CHAPTER XXVIII
THE ADMINISTRATIVE ORGANISATION
I. THE HOME GOVERNMENT

1. Transfer of Power

The most momentous consequence of the Mutiny and the Revolt of 1857-8 was the final extinction of the East India Company and the assumption of the administration of India by the British Crown. As noted above,\(^1\) things were rapidly moving in this direction, but the process was quickened by the great events of 1857. Lord Palmerston, the British Prime Minister, correctly interpreted the will of the British people when he intimated, after the general election of 1857 in Britain, that the Government would bring in a Bill for placing the Government of India under the direct authority of the Crown. The East India Company made a last effort to avert the inevitable. The Chairman and Deputy Chairman of the Company wrote a letter expressing surprise that without imputing any blame to the Company in connection with the Mutiny, and without instituting any inquiry by Parliament, the Government should have proposed the immediate suppression of the Company. They also submitted a formal petition to the Parliament against the proposed Bill. This document, drafted by John Stuart Mill, gave very cogent reasons against the course of action proposed by the Government. It pointed out that if the administration of India had been a failure, the fault lay not with the Company, but with the British Government, represented by the President of the Board of Control, which was the principal branch of the ruling authority in the Double Government and had necessarily the decisive share in every error, real or supposed.

And lastly, against the reproach levelled against a Double Government, the petitioners urged:

"It is considered an excellence, not a defect, in the constitution of Parliament, to be not merely a double but a triple Government. An executive authority, your petitioners urge, may often, with advantage, be single, because promptitude is its first requisite. But the function of passing a deliberate opinion on past measures, and laying down principles of future policy, is a business which, in the estimation of your petitioners, admits of and requires the concurrence of more judgments than one. It is no defect in such a body to be double, and no excellence to be single."

The petition, however, produced no effect upon the Government of Palmerston, and a Bill for the abolition of Company's rule and the future Government of India was introduced in the Parliament. But before the Bill could be passed, Lord Palmerston's Gov-
ernment fell and was replaced by Lord Derby’s Conservative Government. Benjamin Disraeli, the Chancellor of the Exchequer in the new Government, introduced a new India Bill. It was “complicated, unworkable and grotesque”, and provoked the comment of Palmerston that “whenever he saw a man laughing in the streets, he was sure that man had been discussing Mr. Disraeli’s Bill.” As a matter of fact, when the Parliament met Disraeli’s Bill found no supporters. In criticizing the common element in the two Bills, namely leaving the Government of India to the unchecked power of a minister, in a further report, drafted on behalf of the East India Company, John Stuart Mill observed:

“The Minister, it is true, is to have a Council. But the most despotic rulers have councils. The difference between the Council of a despot, and a Council which prevents the ruler from being a despot is, that the one is dependent on him, the other independent; that the one has some power of its own, the other has not. By the first Bill (Lord Palmerston’s Bill) the whole Council is nominated by the Minister; by the second (Disraeli’s Bill) one-half of it is nominated by him. The functions to be entrusted to it are left, in both, with some slight exceptions, to the Minister’s own discretion”.

The comment of R. C. Dutt on this observation is worth quoting:

“The argument is unanswerable. And after the experience of half a century many thoughtful men will be inclined to hold that a strong and independent deliberative body might have tempered the action of the Crown Minister, and secured a better administration of Indian affairs. The Directors of the Company formed such a body, but they represented the interests of the Company’s shareholders, not of the Indian people. That was the defect of the old system; that was the evil which required a remedy. But in the task of reorganisation which Parliament undertook in 1858, this defect was not remedied. The power of the Court of Directors was destroyed, but no independent deliberative body, representing the people of India safeguarding their interests and their welfare, found place in the new scheme of administration.”

The new petition of the Company bore no fruit and Mr. Disraeli’s Bill was dead. In order to frame a new one, the principles of the new scheme were first discussed in the House, and then a Bill, the joint production of both parties, was introduced. The new Bill became law in August 1858, and is known as ‘An Act for the better Government of India.’

The Act for the better Government of India, which received the royal assent on the 2nd August, 1858, provided that India shall be governed directly by and in the name of Her Majesty, acting through a Secretary of State, to whom were to be transferred the powers formerly exercised either by the Court of Directors or by the Board of Control, and that “all the territorial and other revenues of or arising in India...shall be received for and in the name of Her Majesty, and shall be applied and disposed of for the pur-
poses of the Government of India alone". A month later the Court of Directors made over their trust of the dominion of India to the Crown in the following touching words: "Let Her Majesty appreciate the gift—let her take the vast country and the teeming millions of India under her direct control; but let Her not forget the great corporation from which she has received them nor the lessons to be learnt from its success". The transfer of control over Indian territories from the Company to the Crown in 1858 was, more or less, a formal transaction. In fact, it was the culmination of a process that had begun from 1784, if not from 1773. Speaking on the India Bill on the 15th July, 1858, Lord Derby observed:

"...in point of fact, the transfer of authority to the Crown is more nominal than real, because, although the Court of Directors have been in a position to exercise certain powers of obstruction and delay, I believe that, with the single exception of the power of recalling the Governor-General, there was no single act which they were enabled to perform without the assent of the President of the Board of Control".

2. The Crown

By the Act of 1858 all territories in the possession of, and all powers hitherto exercised by the East India Company were vested in Her Majesty, the Queen, and India was to be governed by and in the name of Her Majesty, by one of her principal Secretaries of State. Provision was made for the appointment of a fifth Secretary of State for this purpose, who, with the aid of a Council, would perform all the duties and exercise all the powers so long vested in the East India Company and the President of the Board of Control.

The appointment of Governor-General of India and Governors of Presidencies in India was to be made by Her Majesty. All existing Acts and provisions of law and the treaties made by the Company, as well as all contracts, covenants, liabilities and engagements of the Company were to continue in force.

The assumption of the administration of India by the Crown was communicated to the people of India by a Proclamation issued in the name of Queen Victoria. The first draft of the Proclamation was not liked by Her Majesty, and she asked the Prime Minister, Lord Derby, to re-write it: "Bearing in mind that it is a female Sovereign who speaks to more than a hundred millions of Eastern People, on assuming the direct government over them, and after a bloody war, giving them pledges which her future reign is to redeem, and explaining the principles of her government. Such a document should breathe feelings of generosity, benevolence, and religious toleration, and point out the privileges which the Indians will receive in being placed on an equality with the subjects of the
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British Crown, and the prosperity following in the train of civilisation".7

The Proclamation, drafted according to the wishes of the Queen, was publicly read on 1 November, 1858, in all the District towns in India. This Proclamation, far better known to the Indians than the Act of 1858, was for nearly half a century regarded as a Charter of their rights. After announcing the appointment of Viscount Canning as her first Viceroy and Governor-General and confirming all persons then employed in the civil and military services of the Company, the Proclamation held out the following assurances to the Chiefs and peoples of India.

"We hereby announce to the Native Princes of India, that treaties and engagements made with them by or under the authority of the Honourable East India Company are by us accepted, and will be scrupulously maintained, and we look for the like observance on their part.

"We desire no extension of our present territorial possessions; and while we will permit no aggression upon our dominions or our rights to be attempted with impunity, we shall sanction no encroachment on those of others. We shall respect the rights, dignity, and honour of Native Princes as our own: and we desire that they, as well as our own subjects, should enjoy that prosperity and that social advancement which can only be secured by internal peace and good government."

"We hold ourselves bound to the Natives of our Indian territories by the same obligations of duty which bind us to all our other subjects, and those obligations, by the blessing of Almighty God, we shall faithfully and conscientiously fill.

"...We declare it to be our royal will and pleasure that none be in any wise favoured, none molested or disquieted, by reason of their religious faith and observances, but that all shall alike enjoy the equal and impartial protection of the law; and we do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious belief or worship of any of our subjects on pain of our highest displeasure.

"And it is our further will that, so far as may be, our subjects, of whatever race or creed, be freely and impartially admitted to offices in our service, the duties of which they may be qualified by their education, ability, and integrity, duly to discharge".

The Queen approved and confirmed the offer of pardon by Lord Canning to the rebels and mutineers of 1857-8 and made a further announcement as follows:——

"Our clemency will be extended to all offenders, save and except those who have been, or shall be, convicted of having directly taken part in the murder of British subjects. With regard to such the demands of justice forbid the exercise of mercy.

"To those who have willingly given asylum to murderers, knowing them to be such, or who may have acted as leaders or instigators of revolt, their lives alone can be guaranteed; but, in apportioning the penalty due to such persons, full consideration will be given to the circumstances under which they have been induced to throw off their allegiance; and large indulgence will be shown to those whose crimes may appear to have originated in too credulous acceptance of the false reports circulated by designing men."
"To all others in arms against the Government we hereby promise unconditional pardon, amnesty, and oblivion of all offences against ourselves, our crown and dignity, on their return to their homes and peaceful pursuits.

"It is our royal pleasure that these terms of grace and amnesty should be extended to all those who comply with those conditions before the first day of January next".*

The exalted position of the British Crown in relation to the British Indian Empire was asserted by the exponents of New Imperialism in the post-1870 epoch. Thus the Government of Disraeli introduced in 1876 the Royal Titles Bill, which passed through Parliament with a large majority. Following it, Queen Victoria was proclaimed 'Queen-Empress of India' at a Durbar, held at Delhi on the 1st January, 1877. Her successor, Edward VII, was proclaimed 'King-Emperor of India' at a second Durbar, held at Delhi on the 1st January, 1903. At a third Delhi Durbar in 1911, George V succeeded to this title which had come to be regarded as "the symbol of unity of the British Empire". More detailed reference will be made to these later.

3. The Secretary of State.

The Crown and the British Parliament exercised from 1858 their actual control over Indian affairs through the Secretary of State, whose salary was to be paid out of Indian revenues. He was to be one of the principal Secretaries of State of the British Government, a minister of the Cabinet rank, and a member of one or other house of the Parliament. With the Secretary of State was associated a Council of India of fifteen members, eight of whom were to be appointed by the Crown and seven were to be elected by the Court of Directors from among themselves. Of these, more than a half in each case,—in all at least nine,—"shall be persons who shall have served or resided in India for ten years at the least, and...shall not have last left India more than ten years next preceding the date of their appointment". Vacancies in Crown appointments were to be filled by the Crown, and vacancies among the seven other members would be filled by co-option. The members of the Council were to hold office during their good behaviour, but they were removable "upon an address of both houses of Parliament". The Council had no initiative, but would only consider the questions referred to it by the Secretary of State, who could overrule the decisions of the majority, save and except in matters relating to expenditure and loans. Subject to these limitations, the Council was required to conduct, under the direction of the Secretary of State for India, "the business transacted in the United Kingdom in relation to the Government of India and the correspondence with India".

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The Council was thus expected to exercise only a sort of "moral, control". Gradually the Secretary of State came to occupy a supreme position in relation to the Council, by controlling its composition, curtailment of its powers, and modification in the method of transacting business. The Government of India Act, 1869, authorized the Secretary of State to fill up all vacancies in the Council of India, and fixed the tenure of members of the Council appointed in future to a term of ten years. The Act also transferred to the Crown, from the Secretary of State in Council, the right of appointing the ordinary members of the Governor-General's Council, and of the members of Council of the several Presidencies in India. This legislation strengthened the position of the Secretary of State as against his Council, whose power was palpably reduced. Sir Charles Dilke rightly observed in the House of Commons: "At the time the Council was appointed, the idea was to curb the power of the Secretary of State; that feeling had passed away, and it was now recognised on all hands that the Council should be a consultative and not a controlling body". By the Council of India Reduction Act of 1889, the Secretary of State was given the power to "abstain from filling vacancies until the number of members could be reduced to ten".

Clause 41 of the Act of 1858 gave to the Council the power of 'financial veto'. It provided that "the expenditure of the revenues of India, both in India and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of such revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council". But this restraint became ineffective in actual practice, as for matters of 'high policy', the Secretary of State was responsible to the Parliament and not to the Council, and he could issue secret orders concerning war or other matters involving heavy expenditure from Indian revenues, without the knowledge of his Council. Other conditions increased the subordination of the Council to the Secretary of State. He was not only given the powers of overruling the Council in case of difference of opinion, but also enjoyed some special privileges regarding matters of urgency and secrecy. He might not communicate to the Council the "secret" despatches from India, which were previously addressed to the Secret Committee of the Court of Directors. Further, it was for the Secretary of State "to divide the Council into Committees for the more convenient transaction of business, and from time to time to re-arrange such Committees, and to direct
what departments of the business in relation to the Government of India under this Act (of 1858) shall be under such Committees respectively, and generally to direct the manner in which all such business shall be transacted”.

In relation to the Government of India, also, the Secretary of State came to exercise unlimited authority in actual practice. It was thought in 1858 that the real executive power lay with the Government of India, and the Secretary of State was to ‘direct and control’ it.9a Northcote, however, some years later, characterized the Government as established in 1858 as “an executive machinery in India subject to controlling machinery in England”. Bartle Frere held in the early sixties that the Secretary of State should act only as the “representative and colleague of the Viceroy in the Cabinet and Parliament, and as the exponent of the Viceroy’s measures to the English Parliament and people”10 In actual practice, however, the Secretary of State wielded much greater power.

Besides the special privileges of the Secretary of State, according to the legislative enactments, referred to above, certain other factors served to increase the influence of the Home Government and “to fortify the position of the Secretary of State vis-à-vis the Government of India”. The completion of a direct telegraph line (by submarine cable by way of the Red Sea) between England and India in 1870 removed the difficulty and delay of communication. It made it easier for the Secretary of State to obtain quick information in relation to Indian affairs and he could no longer be “confronted with accomplished fact”. He now sought to exercise greater control over the administration of India than had been the case before by keeping himself informed of all matters and by issuing detailed and positive orders.

The new development led to friction between the Secretary of State and the Government of India. In 1870 the Government of Lord Mayo protested “at being required to pass the Bills which became the Contract Act and the Evidence Act in the shape in which the Secretary of State, on the report of the Indian Law Commissioners, approved them, on the ground that such a course deprived the legislative councils of all liberty of action”.11 But the Home Government emphatically asserted their superior position in the following words:

“One great principle which from the beginning has underlaid the whole system (of the Government of India) is that the final control and direction of the affairs of India rest with the Home Government, and not with the authorities appointed and established by the Crown, under Parliamentary enactment, in India itself. The Government established in India is (from the nature of the case) subordinate to the Imperial Government at Home. And no Government can be subordinate, unless
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It is within the power of the superior Government to order what is to be done or left undone, and to enforce on its officers, through the ordinary and constitutional means, obedience to its directions as to the use which they are to make of official position and power in furtherance of the policy which has been finally decided upon by the advisers of the Crown.

"Neither can I admit that it makes any real difference in the case if the directions issued by the Imperial Government relate to what may be termed legislative as distinguished from executive affairs. It may be quite as essential, in order to carry into effect the views of the Imperial Government, as to the well-being of Her Majesty's Indian dominions, that a certain measure should be passed into a law, as that a certain Act described in common language as executive, should be performed. But if it were indeed the case, as your argument would represent it to be, that the power of the Imperial Government were limited to the mere interposition of a veto on Acts passed in India, then the Government of the Queen, although it could resist the passing of an injurious law, would be helpless to secure legislative sanction for any measures, however essential it might deem them to be, for the welfare or safety of Her Indian Empire. I think that, on reconsideration, you will see how inadequate such a power would be to regulate and control the affairs of that Empire, and how small a part it would represent of that supreme and final authority which has always been held and exercised by the Government of the Crown."

Tension became acute during the Secretariaship of Lord Salisbury in the second ministry of Disraeli and the Viceroyalty of Lord Northbrook. While recognizing "the subordinate position of the Viceroy", Lord Northbrook "held that the Parliament had conferred certain rights, not only on the Viceroy, but on his Council, which differentiated the latter in a very notable degree from subordinate officials". When Lord Northbrook wanted to assert the independence of the Government of India in relation to fiscal matters, Disraeli's Government strongly affirmed their constitutional rights in the following words:

"It is not open to question that Her Majesty's Government are as much responsible to Parliament for the Government of India as they are for any of the Crown Colonies of the Empire. It may even be said that the responsibility is more definite, in that the powers conferred are, in the case of India, armed with a more emphatic sanction. It necessarily follows that the control exercised by Her Majesty's Government over financial policy must be effective also."

The principle lying behind the assertion of such absolute rights was admirably summed up on this occasion in the words that followed:

"They cannot, of course, defend in debate measures of which they do not approve; nor can they disavow all concern in them, and throw the responsibility for them upon the constant Government of India. Full legal powers having been entrusted to Her Majesty's Government, Parliament would expect that care should be taken that no policy should be pursued which Her Majesty's Government were unable to defend. If the control they possess were to be in any respect less than complete, the power of Parliament over Indian questions would be necessarily annulled. If the Government were at liberty to assume the attitude of bystanders, and refer the House of Commons for explanations to the Governor-General in Council upon any policy that was assailed, there would practically be no one whom
the House could call to account, or through whom effect could be given to its decisions. In scrutinizing the control exercised over the Government of India by Her Majesty's Government, and the grounds for maintaining that control, it must be borne in mind that the superintending authority of Parliament is the reason and the measure of the authority exercised by the responsible Ministers of the Crown; and that, if the one power is limited the other must be limited at the same time.\textsuperscript{13}

Lord Ripon, as the Viceroy of India, complained of the increasing interference of the India office. "I am not sure", he said, "that if I had known exactly how matters stood I would have come out here (India)".\textsuperscript{14} The supremacy of the British Parliament over the Government of India and the indivisible responsibility of the British Cabinet were strongly asserted in 1894 by Sir Henry Fowler, the Secretary of State, during the debate on the Cotton Duties Bill. It should be noted that the "relations between Simla and Whitehall" varied much with "the personal equation". A strong man like Lord Curzon ascribed to the members of the Council of India "a desire to thwart and hinder his work", and he resigned in consequence of difference with the Home Government and the Secretary of State.


Though the supremacy of the British Parliament in the administration of India was theoretically asserted, as noted above, the actual powers of the Parliament were exercised by the Secretary of State for India. In accordance with the well-known principles of British constitution, the Secretary of State was fully responsible to the Parliament. But, as was pointed out by Macaulay in 1833, it was impossible, in the very nature of circumstances, that the actions of the Secretary of State for India should form a subject of scrutiny either by the Parliament or by the British people, to the same extent as those of the other Secretaries. The British Parliament has therefore been aptly described as "a sleepy guardian of Indian interests".

