. Proceedings of the Calcutta Civil Finance Committee, General Appendix III. [P.P. East India Company, 8]
3. Papers relating to the Establishment of Legislative Council and Codification of Laws, [P.P. East India Company, 7]
4. Papers Connected with the Constitution of Indian Governments 1828-30 [P.P. East Indian Affairs, 13]
5. Minutes of Evidence on the Affairs of the East India Company, Public, 1, 1832.

Papers Regarding Judicial System in the Bengal Presidency 1814-1818, [I.O.L. Record Dept (71) 197].

Papers Relating to the Constitution of Indian Governments. 1830, [I.O.L. Record Dept. 19.(1085)]

Punjab Government Records, Delhi Residency and Agency, Vol.I, Lahore, 1911.

Selections of Papers from the Records at the East India House Relating to the Revenue, Police and Civil and Criminal Justice under the Company's Governments in India, 4 Vols, London, 1820-6. [I.O.L. 4F. 5-8]

Selections from the Revenue Records of the North Western Provinces, Vol.2, 1822-33. Allahabad, 1872, (I.O.L. Sel.V)

Selected Reports on the Revision of Settlement under Regulation IX, 1833 in Delhi territory. 2 Vols, 1846; Vol.1, I.O.L. [Record Dept. list 9, 341/8, Vol.2, Record Dept. list 9, 341/9.]

Shakespeare, A., Memoirs on the Statistics of the North Western Provinces, 1848.

Sharp, H., Selections from the Educational Records of the Government of India, Vol.1, Calcutta, 1920.

Other Works:

- Adams, G.B., Constitutional History of England, London, 1935.
- Ahmed, A.F.S., The Development of Public Opinion in Bengal, 1818-1835, (Unpublished Ph.D. Thesis, London, 1961).
- Aitchison, C.U., A Collection of Treaties, Engagements and Sanads Relating to India and Neighbouring Countries, 5 ed., Calcutta and Delhi, 1929.
- Arbuthnot, A.J., Major-General Sir Thomas Munro, Governor of Madras; Selections from his Minutes and other official writings, Madras, 1886.
- Baden-Powell, B.H., Land Systems of British India, 3 Vols., Oxford, 1892.  
The Indian Village Community, London, 1896.
- Bain, A., James Mill, London, 1882.
- Ballhatchet, K.A., Social Policy and Social Change in Western India, 1817-1830, Oxford, 1957.
- Barns, M., The Indian Press : A History of the growth of Public Opinion in India, London, 1940.
- Bearce, G.D., British Attitude towards India, 1784-1858, Oxford, 1961.
- Bentham, J., The Works of Jeremy Bentham, (ed.) J. Bowring, Vols. IX, X, XI, London, 1843.  
The Rationale of Punishment, London, 1830.
- Burke, E., Reflections on the French Revolution & other Essays. Everyman's Library, 1950.
- Buckland, C.E., Dictionary of Indian Biography, London, 1906.

- Colebrooke, T.E., Life of the Honourable Mountstuart Elphinstone, 2 Vols., London, 1884.
- Cornwallis, Charles,  
1st Marquis., Correspondence of Marquis Cornwallis  
(ed.) Charles Ross, 3 Vols., London,  
1859.
- Dharkar, C.D., Lord Macaulay's Legislative Minutes,  
Madras, 1946.
- Dictionary of National Biography, Vols. X, XII, XVIII.
- East India Register, 1803-1835.
- Embree, A.T., Charles Grant and British Rule in India, London, 1962.
- Gleig, G.R., Memoirs of the Life of the Rt. Hon. Warren Hastings, First Governor-General of Bengal, Vol.1, London, 1841.
- Gleig, G.R., The Life of Major-General Sir Thomas Munro, Bart. and K.C.B., Late Governor of Madras with extracts from his Correspondence and Private Papers, 3 Vols., London, 1830.
- Gooch, G.P., Political Thought in England, from Bacon to Halifax, London, 1933.
- Gupta, S.C., Agrarian Relations and Early British Rule in India : a case study of Ceded and Conquered Provinces, 1801-33, London, 1963.
- Grote, Mrs. The Personal Life of George Grote, 2nd ed., London, 1873.
- Habib, I., The Agrarian System of Mughal India, 1556-1707, London, 1963.
- Halevy, E., A History of the English People in the Nineteenth Century, 3 Vols.,  
Vol.1. England in 1815, 1949.  
Vol.2. The Liberal Awakening 1815-30.  
London, 1949.  
Vol.3. The Triumph of Reform.  
London, 1950.
- The Growth of Philosophic Radicalism,  
London, 1952.

