Chapter V

THE FRUSTRATION OF LEGAL REMEDY

In 1879, a report from the assistant collector and magistrate of Budaon reached the Secretariat in Allahabad. It drew attention to the way in which the land revenue had been realized from “proprietary” communities of Thakurs in tehsil Dataganj following the ravages of the previous year’s scarcity: “The whole demand of nearly Rs. 6 1/2 lakhs [Rs. 650,000], except for the paltry sum of Rs. 69,000, was screwed out of the people between November 15 and March 31, in the face of a total loss of the kharif from which according to theory the assets were obtained . . . Where did the six lakhs come from? They were roughly speaking raised on mortgage bonds at abnormally heavy rates of interest . . . The balance of Rs. 68,903 was outstanding because the money could not be screwed out of the people before the raqi was cut.” The revenue law took its normal course: there were 176 arrests against 22.26 mahals where distraint occurred, compared with a mere 56 arrests the previous year; 39 mahals, shares, or pattis were attached, compared with the preceding year’s total of 4.1

Surveying the scene some fifteen years later, in 1896, when all but a few shreds of the Thakurs’ proprietary titles had been swept away through transfer litigation, J. S. Meston, then Settlement Officer, arrived at the gloomy conclusion that “nothing save special and

1A. Wyer, “Memorandum on Resolution No. 3268 A of 1878,” in NWP and Oudh, “Revenue Proceedings,” June 1879, Index No. 75, June 14, 1879, Proceeding No. 35. Figures for registered deeds were as follows:

<table>
<thead>
<tr>
<th></th>
<th>October–February 1876–77</th>
<th>October–February 1877–78</th>
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<tbody>
<tr>
<td>Documents</td>
<td>346</td>
<td>992</td>
</tr>
<tr>
<td>Value (Rs.)</td>
<td>104,619.6.0</td>
<td>213,502.0.0</td>
</tr>
</tbody>
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Wyer’s diary of February 19, para. 48, gave as examples of local interest rates 7 percent per month (84 percent per year) and in some cases 16 percent per month (192 percent per year); see ibid., Index No. 71, June 14, 1879, Proceeding No. 31. For the regular procedure of “coercive process” under revenue law, see Directions for Collectors of Land Revenue, §§ 90–100, pp. 41–47.

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drastic legislation” would keep the last of their ancestral property (that is, the legal titles to it) in their hands. The disastrous role played by the earlier revenue assessments in forcing mortgages which were subsequently foreclosed had either lapsed into official limbo or merely escaped Meston’s notice. Instead, he turned the full blast of his accusations against two targets: excessive ceremonial expenditure, and the whole machinery of the civil law which, in provoking incessant litigation at untold expense, worked against the integrity Meston claimed for the summary dealings of the revenue administration.

Such special and drastic legislation, I confess, I should like to see directed at the roots rather than at the spreading boughs of the Upas-tree of indebtedness. Its roots are only two: ruinous extravagance in marriages and ruinous indulgence in litigation. To devise a direct remedy for the former evil is a Utopian hope: to mitigate the latter is surely no more impracticable than many of the schemes which the Government of India now meditates with academic approval. The facilities for litigation regarding the land, its titles and its burdens, especially lend themselves to restriction. Nothing saddens a settlement officer more than to see fine properties frittered away in cumbersome, lengthy and expensive law suits regarding them, when a summary decision of the revenue courts, if invested with finality, would have given substantial justice and nipped the quarrel in the bud. I know scores of villages in Budaun where a petty dispute about a mortgage or a succession has been carried to the High Court and has ruined the weaker party, whether successful or not. The kurmis, a sturdy, frugal and industrious caste of cultivators are egregious sinners in this respect; and their vicissitudes at the law are their frequent boast. Imagine a small green-grocer in an English village priding himself on having fought a suit about the title-deeds of his shop up to the House of Lords! The parallel is by no means exaggerated.

The fever of land litigation is augmented . . . , I cannot help thinking, . . . by the growing popular appreciation of the helplessness of the revenue law in questions of title, and also by the timidity of the revenue and settlement courts in dealing with trespassers. The more that the people understand how bound down a Settlement Officer is to record possession and not property in land, the more will litigation in the civil courts run riot after a revision of settlement, and the more animosity and waste will such a revision bring in its train. As the law at present stands, an elaborate settlement record is pure waste of money: hardly an entry of importance can be made in it that is not liable to be immediately nullified at the nearest munsifi. It is only the extremely poor and ignorant who “still regard the settlement as a sort of Jubilee, and the Settlement Officer as the redresser of wrong.” But I confess I am conservative enough to desire the rehabilitation of that ideal. The people are rapidly coming to look on us as getting all we can for the Government and
giving nothing in return; as raking in the revenue with utter disregard for the concerns of those who pay it.²

The Modernization of the Legal Machinery

Litigiousness itself was not the product of the sophistications of the Civil Procedure Code, but it had long been a topic for discussion—and the anonymous author of a tract published in 1830 had noted shrewdly how the Company’s revenue demands inevitably contributed to it.³ The modernization of the law, in extending to private citizens property rights and causes of action previously confined to Government, meant an increase in judicial facilities with which to pursue local contentions of long standing. Meanwhile, the revision of assessments under Crown Government in no way lessened the provocations to litigiousness provided by the revenue demand.

The upmoding of the legal precedents inherited from the Company’s administration, which placed the relatively swift and summary procedures of revenue law further and further in the background, was inevitable in view of the role assigned to a modern judicial system by contemporary European opinion in administrative and entrepreneurial circles. The legal codification of sound principles guaranteeing the security of property was a sine qua non for a progressive state of society.⁴

Experiences of Company justice in the mofussil courts recounted by prominent entrepreneurs to the Select Committee on Indian Colonization and Settlement on the eve of the transfer of Government revealed the disparities between entrepreneurs’ requirements, the provisions of existing law, and the consequences of its operation. “The population is so depraved,” William Theobald, the mouthpiece of indigo-planter zeal, informed the committee, “and the lower classes are so deficient in good faith, corruption seems to be so much increasing under the influence I believe of our institutions, that we want something

²J. S. Meston, January 6, 1896, paras. 11–13, in “Replies of Officers Consulted by the Board of Revenue,” in NWP and Oudh, Opinions . . . on the Subject of Land Transfer, p. 19. Compare Hume’s denunciation of the “ruinous system of civil litigation” as the root cause of indebtedness; see p. 191, n. 122 above.

³“The endless litigation to which the natives of India are, as it were, condemned, is one of the many evils, and certainly not one of the least of them for which the burthen-some amount of the public imposts is, as I conceive, in a great degree responsible.” An Inquiry into the Alleged Promeness to Litigation, p. 2.

⁴For the incidents of the concept of security in classical political economy, see R. D. C. Black, Economic Thought, pp. 136, 147, 157–158, 242.
like a strong pressure and police upon them for the protection of our interest and capital . . . In our view, the laws are very defective.’’5
The problem was, with what should they mend them? The radical solution would have been the wholesale introduction—and enforce-
ment—of English law into the courts of justice throughout India, suppressing the existing hybrid growth of “native” laws administered in the light of European juristic principles in favour of a uniformly modern system.6 John Freeman, an indigo planter with an intimate knowledge of the back-breaking litigation involved in attempting to establish a viable property title in up-country Bengal, opted for this remedy. After all, he insisted, “English law is administered to 600,000 people without distinction of creed, caste or colour in Calcutta, and has been administered for 80 years, and afforded satisfaction to all.”7 Others recommended merely that English law should be introduced, in the interests of modernity, alongside the recognized “native” institutions—which would require none of the unfortunate conse-
quences involved in the adaptation of the one to fit the other. Theobald himself was of this view: “I do wish permanently to see one law for the natives and another law for the Europeans. The natives here have always had one law and we cannot have their law. There is the Hindoo law for the Hindoos, and the Mahommedan law for the Mahom-
medans; I do not see why we should not have the Christian law for the Christians.”8
The Crown Government could provide no such cut-and-dried solutions to satisfy the entrepreneurs’ demand for protection. Its policy and practice were, as in the case of public works, revenue assessments, and the structure of local administration, not to demolish existing institutions but to remodel them. The new Government’s inheritance of judicial machinery bequeathed by the Company included the means by which it was to be overhauled and modernized: the recommendations of the Indian Law Commissions. The Second Commission, set up under a direction of the Charter Act of 1853,

7“Reports of the Select Committee on Colonization and Settlement in India”—First Report, pp. 130–131. For Freeman’s account of his experience of mofussil litigation, see ibid., pp. 108–109.
8Ibid., pp. 88–91.
issued its report the following year, and it appeared "markedly conservative in comparison with the ambitious plans of its predecessor. The abstract principles of scientific law derived from European juristic traditions but believed to be universally applicable, with which T. B. Macaulay had striven, largely in vain, to "reform and preserve," had given way to sober assessment of narrower range of practical issues. In the commission's view, a code of substantive civil law was required to consolidate the mass of regulations and enactments; this, they recommended, should be formed on the basis of "simplified English law, modified in some instances to suit Indian conditions"—which was logical enough, since no other source of law could be found to fulfill such a need. The task of drafting a modern law for British India was carried on subsequently by the Third Law Commission but, after the enactment of its first draft as the Indian Succession Act of 1865, the legislature in India refused to comply further. The impasse which resulted when the commission refused the objections of the legislature which in turn refused to enact the draft laws ended in the commission's resignation. The Fourth Commission appointed in 1875, headed by the Law Member of the Governor-General's Council, Whitley Stokes and including for the first time three Indian judges (that is, European judges serving in India), introduced no essentially new element—other than that the commission itself represented the Government of India in Calcutta and was thus a stage removed, procedurally, from the India Office. In its drafts, however, it followed on from where the Third Commission had left off.

Between 1859 and 1882, the fundamental measures of reform in codifying and amending the civil law reached the statute book. The great Code of Civil Procedure of 1859 was followed in the same year by the Limitation Act (regulating inter alia the institution of suits).

10Ibid., p. 196. For a summary of T. B. Macaulay's work with the commission, a pale reflection of stated aims, see ibid., pp. 213–214.
11Ibid., p. 258.
In 1870, the Court Fees Act established a uniform system of charges for the presentation of suits. Rules for the submission of evidence were codified in the Evidence Act of 1872. Parallel reforms meanwhile took place in the structure of the courts themselves. In 1861, the Sadr Diwani Adawlat and Supreme Courts in the presidency towns were amalgamated under the High Courts Act, which was extended to the NWP in 1866. By 1868, the reorganization of mofussil courts was completed: the principal sadr amin became subordinate judge; the office of sadr amin was abolished; the jurisdiction of the lowest court in the hierarchy—the munsifi—was extended to include the hearing of suits of up to Rs. 1,000 in value, in place of the former limit of Rs. 500; and Small Cause Courts were established in which subordinate judges, empowered by the local Government under an order of 1871, might hear suits of up to Rs. 500. The jurisdiction of the Small Cause Courts was summary: no right of appeal was granted. The main progression of litigation, therefore, was from the munsifi's courts through to the High Court at Allahabad; the wealthiest and most determined litigants might take their case on to the Judicial Committee of the Privy Council in London, the supreme legal authority. In both the higher and lower strata of the Indian courts, business was conducted in English.

Developments in the formulation of a substantive civil law determined the form according to which business might be conducted. The series of major statutory provisions designed to govern property transactions which were enacted between 1859 and 1882 were the embodiment of equitable principles but showed little evidence of modification to fit a specifically Indian scene. The Civil Procedure Code of 1859 codified and amended the creditor's rights of attachment and sale of his debtor's property, together with the first provisions regarding insolvency outside of the presidency towns—the former being an extension of Government's right of compulsory sale for revenue arrears, the latter a development in step with contemporary English practice. In 1864 the first comprehensive measure codifying and amending the existing law relating to the registration of deeds was enacted; however, the effectiveness of legal registration, admit-

13Stokes, English Utilitarians, p. 265.
14Appeals to the Privy Council were instituted by the Charter Act of 1726, on which see Jain, Outlines of Indian Legal History, p. 441.
15On compulsory sales, see p. 201 above. For the chronological developments in insolvency law, see D. F. Mulla, Law of Insolvency, "Introduction," and the brief summary in Gledhill, Republic of India, p. 198.
THE FRUSTRATION OF LEGAL REMEDY

tedly an essential feature of a modern administration, was, and continued through successive enactments to be, hampered by the preservation of optional categories. For six years later, the first Contract Act became law—a distillation of entrepreneurs’ desiderata and English legal principles. The last great pioneering property statutes followed in 1882: Negotiable Instruments, Trusts, Easements, and, most important of all, the codifying Transfer of Property Act. Developments meanwhile in the law of mortgage, largely through judicial decision, established the incidents of foreclosure and the equity of redemption, major innovations in the Indian legal scene. The modernization of revenue regulations relating to landlord and tenant in a series of enactments beginning with the Bengal Recovery of Rents Act of 1859 rounded off the development of property law.

By the time the first Indian judge was appointed to a High Court in 1885, a formidable body of statutes laid down the law, together with twenty years’ accumulation of precedent in the form of High Court decisions. The personal laws of Hindus and Mohammedans had escap-

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18 For a summary analysis of registration enactments, see M Krishnamachariar, Law Of Registration, pp. i–ii. Certain deeds recording transfer of property, in which no consideration (sum of money involved in the transaction) was stipulated, were not compulsorily registrable (see Indian Registration Act, XVI of 1864, § 17).


18 By the principle of the equity of redemption, property, when mortgaged, was held legally to pass to the mortgagee, the mortgagor losing his right of ownership per se but retaining an equity of redemption, a guarantee that his original right of ownership should be restored on his redemption of his security by repayment of his debt within the period specified. The debate as to whether such a provision was or was not contrary to indigenous legal practice became irrelevant once the equity of redemption was recognized as legally established in British India by the Transfer of Property Act. See R. Ghose, Law of Mortgage, pp. 210, 218. For a summary statement of the principles of transfer law, see K. Krishna Menon, “English Law in India: The Law of Transfer of Property,” Revista del Instituto del Derecho Comparado, Nos. 8–9 (Nov.–Dec. 1957), pp. 90–101.

19 See p. 152 above. For categories of tenant right as defined in successive statutes, see Appendix 8. For a select list of principal statutes relating to property, and agrarian conditions generally, in NWP and Oudh, see Appendix 6.
ed codification as such, but in being administered in the modernized courts in conjunction with modern juristic principles, they were subject to interpretation in the light of European concepts. Not that this was a new departure in their history: the selection of texts on which the administration of these laws in the British Indian courts was based had initiated the process of infiltration by European juristic ideas, which grew apace under the regular interpretations of officially recognized texts in the light of equity.

In some respects, the reforms brought cohesion to the highly disparate body of law officially recognized under the Company administration. The old distinction between laws operative in the presidency towns and those operative in the mofussil was removed; a degree of uniformity, though far from John Stuart Mill’s and Macaulay’s ideal, was achieved in the new statutes; and the Mohammedan and more especially the Hindu personal laws were drawn closer to the British Indian law. But reform was piecemeal. A large section of Government’s machinery for social control lay outside it: the revenue administration kept its magisterial system, of summary decisions by the collector and/or magistrate in his district court, with a right of appeal lying to the commissioner of the division.