The following extract from the Montagu-Chelmsford Report shows how the Parliament actually exercised control over Indian affairs:

"The bulk of Indian legislation it leaves to the Indian legislatures which it has itself created, though it exercises through the Secretary of State complete control over the character of such law-making. But it insists that decisions on certain important matters, such as rules for the nomination or election of additional members of council, or for appointments to the Indian Civil Service, or defining the qualifications for persons to be appointed to listed posts, or notifications setting up executive councils for lieutenant-governors shall be laid before it. Nor are Indian revenue and expenditure controlled by Parliament. The revenues apart from loans are not raised, nor are the charges except for military expenditure beyond the frontiers incurred with its direct approval. The Home expenditure is met from Indian revenues and therefore the salaries of the Secretary of State and his office are not included in the estimates. A motion in favour of placing these amounts on the
estimates was made in 1906, and defeated by a large majority, on the ground that the change would tend to bring the Indian administration into party politics. Accordingly all that at present happens is that a detailed account of receipts and charges is annually laid before Parliament together with a report, the quality of which has incurred some criticism, upon the moral and material progress of the country. A motion is made that Mr. Speaker do leave the chair for the House to go into Committee on the East Indian revenue accounts; the actual motion made in Committee is declaratory and formal; a general debate on Indian affairs is in order, and the Secretary or Under Secretary of State usually takes this opportunity to inform the House about any important matters of administration. All sums expended in England on behalf of India are also examined by an auditor who lays his report before both Houses. Because Parliament does not vote the revenues of India, it has not the same opportunity of exercising the control over its administration as over the great departments of the public service in Great Britain. It is, of course, true that when any matter of Indian administration attracts public interest, Parliament has the ordinary and perfectly effective means of making its opinion felt, by questions, by amendments to the address, by motions to adjourn, by resolutions or by motions of no confidence. We have no hesitation in saying, however, that the interest shown by Parliament in Indian affairs has not been well-sustained or well-informed.

It has tended to concern itself chiefly with a few subjects, such as the methods of dealing with political agitation, the opium trade, or the cotton excise duties. It may be well to record that in India such spasmodic interferences are apt to be attributed to political exigencies at Home. We note that Her Majesty's Ministers did not feel it necessary to give effect to resolutions of the House of Commons on the opium trade in 1889 and 1891, nor about simultaneous examinations in India and England for the Indian Civil Service in 1883, because they felt assured that the House would not on reflection constrain them to carry out measures which on inquiry proved to be open to objection. No one questions the competence of Parliament to interfere as drastically or as often as it chooses. Our point, however, is that it does not make a custom of interfering.

The chief defect of this system is also pointed out in the same report.

"We have seen how in the days of the Company it was Parliament's habit before renewing the Charter to hold a regular inquest into Indian administration. That practice has lapsed since 1858. Indeed we have the paradox that Parliament ceased to assert control at the very moment when it had acquired it. It cannot be said that Royal Commissions on particular subjects, for example, those over which Sir Charles Hobhouse and Lord Islington presided, are an adequate substitute for the old procedure."

But although the British Parliament did not normally take any interest in Indian affairs, it often took too much interest if those affairs touched in any way the interests of Britain. In such circumstances the Secretary of State who, as a member of the Cabinet, had to accept the views of the Parliament, put undue pressure on his Council and the Government of India. The whole situation is very pithily put by Ramsay Macdonald, a former British Prime Minister, as follows:

"The intention of Parliament in 1858 was apparently to give the power of initiative to the Government of India, that of examination and revision to the Secretary
of State's Council, that of veto to the Secretary himself. But that did not suit a Home Cabinet, which had views of its own on certain Indian affairs, especially economic ones, and in 1870 the Duke of Argyll, in correspondence with Lord Mayo, the Viceroy, issued an order that the Government of India was part of the Home Executive and subordinate to the Cabinet, and that official members and the Viceroy should take instructions from home. This point was raised later on by Lord Salisbury when he insisted upon being consulted on all legislative proposals of importance; and when, in 1875, the Government of India passed a Tariff Bill imposing duties upon cotton, angry correspondence followed, and Lord Salisbury issued his order that the duty would have to be removed as quickly as possible. Upon this the Viceroy resigned. It has also been laid down by a Secretary of State that the Council (of Secretary of State) can be independent in its criticism only so long as the Cabinet allows it."

II. THE GOVERNMENT OF INDIA

1. The Governor-General and his Council

The Act of 1858 did not introduce any formal change in the constitution and the general framework of the Government of India. The Governor-General had no doubt the added dignity of a personal representative of the Crown, but though this was always emphasized by the additional title of Viceroy, it did not practically make any difference in his position. As before, the office, though practically reserved for the British aristocracy, was technically open to professional administrator, as demonstrated by the appointment of Sir John Lawrence. Of course, the replacement of dual control at Home by the absolute control of the Secretary of State introduced the element of party politics in the appointment of the Governor-General in a much more striking manner than before. But although selected as a party man, the Governor-General, once appointed, ceased to be so, and did not resign with the fall of his party from power. As a rule, he was appointed for five years, and held his office for the whole of the period, irrespective of any change in Home politics. There are, however, instances, though very rare, of a Governor-General resigning his office for difference of opinion with the Home Government, as well as of the extension of the usual period of his office. He could not go home on leave during his tenure of office.

The constitution of the Executive Council of the Governor-General was not changed in any way by the Act of 1858. It still consisted of four ordinary members (of whom three were senior covenanted servants of the Company, and one, the Law Member, a barrister) with the Commander-in-Chief as an extraordinary member. A proposal was made in 1860 to abolish the Council, the idea being to vest the Government of India solely in the person of the Viceroy and reduce the members of the Council to the status of
Secretaries. This proposal was not ultimately acted upon. Instead, the Act of 1861 added one more member to the Council, raising the total number to five, and authorized the Governor-General to make rules for the conduct of business.

Lord Canning had already introduced very important changes in the existing method of transacting business. Instead of the collective deliberation of all the members through the exchange of notes and minutes, Canning had already introduced the portfolio system in 1859, when a special Finance Member was appointed. Under this system the business of one or more departments was assigned to a particular member. The rules made by Canning under the Act of 1861 completed the system which in its general framework continued till the end of the British period. This method has been described as follows:

"The member and the secretary of a department are empowered to settle all minor business on their own authority; and thus other members, and the Council as a whole, are relieved of all the petty cases which formerly choked the progress of public business. Once every week each member has a regular meeting with the Viceroy, at which the more important matters are discussed, and either settled or referred for discussion to a full Council. In order to make sure that important questions are not being settled in the department without reference to the Viceroy, each secretary also has a weekly interview, in which he has the right of bringing forward any case which he considers demands the Viceroy's attention. This has an ugly appearance of going behind the member's back; the intention is, however, to give the Viceroy the opportunity of hearing the views of two experts, and not leaving him more or less at the mercy of a single one."

"The great bulk of Government business is then settled either in the department concerned, or by the member in consultation with the Viceroy. There is, however, a residuum of cases that cannot thus be disposed of—either matters of general policy which the Viceroy wishes to be discussed in Council, or cases which he refers to the Council at the request of a member whom he has overruled. The Executive Council is usually stated to meet thus as a Cabinet once a week. At such meetings the decision of the majority prevails, unless the Viceroy decides to overrule his Council by the use of those powers which he has inherited from Lord Cornwallis. But these powers have been used very seldom since the Mutiny."

The new method facilitated business, and enabled the Government of India to cope with the steadily growing volume of work. But there is no doubt that it considerably increased the power of the Governor-General, and reduced the importance of the Council, as such, as a ruling body in the scheme of the Government of India. Henceforth all the powers were gradually centred in the Viceroy and Governor-General, and his Council only played a subsidiary role.

Several other circumstances contributed to the same result. One of these was the reduction of the pay of a member of the Governor-General's Council to £8,000 and increase of that of the Lieutenant-
Governor to £10,000 a year. This had a twofold effect. The members of the Council naturally looked forward to the prize-post of a Lieutenant-Governorship and—not to put it more bluntly—became more amenable to the views of the Governor-General in whose hands the appointment lay. Secondly, by appointing his active supporters as heads of provinces, the Governor-General established his control over those who directly administered the provinces of India. As Minto put it, it is the Provincial rulers and not the Councillors of India who were the chief officers of the Viceroy.

Another circumstance which weakened the Governor-General’s Council was the growing practice of private communications between the Viceroy and the Secretary of State. The result was that many important questions of policy were settled behind the back of the Council. But this had also the effect of reducing, to a large degree, the independence of judgment and freedom of action which the Viceroy exercised before. This process set in in 1870 when the telegraphic communication was established between India and England. Formerly, on account of the long delay in communication, the Governor-General had to take action in emergencies without the sanction of the Home Government, which was often faced with a fait accompli. A great deal of initiative and freedom of action was thus necessarily left with the Government of India. But all this was changed when a consultation with the Home Government on every matter was feasible and therefore insisted upon. But as often happens, the pendulum swung to the opposite extreme. The tendency gradually grew for the British Cabinet to treat the Government of India as merely a subordinate branch of the British Government. Not unfrequently, it went one step further, when the Secretary of State for India proceeded to decide upon important questions of policy by private discussion with the Viceroy alone, ignoring altogether the Council of India.

The development of this process can be clearly traced to the days when Lord Salisbury and Lord Northbrook held, respectively, the offices of the Secretary of State for India and the Viceroy. This would be evident from the following passage in a memorandum written by Northbrook’s cousin and Private Secretary, Major Baring (afterwards Lord Cromer): “There can be no doubt”, he says, “that Lord Salisbury’s idea was to conduct the Government of India to a very large extent by private correspondence between the Secretary of State and the Viceroy. He was disposed to neglect, and I think to underrate, the value of the views of the Anglo-Indian officials... This idea inevitably tended to bring the Viceroy into the same relation with the Secretary of State for India as that in which
an Ambassador or Minister at a foreign court stands to the Secretary of State for Foreign Affairs..."\(^{18}\)

Side by side with the decline of power, the members of the Governor-General’s Council lost their independence of action and could be required to cast their vote, not as they thought proper, but as directed by the Imperial Government at Home. This was clearly enunciated as follows in course of the rebuke which the Home Government administered to Lord Mayo, as stated above.\(^ {19}\)

"The Imperial Government cannot indeed insist on all the members of the Governor General’s Council, when assembled for legislative purposes, voting for any measure which may be proposed, because on such occasions some members are present who are not members of the Government and not official servants of the Crown. But the Act which added these members to the Council for a particular purpose made no change in the relations which subsist between the Imperial Government and its own executive officers. That Government must hold in its hands the ultimate power of requiring the Governor General to introduce a measure, and of requiring also all the members of his Government to vote for it".\(^ {20}\)

The debate on the cotton duties in 1894 was the last occasion on which the issue was raised. Sir Henry Fowler then laid down, as follows, the principle, that the united and indivisible responsibility of the Cabinet, which was recognised as the only basis on which the government of the United Kingdom could be carried on, applied to the Indian executive councils in spite of the different nature of the tie which held its members together:

"It should be understood that this principle, which guides the Imperial Cabinet, applies equally to administrative and to legislative action; if in either case a difference has arisen, members of the Government of India are bound, after recording their opinions, if they think fit to do so, for the information of the Secretary of State in the manner prescribed by the Act either to act with the Government or to place their resignations in the hands of the Viceroy. It is moreover immaterial for the present purpose what may be the nature of the considerations which have determined the Government of India to introduce a particular measure. In any case, the policy adopted is the policy of the Government as a whole, and as such, must be accepted and promoted by all who decide to remain members of that Government".\(^ {21}\)

The same principle was also applied to the members of the Governor’s Executive Council. "When in 1878 a member of the Madras executive council moved an amendment which had been rejected by the Government of India, to a Bill that was before the provincial legislative council, the Secretary of State declared that his action was constitutionally improper".\(^ {22}\)

2. The Indian Councils Act, 1861.

The first important change in the structure of the Government of India was made by the Act of 1861. It was intended in the first place to remove what was regarded by the authorities as the de-
fects in the Act of 1853. The first of these, already noted above, was the undue interference by the Legislative Council, set up by that Act, with the executive branch of the administration, which was never intended to be the function of that body. In the second place, both Madras and Bombay chafed at the loss of their legislative power, and differences had already arisen between the Supreme Government and the Government of Madras about the Income-Tax Bill. There was, indeed, a strong reaction in both these provinces against the centralisation in Calcutta.

But there were other more deep-seated reasons which moved the British Government. The Mutiny and rebellion of 1857, the Santal rebellion of 1855-57, and the Indigo riots of 1860,—all seemed to indicate that there was something wrong in the administrative system. The growing ill feeling, bordering on antagonism, between the Indians and the Englishmen in India, was considered by Sir Charles Wood "as the most alarming symptom" tending "to increase the dangers of our position" to which "it would be folly to shut our eyes".

Sir Charles Wood also believed that

"many of the greatest mistakes into which we have been led have arisen from the circumstance that we have been, not unnaturally, perhaps, for arranging everything according to English ideas. In Bengal we converted the collectors of taxes into the permanent landowners of the country, and left the ryots to their mercy. In Madras, Sir Thomas Munro, from most benevolent motives, and to avoid the evils of the Bengal settlement, introduced the ryotwary system. It is now asserted that a more impoverished population than that of Madras does not exist".

There was a general feeling that all these evils were mainly due to the absence of Indians in the Legislative Councils of India. Sir Syed Ahmad wrote a book in Urdu, entitled *Essay on the causes of the Indian Revolt*, almost immediately after the Mutiny. He regarded the non-admission of the Indians into the Legislative Council of India as the primary cause of the rebellion. In support of this view, he observed:

"Most men, I believe, agree in thinking that it is highly conducive to the welfare and prosperity of Government—indeed it is essential to its stability—that the people should have a voice in its councils. It is from the voice of the people only that Government can learn whether its projects are likely to be well received. The voice of the people alone can check the error in the bud, and warn us of dangers before they burst upon and destroy us....This voice can never be heard, and this security never acquired, unless the people are allowed a share in the consultations of the Government. The men who have ruled India should never have forgotten that they were here in the position of foreigners....The evils which resulted to India from the non-admission of natives into the Legislative Council of India were various. Government could never know the inadvisability of any of the laws and regulations which it passed. It could never hear, as it ought to have heard, the voice of the people on such a subject. The people had no means of protesting..."
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against what they might feel to be a foolish measure, or giving public expression of their own wishes. But the greatest mischief lay in this, that the people misunderstood the views and intentions of Government".25

Some Englishmen also shared the views of Syed Ahmad and pointed out the dangers arising from the entire exclusion of Indians from association with the legislation of the country. Sir Bartle Frere observed in a Minute written in 1860:

"The addition of a native element has, I think, become necessary owing to our diminished opportunities of learning through indirect channels what the natives think of our measures, and how the native community will be affected by them…. No one will I think object to the only obvious means of regaining in part the advantages which we have lost, unless he is prepared for the perilous experiment of continuing to legislate for millions of people, with few means of knowing, except by a rebellion, whether the laws suit them or not".26a

That Sir Charles Wood, the Secretary of State for India, was influenced by this view is clear from the remarks quoted above, which he made while introducing the Bill.

Thus the Indian Councils Act of 1861 was passed largely as a measure of caution against future danger. According to this Act the number of ordinary members of the Governor-General's Council was raised to five. For purposes of legislation, the Governor-General's Council was reinforced by additional members, not less than six nor more than twelve in number, nominated by the Governor-General and holding office for two years. Not less than half of these members were to be non-officials. The Commander-in-Chief, and the Governor or Lieutenant-Governor of the Province where the Council assembled were extra-ordinary members of the Council.

The Legislative Council established under the Act of 1853 had come to regard itself as something like a Parliament for India, and put the Executive Government to considerable inconvenience by asking questions about, and discussing, its measures. In order to put a stop to all this, "the functions of the new Legislative Council were limited strictly to legislation, and it was expressly forbidden to transact any business except the consideration and enactment of legislative measures, or to entertain any motion except a motion for leave to introduce a Bill, or having reference to a Bill actually introduced".28 Legislation on certain specified matters could not be introduced without the previous sanction of the Governor-General. No Act passed by the Legislative Council would be valid unless it had received the assent of the Governor-General, and any such Act might be disallowed by the Crown, acting through the Secretary of State.

The Governor-General in Council, constituted for legislative business, was to have power to make laws and regulations for amending or repealing any laws in force in the “Indian territories now
under the dominion of Her Majesty”, and to make laws for “all persons, whether British or Native, foreigners or others, and for all courts of justice whatever, and for all places and things whatever within the said territories, and for all servants of the Government of India within the dominions of Princes and States in alliance with Her Majesty”. The Governor-General was to have the power, in cases of emergency, to pass, without his Council, Ordinances which would be valid for not more than six months. The Governments of Madras and Bombay got back the power of legislation which had been withdrawn by the Act of 1833. The Councils of the Governors of Bombay and Madras were expanded for legislative purposes by the addition of the Advocate-General and other persons not less than four, nor more than eight, to be nominated by the Governors. “The previous sanction of the Governor-General was made requisite for legislation by the local legislature in certain cases, and all Acts of the local legislature required the subsequent assent of the Governor-General in addition to that of the Secretary of State, and were, of course, made subject to disallowance by the Crown. Further, the “power of local legislation bestowed by the Act of 1861 was not, as previously, exclusive: it was concurrent, so that, while a provincial Council might, with the Governor-General’s approval, legislate for its own area, the legislative power of the Governor-General in Council was unimpaired and extended for all purposes over the whole of the Indian territories under the British Crown. The concentration of authority at the centre thus persisted”.27 The Governor-General was also directed to establish a legislative council for Bengal and empowered to establish similar councils for the North-Western Provinces and the Panjāb.

The Act of 1861, for the first time, made it possible for the Indians to take some share in the administration of their own country. This share was, however, strictly limited to giving advice on proposed legislation. The Legislative Councils established under that Act were merely “committees for the purpose of making laws”, and these laws were in reality the orders of Government. There was however one important difference. The laws were made in a manner which ensured publicity and discussion and were enforced by the courts and not by the executive.

But in some respects the Act of 1861 was of a retrograde character. The Council set up by the Act of 1853 had introduced parliamentary procedure, and by asking questions and discussing executive measures including the budget, marked a definite stage in the progress of representative Government in India. All these powers were taken away by the Act of 1861, and from the Indian point of
view it was a definite set-back in the constitutional progress of India for which the English-educated Indians were already making demands. The Home Government made it clear that they could not contemplate anything like a representative council or responsible government for India. Sir Charles Wood, while introducing the Bill of 1861, very frankly observed: "You cannot possibly assemble at any one place in India persons who shall be the real representatives of the various classes of the Native population of that empire. To talk of Native representation is therefore to talk of that which is simply and utterly impossible".  

Thus began the formulation of the doctrine that the Parliamentary form of Government was unsuitable for India,—a doctrine which grew into an axiomatic truth and was repeated like parrots by all subsequent Secretaries of State for more than fifty years. Sir Charles Wood very clearly enunciated another maxim when he stated: "All experience teaches us that where a dominant race rules another, the mildest form of Government is a despotism". His successors believed in this abstract doctrine, bereft of its context, as strongly as he, but most of them never admitted it so frankly, and tried to camouflage this unpalatable truth in various ways.

Another retrograde feature of the Act of 1861 was to empower the Governor-General to issue Ordinances which would have the force of law for six months. It marks the forging of a new repressive weapon which the British Government in India carefully preserved in its armoury till the very last moment.

3. Legislation between 1861 and 1891.

There was not much change in the structure of the Government of India or its powers between 1861 and 1891. But a few important points may be noted.

"The Government of India Act of 1865 extended the legislative powers of the Governor-General's Council to all British subjects in Native States, whether servants of the Crown or not; the Indian Councils Act of 1869 still further extended these powers by enabling the Governor-General's Council to make laws for all native Indian subjects of the Crown in any part of the world, whether in India or not. Incidentally, it may be added that the Act of 1865 also enabled the Governor-General's Council to define and alter, by proclamations, the territorial limits of the various Presidencies and Lieutenants Governorships.