- Hastings, Lord., The Private Journal of the Marquess of Hastings. (ed.) Marchioness of Bute, 2 Vols., London, 1858.
- Heber, Reginald, Narrative of a Journey through the Upper Provinces of India, from Calcutta to Bombay, 1824 - 1825, with Notes upon Ceylon, An Account of a Journey to Madras and the Southern Provinces, 1826, and Letters Written in India, 2 Vols., London, 1828.
- Hearnshaw, F.J.C., The Social and Political Ideas of some Representative Thinkers of the Revolutionary Era, London, 1931.
- Holmes, J., The Administration of the Delhi Territory 1803-1832. (Unpublished Ph.D. Thesis, London, 1955).
- Husain, M.I., The Formation of British Land-Revenue Policy in the Ceded and Conquered Provinces of Northern India, 1801-1833. (Unpublished Ph.D. Thesis, London, 1964).
- Imperial Gazetteer of India.
- Ingham, K., Reformers in India, 1793-1833. An account of the work of Christian Missionaries on behalf of Social Reform, Cambridge, 1956.
- Jacquemont, V., Letters from India, 1829-1832. (Tr. by Phillips, C.A.) London, 1936.
- Kaye, J.W., Christianity in India. London, 1859.
- The Life and Correspondence of Major-General Sir John Malcolm. G.C.B. Late Envoy to Persia, and Governor of Bombay; from Unpublished letters and Journals, 2 Vols., London, 1856.
- The Administration of the East India Company: A History of Indian Progress, London, 1853.
- Selections from the Papers of Lord Metcalfe; Late Governor-General of India, Governor of Jamaica, and Governor-General of Canada, London, 1855.

- Kaye, J.W., The Life And Correspondence of Charles, Lord Metcalfe. Governor-General of India, Governor of Jamaica, and Governor-General of Canada; from Unpublished Letters and Journals Preserved by Himself, His Family and His Friends. 2 Vols., London, 1854.
- Keith, A.B., Speeches & Documents on Indian Policy, 1750-1921. Vol.1, Oxford, 1922.
- Lowell, A.L., Public Opinion and Popular Government. Longmans, 1914.
- Macaulay, T.B., Historical Essays (Contributed to Edinburgh Review), London, 1913.
- Maine, H.S., Village Communities in the East and West. 3rd ed. London, 1876.
- Malcolm, J., The Government of India. London, 1833.  
The Political History of India from 1784 to 1823. 2 Vols., London, 1826.  
A Memoir of Central India Including Malwa, And Adjoining Provinces, 2 Vols. London, 1824.
- Mill, J., The History of British India. Vols. 1, 2, 5, London, 1820.  
Essays on Government, Jurisprudence, Liberty of the Press and Law of Nations. London, 1828 [?]
- Misra, B.B., The Central Administration of the East India Company 1773-1834. Manchester, 1959.  
The Indian Middle Classes, their Growth in Modern Times. Oxford, 1961.
- Moon, P., Warren Hastings and British India. London, 1947.
- Morley, W.H., The Administration of Justice in British India : its Past History and Present State : Comprising an Account of the Laws peculiar to India. London, 1858.

- Neale, W.C., Economic Change in Rural India: Land Tenure and Reform in Uttar Pradesh, 1800-1955. Yale, 1962.
- Pandey, K.N., Lord William Bentinck and the Indian States, 1828-1835. (Unpublished Ph.D. Thesis, London, 1957).
- Philips, C.H., The East India Company, 1784-1834. Manchester, 1st edition 1940, 2nd edition. 1961.
- Historians of India, Pakistan and Ceylon : Historical Writing on the Peoples of Asia. Vol.1, London, 1961.
- India. London, 1949.
- Alphabetical List of Directors of the East India Company, 1758-1858. London, 1941.
- Prinsep, H.T., General Register of the Hon'ble East India Company's Civil Servants of the Bengal Establishments, 1790-1842. Calcutta, 1844.
- Spear, T.G.P., A Study of the Social Life of the English in the 18th Century India The Nabobs. London, 1932.
- Twilight of the Mughals, Studies in late Mughul Delhi. Cambridge, 1951.
- India, Pakistan and the West. London, 1958.
- Stokes, E., The English Utilitarians and India. Oxford, 1959.
- Stephen, L., History of English Thought in the Eighteenth Century. 2 Vols. London, 1876.
- Strachey, J., India. London, 1888.
- Thompson, E., The Life of Charles, Lord Metcalfe. London, 1937.
- Trevelyan, G.O., The Life and Letters of Lord Macaulay. 2 Vols., London, 1931.
- Wilson, H.H., Glossary of Judicial and Revenue Terms. London, 1855.
- Woodruff, P., The Men Who Ruled India: The Founders. London, 1954.