The jurisdiction of revenue and civil law, however, overlapped—


22 Further distinctions operated within the jurisdiction of the revenue administration. Settlement courts, for example, presided over by settlement officers, were separately constituted from regular revenue courts, for the hearing of claims preferred during settlement operations. For the complicated history of the precise constitution of settlement courts, first defined as “Courts of Civil Judicature,” then under Act XVI, 1865, as “Courts of Revenue,” and subsequently under Act XXXII, 1871, as civil courts once more (the judicial power of the officers changing according to each definition), see *Fyzabad Settlement Report*, pp. 489–490. For one example of many conflicting decisions by revenue and settlement courts on a question of definition of tenancy categories, see *Jaunpur Settlement Report*, p. 174.
especially in the sphere of tenancy law—and the lack of co-ordination between the two could not but produce conflict. Disparities also arose within the civil law itself on account of the inevitable divergence of decisions by different courts and different benches as to the precise application of statutory provisions. Further, the statutes themselves could conflict with incidents of the personal laws, which they had no authority to override. Lastly, the administration of law—a Government preoccupation—could come into conflict with dominant local interests: a powerful malik or a prosperous occupancy tenant might use the new institutions of civil law or modernized personal law to his advantage, or he might obstruct their working; there was little the judicial administration could do to enforce its interpretation of equal rights in such cases.

With the opportunities extended by the modernized civil law, on the one hand coinciding with the pressures of revenue law under the revision of assessments on the other, the “natives’ proneness to litigation” blossomed forth with renewed vigour. Settlement operations throughout the provinces compelled the preferment of claims regarding the definition of rights, titles, and interests in landed property—and within a limited period, since settlement courts were closed on the cessation of operations in a district. Returns from Fyzabad district signalled an all-time record: some 71,728 suits were disposed of during the course of settlement, more than three times the district average for Oudh, which was a mere 19,151.23 Elsewhere, disputes between the overcrowded bhaiachara sharers, which were further complicated by confused khewats (proprietary records), were added to those of minute sub-division; together, these two types of disputes constituted the greater proportion of the 40,719 cases heard in Agra district’s settlement courts.24 At the same time, the collector exercised his routine magisterial powers in adjudicating in routine suits brought under the revenue law. Here also annual returns showed a steadily upward trend, with increases in litigation registered by 1899-1900 which, in comparison with the figures for 1864-65, cannot but be described

23Returns for the several districts of Oudh were as follows: for Sultanpur, 26,043; Partabgarh, 20,736; Rae Bareli, 22,693; Lucknow, 27,149; Sitapur, 17,290; Bahraich, 7,496; Unao, 12,658. See Fyzabad Settlement Report, p. 490. For details of settlement litigation, see ibid., pp. 491–511. Compare Mainpuri Settlement Report, pp. 99 100, for examples of litigation created by the compilation of the wajib-ul-arz. For the range of this document, considered to be the basic “village record,” see pp. 254–257 below.

24Agra Settlement Report, p. 4.
as astonishing. Meanwhile, business in the local civil courts throve in response to the provision of improved legal facilities, which were hardly designed to discourage litigation. The munsifs of three districts in Agra Division alone dealt with 6,299 cases, instituted in accordance with the elaborate technical prescriptions of the reformed law, within one year, 1872. Of these, 5,043 were registered as of not more than Rs. 100 in value. The following year, the total number of cases had risen to 6,568, of which only 1,435 involved sums of more than Rs. 100.

The duplication of legal apparatus was the inevitable consequence of Government’s introduction of the contemporary juristic concept of “private property” and the codification of its incidents. While Government’s needs dictated the perpetuation of a system of revenue courts, dealing almost entirely—predictably enough—with matters connected with the land, the recognition of “property” and “proprietory title” entailed the maintenance of a parallel system of courts of civil judicature, where in accordance with accepted English practice all questions regarding “property”—largely equated in the mofussil, inevitably, with interests in land—were cognizable. Colonel William Sleeman, for one, saw what this had led to. “The Government committed a great political and social error when it declared all the land to be the property of the lessees and all questions regarding it to be cognizable by the Judicial [that is, civil] Courts,” he declared, and dwelt upon its cost. “Why force men to run the gauntlet through both series? It tends to make the Government to be considered as a rapacious tax-gatherer, instead of a liberal landlord, which it really is; and to foster the growth of a host of native pettifogging attorneys, to devour, like white ants, the substance of the landholders of all classes and grades.” Sleeman’s question was necessarily to remain a rhetorical one, since the problem was insoluble. The expenses which followed as its corollary grew as the passage of time graced the legal system with procedural refinements. The Bengal Recovery of Rents Act (X of 1859), for example, abolished in the interests of up-to-date justice the principle whereby a plaintiff had previously been allowed to sue several defendants collectively. In the eyes of the collector of

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Footnotes:
25 For the volume of legal business transacted by collectors, according to divisions, from 1864–65 to 1899–1900, see Figure 10.
26 The districts of Mainpuri, Etawah, Etah; see Etawah Settlement Report, p. 110. Figures for suits of low value are dubious, since the fact that court fees were fixed ad valorem (see n. 29 below) encouraged fictitious declarations of trifling sums.
27 W. Sleeman, Journey, II, 70 n.
Meerut, this new provision, or rather the extra expense entailed in bringing a separate suit in each case, constituted the principal objection against the act itself. Sixty-four suits had been brought by the landlords of a single mauza, he maintained, at a total cost of Rs. 194, whereas under the old system three suits would have sufficed and the costs would not have amounted to more than Rs. 7.11.0. To this the Board of Revenue very properly replied that

the more exact and regular procedure required by the present law would seem to preclude the latitude of suing several defendants collectively, as was formerly allowed. Although there might occasionally be cases where causes of action were precisely the same, and which might be tried as one suit without inconvenience, each individual claim must be decided on its own merits and the option of suing collectively could be allowed only subject to the Court's approval. The discretion of admitting such collective suits could not with safety be trusted indiscriminately to all officers presiding in Revenue Courts . . .

To the cost of hiring vakils, whose business it was to be skilled in the increasingly intricate ways of the law (which made them increasingly necessary), were added stamp charges on all documents—such as plaints and written submissions of evidence—and court fees which were fixed under the codifying Court Fees Act, VII of 1870, at an ad valorem rate. To these expenses were added those of time and, frequently, the costs of travelling from the hinterland of a district to the court at the sadar station. The theoretical provision of equal law for all was in practice effectively restricted by these cumulative access charges.

A certain atmosphere of bargaining which hung about the local courts diminished to some degree Government's claim (as voiced by Sir John Strachey, for example) concerning the efficacy of its legal machinery in protecting the interests of its subjects with a general disinterestedness. Litigation could be an attractive (as well as an obligatory) pursuit—and not merely to the "educated classes" who

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29 Act VII, 1870, Schedule I (table of ad valorem fees). 35 of the act empowered the governor-general of India to reduce or remit fees, with such changes to be published in the Gazette of India.

30 The provisions for suits to be instituted in forma pauperis covered exemption from court fees only.

31 See, for example, p. 2 above.
had some knowledge of the law. "From the proximity of the law courts," F. W. Porter wrote from Allahabad in the mid-1870s, "the people, especially of [pargana] Chail (containing the city of Allahabad and, consequently, one-third of the district's educated population), have gained a smattering of the law and an insatiable thirst for the excitement of the legal lottery. A Chail tenant is used as a synonymous term for a village lawyer." His neighbours on the other side of the Ganges, however, though not so well educated and "utterly ignorant of the law," rivalled him in litigiousness, making up "for ignorance by tenacity." Along with litigiousness went fraud, which was encouraged by the technical complications of the imported law and by the relative impersonality of the modern courts. G. B. Maconochie's observations on this point as regards Unao district are instructive. "When I joined the Settlement Department [in the late 1850s], an old zamindar would seldom tell a direct lie but before I left the district [less than ten years later] this had greatly altered for the worse. Men who but a few years before would have scorned to lie before their 'Punch' or a 'Hakim' came into Court, with a lie in their mouths, as readily as the veriest bazar witness." Maconochie, with an eye to circumspection, gave no reason: "I merely state the fact. But I believe in a few years, the people of Unao will far surpass in fraud their brethren across the Ganges in the old British provinces." If the courts could offer a temptation to duplicity which seems at times to have been irresistible, new legislative enactments unwittingly provided the provocation to defraud. While increasing pressures from multiple claims to the zamindari together with a rising revenue demand tended to encourage zamindars to bear down upon the cultivators with greater vigour and regularity, their efforts to raise cultivators' charges could be substantially hampered by the working of the rent law. The creation of a legally privileged class of occupancy tenants by Act X of 1859 brought with it restrictions on the zamindars' legal power of exaction. To raise the "rents" of his occupancy tenants in accordance with the law, a zamindar had to take them to court and prove that a higher "rate" than he at present exacted from them was "the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent." The dictates of procedure demanded that

33 *Unao Settlement Report*, p. 25.
34 See pp. 152–153 above.
35 Act X, 1859, § 17. The other statutory grounds for enhancement were as follows:
the zamindar bring a separate suit in each case of enhancement. He was met, however, by collective obstruction on the part of the occupancy tenants. Since no occupancy tenant wished to pay more to his zamindar, all had a vested interest in declaring their "rents" at a low figure—which, under the provisions of the act and in line with interpretations placed by the High Court on the key phrase in Section 17, "of the same class," became the standard. Instead, therefore, of the general "rate" of rent for a given area being raised—in accordance with the revenue—to a generally equitable level, which was what the statute was intended to achieve, rents paid by the occupancy tenants as recorded at law might persist at a privileged low rate. No legal remedy existed to ease a zamindar's frustrations in such cases. He must resort to extortion—or, as S. M. Moens observed to be the case in Bareilly district, to fraud. This took the form of payments to the kanungo, who undertook commissions from the local Government to ascertain and record the rents of a pargana for the official accounts. No amendment of this situation could be sought in the later tenancy enactments, which faithfully preserved the incidents of occupancy right and therefore perpetuated the conflict.

The Modernization of the Law
Relating to Debt and Alienations

It was not merely the zamindars' struggles with cultivators which were complicated by the modernized machinery of the law. Recognition of a creditor's rights in accordance with established tenets of judicial practice in England added a further dimension to the long-standing antagonism between zamindar and moneylender. The removal of statutory restrictions on interest rates by the Repeal of the Usury Laws in 1855, combined with the codification of principles of limitation and the codification of the liability of a debtor's property to attachment and sale in 1859, provided creditors with a formidable array of new weapons for battle in the courts. The zamindars of (1) when the value of the produce or the productive powers of the land have been decreased otherwise than by the agency or at the expense of the ryot (which provided the zamindar with an incentive to discourage attempts by occupancy ryots to improve their holdings); (2) where the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has previously been paid by him (providing the zamindar with an incentive to enter fictitious measurements in records).

38Bareilly Settlement Report, pp. 116-117. For the whole summary of the local consequences of the act, see ibid., pp. 114-117.
Allahabad who petitioned Government in 1872, drawing attention to these legal innovations which were in their eyes tantamount to discriminatory measures, spoke for many of their ills elsewhere in the provinces: "Petitioners complain of the evils attendant on the usury laws now in force, under which Native usurers and money-lenders charge exorbitant rates of interest and compound interest, and by unfair and cruel practices so increase the amounts of the loans due to them that they at last force the sale of hereditary estates of their debtors, and either themselves purchase them at adequate prices, or get others to do so, thus causing the ruin of thousands of landholders and keeping petitioners in perpetual fear of the loss of their estates."

Sympathy for the zamindars was not wanting—even from the bench of the High Court which tried innumerable cases of foreclosed mortgages which led to compulsory sales in execution of the decree awarded to the creditor. "The real protection the borrowing landholders want," ran the comment of an Allahabad judge in a letter of 1871, "is return to a reasonable legal rate of interest; but as this is rank heresy in these later days I dare not dwell further on the point." The proposition that artificial controls should be placed on the natural movement of interest was anathema to the dominant group of contemporary theorists in England. "Next to the system of protection," J. S. Mill had argued, "among the mischievous interferences with the spontaneous course of industrial transactions may be noticed certain interferences with contracts. One instance is that of the usury laws." In 1855, legislation was passed to abrogate all restrictions on interest rates hitherto recognized in the regulations and thus to clear the way for the uninhibited operations of the market: the Act for the Repeal of the Usury Laws, XXVIII of 1855, was, as Mr. Justice Raymond West put it, "a mere adoption of an English doctrine supposed to have been proved correct by impregnable reasoning."

39J. S. Mill, Principles of Political Economy, Book V, Ch. X, as quoted in Report of the Deccan Riots Commission 1875, Appendix B, p. 60. For a selection of similar contemporary opinions held applicable to Indian conditions, see ibid., pp. 60–64.
the realities of the Indian scene as far as borrowing practices were concerned, opposed the wholesale abandonment of controls—and sided with his colleague in Allahabad as to the desirability of some restriction to protect borrowers’ interests. The law should coax the people into sounder commercial habits, not coerce them. “... for India, perhaps the maintenance of the limitation, or a still closer approximation to the native practice by giving to the courts an extended discretion to deal with interest, would have been a more politic course to follow until its people had acquired the capacities of a self-asserting and intelligent mercantile community.” Even West, however, conceded the necessity of large-scale transactions being “left to the operation of supply and demand”: his liberal proposals were recommended for application only to “small debts.”

Such academic criticism of Government’s modernizing measures had little effect. Impediments to the implementation of the new act arose not out of the comments of practitioners, but from judicial decisions as to the applicability of its provisions. Fragments of Hindu law, for example, had been included in the provisions of early revenue regulations on the subject of usury: the rule of damdupat, which prevented a creditor from recovering as interest at any one time a sum more than equal to the principal, had thus enjoyed recognition in the officially recognized personal law of the Hindu community and in secular British Indian regulations. What then was the scope of the 1855 act? The courts differed, with the result that reform of the legal restrictions on interest rates throughout British India was a decidedly piecemeal affair. Damdupat remained in force in the town of Calcutta, but not in the mofussil of Bengal where the repeal by the 1855 act of Regulation XV of 1793, which had given the rule legal recognition, was upheld. Damdupat also disappeared in the NWP under the High Court’s interpretation of the act. In Madras, Act II of 1889 finally deprived the rule of legal force. In Bombay, however, the rule was held consistent with equity—and a series of decisions preserved it.

41 Ibid.
42 Kuar Lachman Singh v. Pirbhu Lal, 6 NWP High Court Reports Full Bench Rulings 358.
The provisions of a law designed on an English model, the principle of which was "perhaps"—as the Allahabad petitioners rightly observed—"to place no limit to the amount of benefit an owner may derive from the employment of his capital, whether money or goods," could not but deprive debtors of the modicum of legal protection available to them under previous restrictions imposed by the courts on interest exactions. Their difficulties were increased by further innovations—similarly demanded in accordance with progressive opinion ruling in the upper reaches of Government. Attachment and sale in execution of decrees for debt might, like the repeal of usury laws, be recognized by contemporaries for what they were: "entirely the creatures of British legislation"; but the principle was theoretically sound and, in addition, formed the basis of Government's security for its revenue. The just principle, as Sir George Edmonstone, then Lieutenant-Governor of NWP, insisted in a note of 1860 on the provisions of Section 205 of the Civil Procedure Code inter alia, was that "the whole of a man's property is liable for the liquidation of his bona fide debts. It is important that this principle should be maintained. On this principle, land is held to be hypothecated for the Government revenue assessed on it. Whatever intermediate processes are now preferentially adopted for the realization of revenue, it is the proprietary right in the land itself which is looked to as the real security, and its sale as the ultimate means of coercion." Government could not, "with any prudence or safety, give up the security," while abstract principles compelled it to extend its rights as public creditor to the private sphere. As a result, debtors were not merely less protected under the new laws, but open to new attack.