"An Act of 1873 formally dissolved the East India Company as from January 1, 1874. In the following year another Indian Coun-
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cils Act enabled a sixth member of the Governor-General's Council to be appointed for Public Works purposes. The Indian Councils Act of 1904, however, removed the necessity for appointing the sixth member specifically for Public Works purposes, though it continued the power to appoint a sixth member".30

The most important Act passed during the period which had a great significance in Indian history was the Royal Titles Act of 1876. "It authorised the Queen, by Royal Proclamation, to make such addition to the style and titles appertaining to the Imperial Crown of the United Kingdom and its dependencies as to Her Majesty might seem meet. Accordingly, the Queen, by Proclamation dated April 28, 1876, added to her style and titles the words 'INDIAE IMPERATRICE' or 'EMPERESS OF INDIA'. The translation of the new title in the vernacular was a matter for careful consideration with Lord Lytton's Government who finally decided to adopt the term KAISER-I-HIND. It was short, sonorous, expressive of the Imperial character which it was intended to convey, and a title, moreover, of classical antiquity".31

The credit for this measure must go to the two great imperialist politicians of Britain, namely Disraeli, the Prime Minister, and his worthy lieutenant, Lord Lytton, the Viceroy of India. The genesis of the whole conception is thus described by the latter's daughter, Lady Betty Balfour:

"When the administration of India was transferred from the East India Company to the sovereign, it seemed in the eyes of her Indian subjects and feudatories that the impersonal power of an administrative abstraction had been replaced by the direct personal authority of a human being. This was a change thoroughly congenial to all their traditional sentiments, but without some appropriate title the Queen of England was scarcely less of an abstraction than the Company itself. The title of Empress or Badshah could alone adequately represent her relations with the states and kingdoms of India, and was moreover a title familiar to the natives of the country, and an impressive and significant one in their eyes.

"Embellishments inseparable from the want of some appropriate title had long been experienced with increasing force by successive Indian administrators, and were brought, as it were, to a crisis by various circumstances incidental to the Prince of Wales’s visit to India in 1875-76, and by a recommendation of Lord Northbrook’s Government that it would be in accordance with fact, with the language of political documents and with that in ordinary use to speak of Her Majesty as the Sovereign of India—that is to say, the paramount power over all, including Native States.

"It was accordingly announced in the speech from the Throne in the session of 1876, that whereas when the direct Government of the Indian Empire was assumed by the Queen no formal addition was made to the style and titles of the Sovereign, Her Majesty deemed that moment a fitting one for supplying the omission, and of giving thereby a formal and emphatic expression of the favourable sentiments which she had always entertained towards the princes and people of India",32

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4. The Act of 1892

During the thirty years that followed the passing of the Act of 1861 momentous changes had taken place among the Indians by way of the growth of nationalism, awakening of political consciousness, and development of political organizations. As will be related in a subsequent chapter, all these received a great impetus during the seventies and eighties and culminated in the foundation of the Indian National Congress in 1885.

Ever since the beginning of political consciousness among the English-educated Indians, during the thirties and forties, they had been demanding a greater share in the administration of their country, and political organizations like the British Indian Association put forth concrete proposals for representative councils. They were sadly disappointed when the Act of 1861 was passed, for it did not give any real power or even voice to the Indians in the administration of their country.

The actual work of the Councils under the Act of 1861 showed their real character. The Indian members of the Councils were all nominated, and, with a few honourable exceptions, they were "magnificent nonentities". Their constituency was the Government House and they were true to it.32a A lurid picture of such a nominated member was drawn by Mr. MacNeill in the British House of Commons. "A Maharaj of the North-West Provinces," he said, "was appointed a member of the Supreme Council, and he could not speak a word of English, and was not allowed to have an interpreter. After the meeting a relative asked him how he got on. The reply was, 'At first I found it very difficult, but then there was the Governor-General who elected me, and when he raised his hand I raised mine, and when he put his hand down I put down mine'."33

Another liberal British statesman, Sir Henry Cotton, made the following comments in his book "New India":

"The constitution of these Councils has lately attracted much attention in the native Press, and I sincerely trust that public opinion will not cease to express itself on the subject until some radical and thorough reform has been effected. It is not too much to say that the present constitution of the Legislative Council is the merest farce. Not only do officials predominate to an extent which absolutely precludes the possibility of any independent action, but these officials consist almost entirely of individuals who, from the very position they hold, are unable to display any personal independence. The present members of the Council are little more than puppets. A native Deputy Magistrate is not inclined to offer advice unacceptable to a Lt. Governor to whom he owes the honour of his appointment, and on whom he depends for his prospects in the service. The excellent and faithful agents of the rich and Zamindars, who now enjoy a seat in the Bengal Council, would as soon bite off their tongues as place themselves in opposition to Sir Rivers Thompson. No blame to them. They act in accordance
with the antecedent of their own order, and of their fellow countrymen of the old style. The very essence of their creed is subservience to authority. Is there one among their friends and associates who would justify their action if they were to place themselves in opposition?"

No wonder, then, that the Councils set up by the Act of 1861 did not at all satisfy the aspirations of the politically minded Indians whose number was steadily growing with the spread of English education. A member of the Congress described the Councils as gilded shams. As will be related later, new political organizations of a more popular character like the "Indian Association" in Calcutta, the Sarbajanik Sabha of Poona (Bombay), National Conference in Calcutta, and finally the Indian National Congress never ceased to press upon the Government the demand for representative councils.

From its very inception the Indian National Congress urged upon the Government, among other things, the extension and enlargement of legislatures, and the constitution of the same on elective principles. The circular that was issued inviting persons to attend the first session of the Indian National Congress expressed the hope that "indirectly this Conference will form the germ of a native Parliament". The following resolution was passed at the very first session of the Congress at Bombay in 1885. 34

"That this Congress considers the reform and expansion of the Supreme and existing Local Legislative Councils, by the admission of a considerable proportion of elected members (and the creation of similar Councils for the North-Western Provinces and Oudh, and also for the Punjab) essential; and holds that all Budgets should be referred to these Councils for consideration, their members being moreover empowered to interpellate the Executive in regard to all branches of the administration, and that a Standing Committee of the House of Commons should be constituted to receive and consider any formal protests that may be recorded by majorities of such Councils against the exercise by the Executive of the power, which would be vested in it, of overruling the decisions of such majorities".

In the second session (1886) the Congress laid down certain definite principles for giving practical effect to the above.

(a). The number of persons composing the Legislative Councils, both Provincial and of the Governor-General, to be materially increased. Not less than one-half of the Members of such enlarged Councils to be elected. Not more than one-fourth to be officials having seats ex-officio in such Councils and not more than one-fourth to be members, official or non-official, nominated by Government.

(b). The right to elect members to the Provincial Councils to be conferred only on those classes and members of the community, prima facie capable of exercising it wisely and independently. In Bengal and Bombay, the councillors may be elected by the members of Municipalities, District Boards, Chambers of Commerce and the Universities, or an electorate may be constituted of all persons possessing such qualifications, educational and pecuniary, as may be deemed necessary. In Madras, the Councillors may be elected either by District Boards, Municipalities, Chambers of Commerce and the University or by electoral Colleges composed of members partly elected by these bodies and partly nominated by Government. In the North-
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West Provinces and Oudh and in the Punjab, councillors may be elected by an electoral College composed of members, elected by Municipal and District Boards, and nominated, to an extent not exceeding one-sixth of the total number, by Government, it being understood that the same elective system now in force where Municipal Boards are concerned will be applied to District Boards and the right of electing members to the latter extended to the cultivating class. But whatever system be adopted, (and the details must be worked out separately for each province), care must be taken that all sections of the community and all great interests are adequately represented.

(c). The elected members of the Council of the Governor-General for making laws, to be elected by the elected members of the several Provincial Councils.

(d). No elected or nominated member of any Council to receive any salary or remuneration in virtue of such membership, but any such member, already in receipt of any Government salary or allowance, to continue to draw the same unchanged during membership, and all members to be entitled to be reimbursed any expenses incurred in travelling in connection with their membership.

(e). All persons resident in India to be eligible for seats in Council, whether as electees or nominees, without distinction of race, creed, caste or colour.

(f). All legislative measures and all financial questions including all budgets, whether these involve new or enhanced taxation or not, to be necessarily submitted, to and dealt with by these Councils. In the case of all other branches of the administration any member to be at liberty, after due notice, to put any question he sees fit to the ex-officio Members (or such one of these as may be especially charged with the supervision of the particular branch concerned) and to be entitled (except as hereinafter provided) to receive a reply to his question together with copies of any paper requisite for the thorough comprehension of the subject, and on this reply the Council to be at liberty to consider and discuss the question and record thereon such Resolution as may appear fitting to the majority. Provided that if the subject in regard to which the inquiry is made involves matters of Foreign policy, Military dispositions or strategy, or is otherwise of such a nature that in the opinion of the Executive, the public interests would be materially imperilled by the communication of the information asked for, it shall be competent for them to instruct the ex-officio Members or one of them, to reply accordingly and decline to furnish the information asked for.

(g). The Executive Government, shall possess the power of overruling the decision arrived at by the majority of the Council, in every case in which in its opinion the public interest would suffer by the acceptance of such decision; but whenever this power is exercised, a full exposition of the grounds on which this has been considered necessary, shall be published within one month and in the case of Local Governments, they shall report the circumstances and explain their action to the Government of India, and in the case of this latter, it shall report and explain to the Secretary of State; and in any such case on a representation made through the Government of India and the Secretary of State by the over-ruled majority, it shall be competent to the Standing Committee of the House of Commons (recommended in the third resolution of last year's Congress, which this present Congress has affirmed) to consider the matter, and call for any and all papers or information, and hear any persons on behalf of such majority or otherwise, and thereafter, if needful, report thereon to the full House."

As will be described later, Mr. A. O. Hume, who first formulated the scheme of Indian National Congress, was not satisfied by mere-
ly passing Resolutions and in 1888 started a mass movement on the
lines of the Anti-Corn-Law agitation in England. The Government
of India realized the importance of the Indian movement and could
not remain altogether indifferent to the consistent demand. Lord
Dufferin, who was at first sympathetic to the political aspirations
of India and played an important role in the foundation of the
Indian National Congress, wrote in 1886: "My own inclination
would be to examine carefully and seriously the demands which are
the outcome of these various movements; to give quickly and with
good grace whatever it may be possible or desirable to accord; to
announce that the concessions must be accepted as a final settlement
of the Indian system for the next ten or fifteen years; and to forbid
mass meetings and incendiary speechifying... Among the natives I
have met there are a considerable number who are both able and
sensible, and upon whose loyal co-operation one could undoubtedly
rely. The fact of their supporting the Government would popular-
ize many of its acts which now have the appearance of being driven
through the legislature by force; and if they in their turn had a
native party behind them, the Government of India would cease to
stand up, as it does now, an isolated rock in the middle of a tempestu-
ous sea, around whose base the breakers dash themselves simulta-
neously from all the four quarters of heaven".35 Lord Dufferin ap-
pointed a committee for the purpose of suggesting concrete proposals
of reform. The Committee's report contained proposals for chang-
ing the character of the councils and enlarging their power.

"They recommended for example that the councils should see papers freely
and originate advice or suggestions; that debates on such advice or suggestions
should be permitted; and that the estimates connected with local finance should be
referred to a standing committee and debated if necessary in council. They also
were concerned to bring into public affairs the gentry and nobility of the country;
and for this purpose they devised a council which should consist of two orders or
divisions both containing some official members. They made the radical suggestion
that election should be introduced as far as possible—in the first division directly,
on a high property qualification, and in the second division indirectly, by local
bodies and the universities. They advised that care should be taken to secure the
fair representation of all classes; that power should be reserved to Government to
pass measures in certain cases against "votes of a majority in council; and that coun-
cils should be of moderate size and not more than two-fifths elected."36

After perusing this report Dufferin formulated a definite view and
elaborated a concrete scheme to give effect to it. This was summed up
by himself in the following words which also give a very brilliant ex-
position of the British standpoint in regard to the constitutional ad-
vance of India.

"It now appears to my colleagues and to myself that the time has come for
us to take another step in the development of the same liberal policy, and to
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give, to quote my own words, 'a still wider share in the administration of public affairs to such Indian gentlemen as by their influence, their acquirements, and the confidence they inspire in their fellow-countrymen are marked out as fitted to assist with their counsels the responsible rulers of the country'. But it is necessary that there would be no mistake as to the nature of our aims or of the real direction in which we propose to move. Our scheme may be briefly described as a plan for the enlargement of our provincial councils, for the enhancement of their status, the multiplication of their functions, the partial introduction into them of the elective principle, and the liberalization of their general character as political institutions. From this it might be concluded that we were contemplating an approach, at all events as far as the provinces are concerned, to English parliamentary government, and an English constitutional system. Such a conclusion would be very wide of the mark, and it would be wrong to leave either the India Office or the Indian public under so erroneous an impression. India is an integral portion, and it may be said one of the most important portions of the mighty British Empire. Its destinies have been confided to the guidance of an alien race, whose function is to arbitrate between a multitude of conflicting or antagonistic interests, and its government is conducted in the name of a monarch whose throne is in England. The executive that represents her imperium in India is an executive directly responsible, not to any local authority, but to the Sovereign and to the British Parliament. Nor could its members divest themselves of this responsibility as long as Great Britain remains the paramount administrative power in India. But it is of the essence of constitutional government, as Englishmen understand the term, that no administration should remain at the head of affairs which does not possess the necessary powers to carry out whatever measures or policy it may consider to be 'for the public interest.' The moment these powers are withheld, either by the Sovereign or Parliament, a constitutional executive resigns its functions and gives way to those whose superior influence with the constituencies has enabled them to overrule its decisions, and who consequently become answerable for whatever line of procedure may be adopted in lieu of that recommended by their predecessors. In India this shifting of responsibility from one set of persons to another is, under existing circumstances, impossible; for if any measure introduced into a legislative council is vetoed by an adverse majority, the Governor cannot call upon the dissenters to take the place of his own official advisers, who are nominated by the Queen Empress on the advice of the Secretary of State. Consequently the vote of the opposition in an Indian Council would not be given under the heavy sense of responsibility which attaches to the vote of a dissenting majority in a constitutional country; while no responsible executive could be required to carry on the government unless free to inaugurate whatever measures it considers necessary for the good and safety of the State. It is, therefore, obvious, for this and many other reasons, that, no matter to what degree the liberalization of the councils may now take place, it will be necessary to leave in the hands of each provincial Government the ultimate decision upon all important questions, and the paramount control of its own policy. It is in this view that we have arranged that the nominated members in the Council should outnumber the elected members, at the same time that the Governor has been empowered to overrule his council whenever he feels himself called upon by circumstances to do so.

"But, though it is out of the question either for the supreme or for the subordinate Governments of India to divest themselves of any essential portion of that Imperial authority which is necessary to their very existence as the ruling power, paramount over a variety of nationalities, most of whom are in a

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very backward state of civilization and enlightenment, there is no reason why they should not desire to associate with themselves in council in very considerable numbers such of the natives of India as may be enabled by their acquirements, experience, and ability to assist and enlighten them in the discharge of their difficult duties. Nor can it be doubted that these gentlemen, when endowed with ample and unrestricted powers of criticism, suggestion, remonstrance and inquiry will be in a position to exercise a very powerful and useful influence over the conduct of provincial and local public business which alone it is proposed to entrust to them. As inhabitants of the country, as intimately associated with its urban and rural interests, as being in continual contact with large masses of their fellow-countrymen, as the acknowledged representatives of legally constituted bodies, or chosen from amongst influential classes, they will always speak with great weight of authority; and as their utterances will take place in public, their opinions will be sure to receive at the hands of the press whatever amount of support their intrinsic weight or value may justify. By this means the field of public discussion will be considerably enlarged, and the various administrations concerned will be able to shape their course with the advantage of a far more distinct knowledge of the wishes and feelings of the communities with whose interests they may be required to deal than has hitherto been the case—for those wishes and feelings will be expressed, not as at present, through self-constituted, self-nominated, and therefore untrustworthy, channels, but by the mouths of those who will be the legally constituted representatives of various interests and classes, and who will feel themselves, in whatever they do or say, responsible to enlightened and increasing sections of their own countrymen.”

“All that the Government hoped to do, he added, was by associating with them in the task of administration a considerable number of persons ‘selected and elected’ from the educated classes to place themselves in contact with a larger surface of Indian opinion, and thus to multiply the channels by which they would ascertain the wants and feelings of the various communities for whose welfare they were responsible”.37

Shortly after sending his recommendation on the above lines, Lord Dufferin left India. Lord Cross, the Secretary of State, took up the matter with Lord Lansdowne who succeeded Dufferin in December, 1888. “Lord Cross rejected the cardinal recommendation that for the popular element in councils recourse should be had as far as possible to the principle of election, and said that he thought ‘it would be unwise to introduce a fundamental change of this description without much more positive evidence in its favour than was forthcoming’. The system was unfamiliar to Oriental ideas, and had only been tried on a small scale in local bodies. But Lord Lansdowne’s Government stood to their guns. They urged that they would not be precluded from resort to some form of election where conditions justified belief in it; and they asked for power to make rules for the appointment of additional members by nomination or otherwise. They had their way”. 38
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In the meantime the Congress took energetic measures to force the issue. The following Resolution was passed in the fifth session of the Congress at Poona, in 1889.

"That the following skeleton scheme for the reform and re-constitution of the Council of the Governor-General for making laws and regulations, and the Provincial Legislative Councils, is adopted, and that the President of the Congress do submit the same to Charles Bradlaugh, Esq., M.P. with the respectful request of this Congress that he may be pleased to cause a Bill to be drafted on the lines indicated in this skeleton scheme and introduce the same in the British House of Commons:--

(a) The Imperial and Provincial Legislative Councils to consist respectively of members, not less than one-half of whom are to be elected, not more than one-fourth to sit ex-officio, and the rest to be nominated by Government.

(b) Revenue districts to constitute ordinarily territorial units for electoral purposes.

(c) All male British subjects above 21 years of age possessing certain qualifications and not subject to certain disqualifications (both of which will be settled later) to be voters.

(d) Voters in each district to elect representatives to one or more electoral bodies, according to local circumstances, at the rate of 12 per million of the total population of the district, such representatives to possess qualifications and not to be subject to certain disqualifications, both of which will be settled later.

(e) All the representatives thus elected by all the districts, included in the jurisdiction of each electoral body, to elect members to the Imperial Legislature at the rate of 1 per every five million of the total population of the electoral jurisdiction, and to their own Provincial Legislature at the rate of 1 per million of the said total population, in such wise that whenever the Parsees, Christians, Muhammadans or Hindus are in a minority, the total number of Parsees, Christians, Muhammadans or Hindus, as the case may be, elected to the Provincial Legislature, shall not, so far as may be possible, bear a less proportion to the total number of members elected thereto, than the total number of Parsees, Christians, Hindus or Muhammadans, as the case may be, in such electoral jurisdiction, bear to its total population. Members of both Legislatures to possess certain qualifications and not to be subject to certain disqualifications, both of which will be settled later.

(f) All elections to be by ballot."