The extension of compulsory sales also raised problems of uniformity in the law: it ran directly counter to recognized incidents of the joint

44"Petition" cited above, n. 37, para. 8, pp. 290–291.
45R. West and G. Bühler, Digest, IV, 642. Compare Government, NWP, to Board of Revenue, NWP, March 27, 1873, apropos of Jhansi Division: The lieutenant-governor agreed with the board that the compulsory sale of ancestral property under the provisions of the Civil Procedure Code was an innovation, "and moreover the debts for which this process is put into action, were incurred under a system in which the lenders had no just ground of expectation that the Regulation system would be enforced for their recovery." NWP, "Revenue Proceedings," September 1873, Index No. 32, March 29, 1873, Proceeding No. 87.
Hindu family. "It has been held by our highest courts of justice," ran a despatch of 1858 from no less an authority than the Court of Directors, "that under the Hindoo law, as it prevails wherever the Mitakshara is respected, the alienation by a father of immoveable ancestral property without the consent of the sons, except on proof of necessity, is illegal; and it is not easy to understand how property, which cannot legally be sold by the individual himself may be legally sold by a court of justice in satisfaction of his personal debts."\(^{(47)}\) Modern statutory prescriptions were, in this instance, an irresistible force. Conflict between them and the Hindu law persisted throughout nearly twenty years of divergent judicial decisions to be resolved authoritatively by the Privy Council decision of 1877 that a coparcener’s interest was to be held liable to attachment and sale in satisfaction of his debt.\(^{(48)}\) The next move, inevitably, was towards liberalization of joint-family restrictions on alienations by the admission (tantamount to creation) of an undivided coparcener’s right to alienate, voluntarily, his interest in the joint-family property for value. This was sealed by a Privy Council decision of 1879; the procedural difficulties involved in the division of undivided assets were dealt with by extending the principle of partition—hitherto resorted to by members of the family in order to set up separate units—by means of the unfailing device of equitable construction. The undivided coparcener’s right to alienate his share was, their lordships decided, "founded on the equity, which a purchaser for value has, to stand in his vendor’s shoes and work out his rights by partition."\(^{(49)}\)

Provisions for the realization of debts under the law of the Mitakshara joint family also came in for stringent re-assessment in line with the principles of property. The institution known as the Pious Obligation, whereby a son was bound to pay his father’s debts provided they had not been contracted for immoral or illegal purposes, stood as a guarantee for the father’s absolution after death—and, more practically, for the creditor’s security of repayment. The obligation was an unlimited liability and was in no way conditional on the receipt of assets from the father. Modern interpretations changed that, tying


\(^{(49)}\)Suraj Bansi Koer v. Sheo Persad (1879), The Law Reports, 6 Indian Appeals 88. For a brief summary of the essential conflict and its resolution, see A. Gledhill, "English Law in India," in W. B. Hamilton, ed., Transfer of Institutions, at pp. 185-186.
the obligation by equity to the quantum of assets—joint-family property—inherted.\textsuperscript{50}

The powers of manager of a joint-family—the father or other seniormost member—to alienate family property as laid down in the Mitakshara text were similarly refurbished by equitable interpretations. Traditionally, such alienations could be made only on the grounds of distress, necessity, or benefit to the family. The legal validity of a manager’s alienations could depend, in the context of the modernized Hindu law, on the construction placed by the courts on these provisions. Meanwhile, an equitable extension gave the aliennee protection against the dangers of voidable transactions. The pioneering decision in Hanuman Persaud’s case established the point that, provided the aliennee satisfied the court that he had made such honest inquiries as befitted a reasonable man to ascertain the technical soundness of the alienation within the limits of the law, the alienation must be upheld.\textsuperscript{51}

Against these innovations, the joint family retained some power to hit back at the creditor or aliennee, through subsequent litigation, and thus save the property at stake. Sons might seek to prove—at times with their father’s collusion—that the paternal debts were “tainted” (the technical term), that is, contracted immorally or illegally; a successful plea would absolve them from parting with the family assets to satisfy the debts. The joint family as a whole, acting through its representatives, might obstruct the passage of their interests to an aliennee by proving prior knowledge on his part of the unsoundness of the deal. Both situations admitted abundant opportunities for fraud to ward off intruders.

Obstructions to the smooth processes of the transfer law by joint Hindu families belonged to the wider area of conflict between the proprietor and his creditor-aliennee competitor. Complications which beset the procedure of transfer of property through foreclosure of mortgages and forced legal sales and which frustrated the intentions of the legislature to clear away encumbrances on landed property

\textsuperscript{50}In Bombay, the liability of Hindu heirs was limited by statute (Bombay Hindu Heirs Relief Act, VII of 1866). Elsewhere, such limitation was established by judicial decision. On the re-interpretation of the Pious Obligation by British Indian lawyers, see Gledhill, “The Influence of Common Law and Equity on Hindu Law since 1800,” International and Comparative Law Quarterly, III (1954), 583-584. For a catalogue of summarized decisions on the Pious Obligation, see V. S. Pantulu, Hindu Law Relating to the Liability for Debt.

\textsuperscript{51}Hanuman Persaud v. Mst. Babooee (1856), 6 Moore’s Indian Appeals 393.
were not necessarily detectable however from a reading of the statistical returns of alienations officially registered. Indeed, the returns themselves could prove deceptive on close inspection. Compulsory sales involved not one but a series of procedures: proposal, actual sale, and confirmation. Statistics collected at one stage might be taken, as Philip Robinson had cogently suggested in commenting on Wilton Oldham’s memorandum on revenue sales in Benares district, as recording completed transactions with the result that the extent of actual sales was exaggerated.\(^{52}\)

Risks of such errors were not diminished by provision, made in the later part of the century, for improved recording and registration of legal transfer. By 1894, a seemingly comprehensive system existed: copies of assurances were to be preserved in public offices, registered under the Registration Act (as amended in 1877); changes in actual or presumed rights of parties to land were to be recorded in the revenue administration’s official documents prescribed for the purpose, the statistics being compiled from district officers’ reports.\(^{53}\) Registration itself however was neither comprehensive nor, in relation to such alienations as it covered, wholly compulsory.\(^{54}\) At the same time, the revenue officers ran into difficulties in attempts to collect district statistics of any value. A. M. Markham, for example; “in obedience” to a directive of the board in 1873, submitted a report regarding the extent of transfer of landed property from the “old proprietors to the non-agricultural classes” in Bijnour since 1840, but he expressed misgivings about its validity. The statistics were incomplete, and even where complete they were not satisfactorily correct: an approximation to facts was the net result for some three-fifths of the district. The board’s scrupulous distinction between agricultural and non-agricultural classes on the theoretically defined grounds of sources of income could not be applied in practice “without special inquiry, far outside the sphere of settlement operations.”\(^{55}\) Nothing in Markham’s records informed him “whether a certain Bunniah, Brahmin, Khuttra, Bishnoi and others, recorded as a landowner, obtains his income chiefly from land or chiefly from trading; or who is and who is not a Government servant. There are many other castes besides Bunniahs, some of whose members are traders, and who obtain landed property by

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\(^{52}\)Philip Robinson, Untitled Notes on W. Oldham’s Memorandum (no pagination).


\(^{54}\)See p. 211, n. 16 above.
making advances on it; and there are some Bunniyahs . . . whose ownership of land is centuries old. Many Government servants were hereditary landowners for generations before they became Government servants. A hard-and-fast line of distinction is impossible . . .” Markham submitted tables of transfer statistics, nonetheless, drawn up in accordance with a slightly modified version of the board’s instructions—an “imperfect and inexhaustive classification, but the best possible.” Other officers reported the same unsatisfactory state of affairs. Of the total number of transfers, 1,447, recorded in pargana Azamnagar, Etah district, details of only 754 were entered, and S. O. B. Ridsdale regarded the statement, “even if it were complete, of very little intrinsic value.” The collation of returns from the separate parganas of tehsil Tilhur alone in Shahjahanpur district involved improbable amounts of labour: the statements were not all given in the same form; in several cases, information that was clearly incorrect had been obtained from the tehsil office; details on each decade of the past settlement were lacking; prices were either not entered or were not to be believed; and areas shown were deceptive as many properties recurred several times, some villages having been involved in three or four transactions since the previous settlement. In view of this, the settlement officer decided to omit statements of transfer altogether. The simple classifications of “landowner” and “moneylender” were retained—and official recognition of their impracticality was reiterated. By 1894 the Government of India confessed itself defeated in the attempt to secure an adequate statistical account of the working of its transfer machinery: “In view of the unsatisfactory nature of the figures quoted it is difficult to form any general conclusions regarding the sale of land for debt. What we chiefly wish to know is the area of agricultural land sold yearly in each province (a) for secured and unsecured debt respectively and (b) to agriculturists and non-agriculturists respectively; this information we have not got, and pending the improvement to be made

—Bijnour Settlement Report, p. 93.
—Etah Settlement Report, p. 82.
—Shahjahanpur Settlement Report, p. 79. For further examples of incomplete returns, see Fyzabad Settlement Report, p. 37 (registered sales only), and Kheri Settlement Report, p. 22 (assorted statistics, from sub-registrars’ and judicial records together with the district register of mutations; no complete returns were obtainable from any one source).
—“Note on Land Transfer” (cited above, n. 53), p. 72, referring to NWP Revenue Administration Reports, 1882–83, p. 57, and 1889–90, p. 68.
in our Agricultural Statistics Return E there is really only little information of any kind on which we can rely."

Clearly, the defective statistical returns could not be relied on to test the truth of zamindars’ complaints as to the extent to which creditors were usurping their rights—insofar as these were encompassed by the recognized proprietary title. Comments of settlement officers which accompanied the figures assiduously compiled to satisfy the Secretariat’s requirements were more informative as to the working of the new laws on old rivalries. A broad distinction could in fact be drawn as regards the extent and nature of transfer of title between the greater part of Meerut district on the one hand and Benares on the other. “Changes in Meerut since Sir Henry Elliot’s time [1836],” wrote E. C. Buck, in summing up the settlement officers’ accounts of transfer in the several parganas, “have not altered to any great extent the distribution of proprietary castes, except in the neighbourhood of the cities of Delhi and Meerut, where the mahajuns and tradespeople have invested their capital in land. As a rule, the transfers throughout the district have been confined to the four prominent classes . . .” Meerut had emerged from the revision of settlements with much of its previous reputation for prosperity undiminished; in fact, it was even enhanced owing to the ability of its most powerful Jat and Taga zamindar-maliks to utilize the opportunities of canal irrigation greatly to their advantage by controlling the production of “valuable” crops which it stimulated. Such resources had provided the means to repel threats of competition. The same was true of other districts where zamindars controlled the benefits of expanding production: in Shahjahanpur, for example, where Thakur zamindars held large interests in the sugar industry, extensive transfers were reported “amongst the brotherhood.” In Ballia, it was the loan business generally which provided the means for the more astute

59“Note on Land Transfer,” p. 77. On problems of collecting statistics relating to agrarian conditions in general, see pp. 258–270 below.

60E. C. Buck to C. A. Elliott, Meerut Settlement Report, p. 4. The four principal castes seem to have been Jats, Tagas, Rajputs, and, near the major towns, Banias. For details of transfers compiled by W. A. Forbes, by parganas, see ibid., pp. 21–22 (Kotanah), pp. 24–25 (Gurumkhtesur), p. 30 (Hapur), p. 39 (Jalalabad).

61On the traditionally renowned expertise of the Jat farmer, see p. 61 above. For the benefits of canal irrigation to the most fertile areas of Meerut, see pp. 69–70 above. On the general prosperity of the district, see A. Colvin, Memorandum, pp. 108–109.

62Shahjahanpur Settlement Report, pp. xxxvii–xxxix (generally as regards tehsil Tilhur, and especially pargana Jalalabad of that tehsil).
members of upper-caste families to consolidate their interests through the transfer laws. "There is no indication," D. T. Roberts reported during the course of settlement,

that proprietary right in the district is passing into the hands of the mercantile classes by the dispossession of the hereditary Rajput zamindars. The old zamindars, as a class, hold their own; if some are sold out for debt, their places are taken by others of the same class and the redistribution does not bring in new men, aliens to the soil. The Rajput zamindars contain a full and fair proportion of shrewd and saving men who are continually extending their estates by purchase. If one family ruins itself by extravagance, its property is bought up by another family of the same or some adjacent mahal. Moneylending is far from being a monopoly of the trading castes, but is largely engaged in by well-to-do Rajputs and Brahmans.63

Brahman zamindars in Aligarh, whose holdings were commonly found in amongst collections of Jat villages, exploited both the moneylending trade and the transfer machinery with similar success. "To the power derived from the possession of money they add the influence of caste," T. E. Smith noted, "and some of them have been among the largest accumulators of property in the district."64

Zamindari interests elsewhere could be more vulnerable to attack owing to the lack of comparably secure resources. Catastrophes such as famine years tended to break an already weakening resistance, as in the case of those zamindars of parganas Meerut and Burnawa of Meerut district65 for whom the profits of canal irrigation during the drought of 1860-61 lay, or were kept by their neighbours, beyond reach. The districts in the east of the provinces and south in Bundelkhand offered more frequent examples of failing zamindars, deeply indebted and entangled in consequence in the thorns of transfer litigation. Relatively poor natural conditions in comparison with the near-proverbial fertility of the best Doab districts, a depressing series of low outturns at the harvests66 and, as far as certain districts of Benares Division were concerned, intense pressure of population on the land67

63Ballia Settlement Report, p. 53.
64Aligarh Settlement Report, pp. 33 34. See also p. 168 n. 27 above.
65Meerut Settlement Report, p. 47 (Burnawa), pp. 53-54 (Meerut).
66See Figure 1, Allahabad, Jhansi, and especially Benares divisions.
67According to statistics recorded during the revision of settlements, in the 1870s, the population of Azamgarh district then stood at an estimated 613 persons per square mile, of Ghazipur 688 persons per square mile. The figures are significantly higher than those for western districts (for a selection of which see p. 68 above). The 1872 census set the average density of population for NWP at 381.24 persons per square mile. The 1869 Oudh census gave the average density figure of 474 persons per square mile.
(the picture commonly presented by many of these areas) hardly made for agricultural prosperity. Added to these circumstances were the minute sub-division of zamindari claims following service displacement and the rigorous exaction of Government’s revenue demand, which worked against the consolidation of interests. It is hardly surprising, therefore, to find evidence there of a more rapid disintegration of mahals into partitioned shares than one finds in the west. In Benares Division, the number of recorded mahals had increased from 18,218 in 1864-65 to 28,634 by 1884-85, and by 1899-1900 it was given as 42,763. Transfers of zamindari title seem also to have been considerable—by way of a general impression, in view of the notorious unreliability of statistics. William Irving estimated that an area equal roughly to one-quarter of the district of Ghazipur had changed hands in sales between 1840 and the end of the revised settlement forty years later. Here again, however, the “moneymaking classes” had not ousted the hard-core zamindars, who retained a little more than one-half of the district’s “property.”

What in fact was the result of legal alienations, by sale and mortgage? Few settlement officers reported signs of physical dispossession as a result of the incessant activity of the courts. W. C. Benett summed it up in a single illuminating phrase: “the result of all these transactions is the creation of a number of concurrent interests in the same soil.” Cases were reported, from Unao for instance, where the parties to the alienation settled in to a compromise: “the purchaser after the sale having allowed the ex-zamindar and his family some land at favourable rates and being content to have the land secured to its recipients with the sole proviso that it was not transferable, the ex-zamindar is content to accept the substantial advantages rather

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68 For examples, see pp. 141-142 above.
70 The figure for Benares Division for 1899-1900 includes the newly created Gorakhpur Division. Compare the figures for the western divisions:

<table>
<thead>
<tr>
<th>Year</th>
<th>Meerut</th>
<th>Rohilkhand</th>
<th>Agra</th>
</tr>
</thead>
<tbody>
<tr>
<td>1864-65</td>
<td>9,314</td>
<td>17,547</td>
<td>8,603</td>
</tr>
<tr>
<td>1884-85</td>
<td>12,029</td>
<td>23,289</td>
<td>12,281</td>
</tr>
<tr>
<td>1899-1900</td>
<td>23,461</td>
<td>31,419</td>
<td>20,692</td>
</tr>
</tbody>
</table>

Source: NWP Revenue Administration Reports (years as given above), Appendix X, “Statistical Précis of the Revenue Administration of the NWP.”
72 One example at least is reported from pargana Kandla, Muzaffarnagar district; Muzaffarnagar Settlement Report, p. 107. Observations in “Note on Land Transfer,” at p. 42, suggest that this may well be an isolated case.
73 Gonda Settlement Report, p. 67.
than push matters to extremity and gain or lose everything.”  
Gentle acquiescence in the processes of the law was also encouraged (after 1873) by the rent acts. Ex-proprietary tenants were granted, by a provision intended to prevent the decline of the hitherto “landed gentry” into landless degradation, an equitable right of occupancy in land designated as their sir previous to its alienation. Being classed as a tenant, the ex-proprietor was rid of his revenue liability; armed with his occupancy right, he could at least obstruct attempts by the new zamindar to raise his charges.

Not all were content to compromise. The difficulties which even a bona fide purchaser of proprietary title might encounter subsequent to the alienation itself were many and complex. There were the problems of establishing physical possession, or realization, of a claim where the legal title acquired referred to a share reduced by subdivision to proportions beyond the reach of practicality. There were problems where rights acquired by law constituted a share, physically undefined, in joint-family property—which, until actual partition “by metes and bounds” was made (for which a purchaser would have to litigate), was liable to fluctuate in accordance with an increase or decrease in the number of coparcenars owing to births or deaths in the family. Moreover, there were other dilemmas: if the purchaser enforced partition, as the law entitled him to do (by reason of “the equity [which] a bona fide purchaser for value has, [enabling him] to step into his alienor’s shoes and work out his rights by partition”), he gave up the protection from the full force of the revenue liability which the joint responsibility of the coparcenary provided; if he did not enforce partition, he risked persistent impediment by “the village” to the realization of his interests.

74 Unao Settlement Report, p. 75. G. B. Maconochie described such compromises as “the acknowledged custom in one small taluka in Lucknow . . . In all recent sales the ex-zamindars were secured in possession of some land under the same terms. The rents of the land were usually fixed and at favourable rates” (the price of the tenants’ prospective allegiance). Compromises elsewhere, however, had harsher consequences. Concessions made by Bania purchasers to Thakur zamindars in pargana Thakurdwara, Moradabad district for example, were merely the first stages of a process working towards legal ouster. See E. B. Alexander’s comments on a report of 1859 by Sir John Strachey, in Moradabad Settlement Report, pp. 76–77.

76 See Appendix 8, under Act XVIII, 1873. For a discussion of the award of such a right to a judgment debtor in Oudh, see Oudh Revenue Department, Circular Letter, December 9, 1884, in NWP and Oudh, “Revenue Proceedings,” 1884, File No. 620, Serial No. 1, Proceeding No. 1.


78 Aligarh Settlement Report, pp. 128–130. The Settlement Officer, T. E. Smith,
The coparceners could also contrive, by a variety of means, to upset the alienation. Courses of action to this end which were open to a joint Hindu family have already been outlined.78 The ingenious manipulations of the law by Mst. Umrao Begum, a seasoned litigant, in the case of Tika Ram provide one illustration of the devices open to zamindari coparceners to repulse the auction purchaser—with untoward consequences in this case for Government itself. Tika Ram had bought at an auction in 1863, for the sum of Rs. 5,000, the title deeds to Mohanpur village in Bareilly district which had been confiscated for its owners' part in the "Mutiny"; in due course he was awarded legal possession. Umrao Begum had been the principal sharer, amongst the eight recorded coparceners. Prior to the "Mutiny," balances had accrued on her share, which had then been farmed out on lease under the operation of revenue law until such time as the arrears might be realized. The farmer-lessee himself was a mere hireling of the Begum who, by meeting the formal requirements of the law (as an "external" party), preserved her interest in the village. On the expiration of the lease, towards the late-1860s, Umrao Begum instituted a suit for the release of her share and obtained a decree accordingly from the court of the Principal Sadar Amin. Tika Ram, understandably alarmed, appealed to the judge but to no avail. Government—that is, the local revenue administration—meanwhile was unaware of the proceedings taken in this way against Tika Ram in the civil court by Umrao Begum. Tika Ram promptly brought an action against Government for Rs. 4,236.4.6, this being the value of Umrao Begum's share which he had lost, estimated on the basis of the purchase price paid over for the village. The Board of Revenue, after some discussion, called on the collector to compromise the case: Tika Ram was to be awarded Rs. 5,000, for which he was required to surrender that part of Mohanpur in his (legal) possession—nearly one-quarter of the entire estate. On May 27, 1868, the collector made it known that Tika Ram refused to abide by the terms of the compromise. The commissioner of Rohilkhand forwarded the collector's letter to the board on July 20. On July 10, however, Tika Ram's case had been heard in the civil court and had been decided ex parte against Government, which was compelled to pay Rs. 4,236 and costs.79 believed that the greatest mistake a cultivating proprietor could make was to oppose an incoming Bania's "petition for partition."

78See p. 222 above.

79Extract from Board of Revenue, NWP, to Government, NWP, August 31, 1869, on the case of Tika Ram v. Government, NWP, in "Report of the Legal Remembrancer,
The resistance of powerful zamindars could break the force of the transfer law. The Thakurs of pargana Aonlah, Bareilly district, successfully repulsed any threat to their zamindari, and to their thriving credit operations. Moens had no illusions about their flagrant subversions of the judicial machinery, or about the consequent deterrent to capitalist enterprise which the law was titularly to encourage: "No capitalist would risk money in a share in a village with the knowledge that he would have a half dozen suits to fight through the Civil Courts to get even nominal possession of his purchase, and the subsequent certainty of an annual suit for even the small share of profits assigned to him in the village papers." As a measure of these difficulties, Moens cited the predicament of a "well-known Hakeem, Saadut Ali Khan, ... [an] unusually strong, wealthy and intelligent landholder, who had bought numerous shares in this pargana, of which neither he nor his successors were ever able to obtain possession."

When legal obstructions failed, became wearisome, or were merely adjudged impractical, determined zamindars mustered their resources of manpower to fight off the auction purchaser. "The old tradition [of local means of coercion] still protects former quasi-proprietary bodies," Auckland Colvin wrote from the Secretariat in Allahabad in 1871,

or, if tradition fails them, they are not slow to assist themselves. Within sixteen miles of my writing-table there are villages where it is as much as the auction-purchaser's life is worth to shew his face unattended by a rabble of cudgellers. He may sue his tenants and obtain decrees for enhanced rents; but payment of those rents he will not get. A long series of struggles, commencing in our Courts, marked in their progress certainly by affrays, and very probably ending in murder, may possibly lead him at length to the position of an English proprietor. But in defence of their old rates the Brahmin, or Rajpoot, or Syud community, as the case may be, ignorant of political economy, and mindful only of the traditions which record the origin and terms of their holding, will risk property and life itself.

NWP, 1868-69," in NWP, "Revenue Proceedings," January 22, 1870, Index No. 52, October 23, 1869, Proceeding No. 82. For the complete correspondence on the case, see ibid., Index Nos. 45-56.

See pp. 163, 174 above.

Bareilly Settlement Report, p. 283.

Colvin, Memorandum, p. 114. Colvin's syntax suggests that the attainment of proprietorship on the English model in the NWP was tantamount to martyrdom (an appropriate sentiment for the times). For further examples of the vigorous repulse
THE FRUSTRATION OF LEGAL REMEDY

The range of obstructionist tactics employed by zamindars in frustrating the dispensation of justice according to the law and in violating the peace tended to make something of a mockery of the principle of security for which Government ostensibly strove, but at the same time these tactics served Government's political ends. Nothing could have been less desirable, politically, than that the transfer laws should have worked through to their logical—revolutionary—end. "The indebtedness of proprietors becomes a serious political question," a spokesman for the Government of India recorded in a note of 1894, "when it is found that their insolvency means dispossession and that the soil is passing into the hands of classes who have the ability neither to cultivate nor to rule." As far as the NWP and Oudh were concerned, there was little cause for alarm. "The transfer of land is still sufficiently common," the note continued, "but the landowning and cultivating classes compete with the money-lender for the possession of it. There is little indication in the recent economic history of the provinces of any reason for apprehending wholesale dispossession of any class it is desirable to retain on the soil."83

This was no new realization on the part of Government. Even if the combined pressures of the British administration and local society drained away their means, the position of the old proprietors had nonetheless to be zealously guarded. The revenue administration, accordingly, exercised powers which contradicted not merely the civil but also the revenue sale laws. In Banda district alone, 117 confiscated villages were restored in 1867 to the "old zamindars, who had been ousted either by the Civil Courts, or from inability to pay the revenue in former years, on the sole condition of the proprietors evincing a capacity to manage the estates during a short specified term of years." "I am to add," the secretary to the board continued, "that, speaking broadly, the sale of estates for arrears of revenue has ceased to be a process in use, and that the sympathy of the Board, as well as of Government, is ever on the side of the ousted or embarrassed zamindar."84 Provision was made not merely for restoration after the

83 of auction purchasers, see Farukhabad Settlement Report, p. 158 (trans-Gangetic parganas); Shahjahanpur Settlement Report, p. xxxviii (tehsils Jalalabad and Shahjahanpur).
84 "Note on Land Transfer," pp. 41–42.
85 Board of Revenue, NWP, to Government, NWP, October 23, 1867, apropos of the alleged collusion of a tehsildar with a Marwari creditor in transfer litigation with certain zamindars of Hamirpur district, in NWP, "Revenue Proceedings," November 2, 1867, Index No. 5, Proceeding No. 13.
completion of sale—a further potential obstacle for the auction purchaser to take into account; Section 244 of the Civil Procedure Code of 1859 itself empowered the collector to intervene in the course of a compulsory sale and seek to compromise the transaction between the parties by temporary alienations in order to rescue the estate from the dire consequences of insolvency and thus preserve some security for continued revenue payments.

As the distress of impoverished zamindars and the threat to the revenue and to Government’s political stability which this necessarily implied grew increasingly obvious during the revision of settlements, rescue operations to shore up the crumbling structure of proprietorship in the provinces became more comprehensive. In both the NWP and Oudh, Courts of Wards functioned busily to extricate the more promising of encumbered estates from the vicious circle of debt and transfer litigation, appointing Government managers to bring them back to solvency, with a little experimentation with agricultural improvements on the side, as befitted a benevolent proprietor. In 1870, the jurisdiction of the Oudh Court of Wards was extended to cope with cases provided for under the Oudh Talukdars’ Relief Act, XXIV of 1870. In the NWP, the appalling condition of the indebted majority of zamindars in Jhansi Division demanded special legislation, passed after some nine years of notes, memoranda, and draft enactments: in its final form this was the Jhansi Encumbered Estates Act, XVI of 1882. By the 1890s, this essentially paradoxical progression in the amendment of transfer law had reached its next

85 The collectors’ attempts met with varying success. Statistics for 1864–65, for example, showed sale had been “warded off” in fifty cases in Meerut district, but only in one in Bulandshahr (out of forty-nine in which preventive steps had been taken); in Aligarh, in three (100 percent success); in Budaon, in thirty-one; in Bareilly, in seventy-five; in Bijnour, in three; in Moradabad, in three (no rates of success are given for these last four districts). NWP Revenue Administration Report, 1864–65, pp. 9–10.

86 See pp. 104–107 above.

stage: the compilation of a wide-ranging set of papers (bearing on all the provinces of British India) to introduce formal restrictions into the transfer laws themselves.88

If the debt and transfer laws had proved unequal in practice to the task theoretically expected of them, the history of their working provided a striking vindication of at least one dictum of John Stuart Mill—"... that government is always in the hands, or passing into the hands, of whatever is the strongest power in society, and that what this power is does not depend on institutions, but institutions on it."89

88The pioneer enactment restricting the right of alienation was the Punjab Alienation of Land Act, I of 1901. For a detailed account of the passing of this legislation, see N. G. Barrier, "The Punjab Alienation of Land Bill of 1900," Duke University Program in Comparative Studies on Southern Asia, Monograph No. 2 (1966).
Chapter VI

THE DILEMMAS OF ADMINISTRATION

Government was at pains to stress publicly the overriding benevolence of its aims in promoting the moral and material progress of British India and a corresponding awareness of the responsibility it considered inherent in its supreme power. Official apologists were anxious that too narrow an interpretation should not be placed on its historic role: "The Indian Government," as Sir W. W. Hunter defined it in the *Imperial Gazetteer*, "is not a mere tax-collecting agency, charged with the single duty of protecting person and property. Its system of administration is based upon the view that the British power is a paternal despotism, which owns, in a certain sense, the entire soil of the country, and whose duty it is to perform the various functions of a wealthy and enlightened proprietor . . ."\(^1\)

Government’s concern for the state of its “property,” in line with contemporary principles, was inseparable from its need to ensure the regular collection of its “rent.” It was logical that responsibility for the welfare of the land should fall principally on the revenue administration. It proved increasingly difficult for that administration, however, to discharge the duties which such proprietorial responsibility entailed. Measures introduced to repair apparent deficiencies in the condition of the “estate” had brought a multitude of unforeseen problems in their train which deterred by their range and intensity subsequent attempts at remedial action. Nowhere was this more obvious than in the NWP and Oudh. Public works aggravated imbalances in productivity. Small-scale agricultural improvements failed persistently to achieve practical objectives of any significance. The refinements of administrative procedure robbed the old principle of takavi loans of most of its utility. Government’s concern to secure its revenue in accordance with equity and an ill-defined image of dawning prosperity compelled its officers to labour at endless com-

\(^1\)Quoted by A. H. Harington, “Economic Reform in Rural India,” *Calcutta Review*, LXXX (1885), 435 (headnote).
promises in matching impractical principles with incomprehensible practices. New incentives for production and distribution resulted in bloating the power of local creditors at the expense of the bulk of the rural population. The decorous application of law and order by means of the modernized judicial system proved time and again an illusion when confronted with the realities of the rural scene.

The persistence of problems of such dimensions, in overburdening the revenue administration, aggravated fundamental weaknesses in its capacity which made consistent action by Government in the sweeping style of a capitalist proprietor utterly impracticable. Geared first and foremost to meeting Government’s requirements, the design of the revenue administration was not of that comprehensive quality which Government’s much-publicized responsibility demanded. Here, too, modernization brought problems which were insuperable by the means to hand: innovations in bureaucratic procedure introduced in line with contemporary notions of order and security hampered the exercise even of essential powers—the collecting of taxes and the dispensing of justice. Each aspect of the revenue administration—the co-ordination between senior and subordinate officers; the state of official records; the machinery for enquiry into agrarian conditions; and procedural impediments and restrictions on expenditure—came to reflect in some degree the predicament of the British Government in its adopted environment.