In accordance with this Resolution Mr. Bradlaugh introduced his Bill in the House of Commons in 1890. In order to forestall him the British Government introduced its own Bill in the House of Lords in 1890. After it was passed in that House, it came before the House of Commons in the same session, but did not get beyond the First Reading. It was introduced again in 1891 and postponed. In 1892 it was introduced in the House of Commons on 28 March by the Under-Secretary of State, George Nathaniel Curzon, who was destined ere long to play an important role in the history of British India.
In course of his speech, while introducing the Bill, Curzon defined the object of the Bill to be

"to widen the basis and to expand the functions of government in India; to give further opportunities than at present exist to the non-official and native elements in Indian Society to take part in the work of government, and in this way to lend official recognition to that remarkable development both of political interest and political capacity which has been visible among the higher classes of Indian society since the government of India was taken over by the Crown in 1858."

"The changes", continued Curzon, "which it is proposed to introduce by this Bill are, broadly speaking, three in number. The first is the concession of the privileges of financial criticism both in the Supreme and Provincial Councils; the second, the privilege of interpelation or the right of asking questions; and the third, an addition to the number of members in both classes of Councils." The most important question was the introduction of the method of election in appointing the members of the enlarged Councils. A section of the House, including Gladstone, attached special importance to it. That great liberal statesman remarked "that the great question we have before us—the question of real and profound interest—is the question of the introduction of the elective element into the government of India. That question overshadows and absorbs everything else; it is a question of vital importance, and also, at the same time, a question of great difficulty". Mr. Schwann, (Member for Manchester) moved an amendment to the effect that "no reform on the Indian Councils which does not embody the elective principles will prove satisfactory". Although this was not directly conceded in the Bill, Curzon's comments and explanations on clause 1 of the Bill, to which reference will be made later, satisfied Gladstone and the Opposition members. Next in point of importance was the number of members proposed to be added to the Councils. In justification of the smallness of this number Curzon observed: "The late Mr. Bradlaugh, who at different times introduced two Bills dealing with the reform of the India Councils into this House, proposed in those measures to swell the numbers on these Councils to quite impracticable and unmanageable proportions. Under his first Bill their totals would have amounted to more than two hundred and sixty, and under the second to more than two hundred and thirty. It is within the knowledge of every one who is acquainted with India that the number of persons who are competent and willing to take part in the functions of these Councils is nothing like adequate to supply the extravagant expectations of those Bills". When it is remembered that the figure mentioned by Curzon refers to the total number of members of the Councils of the Governor-General and of the four Provinces,—five in all,—one feels amazed at the absurdity of the contention of Curzon that about 250 men, fit to be members of the Councils, could not be found in the whole of India in 1892. The
most remarkable part of Curzon’s speech was that concerning the representative Government demanded by the Indian National Congress and the credentials of that body to make such a demand. As it enunciated a philosophy and formulated a doctrine which formed the key-note of the policy and utterances of many a British statesman in future, it deserves to be quoted in full:

“No system of representation that has ever been devised, no system of representation that the ingenuity of the hon. member can suggest, no system of representation that would stand the test of twenty-four hours’ operation, would, in the most infinitesimal degree, represent the people of India. Who are the people of India? The people of India are the voiceless millions who can neither read nor write their own tongues, who have no knowledge whatever of English, who are not perhaps universally aware of the fact that the English are in their country as rulers. The people of India are the ryots and the peasants whose life is not one of political aspiration, but of mute penury and toil. The plans and policy of the Congress Party in India would leave this vast amorphous residuum absolutely untouched. I do not desire to speak in any other than terms of respect of the Congress Party of India. That party contains a number of intelligent, liberal-minded, and public-spirited men, who undoubtedly represent that portion of the Indian people which has profited by the educational advantages placed at their doors, and which is more or less imbued with European ideas; but as to their relationship to the people of India, the constituency which the Congress Party represent cannot be described as otherwise than a minute and almost microscopic minority of the total population of India. At the present time the population of British India is 221,000,000; and of that number it has been calculated that not more than from three to four per cent. can read or write any one of their native tongues; considerably less than one per cent.—about one-fourth or one-third—can read or write English. In the Province of Bengal alone, where the population exceeds 72,000,000, it has been calculated that the maximum constituency created by Mr. Bradlaugh’s Bill would have only numbered a total of 870,000. It appears to me that you can as little judge of the feelings and aspirations of the people of India from the plans and proposals of the Congress Party as you can judge of the physical configuration of a country which is wrapped up in the mists of early morning, but a few of whose topmost peaks have been touched by the rising sun. To propose an elaborate system of representation for a people in this stage of development would appear to me to be, in the highest degree, premature and unwise. To describe such a system as representation of the people of India would be little better than a farce. The Government assume the responsibility of stating that, in their opinion, the time has not come when representative institutions, as we understand the term, can be extended to India. The idea of representation is alien to the Indian mind.”

Lord Curzon’s speech provokes some comments. One might well ask why he was so anxious to procure “an early demise of the Congress” if it was really of so little importance? Further, he himself lived to see the day when the Government, of which he was himself a prominent member, not only supported representative, but responsible, government in India, and set up Councils whose total non-official membership was more than 800. This was just twenty-five years after his speech, i.e. within the same genera-
tion. Is the difference a measure of the phenomenal progress of India in developing literacy and the qualities of true citizenship, or of change in British statesmanship brought about by the great war and revolutionary activities in India?

The Conservative Party as a whole, both inside and outside the Parliament, echoed Lord Curzon’s views. The Times held in those days that India had been won by the sword and should be kept by the sword... The Quarterly Review wrote that the Indians were not fit for self-government and called them a race of liars. Professor Goldwin Smith said that the concession of the smallest reform to India would lead to universal anarchy. Lord Salisbury (the Prime Minister) said: “I do not see what is the use of this political hypocrisy; it does not deceive the natives of India; they know perfectly well that they are governed by a superior race”.46

It is only fair to add, however, that there were Britishers who took a radically different view of the Indian problem and protested against the reactionaries. During the course of the debate on the 1892 Bill, Mr. MacNeill, a member of the Opposition, observed: “The four principles now embodied in the Bill are mainly due to the Indian National Congress, and yet those who at that Congress suggested these very reforms were for years subject to wicked mis-representation.” Another British member of Parliament, referring to the opposition to democratic institutions in India, said:

“Our Indian officials detest this motion, because it would secure a representation under which these horrors would be exposed and by which the Draconian Laws under which they exist would be repealed........Because the first thing that elected representatives would do would be to reveal such an appalling picture of poverty and heartrending sufferings of scores of millions of helpless human beings that the British nation would rise as one man and overturn their entire system. I repeat that it is only a selfish desire to retain lucrative posts which makes our European officials seek to persuade this House that the natives of India are unfit for representative institutions.”46

The speeches of the members of Opposition, during the discussion on 1892 Bill, were full of facts and figures as well as authoritative quotations in support of the Indian case for the inclusion of elective principle in the Bill. The activities and demands of the Indian National Congress were very ably placed before the House of Commons and a good case was made out for the introduction of franchise in India.47

The Indian Councils Act of 1892 provided that the number of additional members in the Governor-General’s Council shall not be less than ten nor more than sixteen, and that of the Councils of the Governors of Bombay and Madras, not less than eight nor more than twenty. The Governor-General was authorized to fix the number of Council-
loris in Bengal and North-West Provinces and Oudh subject to a maximum of twenty for the former and fifteen for the latter. The new Councils were authorized to discuss the annual financial statement and ask questions about the same, subject to the rules made by the Governor-General or Governors and Lieutenant-Governors for their respective Councils. "But no member at any such meeting of any Council shall have power to submit or propose any resolution or to divide the Council in respect of any such financial discussion, or the answer to any question asked under the authority of this Act, or the rules made under this Act".

The method of nominating the additional members of the Councils was laid down in subsection (4) of Clause I, which runs as follows: "(4). The Governor-General in Council may from time to time, with the approval of the Secretary of State in Council, make regulations as to the conditions under which such nominations, or any of them, shall be made by the Governor-General, Governors, and Lieutenant-Governors respectively, and prescribe the manner in which such regulations shall be carried into effect".

Lord Curzon pointed out, while introducing the Bill, that this clause authorized the election of members, without any express stipulation to that effect. He said that this clause was introduced as an amendment by Lord Northbrook in the House of Lords deliberately for this purpose. Lord Curzon then proceeded further, and by way of explaining the full implications of this clause, observed: "Let me call the attention of the hon. member to the fact that Lord Kimberley has thus expressed himself elsewhere on this clause:

'I am bound to say that I can express my own satisfaction because I regard this as to a certain extent an admission of the elective principle'. On another occasion he said: 'I myself believe that under this clause it will be possible for the Governor-General to make arrangements by which certain persons may be presented to him, having been chosen by election if the Governor-General should find that such a system can properly be established'.

Mr. Maclean (Oldham): Does the Government accept this view of Lord Kimberley?

Mr. Curzon: Undoubtedly the opinions expressed by Lord Kimberley are those which are also shared by the Secretary of State. Under this Act it would be in the power of the Viceroy to invite representative bodies in India to elect or select or delegate representatives of themselves and of their opinions to be nominated to those Houses, and thus by slow degrees, by tentative measures, and in a matter like this measures cannot be otherwise than tentative, we may perhaps approximate in some way to the ideal which the hon. Member for North Manchester (Mr. Schwann) has in view."
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This was regarded as satisfactory even by Gladstone, who suggested the withdrawal of the amendment by Mr. Schwann as the declaration of the Government substantially agreed with it.\(^49\)

The Government at Home acted in the spirit of Curzon's explanation. "Her Majesty's Government in transmitting the Act of 1892 explained that the intentions of Parliament were that—

"Where corporations have been established with definite powers upon a recognized administrative basis, or where associations have been formed upon a substantial community of legitimate interests, professional, commercial, or territorial, the Governor-General and the local Governors might find convenience and advantage in consulting from time to time such bodies, and in entertaining at their discretion an expression of their views and recommendations with regard to the selection of members in whose qualifications they might be disposed to confide."

"Technically, the function of the nominating bodies was to be that of recommendation only; but the political sense of the Government of India told them that it was impracticable either to insist on selection from a panel of names preferred, or to reject individual nominations at discretion. They also declined, otherwise than by laying down certain general qualifications, to fetter the discretion of the recommending bodies. In consultation with local Governments they drew up regulations which Lord Kimberley accepted. These provided for an official majority, but restricted it so far as was thought possible; and they also left the majority of the non-official seats to be filled by recommendation. The term "election" was sedulously eschewed; but inasmuch as the nominations by recommending bodies came to be accepted as a matter of course the fact of election to an appreciable proportion of the non-official seats was firmly established.\(^50\)

As a result of the Act of 1892, not more than ten out of sixteen additional members in the Governor-General's Council were nominated from among non-officials, in order to keep the official majority. Four, out of these ten, were selected on the recommendation of the non-official members of the four Provincial Councils, and one on that of the Calcutta Chamber of Commerce. The five remaining non-official seats were directly nominated by the Governor-General. This was hardly in keeping with the elective principle so generously announced by Curzon. The elective element in the Provincial Councils consisted, at the utmost, of eight members recommended by a few large cities, by groups of municipalities and district boards, by large zamindars, by chambers of Commerce, and by Universities.

It is hardly necessary to point out that the changes effected by the Act of 1892 and the rules made thereunder fell far short of the demands formulated by the Indian National Congress on behalf of the moderate section of the politically conscious Indians. The Congress asked for representative institutions, not consultative councils. What was worse is that the Rules made under the Act made the Council still more ineffective. In 1894 the Congress passed a Resolution expressing regret that neither the Rules of the Government of India nor the practice of most of the Local Governments gave
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effect to the spirit of the Act. It will be seen later, that in future amendments of the constitution also the Congress had to complain that the real spirit and intention of the Act were ignored by the Rules made thereunder by the Government of India, and that what was given by the right hand was taken away by the left.

It is to be noted that no Legislative Council was granted to the Panjab till 1897, and even then the right of interpellation was not given to the members, and these were nominated without any recommendation from popular and public bodies as was done in other provinces.

But although there was no real satisfaction on the part of the people, they were enthusiastic in taking advantage of the Act of 1892. Eminent Indians like G. K. Gokhale, Surendra Nath Banerji, Rash Behari Ghosh, Ashutosh Mukherji, Pheroze Shah Mehta, P. Ananda Charlu, Madhu Sudan Das, R. M. Sayani, G. R. M. Chitavis, B. K. Bose, S. H. Bilgrami and Bishambar Nath took their share in the legislation of the country, and left a deep impress of their knowledge, eloquence, wisdom, and sound statesmanship. In view of the solid block of official majority they could not effect any improvement in the administration, or change in the policy of the British rulers. But those who had eyes to see and ears to hear could not but envisage a new India slowly emerging from the obscurity of the past. It cannot but be regarded as unfortunate, from the points of view of both England and India, that a more substantial measure of reforms was not introduced in 1892 which would have made a better use of Indian talents and rallied the loyal moderate sections among the Indians to the side of the Government, instead of making the Indian intelligentsia a set of discontented and hostile critics of the Government.

Even Sir Valentine Chirol, by no means a friend of India, was constrained to make the following remarks:

"It must be conceded that, had Government at that time taken the Congress by the hand instead of treating it with disdain and suspicion, it might have played loyally and usefully a part analogous to that of Her Majesty’s Opposition at home—a part which Lord Dufferin had been shrewd enough in the beginning not to dismiss as altogether impossible or undesirable. Its claim to represent Indian opinion, as within certain limits it unquestionably did, was ignored, and it was left to drift without any attempt at official guidance into waters none the less dangerous because they seemed shallow."

5. Finance

Reference has been made above to the centralised financial administration of the Government of India. Its nature is thus described by Sir John Strachey: “The Supreme Government controlled
the smallest details of every branch of the expenditure; its authority was required for the employment of every person paid with public money, however small his salary, and its sanction was necessary for the grant of funds even for purely local works of improvement, for every local road, for every building, however insignificant".53

The effect of such a system upon the Provincial Governments may be easily imagined. They had no motive to economize their expenditure, and were tempted to raise their demands as high as possible on the well-known principle that he who aims at the sky shoots much higher than he who aims at the tree. Experience also proved its wisdom, for they found that the Government of India not unfrequently judged of the urgencies of requirements by the importunity with which they were urged.

There were other evils, too, of a more serious nature.

"Constant differences of opinion about petty details of expenditure, and constant interference of the Government of India in matters of trivial importance, brought with them, as a necessary consequence, frequent conflicts with the Local Governments regarding questions of provincial administration of which they were the best judges, and of which the Government of India could know little. The relations between the Supreme Government and the Local Governments were altogether inharmonious, and every attempt to make financial control more stringent increased an antagonism the mischief of which was felt throughout the public service."54

Attempts were made from time to time to remove the evils. "So far back as 1860 a reform of the system in the direction of provincialising finance was suggested by General Dickens, then Secretary to the Government of India in the Department of Public Works. Mr. Laing, the Finance Minister, drew attention to the subject in his Budget statement for 1861-62, and again in 1862-63. In 1867, a definite scheme of Provincial Finance was drawn up by General Richard Strachey for Mr. Massey, then Finance Minister; but nothing was actually accomplished at that time".55

It was not till 1870 that a definite scheme was adopted for the separation of central and provincial finances. This was elaborated by Lord Mayo in a Resolution dated 14 December, 1870.56 According to this scheme the Government of India would make over to the Provincial Governments certain departments of administration in which they were specially interested, and granted permanently from the Imperial revenue, for these services, a fixed amount, calculated on the basis of the assignments made for these services in 1870. These departments were Jails, Registration, Police, Education, Medical Services, Printing, Roads, Miscellaneous Public Improvements, and Civil Buildings. The Provincial Governments
would be at liberty to allot funds to the different departments as they liked. Henceforth the Provincial Service Estimates should be prepared upon the basis of these assignments and each Provincial Government will publish its annual budget in the Local Gazette, together with a financial statement, to be placed, if possible, before the Local Legislative Council. Any portion of the Assignments made to any province that may be unspent at the end of the year will not lapse to the Imperial revenue, but will remain at the disposal of the Provincial Government. The financial control of the Provincial Governments was however to be subjected to certain important restrictions, the most important of which was that they could not, without the previous sanction of the Government of India, (1) create any appointment with a salary of more than Rs. 250 a month, (2) create or abolish any class or grade of officers, and (3) raise the pay of any class or grade of officers. This was evidently intended to maintain uniformity in respect of official establishments all over India.

The three following paras of the Resolution of 1870 enunciated the underlying object of the new financial scheme:

"22. The Governor-General in Council is fully aware that this Resolution will effect a wide change in Indian Administration. It has been adopted, after long and careful consideration, in the hope that it will be received by the Governments in the spirit in which it is promulgated. The Governor-General in Council believes that it will import an element of certainty into the fiscal system which has, hitherto, been absent; and that it will lead to more harmony in action and feeling between the Supreme and Provincial Governments than has, heretofore, prevailed.

23. But beyond all this, there is a greater and wider object in view. Local interest, supervision and care are necessary to success in the management of funds devoted to Education, Sanitation, Medical Charity, and Local Public Works. The operation of this Resolution, in its full meaning and integrity, will afford opportunities for the development of Self-Government, for strengthening Municipal Institutions, and for the association of Natives and Europeans, to a greater extent than heretofore, in the administration of affairs."

The impact of the scheme over general administration is described as follows:

"25. The additional powers of financial control which will now be assumed by the Governments, must be accompanied by a corresponding increase of administrative responsibility. It is the desire of the Governor-General in Council to confine the interference of the Supreme Government in India in the administration of the "Provincial Services" to what is necessary for the discharge of that responsibility which the Viceroy in Council owes to the Queen and her responsible advisers, and for the purpose of securing adherence to the financial conditions now prescribed, and to the general policy of the Government of India."

Lord Mayo made it quite clear in his speech before the Legislative Council on 18 March, 1871, that the assignments made to the Provincial Governments could not be increased in future at least for a number of years. Any further sum that may be needed must be provided by local taxation.
The new scheme came into operation from the official year 1871-72. It was soon apparent that although the scheme effected considerable improvement, it had also some drawbacks. Assignments were made from the Centre to the Provinces on the basis of their expenditure in 1870-71, without any consideration for the real needs of the different provinces. Further, as Sir John Strachey pointed out, the measures of Lord Mayo,

"while they transferred to the Local Governments the responsibility for meeting charges which had an undoubted tendency to increase, the income of which the Local Governments had to dispose, although not quite a fixed amount, had little room for development. The difficulty has perhaps not, hitherto, been generally felt to a serious extent, because it has been met by economy and good management; it must, however, be felt hereafter; and, for this and for still more important reasons, I have always maintained that the system of Provincial Assignments established in 1871 ought to be applied not only to expenditure but also to income. What we have to do is, not to give the Local Governments fresh powers of taxation, but, on the contrary to do all that we can to render fresh taxation unnecessary and to give to those governments direct inducements to improve those sources of existing revenue which depend for their productiveness on good administration."67

With a view to removing these defects, Sir John Strachey, Finance Member in the Government of Lord Lytton, introduced a new scheme which transferred to Local Governments the financial responsibility for other services, such as Land Revenue, Excise, Stamps, General Administration, Stationery, Law and Justice, the cost of which had hitherto been met from the general revenues. The Government of India assigned to the Local Governments, "for the discharge of the services newly imposed on them, not an increase in their permanent grants, but a share in the revenue realised under certain heads in their respective provinces".68

This may be illustrated by a concrete example; namely that of the North-Western Provinces. The Central Government assigned to it "the revenues derived from excise, stamps, law and justice, collections from certain estates, and some miscellaneous items, on condition that the Supreme Government should take half of any surplus that might be realised over the specified amount that these sources were estimated to yield, and should bear half of any deficit". This devolution of function was, however, hedged in by some important restrictions. "The Local Governments were not invested with any power of imposing fresh taxation, of undertaking any new general service, of abolishing or reducing the pay and allowances of any appointment with a salary of more than Rs. 250 a month, or of making any change in the system of revenue management, or in the form of procedure of the public accounts, without the sanction of the Government of India. The principle of it all was that
the Local Government should not enforce economy at the expense of the efficiency of the administration or increase expenditure which would affect the uniformity of the system in other parts of India.69

There were further modifications in the scheme of Financial Devolution to the Provinces for a period of five years by the Act of 1882, during the administration of Lord Ripon, when Major Baring (afterwards Lord Cromer) was Finance Member. The system of giving permanent grants to the Provincial Governments was discontinued, "but, instead, they were granted the whole product of some sources of revenue, and a share in the product of others, including land revenue. The result was that a few, including Opium, Salt, Customs, Tributes, Post Office and Military Receipts, were reserved almost wholly as Imperial; a few others, such as receipts by Civil Departments and receipts from Provincial Public Works, were handed over almost entirely to the Provincial Governments; the majority, being those before transferred, with the addition of Forests and Registration, were divided, for the most part in equal proportions, between the Imperial and Provincial exchequers; and as the balance was against the Provinces, this was rectified not by the allotment of a lump sum as formerly, but by a fixed percentage on the Land Revenue, which was thus also in a measure made Provincial.60 There were henceforth three sources of revenue,—Imperial, Provincial and Divided.