*The Structure of Administration*

In accordance with instructions from the governor-general in Calcutta and the India Office in London, the lieutenant-governor of the provinces took all decisions as regards fiscal affairs in consultation with the Board of Revenue. The board, with its two members—senior and junior—and its secretary drawn from amongst the highest-ranking revenue officers in the field, was the co-ordinating link between the Secretariat in Allahabad and the administration’s offices in the mofussil. It prepared the revenue agenda for the lieutenant-governor’s adjudication from the correspondence it conducted in the first instance with the commissioners of the revenue divisions—six in the NWP and four more in Oudh. Each commissioner’s office was in turn a central reference point for the officers who staffed the district collectories within each division. The district collectorate was the hub of the

*For the geographical areas of the revenue divisions and the districts included in
administration—it represented the "paternal despotism" of British power in miniature. The collector and magistrate was responsible for the collection of the "rents" of his "estate"—his district—and for its welfare. He had to supervise the revenue accounts and administer criminal, and to some extent civil, justice. He was responsible, logically, for the local police. He had to see to the efficiency of local Government institutions, such as schools and dispensaries, and to the construction and maintenance of all roads and bridges other than those which were part of the main communications systems of the provinces (and therefore the responsibility of the Public Works Department), and of virtually all Government buildings.³

From his office in the sadr station of the district, the collector presided over an administrative establishment which reflected in microcosm the ranking of the Revenue Department as a whole. His assistants were of various grades, the degree of subordination of each official being relative to his distance from the collectorate. The assistant collector and magistrate was the most senior of the subordinate office staff; he was a trainee collector, based like his superiors at the sadr station. Beyond, in the district itself, deputy collectors or tehsildars carried out the functions of the collector in their sub-divisions, tehsils, under his absolute authority. Beneath the tehsildars came the subordinate establishment proper: this consisted of the village officers who were recognized and partly paid by Government and who included amongst their numbers the mokudams (headmen), the lambardars (tax collectors), and, most important, the patwaris (accountants) on whom Government relied for the maintenance of local records, its basic source of information on agrarian conditions. Lastly, the subordinate establishment also included the clerks and messengers who populated the collectorate and tehsili (the tehsildar’s office), recording and communicating every transaction as official procedure demanded.⁴

"It will be seen," C. H. T. Crosthwaite concluded on summarizing them, see endpaper map. Prior to its amalgamation with the NWP in 1877, the Oudh administration was separately constituted (along lines parallel to those of the neighbouring province), headed by a chief commissioner who was assisted by a Board of Revenue. Commissioners and deputy commissioners, respectively, staffed the Oudh divisions and districts. In 1877, the offices of lieutenant-governor and chief commissioner, and the two Boards of Revenue, were amalgamated. The structure of divisional and district administration remained as before.

⁴For the numbers employed in the administration, and establishment costs, see pp. 272–273 below.
the structure of the revenue administration, "... that the organization at the disposal of the Government of these provinces is such as to enable them to reach the very lowest strata of which society is composed." Effective use of this organization was another matter: it depended on the co-ordination of the various ranks and efficient communication from the top to the bottom of the hierarchy. The distance, however, between the collector and his assistant at the sadr station and the patwaris in the villages was vast and was measured not merely in physical terms. A formidable barrier stood between the superior and subordinate ranks of the district administration, between the European collector and his handful of European assistants—and the "natives" beyond. Prior to 1900, it was rarely crossed by subordinates who earned promotion in view of their recognized experience. "We are as oil to water out here," Frederick Layard, an officer in the Indian army, wrote to his brother A. H. Layard, in 1858 shortly after the suppression of the "Mutiny" disorders; "luckily we are the oil and stay at the top." Administrative power was distributed accordingly. In local affairs, the collector was supreme; he was "to the natives," in Crosthwaite's words, "... the personification of Government."

In the exercise of his power, however, the collector was accountable to his superiors. Every official action and its justification had to be documented, with the result that the collectorate stood as a clearing-house for the local administration, and the collector, at his desk or holding court day in and day out, became increasingly alienated from the remote rural world beyond his office which his duties prescribed him to care for but which the procedure for executing them prevented him from investigating at first hand. "There is in fact no real revenue administration," C. J. Connell expostulated in a critique of Government compiled from his experience as an officer of the Bengal Civil Service.

... the Collector, especially in Oudh ..., is a tax-gatherer and nothing more; he is a compulsory jack-of-all-trades whose days are spent in inditing countless reports on all miscellaneous matters of great or small importance, upon which the local Government of the day sets, or is forced to set great

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5 Crosthwaite, *Notes on the North-Western Provinces*, p. 5.
6 "Whether the machine works so as to attain this end depends very much upon the personnel of the District Officers," *ibid.*, p. 6.
7 Quoted by G. Waterfield, *Layard of Nineveh*, p. 291. Frederick Layard denounced the provocatively segregated administration. He expressed his surprise that the Indian had not in fact retaliated by massacring all Europeans during the "Mutiny."
8 Crosthwaite, *Notes on the North-Western Provinces*, p. 4.
store; he has to draw up portentous memos on conservancy, municipalities, drains, and self-government all the morning; his afternoons are occupied with his appellate work, and an odd half hour or so, as leisure permits, is with difficulty snatched for the real work of a Collector, namely, the disposal of the revenue reports; those papers, which have to do with the future prosperity or ruin of villages, must be perfunctorily rushed through, while a proposal for a new latrine has taken up hours of valuable time.\(^9\)

Restrictions on the collector's mobility grew with the passage of time. While the Secretariat in Allahabad expanded into numerous departments, the district collectorates remained the single source of local information and the principal executive agency. While correspondence became more and more voluminous, superior orders from Allahabad and Calcutta insisted on greater formalization in procedure: witnesses were demanded for an increasing number of transactions; signatures had to appear on more documents; written submissions usurped the place of verbal orders even in the most ephemeral matters. Reporting all these developments at the end of the revenue year 1880-81, the collector of Jaunpur bewailed the consequences which he---in the position of greatest administrative power in the district---was obliged to suffer: "It is almost impossible at the present to get through the mere manual and mental labour required to keep the business going. There is actually no leisure for thought or examination of what is going on."\(^10\) The board found itself reluctantly in agreement with "the general tendency" of the collector's remarks, but could make little by way of positive recommendations: "There must be a limit to the constant increase of establishments [in Allahabad]. There is certainly a limit to what can be done by existing ones ..."\(^11\) The succeeding twenty years proved the board wrong. The business but not the staff of the collectorates swelled to majestic proportions, as the figures for correspondence and judicial work show.\(^12\)

More problems for the harassed collector arose with the revision of settlements which dominated the revenue administration, and consequently the agrarian scene so far as Government was concerned, from the late 1850s. Principles of Government dictated that

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\(^10\) *NWP Revenue Administration Report*, 1881–82, para. 137, p. 79.


\(^12\) For the increase in the collector's business, measured in terms of letters issued and received and cases instituted and disposed of, by division, from 1864–65 to 1899–1900, see Figure 10.
the new assessments were to surpass their predecessors in careful attention to minute detail, district by district.\textsuperscript{13} To execute these plans, given top priority by Government, staff had to be found to assist the European settlement officers—and where else but in the collectorates could subordinate officers be found in sufficient numbers and with the required local experience?

The means of meeting this demand for assistance were not unlimited. Government's requirement that the new scientific principles of assessment be applied with accuracy and impartiality meant that few district officers were eligible for such service. The Settlement Department could not, as Sir William Muir, then Lieutenant-Governor, noted in 1868, "especially in all matters connected with assessment, be confided with safety to Native officials."\textsuperscript{14} The problem this created for the routine administration was also abundantly clear to Muir. Since district officers—the collectors—were necessarily involved in settlement work, and since some twenty-one of the most promising (European) assistants throughout the NWP were posted to the Settlement Department, the day-to-day business of the collectorates devolved increasingly on junior ("native") staff.\textsuperscript{15} In answer to Muir's protest concerning the "great strain which the Land Revenue Settlement . . . was bringing to bear on the Civil Service in the conduct of the Administration's ordinary business," Government could only attempt to relieve what was an insoluble problem of two irreconcilable claims by an informal compromise. A circular order published in July 1868 instructed commissioners, district officers, and settlement officers that the junior assistants attached to the Settlement Department should aid in general district administration in the rains and summer months, for example, when they were sometimes "insufficiently supplied with . . . Settlement work."\textsuperscript{16} The order remained more of an exhortation than a command: so long as the settlements were the dominant concern of Government, there was little incentive for aspiring officers to turn from opportunities for recognition and promotion which assessment work offered and bury themselves amongst the papers in the collector's office.

In the Doab districts, canals could bring similar problems to the

\textsuperscript{13}See pp. 123–127 above.


\textsuperscript{15}\textit{Ibid}.

\textsuperscript{16}Circular Order 74, July 10, 1868, in NWP, "Revenue Proceedings," July 11, 1868, Index No. 1, Proceeding No. 40.
collector, but here it was the "native" subordinates who were torn between the conflicting claims of Government on local field staff. For the assessment of direct and indirect revenue from the canals, so important an item of Government's budget, the irrigated area of each district had to be measured each season, and the charges which were calculated initially on an acreage basis had to be distributed according to the intricacies of local cultivating and propertorial interests. In a district such as Etawah in the mid-1860s, where a mere 40,000 acres were irrigated on the average each year by the Ganges Canal, the business of recording the irrigation statistics was entrusted to the collector's tehsil staff which seemed to cope with this additional burden without undue strain. However, the system of measurement devised for Etawah was carried over with unfortunate results to Meerut, where already in 1866 an estimated 200,000 acres were annually watered by canals. W. A. Forbes, the Collector, was moved to protest vehemently against this "most hideous system of canal-irrigation measurement . . . which, without the slightest exaggeration is likely to cause disaster to our land revenue system." In tehsil Meerut alone, seven separate measuring parties were employed—simultaneously—during six months of the year (three months for each harvest); to each party, one of the fixed tehsil establishments of amins (field clerks) had to be attached according to the Etawah system. The collector was left to carry on his business insofar as possible "by the aid of casual and inexperienced subordinates." "I trust," Forbes wrote beseechingiy, "the system may be crushed at once, for the anxiety it causes not to mention the labor, can hardly be described."

Forbes's plea roused the board. Faced with the unwelcome choice as to which of Government's needs was to be served by the less reliable agency, the board decided it should not be the collectorate and the land revenue itself which suffered. They recommended therefore that, if necessary, canal-irrigation measurement be "superintended by a casual employé in preference to the deputation of members of the fixed establishment for this duty whenever the Collector may find the number of measurement parties and the duration of their operations interferes prejudicially with the regular work of his district."

17For the direct and indirect revenue from the canals in NWP, from 1876-77 to 1899-1900, see Figure 5.
18W. A. Forbes, Collector, Meerut, to Board of Revenue, NWP, February 7, 1866, in NWP, "Revenue Proceedings," May 26, 1866, Index No. 48, Proceeding No. 24.
19Ibid., Index No. 47, Proceeding No. 23.
While the collector continued officially to dominate the local administration, the increasing demands made upon him by the range of his duties together with the dictates of procedure diminished both his means and his opportunity to discharge them with the vigour which his authority theoretically required. As a result, he was compelled to entrust more and more of the business of local government to his "native" officers. Their responsibility grew correspondingly out of all proportion to their status and consequently their power as recognized by Government. From the point of view of official ranking, they remained throughout entirely subordinate to the collector but, as far as effective action was concerned, the collector was in the paradoxical position of being entirely subordinate to them.

The collector's dependence on his "native" establishment was reinforced by the mobility accorded him by the conditions of service in the modernized Crown administration. It was an easier matter for European officers in the later nineteenth century to leave a district for another or for a sanctioned spell abroad than it was for them to move about within one during the performance of their duties. The upper ranks of the administration were becoming increasingly remote from their environment, as Hunter himself showed in pointing to the contrast between Company service and the improved conditions of modern times:

The Company's servants accepted India as their home, and generally remained a long time in one District. But under the beneficent policy of the Queen's Proclamation, the natives of India every year engross a larger share of the actual government. The English administrators are accepting their ultimate position as a small and highly mobilised superintending staff. They are shifted more rapidly from District to District; and the new system of furlough, with a view to keeping them at their utmost efficiency, encourages them to take their holidays at short intervals of four years, instead of granting long periods of idleness once or twice in a quarter of a century's service. They have not the same opportunities for slowly accumulating personal knowledge of one locality; on the other hand, their energies are not allowed to be eaten away by rust ...  

The "native" officers, ineligible for promotion beyond the rank of assistant and consequently immobilized in the sub-districts, were expected to acquire that "minute and extended knowledge of the people and the country" beyond the reach of their European superiors.


\(^{21}\) Crosthwaite, *Notes on the North-Western Provinces*, p. 5.
It was early established as a central tenet of Government revenue policy that the administration should interfere as little as possible—in any direct sense—with the affairs of local proprietors. The tehsildar’s office was the last outpost of the administration, the co-ordinating link between the collectorate and the mahals. Zamindars were required to make their submissions and their revenue payments to their local tehsildar, who kept the accounts for the sub-district. Dealing with estates the proprietary title of which had been given to a numerous body of co-sharers were more complicated, and here Government had long seen fit to provide some means of assisting the tehsildar. At the earliest regular settlements, the honorary local office of lambardar had been created. Lambardars were to be the elected representatives of proprietary brotherhoods, whose principal duty was to collect the group’s revenue payments and hand them over to the tehsildar. They were officially nominated by the brotherhood at an assembly presided over by the settlement officer, according to the recognized procedure stipulated in the wajib-ul-arz, or record of rights drawn up at settlement. At this point, Government’s participation in relations between the brotherhood and its lambardar-representative ended. The office was partly hereditary, subject to the qualification that a lambardar’s eldest son should prove fit to manage affairs. The brotherhood itself held the power to depose a lambardar who failed to satisfy their requirements and to elect a new one.

With the revision of settlements, the office of lambardar came in for some intensive questioning. Was it an efficient agency for the collection of the revenue? Did it assist the tehsildar? C. A. Elliott, Officiating Collector in Farukhabad in 1868, was convinced that the lambardari “system” had proved totally impractical. “We have tried for nearly thirty years to introduce this system, thinking it congenial to the spirit of the country, and have failed; it is no use trying any more or refusing to acknowledge our failure.” In Farukhabad, where each shareholder by-passed the lambardar and paid his share of the land tax direct to the tehsildar’s office (thus complicating

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22See p. 105 above.
23For the details of official procedure regarding the appointment of lambardars, see Udaon Settlement Report, pp. 76–77.
24Ibid., p. 49.
his accounts), the lambardar's office had grown into a much-coveted sinecure. The degree of effective representation which lambardars could exert depended on their power within their community. Where a lambardar was already strong, he could stand as the "village representative" before local officers and use his influence to arbitrate private quarrels. However, like all other prestige posts which were heritable, this one had become the preserve of families of maliks who were determined to control it. According to Elliott, the incumbent was in many cases a woman, an infant, or a non-resident, all of whom were singularly unqualified to represent the community but were at the same time legally capable of passing the title to their heirs. Elsewhere, cabals of lambardars had grown up within the brotherhoods owing to manipulations in the election procedure. The offices multiplied with no reference to the needs of the community as far as representation, let alone tax-collecting, was concerned. In Farukhabad, many villages had three or four lambardars; it was not uncommon to find six or even eight to a village, and rare cases of twelve and more were known to Elliott.

With such confusions obliterating the neat outlines of administrative agencies, what was Government to do? Elliott suggested that any notion of legal status attached to the lambardar should be abolished, and that the idea of his collecting revenue from others or of others paying it through him should be abandoned. But where ownership was in the hands of a large community, a recognized representative was clearly required for those times when Government wished to consult the proprietors or act through them. "We cannot summon up 50 or 100 Rajputs every time we have to appoint a chaukidar or patwari, or to put pressure to obtain the apprehension of a thief: for these purposes we must select lambardars"; moreover, Government had to hold to the principle that the lambardar should be "the representative of public opinion in the village." To see that this principle was honoured, however, Elliott recommended that the lambardari system be reformed—by the direct action of Government. Hereditary status should be abolished and the office made elective forthwith, with the appointments to be made from candidates selected by the proprietors and the collector on the principle of quamdiu se bene gesserint—"or words to that effect in Hindustani."
W. A. Forbes, Commissioner of Benares in 1870, recalled a similar state of affairs from his days as Collector in Meerut. To the detriment of Government’s links with society, local maliks who could not be brought under supervision controlled the lambardar’s office and through it the “village community.” The system had “become hateful” to those elements of rural society it had been designed to assist; the proprietary brotherhoods, “for the simple reason, that the care imposed upon us [revenue officers] by the Government in Directions to Settlement Officers, para. 157, has not been observed, and fractions of the brotherhood who have then for very good reasons separated themselves from time to time from the main body have found their interest still left against their will in the hands of the persons from whose tyranny and affliction and oppression they had attempted to free themselves, and that, moreover, they have to pay them as their unaccepted agents.”

If these observations provided a strong case for some measure of reform in the lambardari system, how was it to be achieved? Both Elliott and Forbes had left their respective districts for higher posts; they could no longer carry on their protestations at the district level, and a new accumulation of official duties prevented them from paying much attention to old causes of concern.