The Resolution of 1882 also provided for quinquennial settlements. Further, the relations between the Imperial and Provincial Governments were defined with regard to the two extraordinary charges of war and famine. For war, no charge was to be made on the Provinces except under abnormal circumstances threatening disasters, and for famine financial assistance would be given by the Imperial Government to the Provincial Governments at an earlier stage than before. These arrangements gave comparative security to the Provincial Governments regarding finance. In the words of Major Baring, "one result of the provincial arrangements concluded in 1882 was that of the four peculiar dangers to which the finances of India were exposed, viz., war, a diminution of the opium revenue, fall of exchange, and famine, the first three had to be met by the Government of India and only the fourth was felt by the Local Governments".61 Further revisions were made at the end of each quinquennium, in 1887, 1892 and 1897, but these involved no change of principles.

Towards the close of 1897 "the provincial finances were reviewed, an estimate was made of the expenditure thought necessary for each Province on all the services with which it was charged, and a
suitable proportion of the revenue collected in the Province was set apart to meet it. Under the contracts of 1897, the Provincial Governments, speaking generally, retained the whole of the provincial rates, and of the receipts of certain departments, such as law courts, jails, police, education, medical services, local marine services, scientific departments, pension contribution, most of the minor irrigation works, buildings and roads, stationery and some miscellaneous heads; three-fourths of the stamp revenue; half of the revenue from assessed taxes, forests, and registration; a varying proportion (generally one-fourth) of the land revenue, and one-fourth of the excise revenue (one-half in Burma and Bengal). With some exceptions, they had to meet out of these revenues expenditure under most of the heads just enumerated, and a share of the cost of collection under the revenue heads corresponding to the proportion of the receipts which they received, though in the case of land revenue, they bore, except in Bengal, the whole cost of collection. They were also responsible for famine-relief expenditure up to their financial capacity, for certain political charges, and miscellaneous items. The total revenues thus assigned to them amounted in 1901-2 to £16,746,000, while the aggregate of the revenue heads in the collection of which they had a direct and substantial interest was £36,811,000 or nearly 49 p.c. of the gross revenues of India.

"Any balance which they could accumulate by careful administration was placed to their credit in the accounts; but on occasions of extraordinary stress, the Central Government had sometimes called upon them to surrender a portion of their balances. This was done during the Afghan War, after which the sums so taken were refunded; and again in 1886-87, in 1890-91 and in 1894-95, the amounts being refunded in the last two instances".62

An important departure was made in 1904 with the introduction of what came to be known as quasi-permanent settlements. According to it revenues assigned to the Provincial Governments were definitely fixed and were not subject to revision except in cases of extreme necessity on the part of the Government of India or when the assignment made was materially disproportionate to normal provincial requirements.

The general position in regard to the financial adjustment between the Central and Local Governments by the end of the period under review was stated as follows by the Financial Secretary to the Government of India to the Royal Commission on Decentralisation:

"The general principles which underlie the financial settlements made by the Government of India with a Local Government are as follows:

(a) That the Government of India shall retain certain administrative services which it is inexpedient to hand over to Provincial Governments, and that they
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shall reserve the revenue from these services, and such a share of the other public revenues as shall be adequate to the expenditure falling upon them.

(b) That the remaining administrative services of the country being entrusted to Provincial Governments, each Local Government shall receive an assured income which will be independent of the needs of the Government of India and sufficient for its normal expenditure.

(c) That the income shall be given in the form of a defined share of the revenue which the Local Government collects, in order that the Local Government’s resources may expand along with the needs of its administration.

(d) That, so far as possible, the same share of the chief sources of revenue shall be given to each Province, to ensure a reasonable equality of treatment.

The object of making Provincial settlements quasi-permanent was to give the Local Governments a more independent position, and a more substantial and enduring interest in the management of their resources than had previously been possible. Under the previous system, when settlements were revised every five years, it was the practice for the Imperial Government to resume the surplus of the Local Government’s revenue over its expenditure. This unfortunate necessity (which it is only just to say was largely the result of severe financial pressure on the Government of India during the years of low exchange) went far to destroy any incentive in a Local Government to economise, as it knew that its reduced standard of expenditure would be the basis for a correspondingly unfavourable settlement at the next revision. All this disappears under the existing system. A Local Government need not fear, in any except very abnormal circumstances, the resumption of its surplus revenue by the Imperial Government; it can count upon a reasonable continuity of financial policy; it will be able to enjoy fully the fruits of its economies, and it will not be hurried into ill-considered proposals in order to raise its apparent standard of expenditure. On the other hand, the Imperial Government improves its relations with Local Governments by avoiding five-yearly controversies over the settlement; it can calculate its own resources with more confidence, and can undertake reductions of taxation or fresh schemes of expenditure with a clearer knowledge of the consequences than was formerly possible."

“Generally speaking, the effect of these settlements was as follows: the Government of India received the whole of the revenue accruing from opium, salt, customs, mint, railways, post and telegraphs, and tributes from Native States, while the Provincial Governments got all receipts from registration and from the spending departments which they managed, such as police, education, law and justice, and medical. The receipts from land revenue, excise, stamps, income tax, and forests were divided between the Imperial and Provincial Governments, generally in equal proportions. The receipts from the larger irrigation works were also generally shared: those from minor irrigation works were (except in one Province) wholly Provincial, as were also civil works receipts other than those appertaining to Imperial buildings. The bulk of the Provincial revenues was derived from the divided heads.

“Expenditure in connection with sources of revenue which were wholly Imperial was Imperial also, while, subject to minor excep-
tions, Provincial revenues were responsible for the whole of the expenditure incurred within the Province in connexion with land-revenue (which included district administration), registration, law and justice, police, jails, education, medical, stationery and printing, and Provincial civil works. Charges relating to stamps, excise, income tax, and forests were equally divided, while the incidence of Irrigation expenditure followed that of the receipts. The Provincial Governments were also responsible for the charges of such scientific and minor departments as they administered, and for political charges in connexion with Native States under their control; but the bulk of the expenditure in connexion with the Political Departments fell on the Government of India, as did all ecclesiastical charges”.

III. PROVINCIAL ADMINISTRATION

1. Reorganization of Provinces

The boundaries of the Presidency of Bengal were twice changed. In 1874 Assam was constituted a separate Province under a Chief Commissioner. In 1905 territories in Bengal and Assam were divided between two Provinces known as ‘Bengal’ and ‘Eastern Bengal and Assam’. This administrative measure was big with future consequences and will be treated later in details.

Oudh (Awadh) was constituted a Province under a Chief Commissioner immediately after its annexation in 1856. In 1877 the same person was appointed to this office as well as to that of the Lieutenant-Governor of North-Western Provinces which now included Jhansi. In 1902 these two were united and named the United Provinces of Agra and Oudh.

The districts, west of the Jamuna, ceded in 1803 and known as the Delhi tract, were transferred from the North-Western Provinces to the Panjab in 1858, and next year the Chief Commissioner of the Panjab became a Lieutenant-Governor. In 1901 the frontier districts of the Panjab were constituted a new province called the North-West Frontier Province.

In 1861 a new province, known as the Central Provinces, was created by uniting the Sagar and Narbada District (excluding Jhansi) with Nagpur and was placed under a Chief Commissioner. Sambalpur was included in the Province in 1862, and Berar was added to it in 1902 when it was permanently leased to the British by the Nizam of Hyderabad. Lower Burma was placed under a Chief-Commissioner in 1860. Upper Burma was added to it after its conquest in 1886. In 1897 the Province was placed in charge of a Lieutenant-Governor.
THE ADMINISTRATIVE ORGANISATION

2. Provincial Administration

The Provinces were now ruled by a Governor, Lieutenant-Governor, or a Chief Commissioner. Some of the Provinces had a Legislative Council whose nature and origin have been described above. Bombay and Madras had, in addition, an Executive Council of three members, as before.

The pivot of administration was, as before, the District, divided into a number of Sub-divisions, Taluks, Tahsils etc. The general pattern of the District administration was fixed in 1859, when the offices of the Magistrate and Collector were once more united in the same person who henceforth became the sole head of the District.

The District Magistrate-Curator remained in fact as the chief executive head and administrator of his jurisdiction. Advocating concentration of powers in the hands of the District Magistrates, Sir George Campbell, Lieutenant-Governor of Bengal from 1871 to 1874, observed: ‘Departments are excellent servants, but, as he considers, very bad masters. He has therefore striven to make the Magistrate-Curator of a Bengal district, generally comprising of 1½ to 2½ millions of inhabitants, the real executive chief and administrator of the tract of country committed to him, and supreme over everyone and everything, except the proceedings of the courts of justice. As District Magistrate he is also head of the department of criminal justice which is charged with the summary trial of small cases and the inquiry into greater cases previous to trial at sessions, although he generally rather distributes and superintends this work than does a large share of it himself.’ The Lieutenant-Governor aimed at making quite clear the thorough subordination of the police to the magistrate for all and every purpose. But this view was repugnant to some liberal-minded Englishmen. In a memorial sent in 1899 to Lord George Hamilton and signed by Lord Hobhouse and several other judges of Indian experience, the Collector’s powers are described as “the strange union of constable and magistrate, public prosecutor and criminal judge, revenue collector and appeal court in revenue cases”.

Towards the end of the nineteenth century there was a demand in certain quarters for separation of executive and judicial functions. The Indian National Congress strongly and persistently advocated it. Mr. R. C. Dutt submitted in 1893 a scheme in which he made the following suggestion: “The District Magistrate, whom I will henceforth call the District Officer, should be employed purely on executive and revenue work, which is sufficiently varied, onerous and engrossing, and should be relieved of his judicial duties which should be transferred to the District Judge. The subordinates of
the District Officer, who will continue to perform revenue and executive work only, will remain under him; while those of his present subordinates who will be employed on purely judicial work should be subordinate to the Judge and not to the District Officer". A Memorial on behalf of some members of British Parliament urging the "separation of judicial from executive functions in the Indian Administration" was submitted to the Secretary of State in July, 1899, as mentioned above. The official view-point was always strongly against it and was thus expressed by Sir John Strachey in 1894: "We often hear demands for the more complete separation of the executive and judicial functions of the District Officer, but they are demands based on the assumption that a principle necessary for England must be good for India also. There could be no greater error. The first necessity of good administration in such a country as India is that it should be strong, and it cannot be strong without the concentration of authority. In the everyday internal administration there is no office so important as that of the district officer. He is one of the mainstays of our dominion, and few steps could be taken in India which would be more mischievous and dangerous than to weaken those powers which enable him to maintain his position as the local representative of the Government".

The Magistrate's duty embraced almost the whole of administration. The ordinary district jails, while placed in immediate charge of an officer selected for the duty, were also under the general control of the Magistrate, instead of being, as heretofore, purely departmental establishments. In a large number of districts a similar arrangement was also effected in regard to the Department of Public Works. The medical duties and also the collection and observation of vital statistics and the local meteorological observations were carried on by the Civil Surgeon under the control and supervision of the Magistrate. In Non-Regulation areas the District Officers came to be called Deputy-Commissioners. A District Officer was assisted in his work by a Subordinate Magistrate, who exercised both revenue and magisterial powers, and who was usually Joint, Assistant or Deputy-Magistrate. The service of Sub-Deputy-Collectors was created in 1873.

The District Officer continued to discharge the multifarious functions noted above, and the efficiency of administration depended much on his personality. Hunter wrote in 1892: "The District Officer, whether known as Collector-Magistrate or as Deputy-Commissioner, is the responsible head of his jurisdiction. Upon his energy and personal character depends ultimately the efficiency of our Indian Government. His own special duties are so numerous
and so various as to bewilder the outsider; and the work of his subordinates, European and Native, largely depends upon the stimulus of his personal example. His position has been compared to that of the French Prefect; but such a comparison is unjust in many ways to the Indian District Officer. He is not a mere subordinate of a central bureau, who takes his colour from his chief and represents the political parties or the permanent officialism of the capital. The Indian Collector is a strongly individualised worker in every department of rural well-being with a large measure of local independence and of personal initiative. As the name of Collector-Magistrate implies, his main functions are twofold. He is a fiscal officer, charged with the collection of the revenue from the land and other sources; he is also a revenue and criminal judge, both of first instance and in appeal. But his title by no means exhausts his multifarious duties. He does in his smaller local sphere all that the Home Secretary superintends in England, and a great deal more, for he is the representative of paternal and not of a constitutional Government. Police, jails, education, municipalities, roads, sanitation, dispensaries, the local taxation, and the Imperial revenues of his District are to him matters of daily concern. He is expected to make himself acquainted with every phase of the social life of the natives, and with each natural aspect of the country. He should be a lawyer, an accountant, a surveyor, and a ready writer of state papers. He ought also to possess no mean knowledge of agriculture, political economy and engineering”.70

To enlist the support of the influential landlords and non-official Europeans for local administration, the Bengal Government introduced the practice of appointing Honorary Magistrates in some of the Districts of the Lower Provinces in 1857. In 1859 these offices were abolished by Sir F. Halliday. But on the suggestion of the Government of India, his successor, Sir John Peter Grant, appointed forty-five Honorary Magistrates in Calcutta and forty-five more in the Mofussil or outlying districts. They were vested with the judicial, and not with the police, powers of the Magistracy and were usually given the power to try minor cases only; nowhere did they have any control over the police. The system was extended by Sir Stuart Bayley in 1889. In Awadh and the Panjab also magisterial functions were entrusted to carefully selected landholders and others.71

Calcutta, though a part of the charge of the Commissioner of the Presidency Division, was not included in a District. The Board of Revenue had superintendence over its stamps and customs. A special Police Commissioner was given control over its police estab-
lishment. Five stipendiary Magistrates administered criminal justice, and offences under the Municipal Acts were tried by a Municipal Magistrate.

Two important officers of a District were the Superintendent of Police and the Civil Surgeon. The former was responsible for police administration in the District. For maintenance of law and order he was under the control of the District Magistrate, but as regards the internal management of the police force he was under direct subordination to his departmental head. The Civil Surgeon, except in Bombay, became the head of the medical and sanitary administration of a District and of the headquarters town. He was also in charge of the District Jail. In Madras and Bengal, the District Engineer or the Local Fund Engineer, who was an employee of the District Board, looked after roads and engineering works of different kinds.

The ‘local organization’ of Education, Public Work, Forests and other specialized administrative departments, which evolved during the second half of the nineteenth century, varied in different parts of the country. The Collector had control over all these. The Royal Commission upon Decentralisation observed in its Report of 1909 that ‘the position of Collector as administrative Head of the District should be recognized by officers of all special departments’.

The Panjab remained under a Non-Regulation type of administration. The Province was divided at first into seven, and later, in 1850, into eight Divisions, and into twenty-four Districts, each under a Deputy-Commissioner. In 1907-08 the Province consisted of twenty-nine Districts, grouped into five Divisions and forty-three Native States. A District was divided into sub-Collectorates called Tahsils, varying in number from three to seven. Each Tahsil was under a Tahsildar with a Deputy or Naib-Tahsildar. The Tahsildar had under him from two to five Qanungos, each one of whom exercised supervision over twenty to thirty Patwaris or Revenue accountants, who were in charge of revenue accounts of a group of villages.

The office of the Judicial Commissioner was abolished in 1866, and a Chief Court consisting at least of two judges (number raised subsequently to five) was established with final appellate authority in civil and criminal cases. Shortly afterwards a Settlement Commissioner was appointed to supervise land revenue settlements. He was replaced by a second Financial Commissioner in 1884, but in 1897 the old arrangement was restored, a Settlement Officer replacing a second Financial Commissioner.
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The Central Provinces was created in 1861. Its administration was placed under a Chief Commissioner with a Judicial Commissioner as principal judicial authority. The Province was divided into eighteen Districts, each being in charge of a Deputy-Commissioner, who was the chief revenue authority and the District Magistrate, and exercised all the functions of a District officer. In his revenue and criminal work the Deputy-Commissioner was assisted by (1) one or more Assistant Commissioners (members of the Indian Civil Service); (2) one or more Extra-Assistant Commissioners (members of the Provincial Civil Service, usually Indians); and (3) Tahsildars and Naib-Tahsildars (all Indians). Subsequently the Sub-divisional system, like that of the other Provinces, was introduced into the Central Provinces. Thus an Assistant or Extra-Assistant Commissioner was placed in charge of one or two Tahsils with the powers of a Sub-divisional Magistrate. For administrative purposes a District was divided into two or more Tahsils, each being under a Tahsildar and a Naib-Tahsildar. The Tahsildar was the Deputy-Commissioner’s “right hand in his revenue and executive work”. Each District had a land record staff, controlled by an Indian Superintendent under the Deputy-Commissioner and consisting of several grades of officers, Revenue Inspectors and Patwars.

IV. RECRUITMENT TO PUBLIC SERVICE

Section 32 of the Government of India Act of 1858 imposed upon the Secretary of State, acting with the advice and assistance of Her Majesty’s Civil Service Commissioners in England, the duty of making Regulations regarding appointments to the Indian Civil Service. The Statute of 1858 reaffirmed the competitive system. In the Regulations for the year 1860 the maximum age for admission to the open competition was lowered from twenty-three to twenty-two, and selected candidates were to be on probation for a year in England. From 1866 this age was lowered to twenty-one, and the successful candidates were required to pass through a period of two years’ probation at an approved University in England. By the Indian Civil Service Act of 1861, due largely to the initiative of Wood, then Secretary of State for India, certain offices were exclusively reserved for covenanted civil servants.

The number of British competitors for the Indian Civil Service increased in a few years after 1860. Thus the “total number of competitors rose from 154 for eighty vacancies in 1860 to 284 for fifty-three vacancies in 1865, and 325 for forty vacancies in 1870”. The Indian candidates were handicapped by various adverse circumstances. To compete with English students in an examination conducted
in English language and in accordance with the ideals of a British University, was not an easy task. Further, the journey to England was expensive, and, among the Hindus, meant a brave challenge to social rules. “A visit to England”, writes Sir Surendranath Banerji, “in those days was a more serious affair than it is now. It not only meant absence from home and those near and dear to one for a number of years, but there was the grim prospect of social ostracism, which for all practical purposes has now happily passed away”.

For these reasons, very few Indian candidates then competed. Three Indians, Surendranath Banerji, Bihari Lal Gupta and Romesh Chunder Dutt were successful in 1869. But in 1870 only one out of seven Indian candidates successfully competed for the service.

In spite of Section 87 of the Charter Act of 1833 and the Queen’s Proclamation of 1858, to the effect that there will be no discrimination in appointments to public services between Englishmen and Indians (which was reiterated in the Act of 1861), Indian element in the superior services continued to be inadequate. This was felt even by some British statesmen. Lord Houghton, for example, observed “that the declaration, which stated that the Government of India would be conducted without reference to differences of race, was magnificent but had hitherto been futile”.

That it was a deliberate policy of the British Government to ignore the provisions of the Charter Act of 1833 and the Queen’s Proclamation in this respect was clearly admitted by Lord Lytton, the Viceroy, as will be evident from the following extract from his confidential minute of 1878 to the Secretary of State: “No sooner was the Act (of 1833) passed than the Government began to devise means for practically evading the fulfilment of it under the terms of the Act, which are studied and laid to heart by that increasing class of educated Indians whose development the Government encourages without being able to satisfy the aspirations of its existing members. Every such Indian, once admitted to Government employment in posts previously reserved to the Covenanted Service, is entitled to expect and claim appointment in the fair course of promotion to the highest posts in that service. We all know that these claims and expectations never can or will be fulfilled. We have had to choose between prohibiting them and cheating them, and we have chosen the least straightforward course. The application to Indians of the competitive examination system as conducted in England, and the recent reduction in the age at which candidates can compete, are all so many deliberate and transparent subterfuges for stultifying the Act, and reducing it to a dead letter. Since I am writing confidentially, I don’t hesitate to say that both the Government of England and of India
appear to me, up to the moment, unable to answer satisfactorily the charges of having taken every means in their power of breaking to the heart the words of promise they have uttered to the ear." 76

The only way by which the legitimate aspirations of the Indians could be satisfied without impairing the standard and efficiency of the services was to hold simultaneous examinations both in India and England. This was realized by the liberal-minded Englishmen when the competitive examination for the recruitment of higher services was instituted in 1853. A proposal for simultaneous examination was then made, but it was not carried. Shortly after 1858 the Secretary of State appointed a Committee to inquire into the subject of the employment of the Indians. This Committee "had no hesitation in recommending simultaneous examinations. The Civil Service Commissioners concurred and "did not anticipate much difficulty in arranging for this". But nothing was done, and this report of 1860 seems to have dropped out of the Records of the Government of India and has not been reproduced amongst the papers that have been published officially on the subject". 76

The Indians made insistent demands for simultaneous examinations. In order to meet the demand half-way an Act was passed in 1870 providing for the appointment of a native of India to "offices, places and employment in the covenanted Civil Service . . . . . . although such a native should not have been admitted to the Civil Service in the manner already prescribed by law". The Act required the Governor-General to frame regulations by which Indians who had not passed an examination might be put into the covenanted service. But the Government of India would not move. Reminded again and again by the Secretary of State of the provision of the Act, it took four years to respond, and when the regulations were sent to London for approval they were found "to place too narrow a construction upon the Statute".

It is, however, only fair to mention that some senior members of the Indian Civil Service took a far more liberal and enlightened view of the subject. Indeed the case for the appointment of Indians to the offices reserved for the Civil Service could hardly be better put, even by an Indian, than is done by Sir Richard Temple, the Lieutenant-Governor of Bengal, in a minute dated 5th June, 1876. 76a He begins by saying that while there is a general agreement of views on the "suitableness and propriety of appointing natives to the higher offices in the judicial branch", it is generally thought preferable to refrain from placing natives in the higher class of executive posts which demand "qualities other than intellectual, such as energy, decision, self-reliance, power of combination and organisation, of
managing men, and so on”—qualities which are deemed to be as yet imperfectly developed in natives. He then observes: “But, if this be the case, it is a cogent reason for beginning to appoint natives to the higher offices in the executive branch, for certainly these qualities, other than intellectual, are of the utmost consequence to the well-being and progress of a nation. If our rule, having been firmly consolidated, is to be made to guide the natives on and on towards their highest good, these are the very qualities that should be specially cultivated. And one notable way of cultivating them is to employ meritorious natives in those higher executive capacities which will stimulate energy, enforce activity, strengthen the will, brace the sense of responsibility, and educe those moral forces which are summed up in the expression ‘manhood’. Referring to the doubts expressed whether the natives will succeed, if appointed to higher posts, Sir Richard comments, that if no such trial is made then certainly the natives never will or can become fit; that it is but just to the natives to give them a chance; that their unfitness ought not to be assumed until they have been tried and found wanting.

In the meantime the situation was rendered worse by the lowering of the maximum age for admission to competition from twenty-one to nineteen. This made it wellnigh impossible for an Indian candidate to successfully compete, and there can be hardly any doubt that this was the real object of the new rules. Henceforth the agitation for the admission of Indians to the Civil Service by lowering the maximum age-limit and holding simultaneous examinations in England and India grew so strong that the hands of the Government were forced, under circumstances to be related later, and the necessary rules were framed in 1879.

In a Resolution, dated 24 December, 1879, the Government of India declared that appointments under the rules would generally be limited to “young men of good family and social position possessed of fair abilities and education, to whom the offices which were open to them in the uncovenanted service had not proved sufficient inducement to come forward for employment”. It was also provided “that a proportion not exceeding one-sixth of the total number of covenanted Civil Servants appointed in any year by the Secretary of State should be natives selected in India by the local Governments subject to the approval of the Governor-General in Council”. Such nominees came to be called “Statutory Civil Servants”. These appointments by nomination, generally speaking, were quite unsatisfactory, as the persons nominated did not possess sufficient educational qualifications and often proved quite incapable of performing their high and responsible duties.
THE ADMINISTRATIVE ORGANISATION

The system of “Statutory Civil Servants”, introduced in 1880, did not at all satisfy Indian aspirations and the agitation for simultaneous examinations and lowering of age-limit for admission to the competitive examination grew more and more insistent. These two demands were pressed by the Indian National Congress from its very first session. To deal with this problem the Government of Lord Dufferin constituted, by a Resolution of 4 November, 1886, a Public Services Commission consisting of the President, Sir Charles Aitchison, then Lieutenant-Governor of the Panjab, fifteen members and a secretary. These fifteen members included four Hindu and two Muhammadan gentlemen of high standing. Among the British members, five were from the covenanted civil service and one from the uncovenanted civil service, one had been Chief Justice of the Madras High Court of Judicature and two were British non-officials. The object of the appointment of the Commission was declared, broadly speaking, to be “to devise a scheme which may reasonably be hoped to possess the necessary elements of finality, and to do full justice to the claims of Natives of India to higher and more extensive employment in the public service.”

In its recommendations the Public Services Commission considered it “inexpedient to hold an examination in India for the Covenanted Civil Service simultaneously with the examination in London”, and affirmed that “the minimum and maximum limits of age for Native candidates at the open competitive examination held in England should be nineteen and twenty-three years respectively”. The Commission recommended abolition of the system of filling appointment by means of the ‘statutory civil service’, which, in its opinion, had failed “to fulfil the expectations anticipated from it”, and was “condemned for sufficiently good reasons, not only by particular sections of the native community, but also by the very large majority of officials, both European and native, who have had practical experience of its workings.” The Commission also recommended that the term “Covenanted Civil Service of India” should be replaced by “Imperial Civil Service of India”, and that “the members of the Imperial Civil Service of India should be bound to serve wheresoever and in whatever capacity the government may see fit and should be eligible for any appointment for which the government considered them qualified”. The Commission proposed to reduce the list of scheduled posts reserved by the Act of 1861 for members of the Covenanted Civil Service and to transfer some of these posts, called ‘Listed posts’, to a local service called the Provincial Civil Service for which “local recruitment should be made separately by the Local Governments of the several Provinces to meet their own special require-
ments, partly by promotion from the subordinate service and partly by new recruitment. Below the Provincial Civil Service there was to be a lower service called the "Subordinate Civil Service".

The Government of India and the Secretary of State approved generally of the recommendations of the Aitchison Commission and the Covenanted Civil Service came to be known henceforth as the "Civil Service of India" (I.C.S.). Rules were issued in 1892 to give effect to the recommendations. Men promoted to the 'Listed posts' would not enter the higher service, but would simply hold the posts, so long reserved for covenanted service, and receive salaries amounting to two-thirds of the I.C.S. men.

For managing the various specialized departments that had sprung up due to the growth of complexity in administration, some new services had been gradually created, viz. those of Education, Public Works, Agriculture, Survey of India, Posts and Telegraphs, Police, Salt, Forest, Public Health, Jails and Civil Hospitals. On the analogy of the Civil Service, these services, too, were classified as Imperial, Provincial and Subordinate.

The reforms recommended by the Aitchison Commission "resulted", as the Islington Commission remarked about thirty years later, "in a great improvement in the standard of every service". But these failed to satisfy the legitimate aspirations of the Indians. The same Commission pointed out: "The inferiority of status and social position which had always been attached to the provincial services, aggravated to some extent by subsequent changes, had been felt by the Indian public as a real grievance, particularly in the case of the more important services such as the civil, educational and public works".78

On 2 June, 1893, the House of Commons passed a non-official resolution in favour of simultaneous examinations in England and India for the Indian Civil Service. This resolution was transmitted to the Government of India by the Secretary of State for India, on 22 June, for consideration and opinion. The Government of Lord Lansdowne, after consulting the Provincial Governments, expressed their view against the resolution. They replied to this effect on the 1st November following, and argued "that material reduction of the European staff then employed was incompatible with the safety of British rule". They further urged "that the system of unrestricted competition in examination would not only dangerously weaken the British element in the Civil Service, but would also practically exclude from the service Muhammadans, Sikhs, and other races accustomed to rule by tradition and possessed of exceptional strength of character, but deficient in literary education".79
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The resolution of the House of Commons, referred to above, was not given effect to. The Home Government agreed with the views of the Government of India, and the Secretary of State, Mr. H. H. Fowler, decided that the claims of the Indians could be met by admitting to such higher posts, as could be made available for them, "those who distinguish themselves by their capacity and trustworthiness in the performance of subordinate duties".80

This meant practically no concession to the Indians, and they continued to press their demand for appointment of a larger number among them to the higher services and for simultaneous examinations. Surendranath Banerji declared in his Presidential Address at the eleventh session of the Indian National Congress, held at Poona in 1895: "We claim to be admitted to all competitive examinations for the Indian Services, no matter to what particular Department of the Public Service they might refer. We claim to be admitted to the Competitive examination for the Police Service held in India as well as in England. We claim to be admitted to the examinations for recruitment to the higher offices in the Forest Department. We are excluded from these examinations, and we are excluded because we are natives of India. Our disqualification is our race. The crime of colour is alleged against us...But we are not ashamed of our nationality. We are proud that we are Indians". The agitation of the Indians for larger share in the public services continued throughout the period under review. The Muslim community, however, did not like the idea of the senior services being recruited by open competitive examinations held simultaneously in India and England, as that would mean a Hindu monopoly of posts and power. Sir Syed Ahmad had made a vigorous protest against it and openly declared that if the right of ruling India be decided by a competitive test, the Muslims should be given sword rather than the pen, for the sword is "the pen of our ancestors which is in fact the true pen for writing the decrees of sovereignty". The Muslim members of the Public Services Commission appointed in 1886 joined the European members in opposing the simultaneous examinations.

The position of the Indians in respect of the competitive examination for the I.C.S. may be judged from the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Vacancies</th>
<th>Candidates</th>
<th>Indian Candidates</th>
<th>Successful Indians</th>
</tr>
</thead>
<tbody>
<tr>
<td>1870</td>
<td>40</td>
<td>332</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>1880</td>
<td>27</td>
<td>182</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>1890</td>
<td>47</td>
<td>205</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>1900</td>
<td>52</td>
<td>213</td>
<td>17</td>
<td>2</td>
</tr>
</tbody>
</table>

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V. LAW AND JUSTICE.

Reference has been made above to the appointment of a Law Commission under the Charter Act of 1833. When the Company's Charter was again renewed in 1853, another Commission was appointed in England to examine and report on the recommendations of the old Commission within three years. The principal work of this Commission was to prepare the Code of Civil Procedure. In 1859 a bill, based on a draft prepared by the first Indian Law Commission and with revision by the second, became law. In 1860 was passed the Penal Code, on the basis of the draft of the first Commission as revised by Mr. Bethune, the Law Member of the Governor-General's Council, and Sir Barnes Peacock. This Penal Code was followed in 1861 by the Code of Criminal Procedure.

In 1861 a third Law Commission was appointed in England to prepare a "body of substantive law for India" and "also to consider and report on such other matters relating to the reform of the laws of India as might be referred to them by the Secretary of State". The first work of this Commission was the preparation of a draft law of succession, which Henry Maine, as Law Member, carried through the Council in 1865. But their proposals relating to the law of contracts, negotiable instruments, evidence, transfer of property and the Code of Criminal Procedure were not accepted, and they resigned in 1870. Until 1879 the Law Member carried on the work of codification and consolidation of law applicable to each Province. These codes have been recast and amended from time to time.

By the time the new law codes were passed, the system of the judicial organization of India had undergone important changes. Until 1861 the Supreme Courts established by Royal Charters in Calcutta, Bombay and Madras had original criminal and civil jurisdiction over all classes within the jurisdiction of the Presidency towns. The chief Civil and Criminal Courts, established by the Company's Government, were called, respectively, Sadar Diwani Adalat and the Sadar Nizamat Adalat in Calcutta, Sadar Adalat and Faujdar Adalat in Madras, and Sadar Diwani Adalat and Sadar Faujdar Adalat in Bombay. By the Indian High Courts Act of 1861, the Crown of England was empowered to establish, by Letters Patent, High Courts in Calcutta, Madras and Bombay. It was provided that on the establishment of these High Courts, all the three Courts in each Presidency, mentioned above, were to be abolished, their powers being transferred to the new High Courts which shall exercise all Civil and Criminal jurisdiction, both original and appellate. Each of these High Courts was "to consist of a Chief Justice and not more than 15 judges, of whom not less than one-third including the
Chief Justice were to be barristers, and not less than one-third were to be members of the Covenanted Civil Service. The remaining vacancies were to be filled up by persons who had been a pleader of a Sadar Court or High Court for not less than ten years. All the Judges were to be appointed by, and to hold office during the pleasure of, the Crown. The High Courts were expressly given superintendence over, and power to frame rules of practice for, all the courts subjected to their appellate jurisdiction. Power was given by the same Act to establish another High Court, and in 1866 a High Court was established at Allahabad for the North-Western Provinces. A Chief Court was established in Lahore by an Act of the Imperial Legislative Council instead of a Royal Charter, and its judges were appointed by the Governor-General in Council and not by the Crown.

The Indian High Courts Act of 1865 "empowered the Governor-General-in-Council to pass orders altering the limits of the jurisdiction of the several Chartered High Courts and enabling them to exercise their jurisdiction over native Christian subjects of Her Majesty resident in Native States." Between 1865 and 1875 a generally uniform system was introduced in each of the ten Provinces by the Civil Courts Acts. The constitution of the Criminal Courts was made uniform by the regulations of the Criminal Procedure Code of 1872, prepared by Sir James Stephen, then Law Member of the Government of India. The High Courts in several Provinces became the courts of appeal from the district courts, civil and criminal, and their judgment was final except in certain cases in which appeals lay to Her or His Majesty's Council in England and were heard by the Judicial Committee of the Privy Council.

The establishment of High Courts did not, however, take away the privileged position enjoyed by the European British subject in Indian law-courts, to which reference has been made above. This iniquity was a festering sore in the body-politic of India and a source of grave discontent against the British administration, but still no effective remedy could be applied on account of the strenuous agitation of the British residents in India. Thus the Britishers in India—even the dregs like Tom, Harry and Dick—could ill treat with impunity even the most highly placed Indians. Though in 1872 they were subjected to the jurisdiction of the mofussil courts, they were to be tried only by first class magistrates or judges of their own race, 'while the penalties these could inflict on them were considerably less than in the case of Indians'. Thus a first class magistrate was competent only to inflict a sentence of three months' imprisonment on a European, whereas in regard to an Indian, he could inflict a sen-
tence of imprisonment for two years. A Sessions Court, which had full powers of sentence over Indians, had the power only to pass a sentence of one year's imprisonment on Europeans. For confirmation of death sentences cases had to be referred to High Courts.

Apart from the iniquity of the system itself, the anomaly of these practices became very glaring with the increase in the number of Indian judges and magistrates, who were debarred from taking cognizance of cases regarding Europeans. With experience of Indian cases, appealed to the Privy Council, the Lord Chancellor observed in the House of Lords in 1883 that "in respect of integrity, of learning, of knowledge, of the soundness and satisfactory character of the judgments arrived at, the judgments of the native judges were quite as good as those of the English". Character and integrity of the Indian judges of the High Courts and the subordinate civil courts could not be questioned, and in disposing of cases, better knowledge of the language and habits of the people gave "to the Indian many advantages over the Englishman".85

By 1883 the Government thought that the law relating to jurisdiction over European British subjects should be changed. So in that year Mr. (afterwards Sir) Courtney Ilbert, Law Member of the Government of India, introduced a Bill which sought to remove racial distinction by giving the Indian magistrates the power to try European British subjects. The Bill, known after its sponsor as the Ilbert Bill, raised a storm of opposition from the members of the European community in India before which the Government had to bend and to patch up a compromise by Act III of 1884, which meant a "virtual though not avowed abandonment of the measure proposed by the Government."86

According to the arrangements of 1884, European subjects might be tried by District Magistrates or Sessions Judges, whether European or Indian. But they could, in every case, however trivial the charge might be, claim to be tried by a jury of which not less than half the number must be Europeans or Americans. As Indians could make no such claim, and it was always extremely difficult, and in most cases impossible, to constitute a proper and impartial British jury in a case against a British accused in most of the nafussil towns, the Act of 1884 did not diminish "the privileges of European British subjects charged with offences, and it left their position as exceptional as before".87 The agitation against the Ilbert Bill was a disgraceful exhibition of jingo mentality of the British in India. It "left a rankling sense of humiliation in the mind of educated India";88 the effect
of which upon the awakening of national consciousness of the Indians will be described in detail in a later chapter.