More formidable obstructions to corrective action came from the senior echelon of the field staff, the divisional commissioners. R. M. Lind, Commissioner of Agra Division, made no attempt to muffle Elliott’s disclosures in his covering note to the board but, at the same time, in prophesying the unwelcome consequences in terms of a dissolution of the status quo which must necessarily follow an attempt to act upon them, he showed the inexpediency of adopting any of Elliott’s recommendations: “admission of the principle [of Elliott’s proposals] would go far to break up the remaining bonds of union in village communities ... Depriving a lambardar of his most important function, the collection of revenue from his co-sharers, would be apt to disorganize the social status of communities in which the custom was permitted to prevail.”

30 W. A. Forbes to Board of Revenue, NWP, June 29, 1870, in NWP, “Revenue Proceedings,” April 29, 1871, Index No. 5, December 31, 1870, Proceeding No. 29.

31 R. Lind to Board of Revenue, NWP, May 11, 1870, in NWP, “Revenue Proceedings,” April 29, 1871, Index No. 2, December 31, 1870, Proceeding No. 26. Lind considered the “primitive state of village communities ... particularly favourable to the lambardari system.” That “evils” were creeping in was owing no doubt to imperfections in the system — or rather, specifically, to an abuse in the mode of nominations to the post of lambardar. It will be remembered that the lambardari was a creation of the early British administration.
Commissioner of Allahabad in 1870, saw it as a practical issue: “If Elliott does away with the lambdar’s legal status... with whom will engagements be made to pay the Government Revenue? It is impossible to take engagements from a whole bhyachara community...” True, shareholders often preferred to pay their revenue quota directly to Government, and it was right that they should have this power. Moreover, no tehsildar who understood his work would decline to take their payment (how else would Government get its revenue?). It was also true that there were faults in the selection of lambardars: no woman or child should be elected. But these were minor objections. Elliott, in questioning the lambardars’ utility, had challenged the whole principle of Government’s non-interference. Mayne sided with Lind: “We interfere a great deal too much... From my experience, lambardars, although not always made use of for collecting the revenue, are nevertheless mostly men of great influence and power in a village and are very useful and necessary institutions, and I think we should do wrong to destroy their legal status.” The board agreed with the commissioners, and Government did nothing to remedy the defects in the lambardi system. It was “an easier matter,” in H. S. Reid’s words, “for the Collector to deal with large agricultural communities through the more intelligent and powerful members of the body.”

The status quo was thus preserved, and the lambardars were retained. At the same time, however, the board recognized the collector’s authority to allow co-sharers, separate in respect of the legal possession of an estate but with a joint liability to meet the revenue assessed on it (a common situation), “to pay their quota of demand direct into the tehsili without the lambdar’s intervention.” Yet it was “obviously undesirable,” the board admitted, that “the work of collection from a large number of individual sharers should be thrown on the tehsil officials when a recognized agency for such collection already exists.” In addition to the burden of paperwork on the tehsildars, there was also the greater risk of errors being made.

32 F. O. Mayne to Board of Revenue, NWP, June 11, 1870, in NWP, “Revenue Proceedings,” April 29, 1871, Index No. 4, December 31, 1870, Proceeding No. 28.
33 Ibid.
34 H. S. Reid, Junior Member, Board of Revenue, NWP, July 16, 1870, in NWP, “Revenue Proceedings,” April 29, 1871, Index No. 8, December 31, 1870, Proceeding No. 32.
35 Board of Revenue, NWP, Circular No. 1, March 22, 1871, in NWP, “Revenue Proceedings,” April 29, 1871, Index No. 13, Proceeding No. 34.
36 Ibid.
in the increasingly intricate accounts—a danger about which the board had expressed its anxiety some four years earlier, in 1866.\textsuperscript{37} The collector was therefore urged to use his authority with the co-sharers “sparingly and with discretion.”\textsuperscript{38}

Such orders were of little practical assistance to the overworked tehsildars. Government’s reliance on them to supervise its relations with proprietors demanded, theoretically, that they should be allowed a certain mobility to keep their tehsils under inspection. Modernized procedure, and the acceptance of the breakdown in the lambardari system, created problems for the tehsildar which reflected those of the collector above him. “What modern Tehsildar has leisure, even if he has the aptitude, for ... constant visits to a distance from his headquarters?” asked G. H. M. Ricketts, Collector of Allahabad in 1865. “Owing to the elaboration of our Revenue system, its intimate combination with judicial functions, and the accuracy required from all Tehsildars in all their numerous statements, they are chained to their desks; the means of communication with their zamindars, or the source whence they obtain the knowledge of their villages, is through the Putwarees, who are never impartial or to be relied on ...”\textsuperscript{39}

The patwari held hereditary office under a zamindar as the keeper of his accounts and transactions with the cultivators of his mahal. Government, in taking up these “village records” as the basis of its revenue assessments in the settlements under Regulation IX of 1833\textsuperscript{40} recognized the “village accountant,” the patwari, as “a Government as well as a village servant.”\textsuperscript{41} The application of new scientific

\textsuperscript{37}Board of Revenue to Government, NWP, July 13, 1866, in NWP, “Revenue Proceedings,” July 28, 1866, Index No. 1, Proceeding No. 16.

\textsuperscript{38}Board’s Circular No. 1, 1871, cited above, n. 35.

\textsuperscript{39}G. H. M. Ricketts to Officiating Commissioner, Allahabad, January 9, 1865, in NWP, “Revenue Proceedings,” May 6, 1865, Index No. 8, February 18, 1865, Proceeding No. 23. Further problems arose where tehsildars were “appointees of influential men.” The tehsildar was also induced to stay in his office by blandishments provided by legal duties: “The tehsildars [in Oudh], who are the officers primarily responsible for the collection of the revenue, prefer judicial work, partly because it is more attractive and vested with more dignity in the ordinary native mind, and partly because it affords a better opportunity of attracting attention and thereby attaining promotion. Under such circumstances, it is not surprising that these officers do not find time to move about in their circles and acquire that knowledge of the character and condition of the people which alone can give them the means of forming an opinion how best to collect their revenue.” \textit{Oudh Revenue Administration Report}, 1874-75, p. 76.

\textsuperscript{40}See p. 123 above.

\textsuperscript{41}“Correspondence Regarding the Lieutenant-Governor’s Proposed Alterations in
standards to the business of assessment which came with the revision of settlements did not diminish the patwari’s importance vis-à-vis the administration. The reluctance of Government to dispense with any of its recognized agencies was increased in this case by the over-riding necessity to cut costs. As R. C. Oldfield, Collector of Farukhabad, noted in the course of a discussion in 1863 on the establishment required for the revision of his district’s settlement, “The employment of the Putwerees will be no new feature, as they have always been the instruments through which all the operations of the Settlement have been primarily conducted, and as I presume it is not contemplated to dispense with anyone of the systematic series of operations or the preparation of the various records which comprise a regular Settlement, I conclude the object of the Government is rather to reduce the amount of labour and expense of supervision, hitherto falling on the Government, by taking the fullest advantage of the existing records, and of the aid of Putwerees and Zamindars by enlisting their willing co-operation.” The patwaris were indispensable to the revenue administration not merely for the collecting of taxes but also for the conduct of its judicial business. According to a note by the lieutenant-governor in 1862, nine of ten summary suits (heard in the revenue courts) had to be decided “almost entirely on the Patwari’s evidence.”

The principles of modern administration demanded more of the patwari than had been required under Company rule. He should understand his work thoroughly; he should know the circumstances of the people within his jurisdiction; most important, he should be “quite independent.” At the same time, Government was anxious that measures to improve the patwari’s services should leave his rightful position in the “village community” undisturbed—he must remain the “village” servant as well as Government’s. The problem of how the patwari’s independence might be secured under these conditions could not but persist.

Government’s requirements for increased efficiency at the village

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42 See pp. 123–127 above.
44 Government, NWP, to Board of Revenue, NWP, August 9, 1862, in NWP, “Revenue Proceedings,” August 9, 1862, Index No. 25, Proceeding No. 20.
45 Ibid.
level were clear; it was—and remained—a matter of how to achieve them. The first attempt was the introduction of the patwaris’ halkabandi system early in the 1850s. Under this system contiguous villages were grouped together in halkas (circles), each of which was to be served by one of the local patwaris appointed by the district officer in consultation with the zamindars. An official enquiry into the working of the system some seven years later revealed the problems which modernization entailed. The greatest concern was shown for the zamindars’ opinion. In Agra and Meerut divisions, the halkabandis had met with general approval; minor adjustments a few years later showed that Government was prepared to continue to follow the zamindars’ wishes. The commissioner of Meerut reported in 1863 that the patwaris’ halkas in Saharanpur had been completed with as little change as possible—and where such had occurred, it was “generally with the idea of bringing the various villages of one landlord into the jurisdiction of one patwari; a fact to which the zamindars themselves attach great importance.”

Government in this respect was even prepared on occasion to forgo the interests of efficiency. Some twelve years after the enquiry, M. A. McConaghey found that villages in Mainpuri situated at opposite extremes of a pargana were grouped together in a halka because they happened to belong to the same body of proprietors. Elsewhere, the Government measures were not so well tailored to zamindars’ requirements. With the exception of Cawnpore, where the halkas were drawn up with the zamindars’ consent as they had been in the Upper Doab districts, the new system met with vociferous disapproval in Allahabad Division, for there it threatened to remove some patwaris and their offices from zamindari control.

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47Commissioner, Agra, March 25, 1861, Index No. 134, Progress No. 3618, in NWP, “Revenue Proceedings,” January 11, 1862, Index No. 40, Proceeding No. 16 (in Aligarh only, some zamindars opposed the policy). See also Commissioner, Meerut, April 30, 1861, Index No. 276, Progress No. 5359, in ibid.


49M. A. McConaghey, late Settlement Officer, Mainpuri, to Officiating Commissioner, Agra, March 24, 1873, in NWP, “Revenue Proceedings,” March 1874, Index No. 11, November 8, 1873, Proceeding No. 83.


51Commissioner, Allahabad, April 1, 1861, Progress No. 3817, in ibid.
Reports from Jhansi and Benares told a similar story of discontent amongst the dominant zamindar-maliks.\textsuperscript{52}

The fate of the halkabandi system in the overwhelming majority of cases was clear, as was the choice of action open to strong zamindars: they either controlled it or obstructed it. Little opportunity remained for the patwari to become the independent agent of Government as modern administrative principles so urgently required. The commissioner of Rohilkhand was alone in his cautious conclusion that his district officers “generally approved” of the new system “as furnishing a more qualified class [of patwaris], more trustworthy because not so immediately dependent on the zamindars.”\textsuperscript{53} This was the most optimistic assessment of the measure in the whole enquiry. The lieutenant-governor was satisfied nonetheless on the receipt of these reports that the advantages of the system were patent and that such discontent as was expressed was “partial.” The board was asked to keep the system in view and to notice it in their administration reports as a supervisory check.\textsuperscript{54} Later in the same year—1862—the lieutenant-governor recommended that the halkabandi system be extended to districts lying outside it up to that point, in order to correct frauds and abuses by introducing an enlightened professionalism into patwaris’ activities.\textsuperscript{55}

Independent status for patwaris might well conform to the theoretical needs of Government, but its situation in practice militated against it. For one, there was the general principle of non-interference in the affairs of rural society for fear that disturbance of the zamindars might result in an upheaval of “Mutiny” proportions. More immediately, there were chronic problems of shortage of trained staff and of the means to pay them.

As far as the patwaris were concerned, Government had made its position clear soon after its decision to retain the halkabandi system. The expenses of the patwaris were to be shared, but Government was to be a junior partner in the enterprise: “For the proper remuneration

\textsuperscript{52}Deputy Commissioner, Jaloun, January 25, 1861, Index No. 1, and Collector, Azamgarh, December 31, 1860, Index No. 509, Progress No. 358; Collector, Ghazipur, January 3, 1861, Index No. 4, Progress No. 364; Collector, Mirzapur March 7, 1861, Index No. 78, Progress No. 2842—all in \textit{ibid}.

\textsuperscript{53}Commissioner, Rohilkhand, July 16, 1861, Index No. 229, Progress No. 8483, in \textit{ibid}.

\textsuperscript{54}Government, NWP, to Board of Revenue, NWP, January 6, 1862, in NWP, “Revenue Proceedings,” January 11, 1862, Index No. 41, Proceeding No. 17.

\textsuperscript{55}Government, NWP, Board of Revenue, NWP, August 9, 1862, in NWP, “Revenue Proceedings,” August 9, 1862, Index No. 25, Proceeding No. 20.
of the Patwaris, the zamindars are entirely and solely responsible.\textsuperscript{58} Government's essentially supplementary payment for the patwaris' official services was also paid by the zamindars—indirectly, such payment being fixed at a proportion of the revenue. Prior to the publication of the Saharanpur Rules in 1855-56, this stood at some 2 percent on the jama of each district. Thereafter, patwaris' salaries were fixed by order at Rs. 80 per year, and the zamindars' contribution increased to 5 percent on the revenue. This system of payment became legally standard throughout the NWP in 1860.\textsuperscript{57} Incentives to improvement and good conduct were officially provided by the classification of patwaris into three groups: the first drawing Rs. 120 per year, the second Rs. 100, and the third Rs. 80. Appointments were made to each class according to experience and merit.\textsuperscript{58} Subsequent rulings on the status and remuneration of patwaris provided for their supplementary allowance from Government as before: a circular order of 1874 fixed the rate of payment at Rs. 5 to Rs. 12 per month, varying according to the size of a patwari's halka and the amount of revenue drawn from it.\textsuperscript{59} These rates remained in force.

Not surprisingly, patwaris tended to maintain a certain diversity of interests, as circumstances suggested or compelled it. Things were no different in this respect between the temporary settled districts of the provinces and the permanently settled parts of Benares Division, where the halkabandi system had been introduced as elsewhere with the pious hope of cutting down local administrative establishments to a size more manageable with the finances in hand. The board soberly reported observations by the collector of Benares showing that neither

\textsuperscript{58}Government, NWP, to Board of Revenue, NWP, January 30, 1864, in NWP, "Revenue Proceedings," April 2, 1864, Index No. 26, January 30, 1864, Proceeding No. 20.

\textsuperscript{57}Board of Revenue, NWP, Circular No. 4, August 4, 1860. Under the board's Circular No. 8, September 23, 1862, the 5 percent patwari cess was to be paid into the tehsili and the patwaris were to draw their wages through the tehsildar.

\textsuperscript{58}G. E. Williams, Commissioner, Meerut, to Board of Revenue, NWP, September 30, 1863, in NWP, "Revenue Proceedings," April 2, 1863, Index No. 24, January 30, 1864, Proceeding No. 24.