VI REVENUE AND FINANCE

1. General Financial Situation.

The gross revenues of India increased from £ 36 millions in 1858-9 to £ 51 millions in 1875-6.\textsuperscript{69} The land revenue showed an increase of 3 millions, but there was a decrease in 1876-77 on account of the famine in Madras. The gross expenditure increased from 51 to 53 millions. From 1876-77 the annual revenue from, and expenditure on, Productive Public Works and Railways, including guaranteed interests and profits to companies, were shown under gross Revenue and Gross Expenditure. The gross revenue and gross expenditure for the year 1876-77 were, respectively, 56 and 58 millions. But the amount of expenditure incurred in England, generally known as Home Charges, which was 7 millions in 1858-9 and rose to nearly 10 millions in 1875-6, suddenly jumped to more than 13 millions in 1876-7, i.e. nearly 22\frac{1}{2} per cent. of the total expenditure and 23 per cent. of the total revenue. The Public Debt in 1857 was 69\frac{1}{2} millions. It rose to 139 millions in 1876-77, which included 40 millions of Mutiny debt, and 24 millions on Railways and Irrigation works undertaken by the Government. During the next twenty-five years (1877-78 to 1901-02) the trend of the financial policy continued in the same direction. The gross revenue and land revenue showed an increase, respectively, from 62 and 20 crores of Rupees to 114 and 27 crores. The gross expenditure increased from 66 to 107 crores, and the Home Charges from 16 to 26 crores i.e. nearly one-fourth of the total expenditure. Two other matters, vitally connected with the financial situation, namely appreciation of Rupee in terms of sterling, and the Famine Relief and Insurance taxes, both of which adversely affected the interests of Indian people, will be discussed separately.

The Public Debt also rapidly increased from 1877-8 to 1901-2 as the following tables will show:

<table>
<thead>
<tr>
<th>Year</th>
<th>Permanent and unfunded</th>
<th>Indian Debt</th>
<th>Debt in England</th>
</tr>
</thead>
<tbody>
<tr>
<td>1877-78</td>
<td>Rs. 83 crores</td>
<td>£ 60 millions</td>
<td></td>
</tr>
<tr>
<td>1889-90</td>
<td>Rs. 113 crores</td>
<td>£ 98</td>
<td>„</td>
</tr>
<tr>
<td>1890-91</td>
<td>£ 78 millions</td>
<td>£ 104</td>
<td>„</td>
</tr>
<tr>
<td>1901-02</td>
<td>£ 92</td>
<td>£ 134</td>
<td>„</td>
</tr>
</tbody>
</table>
The rapid increase in taxation is shown by the following figures.

<table>
<thead>
<tr>
<th>Heads of Revenue</th>
<th>1856-57</th>
<th>1870-71</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>£</td>
<td>£</td>
</tr>
<tr>
<td>Land Revenue</td>
<td>20,046,748</td>
<td>24,170,151</td>
</tr>
<tr>
<td>Assessed Taxes</td>
<td>108,833</td>
<td>2,072,023</td>
</tr>
<tr>
<td>Customs</td>
<td>1,161,985</td>
<td>2,610,789</td>
</tr>
<tr>
<td>Salt</td>
<td>3,610,223</td>
<td>6,106,280</td>
</tr>
<tr>
<td>Opium</td>
<td>4,988,434</td>
<td>8,045,459</td>
</tr>
<tr>
<td>Other Heads of Revenue</td>
<td>1,974,687</td>
<td>6,371,521</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£31,920,010</strong></td>
<td><strong>£49,376,225</strong></td>
</tr>
</tbody>
</table>

Thus the result of the first twelve years of Crown Government was an increase in the taxation by more than 50 per cent. "During the last twelve years", wrote the Bombay Association in their petition to the House of Commons, dated March 29, 1871, "the salt tax has been raised 100 per cent. in Madras, 81 per cent. in Bombay, and 50 per cent. in other parts of India; the duty on sugar has been enhanced 100 per cent.; the Abkari or excise on spirits 100 per cent.; the stamp has been repeatedly revised and enhanced, and is now so complicated, vexatious, and excessive, as frequently to lead to a denial of justice; customs duties have been increased several times; heavy court fees and a succession tax of 2 per cent. have been recently imposed; a local land cess of 6½ per cent., village service cess at the same high rate, rural town cess, taxes on trades and callings, house-tax, tolls; and a considerable variety of municipal and local rates and taxes, amounting in the aggregate to an extremely large and oppressive sum, have been levied in different parts of the country. It is now proposed to impose fresh Local Taxes to supply the deficiency caused by the conduct of the Government of India in curtailing the grant of several Provincial Services. Your petitioners submit that over-taxation has, for many years of British Rule, been the bane of India; and that strenuous endeavours have not been made by the authorities to reduce the public expenditure, which has been increased from year to year, until the augmentation now amounts to the vast sum of 19 millions over and above the expenditure of 1856-57."

These additional taxes are generally known as cesses. The principle on which these cesses were imposed may be stated in the words of the Government of India: "The imperial resources of the empire are unable to provide the large sums necessary for such purposes as extending elementary education among the masses, and of constructing and maintaining roads and other works of public utility; if we are to make roads, to educate the people and keep them clean
and healthy it can only be done by imposing on local resources such a burden as they can conveniently bear.' As often happens, the general principle was formulated as a result of isolated actions. As far back as 1859, the Secretary of State had drawn the attention of the Government of India to the continued neglect of the education of the mass of the people in their own vernaculars. As the system of grants-in-aid failed to encourage such education, he directed the levy of cesses on the land for village schools. Such cesses had been first raised by Mr. Thomason in the N. W. Provinces when he was the Lieutenant-Governor there (1843-53). But gradually the cesses were levied in other Provinces. The Zamindars of Bengal tried to avoid it on the ground that their dues were fixed on a permanent basis, but their objections were overruled on the principles mentioned above which were actually formulated by the Government of India with the specific case of Bengal in view.

After the decentralization of finances in 1870, to which reference has been made above, the cesses were resorted to to cover any deficit in the Provincial budget. Thus the limited objectives with which they were originally adopted receded into the background and the cesses became really additional taxation. How it proved to be an intolerable burden on the landowning classes, particularly cultivators, will be discussed in the next section. Nothing presses so severely on an agricultural nation as the numerous cesses which have been imposed on the land in addition to the Land Revenue, since 1871. "The question presents itself", Lord Curzon himself declared, "whether it is not better, as opportunities occur, to mitigate those imposts which are made to press upon the cultivating classes more severely than the law intended".

Dadabhai Naoroji made a comparative estimate of the expenditure of India and the United Kingdom as follows:

"I may put this great financial fact before the Committee. The United Kingdom out of its resources (I use Lord Mayo's word) obtains 70 millions, from which about 27 millions being deducted for interest on Public Debt, there remain about 43 millions for the ordinary wants of the Government. This amount is about 5½ per cent. of the income of the country of 800 millions. The British (Indian) Government out of its resources obtains 50 millions, from which about 8 millions being deducted for interest on Public Debt, Railways &c., there remain 42 millions for its ordinary wants; this makes 14 per cent. of the income of the country of 300 millions. So that the Indian Government is two and a half times more expensive than the Government of the United Kingdom".

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These protests were made in vain and there was no reduction in expenditure or taxation. On the other hand, the Decentralisation Scheme of Mayo, mentioned above, led to the imposition of new taxes in the Provinces.

2. Customs

Reference has been made above to the customs duties prevalent in 1852. It would appear from the table given on p. 355 that the duty on British cotton and silk piece goods as well as cotton thread, twist and yarn was a half of that on foreign goods of the same kind.

In 1859, on account of the heavy financial pressure after the Mutiny, all differential tariffs were abolished; duties on all articles of luxury were raised to 20 per cent. ad valorem; duties on other articles, including cotton piece goods, were raised to 10 per cent.; and those on cotton twist and yarn to 5 per cent.

In 1860, Mr. James Wilson, the first Finance Minister of India, reduced the 20 per cent. duty on luxuries to 10 per cent., and raised the 5 per cent. duty on cotton twist and yarn to 10 per cent.; so that the import tariff consisted of a uniform rate of 10 per cent. ad valorem, with special rates upon beer, wine, spirit, and tobacco.

In 1861, the duty on cotton twist and yarn was reduced to 5 per cent.

In 1862, the duty on cotton twist and yarn was further reduced to 3½ per cent., and the duty on cotton and other manufactures was reduced to 5 per cent.

In 1863, the duty on imported iron was reduced to 1 per cent.

In 1864, the general rate of import duties was reduced from 10 to 7½ per cent.

In 1867, a great number of articles were added to the free list, export duties were abolished from time to time, the only increase being that the duty on grain was raised.

In 1871, a new Tariff Act was passed and the valuations were revised. The import duty on cotton twist and yarn remained 3½ per cent., and that on cotton goods 5 per cent. They were maintained, like other import duties, merely as a source of revenue, and did not operate as a protection to the infant cotton industry of India.

The import duty on cotton goods which represented an income of about two-thirds of the total income from imports was resented by the manufacturers of cotton goods in England who looked with envy and jealousy, not unmixed with apprehension, on the growth of cotton mills in India. They represented the duty as a protective
THE ADMINISTRATIVE ORGANISATION

duty and sought to have it abolished by bringing pressure upon the Home authorities. So the Manchester Chamber of Commerce addressed a memorial to the Secretary of State for India on 31 January, 1874, and though the Government of India, to whom it was referred, agreed to appoint a committee of revision, the Manchester Chamber demanded total and immediate repeal of the import duties. The time was well chosen. The Gladstone Ministry had become unpopular and dissolved the Parliament in 1874, and in the ensuing General Election of British Parliament the Lancashire votes would count for much. Two extracts from the memorial and the subsequent correspondence on it may be quoted to show the mentality of the memorialists. In the first of these their demand for abolition of duties was put on a philanthropic basis and they shed crocodile tears over the lot of the poor Indians. It runs as follows:

"That the duties increased the cost to the Native population, or at least to the poorest of the people, of their articles of clothing, and thereby interfered with their health, comfort, and general well-being."

The real motive behind the demands of the memorialists, however, peeps through the following:

"The statements as to the baneful operation of these duties on commerce, and on the best interests of Her Majesty's subjects, both in India and in England, are abundantly confirmed by the latest advices from Bombay, which show that, under the protection extended by the levying of duties on imports, to the spinning and weaving of cotton yarns and goods in India, a large number of new mills are now being projected."

The victory of the Conservatives in the General Election of 1874 spelt the doom of cotton mills in India by arresting their growth. As one of the earliest instances of the glaring evils of the Parliamentary control over India, this disgraceful episode of the sacrifice of Indian interest at the altar of British politics, dominated by British industry, may be treated at some length:

"Mr. Disraeli had formed a Conservative Government and Lord Salisbury had succeeded the Duke of Argyll as Secretary of State for India. Lord Salisbury was never a vehement free-trader, but he was vehement in his desire to conciliate Lancashire. In July 1875 he wrote to the Viceroy:

"If it were true that this duty is the means of excluding English competition, and thereby raising the price of a necessary of life to the vast mass of Indian consumers, it is unnecessary for me to remark that it would be open to economical objections of the gravest kind. I do not attribute to it any such effect; but I cannot be insensible to the political evils which arise from the prevalent belief upon the matter.

"These considerations will, I doubt not, commend to your Excellency's mind the policy of removing, at as early a period as the state of your finance permits, this subject of dangerous contention."
On August 5, 1875, Lord Northbrook wired to Lord Salisbury that the new Tariff Act had been passed that day. We quote the first portion of the telegram, detailing the changes.

"Act for revision of customs duties passed this day.

"Export duties abolished, except those on indigo, paddy, rice, and lac, which are unchanged.

"General rate of import duty reduced from 7½ to 5 per cent. Valuations revised.

"No alteration considered necessary in import duty on cotton goods, but their valuation reduced, which diminishes duty by £ 88,000.

"Five per cent. import duty imposed on long staple raw cotton.

"Duty on spirits raised from 3 to 4 rupees a gallon, London proof.

"Duty on sparkling wines raised from 1½ to 2½ rupees, and on other wines, except claret and Burgundy, from 1 to 1½ rupees a gallon".

"And it was pointed out towards the end of the telegram that the net loss to the Indian revenues by this Act was £ 308,000.

"Lord Salisbury was not yet satisfied. He wired back: "Provisions of Act very important. Some objectionable". And he desired to know why the Act was passed without a previous reference to the Secretary of State, according to Legislative Despatch No. 9 of 1874.

"An unpleasant correspondence then ensued. Lord Northbrook and his Council explained in August 1875 that the matter was urgent and could not be delayed; and that a reference to the Secretary of State would have had the effect of disclosing the intentions of the Indian Government, and caused inconvenience to trade.

"Lord Salisbury was still dissatisfied. He proposed, in November 1875, to send his Under Secretary, Sir Louis Mallet, to India, to confer with the Indian Government in regard to fiscal legislation; and he urged the gradual but complete removal of the import duty on cotton goods.

"Lord Northbrook and his Council replied in February 1876 that it was undesirable to sacrifice a duty "which brings in a revenue of more than £ 800,000;" and that there was "no precedent of a measure so seriously affecting the future of Indian finance as the prospective removal of a tax which brings in a revenue of £ 800,000 pr annum, having been directed by the Home Government". "It is our duty," concluded Lord Northbrook and his Council, "to consider the subject with regard to the interests of India; we do not consider that the removal of the import duties upon cotton manufactures is
consistent with those interests; and we hope that the statement con-
tained in this despatch of the whole circumstances of the case, and
of the condition of the Indian finance, will show that the real effect
of the duty is not what is supposed, and that it cannot be removed
without danger to the Indian finances, and that the imposition of
new taxes in its stead would create serious discontent.\textsuperscript{96}

It may be added that Lord Salisbury had been in such haste to
conciliate Lancashire that he forgot even to consult his own Council.
The telegraph of Lord Salisbury to the Government of India on 30
September, 1875, pressing for the remission of Indian import duties
and proposing to send his Under Secretary to India to carry out this
scheme was strongly resented by several members of his Council as
they had no opportunity of reading the papers on, far less discussing,
the subject. But the members who dissented from Lord Salisbury
were in a minority, and so the Secretary of State for India had the
support of the majority of his Council in demanding the repeal of the
import duties on cotton in India.\textsuperscript{96} To make matters easier, Lord
Northbrook resigned and was succeeded by Lord Lytton who belonged
to the same school of imperialistic politics as Disraeli and Salisbury.
So on May 31, 1876, Lord Salisbury sent a despatch to the
Government of India communicating his conviction “that the true
interests of India, as well as the legitimate claims of English indus-
try, required a reconsideration of the matter; that the complete re-
moval of the duties on cotton goods was essential as soon as the
condition of the finances would allow, and that they could not be
relied upon as a permanent source of revenue”\textsuperscript{97}.

But the Government of India, faced with the terrible famine
of Madras, hesitated to take action on the line recommended by the
Secretary of State. The new Finance Minister, Sir John Strachey,
spoke on March 15, 1877:

“Financial embarrassments arising from the depreciation of
silver prevented any practical steps being taken last year in this
direction. It was thought unwise to give up any revenue at such
a time, and the Secretary of State concurred in this decision. It is
with great regret that I have to announce that, for reasons similar
to those which prevailed a year ago, it has been decided that nothing
can be done at the present moment towards the abolition of these
duties; the financial difficulties caused by the famine are so serious
that we cannot sacrifice any source of income”\textsuperscript{97}.

But the British politics put a premium on the votes of textile
manufacturers of Lancashire. So, in spite of the terrible famine in
India, the House of Commons passed the following Resolution:
"That, in the opinion of this House, the duties now levied upon cotton manufactures imported into India, being protective in their nature, are contrary to sound commercial policy, and ought to be repealed without delay, so soon as the financial condition of India will permit".98

The last clause was merely an eye-wash, for it was well known that the Government had to impose local cesses to meet their expenditure and no source of revenue had been repealed since 1858.

"Lord Salisbury forwarded the Resolution of the House of Commons to the Indian Government, and referred with something like alarm to the fact 'that five more mills were about to begin work; and that it was estimated that by the end of March 1877 there would be 1,231,284 spindles employed in India'.

"Accordingly, in the following year, the Government of India made a further sacrifice of revenue by exempting from duty some imports with which Indian manufacturers were supposed to compete". But Manchester was not satisfied and demanded that 'all goods made from yarns not finer than 30 s., and all yarns up to 26 s. water and 42 s. mule' be exempted from duty.99

Lord Lytton was ready to accept all these demands. But it is gratifying to put on record, particularly as so much has been written against the members of the I.C.S. in this history, that a majority of the members of the Governor-General's Council protested strongly against the sacrifice of Indian revenues in a year of famine, war, and increasing taxation, and recorded dissenting minutes. The following passage from the minute of Sir Alexander Arbuthnot uncovers the mask:

"The people of India attribute the action which has been taken by Her Majesty's Government in this matter to the influences which have been brought to bear upon it by persons interested in the English cotton trade; in other words, by the manufacturers of Lancashire. It is notorious that this impression has prevailed throughout India from the time, just four years ago, when the Marquis of Salisbury informed a large body of Manchester manufacturers that the Government of India would be instructed to provide for the gradual abolition of the import duties on cotton goods.

"Nor is this feeling limited to the Native community. From communications which have been received from the Chambers of Commerce at Madras and Calcutta, it is evident that the feeling is shared by the leading representatives of the European mercantile community in those cities.

"It is equally shared by the great body of the official hierarchy throughout India. I am convinced I do not overstate the case when I affirm my belief that there are not at the present time a dozen officials in India who do not regard the policy which has been adopted in this matter as a policy which has been adopted, not in the interests of India, not even in the interests of England, but in the interests or
the supposed interests of a political party, the leaders of which deem it necessary at any cost to retain the political support of the cotton manufacturers of Lancashire.

"During the rule of the East India Company, the Court of Directors furnished what often proved an effective barrier between the interests of the people of India and the pressure of powerful classes in England. In this respect the Council of India, as the Council of the Secretary of State is called, has in no way taken the place of the Court of Directors.... The Council of the Governor-General, on the other hand, has large power and heavy responsibilities imposed upon it by law;.... It will be an evil day for India when the Members of this Council fail to discharge the duty thus appertaining to them." 39a

For once the majority of members of the Council of the Governor-General did discharge their duty. But their strong protests had no effect upon Lord Lytton, who took advantage of his constitutional power to override his Council and, in 1879, exempted from import duty all imported cotton goods containing no yarn finer than 30 s. i.e. the coarser goods which formed the main product of Indian mills. Only two members supported the Viceroy. The majority of members of the Council of the Secretary of State also disapproved of the action of Lord Lytton. But the Secretary of State upheld the action of the Viceroy against the opinion of the majority. It is perhaps unique in the history of British India that political pressure forced the Government to adopt a measure, harmful to the interest of India, against the opinion of the majority of members of the Councils of both the Viceroy and Secretary of State. Ground was prepared for Lord Lytton's action by an authoritative declaration of the Government's Tariff policy regarding imports made in the financial statement for 1878-79 by its Finance Member, Sir John Strachey, who was one of the two members who supported the iniquitous action of Lord Lytton. The principles laid down by him were:

(i) "That no duty should exist which affords protection to native industry; and as a corollary, that no duty should be applied to any article which can be produced at home without an equivalent duty of excise on the home production; also, that no duty should be levied except for purely fiscal purposes.

(ii) That, as far as possible, the raw materials of industry and articles contributing to production should be exempt from customs taxation.

(iii) That duties should be applied only to articles which yield a revenue of sufficient importance to justify the interference with trade involved by the machinery of collection.39b

Lord Lytton gave practical effect to this policy by the abolition of import duties on cotton goods in March, 1879. It was approved by the House of Commons in the following resolution, dated the 4th April, 1879: "That the import duty on cotton goods, being unjust
alike to the Indian consumer and the English producer, ought to be abolished, and this House accepts the recent reduction in these duties as a step towards their total abolition, to which His Majesty's Government are pledged. This policy was fully adopted by the Government of Lord Ripon in 1882 by the abolition of the remaining import duties, with two exceptions, namely, those on wine and salt on which internal duties were levied.