\textsuperscript{59}Board of Revenue, NWP, Circular No. 3, February 25, 1874, in NWP, "Revenue Proceedings," March 1874, Index No. 16, February 28, 1874, Proceeding No. 30. Compare the salary scales for appointments in the higher reaches of the revenue administration; see pp. 272–273 below. The law relating to patwaris and to their superiors in charge of pargana units, the kanungos, was codified by the NWP Land Revenue Act, XIX of 1873, amended by Act XV, 1886; the Oudh Land Revenue Act, XVII of 1876; the NWP and Oudh Kanungos and Patwaris Act, XIII of 1882, amended by Act IX, 1889.
the new system nor the fixing of salary scales had cut the village patwari free from his reliance on local resources: "... still in some cases the Patwari retains his Jagheer [jagir], and makes a private settlement with the zamindar about his pay, and in some cases still collects his pay from the assamees, instead of receiving it from the hands of the zamindar ... The Patwari then becomes a cultivator as regards his Jagheer, and a collector of his own pay in petty items from the whole community, whose accounts he is expected to keep honestly, and regarding whose affairs he is expected to speak truthfully. The duties of his office, if properly discharged, leave little time for agricultural employments ..."^60

This "proper discharge of official duties" was frustrated a priori in the majority of cases by the patwari's necessarily multiple status vis-à-vis Government and his own local society. It was a common assumption of the revenue administration that, as W. C. Plowden put it in reviewing collectors' reports in 1868 on the state of the patwaris' papers, "if things are properly and systematically looked after, village accountants are the Revenue Officer's most useful coadjutors."^61 Officers' experiences in putting the requirements of administration into practice continually proved Government's expectations to be as far out of proportion to the agency provided as the official remuneration was to the prescribed range of duties. Patwaris might prove themselves ignorant and unskilful (in the use of measuring instruments and in surveying the fields of the mahal), given to delegating tasks to relatives^62 and, most irritating of all, absent when required by the district officer for some specific duty.^63 The impatience of superiors is understandable—the more so in view of the impossibility of many of their tasks—but it blinded them to some not unimportant distinctions. As a conse-

^60 Board of Revenue, NWP, to Government, NWP, April 29, 1867, in NWP, "Revenue Proceedings," May 25, 1867, Index No. 35, Proceeding No. 5. For illustrations of the animosity roused by the halkabandi system between (a) zamindars and Government and (b) zamindars and patwaris, and aggravated further by the imposition of the percentage cess on the revenue for the patwaris' payment, see the correspondence preceding the board's report, in ibid.


^62 See, for example, the complaints of the settlement officer, Allahabad district, in NWP Revenue Administration Report, 1867-68, pp. 23-24.

^63 Extract from Captain D. G. Pitcher's diary, kept while on special duty in connection with the investigation of excessive mortality in Rohilkhand, in NWP and Oudh, "Revenue Proceedings," July 1880, Index No. 39, May 3, 1879, Proceeding No. 85. Compare E. B. Alexander's comments on the "very large" number of non-resident patwaris from old-established families, most of whom were living in the large towns; Moradabad Settlement Report, p. 113.
quence, the inefficient, slothful, or fraudulent patwari became confused with the dutiful official, co-operating with Government and zamindar but saddled with an unending variety of conflicting claims to his services.\textsuperscript{64}

\textit{The State of the Records}

The confusions surrounding the patwari's status hampered the revenue officers in their Sisyphean task of compiling and maintaining a valid set of administrative records. Modern principles of government demanded the accumulation of accurate and comprehensive data on the condition of the provinces such as would be provided—it was claimed with all confidence—by the amalgamation of scientific techniques of measurement with the miscellany of village papers corrected in the light of thirty years of settlement experience and the equitable principles of property.

Here [in the NWP] there has been a professional survey of the country: the boundaries and areas of all estates have been ascertained and carefully recorded. Field maps, showing every field, every uncultivated patch, every orchard and garden, every pond or water-course, the village-site,—in fact every portion of the estate in full detail, plotted to scale and admirably executed, have been prepared. In these Index maps, every field or plot is numbered. A list of fields, with corresponding numbers, forms part of the record; in this list the number of the field, the details of measurement, the name of the field, the name of the proprietor and cultivator, the area, the rent, are all recorded. Records of right, showing the tenure, share or position of every proprietor, sub-proprietor and cultivator, have been carefully

\textsuperscript{64}See, for example, the draft circular of instructions for a projected system of village (that is, famine) relief, 1880. A debate followed as to which executive agency should implement the proposal, and how it should be supervised. The lieutenant-governor opposed the entrusting of the scheme to wealthy landlords, as was done in Bengal. Their inexperience would, he considered, result in inaccuracies and they "would resent any interference in the shape of supervision unless it was conducted by high officers." But the "cost of these would be so great that the game, in ordinary parlance, would not be worth the candle." Therefore, the lieutenant-governor preferred "to work with the agency we find ready to our hand in the village patwari and in the supervising kanungos." Government, NWP and Oudh, to Government of India, September 13, 1880, in Government of India, "Famine Proceedings," October 1880, Proceeding No. 1. In reply, the Government of India regretted this rejection of landowners' assistance, which deviated from the Famine Commission's recommendations, and trusted that the agency of patwaris and kanungs would be supplemented by that of "landowners of good character, high position and local influence who possess and enjoy the respect of district officers." \textit{Ibid.}, Proceeding No. 2.
DILEMMAS OF ADMINISTRATION

prepared. Village administration papers, or bye-laws, noting the customs and rules for village management, present and future, providing for all contingencies connected with transfer of right by sale and purchase; mortgage; the rules regarding right of pre-emption, partition, succession, election of managers—are entered. In short, whereas in Bengal nothing was known, or hardly anything was known beyond the amount of the demand which was made permanent, here in the North-West every atom of information which can be required is immediately forthcoming.66

This in theory was how things should have been. However, the tidy world of G. E. Williams’s vision (from his vantage point as Commissioner of Meerut in 1866) lay far from reality, as reports from settlement officers showed it to be. For a start, the myriad of cultivated patches, criss-crossed by strips of waste, which made up a pargana frustrated attempts at accurate measurement even on the relatively small scale adopted by the professional survey. The approximations registered by the surveyors were also ephemeral: field boundaries fluctuated from season to season according to the following practices of different localities and of individual cultivators within them.66 Surveyors’ amins (field clerks), saddled with this impractical business of detailed measurement, chose understandably on occasion to cut the Gordian knot. A map drawn up of part of an estate in Mirzapur in 1865-66 turned out on inspection to be an exact copy of an original compiled in 1840, “except that lines defining the fields were all drawn straight and at right angles to one another . . . In the North-east corner ten additional fields were inserted” to represent the increase in cultivation.67

The employment of amins brought other problems in that the expense of maintaining them fell heavily on local society. “What can be done is done to stop this, or rather to stop anything like exaction,” Crosthwaite reported from Moradabad in 1873, “but the people think that the ameens can save or injure them, and are only too ready to bribe them, while the better class of zamindars would think it mean not to entertain them while they are in the village.”68

66Muzaffarnagar Settlement Report, p. 11.
Zamindars who spurned the services of the amins, on the other hand, and who turned their backs on the survey were liable to fines levied by the settlement officer; these were required by regulation to ensure the attendance of zamindars on the surveying parties as a safeguard for their interests.69 One way or another, the survey was an expensive business.

After the lengthy processes of surveying came the lengthy processes of the settlement. As far as zamindars and cultivators were concerned, this meant a second set of minor officials and their demands following on the footsteps of the first.70 The administration however was saddled with new problems resulting from a marked lack of co-ordination between the two field operations. While the surveyors turned out maps of some 700 square miles per year, the settlement department was hard put to reach a total of between 350 and 400 square miles per year, inspected and assessed. This disparity was aggravated by the fact that the survey department did not always supply its maps to the settlement department as soon as required.71 There seemed to be a choice of two remedies available to Government: decrease the survey staff or increase the settlement establishments. The board recommended the latter, finding the other course of action impossible. As E. C. Buck, then Officiating Secretary to the board pointed out, it was "almost too late to do anything in this direction, even if it were advisable to do so. The Board doubt whether survey parties could be materially reduced without interfering with the departmental arrangement, and increasing the average cost of measurement."72 The expenses of local communities on the other hand in entertaining settlement amins in greater numbers could not but increase.

The settlement officer's difficulties in co-operating with the survey department were little more than an irritant in comparison with the problems he confronted in the course of registering rights over land. Government's needs dictated the arduous procedure of compiling...

69C. H. T. Crosthwaite's observations, NWP Report on the Progress of Settlement Operations, 1872-73, p. 15. Crosthwaite stated his reluctance to coerce the zamindars into attending the survey parties (costly in time as well as money) and to use fines for the purpose, "except where neglect is contumacious and very marked."

70Ibid., p. 16. On the duration of settlements, see pp. 130-131 above.


72Ibid.
the wajib-ul-arz (record of rights), the basic "village" document. "It is of course absolutely necessary that the proprietary rights should be clearly defined in order to distribute the revenue," E. B. Alexander commented, "and it is also necessary to have some fairly corrected record of occupancy and tenant right."\textsuperscript{73} Alexander made no bones about the labour involved in supervising the preparation of such documents (one for each village): "by far the heaviest work in the settlement." The headings of a typical wajib-ul-arz suggest that this was no understatement:

1. The history of the village, including all changes in proprietary possession.
2. A detailed record of present proprietary holdings, with the distribution of Government demand in villages held in severalty.
4. Right of transfer and manner of succession.
5. Appointment and removal of lambardars.
7. Rent-free holdings.
8. Rights to irrigation from wells, tanks, and so forth.
9. Rights in homesteads, surais (encampments), bazars, and so forth.
10. Rights to grazing and manure.
12. List and rights of under-proprietors in talukadari villages.
13. List and rights of chakdars (subordinate official, in charge of a chak) and subordinate proprietors in independent villages.
14. "Cultivators, their customs and rights, what they give, and what they are entitled according to the custom of the country to receive."\textsuperscript{74}

The wajib-ul-arz was an elaborate local codification of the principles of Pax Britannica, and as such it warranted an attitude of solemn responsibility on the part of the officers charged with compiling it. "It contains a summary and acknowledgement of every man's right and interest in the village," G. B. Maconochie declared; "therefore much of the future peace of the community depends on it, and unless

\textsuperscript{73}\textit{Moradabad Settlement Report}, p. 88.
\textsuperscript{74}\textit{Unao Settlement Report}, pp. 49–51. For further details on the same scheme of classification (general throughout the provinces), see \textit{Muttra Settlement Report}, pp. 106–120.
every custom, and procedure, is provided for, and laid down, disputes of all kinds will be constantly cropping up.\textsuperscript{75}

Such hopes could rarely be satisfied. As in the case of the survey, local phenomena proved too elusive for the settlement officer with his cumbersome recording apparatus. The formality of the wajib-ul-arz added interminable frustrations to his task of redacting material to fit the various headings, tying each piece to an artificial base in 'the village.' "So great is the vitality of a real custom, neither party wishes \ldots \textit{[it]} to be entered \ldots ," S. M. Moens complained from his experience in attempting to meet Government's requirements in Bareilly. "The cultivator is afraid of the payment becoming stereotyped, and that henceforward he will be deprived of all powers to refuse compliance with the demand. The zamindar is afraid; (1) of the endless disputes which a demand for entry of the custom would excite; and (2), lest a refusal of entry should be followed by a general refusal of the asamis to give the dues and services."\textsuperscript{76} Where the impasse was resolved, it was usually in favour of the zamindar. Astute officers such as T. R. Redfern in Kheri district warned that too great a reliance should not be placed on the record of rights (thus contradicting Government's own directives) because of the undue weight given to the proprietor's case. "The fact is," Redfern explained candidly, "that the persons who are interested in traversing any custom alleged by the proprietor are not always known to the verifying officer, and are not specially called or consulted; while they on their part do not voluntarily attend, unless a dispute between themselves and the proprietor is already aglow."\textsuperscript{77} If some administrative papers were merely one-sided, others had the more serious defect of being decidedly unreal. Crosthwaite asserted that these were in fact in the majority—that most were records "not of existing usages but of usages the Settlement Officer wished to establish or of conditions the then proprietors (or some of them) were anxious to introduce."\textsuperscript{78} Some officers, faced with manifestations of local custom which they found frankly deplorable, employed the tactics of an ostrich and refused to recognize their

\textsuperscript{75}Unao Settlement Report, p. 49.

\textsuperscript{76}Bareilly Settlement Report, p. 110.

\textsuperscript{77}Kheri Settlement Report, pp. 29-30.

\textsuperscript{78}"Note on the Wajib-ul-arz," in NWP, "Revenue Proceedings," December 21, 1867, Index No. 16, Proceeding No. 15. Crosthwaite cited, by way of an example of such errors, the settlement officer in Mainpuri (at the previous settlement) who inserted clauses regarding tenants' right to compensation for improvements amongst other things which "may or may not have been beneficial but were not records of an existing custom or usage."
validity by recording them—which was R. G. Currie's method of resolving the problem of the Raja of Powayn's extortionate zamindari charges. Meanwhile, legislation and judicial decisions on tenancy had resulted in several of the record's categories becoming obsolete, thus adding to the settlement officer's selectivity as regards the recording of existing usages. In spite of all these known compromises, the wajib-ul-arz continued to be held in great regard from the point of view of the judiciary. "The Civil Courts," stated the Honourable Mr. Justice Turner, "in compliance with the intention of the Legislature, have accepted the administration proper as entitled to the highest weight as evidence of the matters it purports to record . . . ," and he enjoined settlement officers to aim at accuracy, "that as far as possible it may be worthy of the authority with which it is regarded by the Civil Courts," and at simplicity, "that it may be easily understood by those whose rights may be affected by it." The courts tended to be more plain-spoken in their recognition of the nature of the wajib-ul-arz. The highest judicial authority, the Privy Council, had on one memorable occasion defined it simply as "the proprietor's document."

The compilation of the wajib-ul-arz and the jamabandi, or "rent roll," was the focal point for the recording of local information for the purposes of Government under the revision of settlements. It was considered essential that proprietary title should be locally registered and that the incidents of the landlord and tenant relationship be classified in detail at the village level according to a compre-

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80 Mainpuri Settlement Report, p. 99. According to R. S. Whiteway's information at settlement, in villages in Muttra owned by a single proprietor "the law has now to a great extent settled the relations of the landlords and their tenants"; Muttra Settlement Report, p. 106.
81 "Note on the Wajib-ul-arz." in NWP, "Revenue Proceedings," December 21, 1867, Index No. 16, Proceeding No. 15. Mr. Justice Turner endorsed Crosthwaite's views; see ibid. For a summary history of the legal recognition of the wajib-ul-arz in the provinces, see R. N. Cust, Junior Member, Board of Revenue, "Minute on the Wajib-ul-arz," August 16, 1867, in ibid., Index No. 13, Proceeding No. 12.
82 Extract from the judgment of the Judicial Committee of the Privy Council in the case of Uman Parshad v. Chandar Singh, July 6, 1887, as reported in NWP and Oudh, "Revenue Proceedings," February 1888, File No. 261 A, Serial No. 1, Proceeding No. 10. For further statements of the legal value of the wajib-ul-arz, see Muhammad Hasan v. Munnalal, 8 Indian Law Reports—Allahabad Series 434, and Isheri Singh v. Ganga, 2 Indian Law Reports—Allahabad Series 876 (both cases on the right of pre-emption).
hensible, if imported, set of criteria. It was equally important that regular accounts should be kept of the payment of rent—the economic basis of the contract between a landlord and his tenants. These two documents were to assist Government in its role as tax-collector and magistrate. Its proprietorial interests were to be served in addition by statistical information on the condition of the estate, again collected at the village level—figures of population distribution, of the outturn of principal crops per harvest, of facilities for irrigation and for local marketing of produce, and so on.

The task of assembling and maintaining such detailed local records demanded a high degree of co-operation between the most senior members of the district administration—the European district and settlement officers—and the local, part-time officials with their ambiguous status as servants of Government and the village, the patwaris. Data accumulated in the first instance by the patwaris was to be processed under European supervision in accordance with modern principles.

Problems which soon manifested themselves in the course of the settlements destroyed much of the symmetry of such a plan. The supervising officer's position in the administrative hierarchy placed him forever at a distance from the sources of his information, a predicament which the growing burden of paperwork and his mobility in terms of furlough and promotion could only aggravate. Moreover, the standards of scientific precision proved in practice difficult if not impossible to meet with the means to hand: the settlement officer could not establish the rent rate except by his own estimates; and the surveyors could not plot the agricultural pattern of a pargana. The standards however remained unaltered, and Government, forever assuming the existence of a phenomenon which it was unable to create, namely the patwari as a disinterested public servant, required not merely local records but also local officials to conform to them. Correspondence between the records patwaris kept for village purposes, in accordance with their zamindars' requirements, and the criteria set up by the administration to serve its needs was inevitably coincidental and relatively rare.