But in the course of a few years, certain factors led the Government to modify this policy. Fall in the price of silver, which formed the standard currency in this country, the demands of the Famine Insurance Fund, the heavy expenses of the Burmese War, and military preparations in the north-west to avert the Russian menace caused much pressure on the financial resources of the Government of India. To meet the deficiency, the Government of India was compelled to revive the old import duties, with certain exceptions, in December, 1894, a five per cent. import duty being imposed on cotton goods and yarns. To protect the interests of the British cotton manufactures, a countervailing excise duty of five per cent. ad valorem was imposed on cotton yarns manufactured at power mills in India, which alone could compete with Lancashire yarns. But even this did not satisfy Manchester. Once more the Conservative Government which came into power in 1895 yielded. There was another revision of import duties in February, 1896. Duties on cotton yarn were removed. But a duty of 3½ per cent. ad valorem was imposed on cotton goods imported from abroad, and an excise duty at equivalent rate was imposed on all cotton goods manufactured at mills in India, including the coarse goods which did not compete with any European goods.

The measures noted above seriously affected the true interests of the Indian people, and these evoked protests even from the Council of the Viceroy of India. But the Home Government over-ruled these, and soon Sir Henry Fowler, the Secretary of State, declared their policy to be as follows: "When once a certain line of policy has been adopted under the direction of the (British) Government, it becomes the clear duty of every member of the Government of India to consider not what that policy ought to be, but how effect may be best given to the policy that has been decided on".

Angry protests were made by all classes—official and non-official, Indian and European. Mr. Playfair, representing the European mercantile community of Calcutta, said:

"Nothing has been produced, therefore, to contradict the views held by honourable members, that competition on the part of Lancashire mills with the production of the coarser fabrics spun and woven in Indian mills does not exist. On the
other hand, further examination in India proves that in reality no competition exists in goods made from yarn below 20 s.

"And after all, what is this Indian trade over which so much contention has unfortunately arisen? An examination of statistics shows that the powerloom spindles in India amount to \( \frac{7}{8} \) th, and the powerlooms in India to \( \frac{5}{6} \) th of the world's supply. In relation to Great Britain's equipment, which represents one-half in spindles and one-third in looms of the world's supply, India possesses \( \frac{1}{10} \) th part of Great Britain's spindles and \( \frac{1}{10} \) th part of her looms. May India not have this little ewe lamb? My lord, I have every sympathy with the depressed condition of Lancashire trade, and for the welfare of England as well as India, everything that can legitimately be done to afford relief should be granted. But, because Lancashire masters may be alarmed and discontented on account of the state of their affairs, I see no reason why they should unjustly attack a separate industry in India. The proposals under these Bills mean a remission of taxation of 51½ lakhs (or 37 per cent.) on Manchester goods, and an increase of 11 lakhs (or 300 per cent.) of taxation on India-made goods.".

R. C. Dutt observes.

"As an instance of fiscal injustice, the Indian Act of 1896 is unexampled in any civilised country in modern times. Most civilised Governments protect their home industries by prohibitive duties on foreign goods. The most thorough of Free Trade Governments do not excise home manufactures when imposing a moderate customs duty on imported goods for the purposes of revenue. In India, where an infant industry required protection, even according to the maxims of John Stuart Mill, no protection has ever been given. Moderate customs, levied for the purposes of revenue only, were sacrificed in 1879 and 1882. Home manufactured cotton goods, which were supposed to compete with imported goods, were excised in 1894. And home goods, which did not compete with foreign goods, were excised in 1896. Such is the manner in which the interests of an unrepresented nation are sacrificed."

3. Other sources of Revenue.

Reference has been made above to the revenue derived from opium. There were occasional fluctuations in the produce of opium and in the revenue derived from it. Such fluctuations became more frequent during the twelve years from 1852. To ensure the stability and steady progress of opium revenue, Sir Cecil Beadon, Lieutenant-Governor of Bengal, suggested a policy in 1867 for maintenance of a permanent reserve of the article. This policy was gradually adopted by March, 1879, with regard to Bengal opium, and it produced steadiness of opium supply and increase of opium revenue in the succeeding years. The annual average net (opium) revenue for the five years ending in 1902-3 was £2,860,000, and for the ten years ending in 1907-8, £3,275,000.

Of the revenues of different kinds derived from indirect taxation, duty on salt was the most remunerative. The system under which salt duties were levied varied in different Provinces, and their rates also differed until 1882-3. Thus from 1869 to 1877 the duty in
Lower Bengal was Rs. 3-4 per maund; in the Upper Provinces, Rs. 3; and in Madras and Bombay, Rs. 1-13. During the administration of Lord Lytton the inland customs line was abolished and in 1882 the duty on salt was made uniform at the rate of two rupees per maund. But in January, 1888, the rate of salt-tax was raised to two and a half rupees per maund, and it continued to be so for the next fifteen years. In 1903 it was reduced to two rupees, and in 1905 to one and a half rupees.

The Stamp Revenue and Excise continued as important sources of revenue. But on account of heavy expenditure caused by the outbreak of 1857-8, the Customs duties had to be revised and a new tax, known as Income-Tax, was imposed. It was first imposed in 1860 as a temporary measure, under the advice of Mr. James Wilson, Finance Member of the Governor-General's Council, at the rate of four per cent. on all incomes of Rs. 500 and upwards, and at half that rate on incomes between Rs. 200 and Rs. 500. It was abolished in 1865. But again in 1867 a licence tax, which was “in the nature of taxes on income”, was levied on trades and professions. But this did not suffice to meet the deficit, and so in 1869 the income-tax was made a general tax. With comparative improvement in finances, it was dropped. But after deterioration in the financial resources it was re-introduced as a tax on the commercial and trading classes. Ultimately, in 1886 a tax was imposed throughout India on all incomes excepting those derived from agriculture.

VII. LAND SETTLEMENT.

1. New Settlements.

A. Awadh.

When Awadh was annexed to British India in 1856, the landlords known as Talukdars were the proprietors of estates—a larger or smaller group of villages—comprising a major portion of the Province. There were village communities also, but they were not very much developed. The British Government, however, deliberately ignored the claims of the Talukdars, and out of more than 23,000 villages, only 13,000 were settled with the Talukdars in 1856, and 9000 were settled with village proprietors. The Talukdars became bitter enemies of the Government and the tenants also were oppressed by heavy assessment. As related above, this was the most important factor in causing a wide-spread revolt in Awadh in the wake of the Mutiny of 1857. Reference has also been made, in connection with the above episode, to the forcible re-occupation of their lands by the Talukdars, their wholesale confiscation by Canning, and the
strong rebuke administered to him by Lord Ellenborough.\textsuperscript{103} This, as well as the opposition by senior members of the Government, induced Lord Canning to rectify his mistake. Sir James Outram induced Canning to add a clause to his proclamation that the Government would view liberally the claims of those Talukdars who would promptly surrender. Many submitted and their lands were restored. A regular settlement for thirty years was made between 1860 and 1878 with the Talukdars, and this came to be known as the Talukdari Settlement.

The outbreak of 1857 also taught another salutary lesson to the Government. Reference has been made above\textsuperscript{104} to the resumption of Inam lands on a large scale, the resentment and violence caused thereby, and the role it played in the revolt of the civil population in 1857. After the suppression of the outbreak the Government adopted a different policy in the matter. ‘A special commissioner was appointed in 1859 to deal with the whole question on liberal lines, and an enormous number of inams were enfranchised in the next ten years, the government surrendering its right to resume, claim service, or restrain alienation in return for a quit-rent. There were, however, many confiscated inams which were not so enfranchised.’\textsuperscript{106}

In the Talukdari Settlement, the Talukdars were declared the proprietors of their estates, but they had to “admit certain rights and protective conditions, to be secured by record at settlement, for the communities over which they were superior proprietors”.\textsuperscript{108} Thus sub-proprietary right of village community, or of ‘even single members thereof’, in relation to the landlord, was recognized. The latter was to receive a fixed annual sum, whereas the former retained control of the land. The first Tenancy Act in Awadh was the Rent Act XIX of 1868. Occupancy rights were granted only to a tenant who could show that he had lost proprietary right within thirty years before annexation. After practical experience of several years it was replaced by the Rent Act XXII of 1868 which came into force from first January, 1887. It laid down that “every non-occupancy tenant (with certain exceptions) admitted before the passing of the Act, has a statutory right to remain on the holding, and with the same rent as he was paying on the 1st January, 1887, for seven years, from the date of the last change in his rent, or the last change in the area of his holding; or, if neither has happened, from the date of admission to his holding”.\textsuperscript{107}

B. Central Provinces.

As noted above,\textsuperscript{108} this Province was created in 1861 by uniting a number of scattered territories which came into the possession of
the British at different times. The early administration of land-
settlement in these territories need not be referred to in detail, but
the tenants were over-assessed and impoverished to such an extent
that the measures were condemned in the strongest terms by the
authorities themselves. The following extract from the Settlement
Report of Sagar by Col. Maclean will give a general idea of the state
of ‘Sagar and Nerbudda’ Territories during the early years of
British rule:

"The Government demands press so heavily upon the people that all en-
terprise has been crushed, and there is not the slightest attempt at improvement.
I have personally satisfied myself that in many instances the Government demand
exceeds the gross rental assets of some villages.

"The people have lost heart to that extent that in some instances the right-
ful owners of hereditary descent refused any terms to accept the proprietary
rights of villages.

"The widespread misery and distress throughout this division of the district
must be seen to be appreciated, especially at Dhamonee and the part of Benaika
Patna.

"The impression conveyed to me on inspecting these tracts was, that the Par-
ganahs were dead, so vast was the desolation, and so scarce the signs of life or of
human beings.""

The Government of India and the Secretary of State strongly
condemned this state of things. "Heavy reductions were granted,
and the assessment was reduced. It is to be remarked that although
the Government of the day pressed the necessity of reduction, its
orders were carried out by the local authorities with a niggardly
hand, and concessions made in driblets"."\textsuperscript{110}

After the new Province was created in 1861, "a new Settlement
of the Central Provinces was commenced in earnest. The principles
of this Settlement had been laid down, as long ago as 1854, by a Pro-
clamation issued by the Government of the North-Western Provin-
ces for the Sagar and Narbada Territories which were then under
that Government. No action had been then taken. It was after
the formation of the Central Provinces in 1861 that the old Procla-
mation of 1854 was taken as the basis for settlement of the land
revenue throughout those Provinces.

"The main principle laid down by this Proclamation, and after-
wards accepted for the Central Provinces generally, was the recog-
nition of proprietary rights in the Malguzars or revenue-payers. This
has often been described as the conferring of a new gift; but it was a
new gift only in so far as it admitted, in theory, a right which was
enjoyed by the Malguzars in practice. ‘I do not know,’ said
Mr. Chisholm, one of the ablest Settlement Officers of the time, ‘any
rights appertaining to landed property which the Malguzar indivi-
dually or he and his sharers jointly, did not exercise, except the power of sale and mortgage....'

"Nevertheless it was a great gain when this right, which had been exercised in practice, was expressly admitted; and when power was also given to the Malguzars to sell or mortgage their property".111

The settlement of 1863 was made for thirty years, and the Shaharanpur Rules which limited the revenue to one-half of the rental were extended to Sagar and Narbada Territories.

"For Nagpur, the Government of India had sent directions to leave the Malguzars from 35 to 55 per cent. of the gross rental. And it was added that "the Governor-General in Council would be disposed to leave the Malguzars in all cases 40 per cent. for expenses of management and proprietary rights, and to extend the limit in special cases to 50 per cent". These instructions were liberally interpreted by Richard Temple, and in the Settlement Code which he issued, with the sanction of the Governor-General, for application throughout the Central Provinces without any reservation, the only principle of assessment he laid down was the half-rental principle of the Saharanpur rules".111

Unfortunately, this principle was not adhered to in practice. "The Settlement Officers did not accept the actual rental of estates. They estimated what the rental should be from their own calculation; they based the land revenue demand on these estimated rentals; and they communicated the demand to the landlords who were left to raise their rents to the estimated rentals. A more reprehensible system of encouraging landlords to screw up their rents from helpless and ignorant cultivators can scarcely be conceived. In Bengal, in Oudh, and in the Punjab, Lord Canning and Sir John Lawrence had striven to restrict the enhancement of rents by private landlords by special legislation. But Settlement Officers in the Central Provinces and elsewhere adopted a method which encouraged landlords to screw up their rents. The actual proportion of the rental, so calculated, which was demanded as land revenue, was also higher than 50 per cent. in most districts.

"It will thus be seen that the principles laid down for the assessment of the land revenue were violated in a two-fold manner. In the first place, the rental accepted as the basis of assessment was higher than the actual rents received by the landlords; and in the second place, the proportion demanded as revenue exceeded 50 per cent. of this rental in most districts, and was fixed at 78 per cent. in Nagpur itself. Once again the orders of the Government 'were carried out by the local authorities with a niggardly hand,' and the
people had no redress against the violation of rules by the very officers for whom the rules had been framed\textsuperscript{112}. Colonel Keatinge, who became Chief Commissioner of the Central Provinces in 1871-2, was not in favour of recognizing the Malguzars as proprietors and advocated the Ryotwari system. Though he did not succeed in subverting the system introduced by Sir Richard Temple, he imposed the Ryotwari settlement on Sambalpur. Though Sir Richard Temple had issued orders for a Malguzari Settlement in the District, and proclaimed it in open durbar, Keatinge took advantage of the fact that the new settlement had not already been introduced. So Keatinge introduced the Ryotwari Settlement.

"Proprietary rights were denied and withheld. The revenue-payers were to be considered lessees of their villages. They were to be remunerated by permission to hold their home-farms revenue-free. They would further be permitted to keep to themselves rents of waste lands brought under cultivation during the Settlement. And in view of Sir Richard Temple’s pledge to regard them as proprietors, they were made proprietors only with regard to their Bhogra lands. The Settlement was made for twelve years only, 1876 to 1888\textsuperscript{113}. The Sambalpur Settlement shows how much of even the most important decisions affecting millions of Indians depends on the whims of an individual official.

A Tenancy Act was passed in 1883 in order to protect the rights and interests of the tenants, who were divided into three categories according to their right of occupancy. But whereas in Bengal and other Provinces where similar Acts were in operation, it was the landlords who dealt with the tenants, subject to the salutary checks imposed upon them by law, in the Central Provinces the Settlement Officer intervened and settled the rents which the tenants would pay to their landlords. It was the result of the prevailing tendency in official circles, noted above, namely unwillingness to admit the full proprietary rights of the Malguzars, recognized by law.

But a curious situation arose out of this spirit. As the rentals had been fixed by the officials themselves, they could not reasonably alter it at the time of the Settlement of 1893, and under the existing rule the land revenue could not be more than half the rental. Faced with this dilemma the Lieutenant-Governor openly admitted “that the Half-Rental rule had been evaded in 1863 by the Settlement Officer assuming a high rental; that the rule could not be evaded at the next Settlement because the rental was now legally defined and fixed; and that the rule therefore must be withdrawn\textsuperscript{114}. Mr. Mackenzie therefore asked for a latitude of 50 to 65 per cent. of the rental to be fixed as the land revenue, and this was sanctioned by the
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Government of India. To make matters worse, Lord George Hamilton, the Secretary of State for India, decided in 1895 that the period of Settlement should be reduced from thirty to twenty years.

The history of the assessment in Central Provinces has been told in some detail as it shows the gradual changes for the worse in the spirit of administration.

"One by one the three cardinal principles of the Settlement of 1863 were whittled away within thirty-two years. The Proprietary Rights of Malguzars were restricted, and they were stopped from settling the rental of their estates. The Half-rental Rule was abandoned. The Thirty Years' Rule was also abandoned. All the safeguards which had been provided by the Governments of Lord Canning and Sir Richard Temple for the growth of a prosperous landed class and prosperous peasantry were removed one by one under the Governments of Lord Dufferin and Lord Lansdowne".116

As a result of the new settlement in 1893 the percentage of increase in land revenue, as compared with that in 1863, was nowhere less than 20 per cent., and rose as high as 105 per cent.; in about 60 per cent. of cases it was above 50 per cent.116

2. Improvement in the old Systems.

The different systems of land settlement, described in Ch. XII, created a class of intermediaries between the State and the actual cultivators, save in Madras and Bombay, where direct settlements were made with them. The main defects of the other systems were the uncertain condition of the tenants who were absolutely at the mercy of the superior landlords. A series of Acts were passed between 1858 and 1905 to remove these evils and improve the lot of the tenants in various provinces. The general principles involved will be discussed at length in Chapter XXXVII, and a few broad facts alone would be stated here.

A. Bengal.

The first and the most important was the Bengal Rent Act (Act X of 1859). The Act, which was applied to Bengal, Bihar and Orissa, attempted to prevent exaction of excess rent and limited the power of distrain which was arbitrarily exercised by the landlords. Original jurisdiction in suits between landlords and tenants was transferred from the Civil to the Revenue Courts of the Collectbr and his assistants. The Act also provided for abolition of the landlord's power to compel attendance of ryots at their offices. But these
did not provide adequate security to tenant-right in Bengal. In the absence of any provision for field-to-field survey and preparation of record of rights, the tenants remained subject to serious disabilities in law courts. Further, to prevent the tenants from acquiring occupancy right in any holding, the landlords shifted them from one holding to another, which proved to be a source of great harassment to them and evoked resentment in certain areas. An Act was passed in 1869 with certain amendments in detail, while the principles of the previous Act remained intact. The only important change was the retransfer of the cases between the landlords and the tenants to the Civil Courts. A new Bengal Tenancy Act was passed in 1885 modifying the Act of 1869. According to it, occupancy right could be acquired in any holding by a tenant who had “held for twelve years continuously any land in the village, whether under a lease or not. It need not be the same plot of land (as under Act X of 1859), so that a landlord cannot evade occupancy by shifting the site of the cultivation within the same village”. The Act further authorized the Government to pass orders for survey and preparation of record of rights.

The Bengal Tenancy Act of 1885, which was the result of agitation and discussion extending over more than twelve years, may be regarded as the most important measure of land-settlement since the Permanent Settlement of 1793. The ancient agricultural law of Bengal aimed at a fixity of tenure at customary rents. But it was easy for a powerful Zamindar, created by the Act of 1793, to treat the raiyat merely as a tenant at will, and sometimes enabled a tenant to put obstacles in the way even of a legitimate increase in rent. The Act of 1859 rather added to the difficulty than removed it. In a British court of law, the party on whom lay the burden of proof was rarely sure of success. So this Act made it very difficult for the raiyat to establish his right of occupancy, and the Zamindar, who sued for the enhancement of his rent, could not easily satisfy the court that the value of the produce had increased in the same proportion in which he asked that his rent should be increased. To both these evils the Act of 1885 afforded a remedy, firstly, by throwing upon the landlord the onus of disproving the raiyat’s claim to a right of occupancy, and secondly, by making provisions for price-lists which relieved the Zamindars of the trouble of proving the rate at which the value of the produce had increased. The Act also laid down rules by which all disputed questions between Zamindar and raiyat could be reduced to simple issues and decided upon equitable principles.