The European officers' position was unenviable. While they admitted to the central importance of the patwaris' records, their field experience led them to question the extent to which such data could and should be relied on for administrative purposes. Auckland Colvin's report

\[83\text{See pp. 123-130 above.}\]
in 1864 on the lax state of morals as regards public accounting in a pargana of Muzaffarnagar district reflected a widespread concern over the state of the patwaris' records, which on inspection continually turned out to be highly dubious. Amounts of produce were "invariably entered at haphazard" in the official accounts; foreclosure of mortgages went unnoticed; details as regards possession remained unspecified; deaths of proprietors escaped registration. All of which led Colvin to conclude, legitimately, that "the present system of village registration is very imperfect and carries in it seeds of serious mischief." Meanwhile, these records were accepted as "the basis of hundreds of decisions affecting landed property." 84

Colvin was aware that the circumstances of the patwari, in spite of the halkabandi system, made this inevitable. He pleaded for practical encouragement (in the form of a rise in salaries), for increased facilities for supervision, and for the removal of the "most dangerous duties" from the patwari's charge in order to overcome fraudulence in error and safeguard the integrity of the official records. 85 Government did not see itself in a position to implement any of Colvin's recommendations, and official misgivings about the state of local records could not but persist. "It is a crying shame," exclaimed R. N. Cust, Junior Member of the Board of Revenue in 1867, "that, with such a machinery, costing so much to the State in the salaries of the two higher grades, and to the landholders in the salaries of the lower grades, there should be such indifferent results. It comes to this, that if during the next five years something better cannot be attained, the time will have come to ... dismiss the whole establishment ... The Patwari must not be allowed to be the bailiff, or private servant of the landowner, or the money-lender and shopkeeper of the village ..." 86 Five years passed, and an enquiry into the status and remuneration of the patwaris of the NWP in 1873 revealed the same lamentable state of affairs; the compilation of papers was corrupt; the maintenance of correct records was impossible. 87


85 Muzaffarnagar Settlement Report, pp. 111-112. In Muzaffarnagar district, it was reported as usual for bhaiachara villages to auction the patwari's appointment. The highest bidder took it.


87 C. W. Carpenter, Settlement Officer and member of the Nauri Tal Revenue Code Committee, to Board of Revenue, NWP, April 17, 1873, in NWP, "Revenue
ment and district officers had in these circumstances little alternative but to decide their revenue cases on the basis of a fraudulent anachro-
nism. The patwari still tended to be the bailiff or private servant of the
landowner. The importance of the documents had not dimi-
nished; neither had the need for better supervision to ensure correct-
ness, nor the awareness of the Board of Revenue of such need, nor
Government’s intransigence in meeting this need. “The Government
agency [as regards payment of the patwaris] is not sufficiently effec-
tive,” H. S. Reid declared flatly, “and is not likely to be strength-
thened . . . The benefit of correct papers is chiefly felt by landlords
and cultivators, and charges necessary to ensure their accuracy may
be properly debited to them from existing funds if the Treasury
cannot meet them.” This pronouncement carried a note of finality,
as was borne out in later years. No adequate standard of correctness
could be attained and careful supervision could not be ensured while
the patwari’s rate of pay remained below subsistence level, while
the zamindars’ control persisted undisturbed, and while the senior field
officers remained remote and overworked.

The impasse persisted, with faulty records adding to the burdens of
routine administration, which in turn prevented the senior officers
from applying such correctives as their supervisory powers allowed.
Meanwhile, the reliance of all branches of Government on the (unre-
formed) patwari showed no signs of abating in deference to the acknowl-
dged shortcomings in the rich miscellany of documents which stood
as “village records.” “Without the co-operation of the village account-
tant,” J. A. Baines, Census Commissioner in 1891, wrote with enthu-
siasm, “I must admit our statistical information about India would
be grievously circumscribed. Births, deaths and the census are all
within his province in addition to his more special functions in connec-
tion with the record of cultivation, assessments and transfers of land.

Proceedings,” March 1874, Index No. 7, November 8, 1873, Proceeding No. 79.
See also J. F. D. Inglis, Senior Member, Board of Revenue, “Minute Regarding the
Remuneration and Status of Patwaris,” August 15, 1873, in ibid., Index No. 12,
November 8, 1873, Proceeding No. 84.

H. S. Reid, Junior Member, Board of Revenue, NWP, “Minute on the Patwaris’
Status and Remuneration,” August 8, 1873, in ibid., Index No. 13, Proceeding No. 83.

Ibid.

On the impracticability of E. C. Buck’s proposals, owing to the settlement officers’
lack of power to control the payment of patwaris, see E. B. Alexander’s comments
in Moradabad Settlement Report, pp. 113–114. The same state of affairs persisted in
Oudh, where the patwaris were generally under the thumb of talukdars, with whom
district officers could not interfere. See I. F. Macandrew, Some Revenue Matters, pp. 82–84.
A demand for information on any one of these and even more various topics, rolls down from the seat of Government over the three steps of the district officer, his assistant, and the sub-divisional officer, till it falls on the village accountant, who duly provides the data required, which are hoisted back by the same route, losing at each stage, I fear, some of their picturesqueness and originality.”

If something of the special flavour of local records seemed lost in this process of refining, much undoubtedly remained—including a certain obstinate refusal to conform to the official requirements of accuracy. District officers, for example, were instructed to submit four statistical statements annually, as follows: I. Classification of lands and crops; II. Distribution of principal crops in (1) irrigated and (2) unirrigated lands; III. Average outturn of principal crops per acre; IV. Distribution of produce: whether exported or retained for consumption. By 1872, experience had led to sharp questioning of this procedure. The board agreed that reports from officers on the subject showed the uselessness of continuing with the statements and qualified its conclusions with the following suggestion for remedial action: “If irrigation otherwise than by canals were struck out of Statement I, that and Statement II might in time be fairly reliable. But except at large cost, there seems ... little hope of getting information on the other heads, which is worth the paper it is printed on. In short, it is absolutely impossible for the District Officers to give the returns required in Statement IV, or those in Statement II and III, without a special establishment for the purpose, and though No. I can be given, it is hardly necessary to do so.” The lieutenant-governor duly recommended to the Government of India that the statements be discontinued.

In 1874, the Department of Agriculture was founded in the NWP with the avowed aim, inter alia, of collecting adequate statistics on agrarian and commercial conditions, but it did not possess the means to set up the special establishment required to transform aims into action. Its parent body in Calcutta suffered from the same funda-

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92 Board of Revenue, NWP, to Government, NWP, December 6, 1872, in NWP, “Revenue Proceedings,” January 1873, Index No. 3, January 4, 1873, Proceeding No. 25.
94 On the India and NWP agricultural departments and their necessary reliance on the revenue administration, see pp. 100-102, 108 above.
mental deficiency. Two years later, Knight launched the first number of his Indian Agriculturist with a tirade against the administration which appeared on the first page. "Remembering that the Indian Government is the great landlord of the soil," he taunted, "it is a heavy reproach to its Department of Agriculture and Revenue that it knows nothing with certainty to this hour of the cost of cultivation, or the yield of any single product whatever, but—the poppy! although we possess exceptional means of information at our command." Annual reports of the provinces' Agriculture Department, filled with accounts of the Court-of-Wards' estates and with lavish details concerning experiments in progress on the model farms, maintained a discreet silence on the question of general crop statistics, which lay far beyond its means to ascertain. Descriptive information of any comprehensive order on the state of agriculture from year to year was confined to a few paragraphs in the administration reports of the Board of Revenue; after 1884-85, even this source dwindled to token estimates, in annas, of the total outturn per division. More precise data on detailed questions were theoretically forthcoming from the patwaris and were subject in consequence to a variety of hazards. In Jhansi Division, where the condition of the cattle frequently gave serious cause for concern, no mortality figures for livestock were registered for 1889-90. The year appeared to have been "comparatively healthy" for this respect, "but as the patwaris were on deputation to Settlement work, the Deputy Commissioner has not found it feasible to obtain the usual statistics."

Trade figures for both the NWP and Oudh were notoriously inadequate. Twenty years after the first official system of traffic registration was established for the NWP in 1877, deficiencies in information as to the movement of staple articles of trade remained substantially unremedied. J. S. Meston, Director of Land Records and Agriculture in the provinces in 1898 drew the Government of India's attention to the limitations of available data on the balance of export and import: "The statistics for this factor ... are by no means absolutely complete and probably never will be so." Returns consisted of accounts of rail-borne traffic and road traffic between the provinces and Tibet and Nepal. No registration had ever been instituted for the

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85 Indian Agriculturist, January 1, 1876, p. 1.
86 See pp. 103–106 above.
87 NWP Revenue Administration Report, 1889-1890, p. 7.
88 See p. 184 above, notes 88 and 89.
“large avenue of trade” by road between the NWP and the adjoining provinces and native states except at isolated points “and incidentally in connection with other objects of investigation”; for the other “large avenue,” along the Ganges and Gogra to Bengal, “only fitfully collected figures” were available for 1886-87, 1888-89, and 1893-94. Meston believed the total traffic statistics to “involve a margin of error [omission] up to 10%.”

The collection of comprehensive trade statistics was hampered both by the complexities of communication lines linking the provinces and their neighbouring districts and by the paucity of registration points. In addition problems arose in this connection from the “subordinate establishment.” The Oudh Board of Revenue cautiously suggested in their report for 1870-71 that the trade returns for the year represented an advance on their predecessors in terms of correctness, “but,” it added,

so long as the funds at the disposal of the Administration compel it to keep the salaries of the registering clerks at a limit of Rs. 4 per mensem, it is hopeless to expect accuracy and steady work at the registration posts. The clerks are of too poor a class to command respect; they are armed with no real authority. There hence arises a difficulty, which as yet is less real than conceivable. “If a carrier represents his cotton as Berlin wool or his brick-dust as diamonds, the clerk may doubt the information but may not satisfy himself by practical demonstration.” At the same time the clerks are absolutely in the hands of the carriers, as regards the weight and value of the goods exported and imported and it is hard to say in what degree the returns approximate to the truth.

The registration of vital statistics was, understandably, entrusted to local agency: to village officers and chaukidars, or police (paid by the zamindars). Government had taken a stand against systematizing population counts as far as agricultural communities were concerned, probably in view of the momentous task of maintaining

100 Oudh Revenue Administration Report, 1870–71, p. 47. The numbers of clerks increased, but not their salaries.
101 Unao Settlement Report, pp. 30–31. See also Sir William Muir, “Minute on the Agreement and Payment of Rural Police (Chowkidars),” May 28, 1868, in NWP, “Revenue Proceedings,” June 27, 1868, Index No. 30, Proceeding No. 35. A cess of a fixed percentage on the revenue was to be instituted for police maintenance, according to districts.
regular records, not to mention the expense. As late as 1893, in answer to a query as to why the Famine Commission’s recommendations in this respect had not been implemented, Government made its position plain. “Generally speaking, the existing law makes registration of vital statistics compulsory in towns and municipalities, but...it has not been found practicable or desirable, having regard to the conditions of native society, to extend this system generally to rural areas.”

Trouble could arise when Government needed statistical information as regards rural communities, as for example in the famine years of 1877 and 1879, in order to measure the extent of the phenomenon. D. G. Pitcher reported how Government, in its zeal to secure accurate mortality figures in Shahjahanpur, warned the chaukidars by a circular order that failure to register deaths would result in six months’ suspension. “It is not surprising then,” Pitcher continued, “seeing that house-to-house verification had never been carried out, if some chaukidars thought that a higher rate of mortality might get them a better name, or that when deaths began to occur very frequently a panic seized them, and they elected to report every disappearance in a death.”

Whether dictated by the incoherence and inadequacies of local records for the purposes of administration, or merely reinforced by them, Government’s zeal for special enquiries as an obligatory condition precedent to official action was marked. Even matters which were the direct concern of the revenue administration and which would seem at first sight subjects for a brisk report and a correspondingly succinct decision were exposed to the procedure of a full-scale enquiry, in deference to the serious concern of the administration.

The “urgent problem” of the re-adjustment of revenue kists was one such matter. The question of the policy involved in the timing of the kists was first raised—inconsequentially—in 1839. C. A. Elliott revived it thirty years later, and it was taken up by

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104 See pp. 155–160 above.

the Secretariat. The board’s Circular Order AAA of July 28, 1870 invited the opinions of revenue officers. An abstract of these was forwarded, with the board’s views, for Government’s orders on March 16, 1872. In reply, the Government’s General Order of April 2 requested J. F. D. Inglis’s opinion as Senior Member of the board. Inglis’s opinion was subsequently recorded in a note sent to Government on December 13. According to General Order of April 18, 1873, Government then “fully discussed” the question, laid down its principles, and requested the board to frame instructions on them for the revenue officers’ guidance. A draft circular was submitted by the board to Government, dated May 22, 1873. However, it was subsequently found necessary to amend this draft, and a revised version was sent in substitution, dated September 23. Meanwhile, the board had “received for compliance” (through the local Government’s General Order of August 20, 1873) a requisition from the Government of India (which had seen the correspondence in the “Proceedings”) for a statement showing the proposed changes in instalments and their financial results. The board stated nothing could be done towards meeting this requisition till orders were passed on the circular they had submitted. The circular was approved by a General Order of October 23, 1873 and issued on November 25. The first replies however showed that the information submitted was likely to be insufficient to enable the board to form any opinion on the propriety of such proposals as were made. The board therefore issued a second circular, dated March 6, 1874, requiring fuller details on answers supplied to the original circular. Replies which were sent in to the board subsequent to the second circular, “though still wanting for many districts,” were reviewed by the board in August. It then appeared that Paragraph 7 of the original circular had not been properly followed, in that the instructions to state the date and amount of each instalment had not been sufficiently observed. Therefore, a tabular form was issued with the board’s next circular, of October 7, 1874. By January 11, 1875, replies to this were being received and were stated to be nearly complete.\footnote{Governor, NWP, to Government of India, February 2, 1875, in NWP, “Revenue Proceedings,” February 1875, Index No. 23, February 6, 1875, Proceeding No. 42.} The submissions of the overburdened district officers had not however proved satisfactory. In view of the gravity of the matter at issue, the board concluded cautiously, after five years’ deliberation, that “The information and knowledge of agricultural facts, upon which the arrangement of revenue instalments should be based, is [sic] too
little advanced to enable district officers to frame their proposals in accordance with the instructions enunciated by Government and by the Board."  

The Secretariat’s craving for more detailed information could never be satisfied. Reports compiled by district and settlement officers in the course of their duties provided data and often acute observations on a wide range of specific matters, such as the mode of cultivation of indigo or the spread of reh in certain zamindars’ estates in canal districts; or they gave comprehensive descriptions of conditions ruling generally in a district within the period when its revenue settlement was revised. As far as administrative purposes were concerned, however, the official records suffered from two serious defects: lack of co-ordination and of continuity. In the absence of adequate means to maintain and improve them regularly, the records could not be amended satisfactorily by such special enquiries as Government launched from time to time. These were prompted by disasters engulfing agricultural communities so severely as to attract public notice: the appointment of a commission of experts to examine the agrarian conditions of India in relation to the great famine of 1877-78 and 1879 is a case in point. Inevitably, it fell to the overworked revenue establishments to supply the local information for the experts’ judgment. Inevitably, the data collected failed to meet the requirements.

In 1887, irked by public assertions in England to the effect that “the greater proportion of the population of India suffers from a daily insufficiency of food,” Government in the person of the Viceroy, Lord Dufferin, ordered a large-scale enquiry into the condition of the lower classes of agriculturists. The seriousness of the procedure was marked. A circular order—confidential—was sent to the provincial administrations, defining the limits of the enquiry and placing great emphasis on precision: Government demanded not general comments, but facts and statistics relating to selected households in each district. Subsequent reminders followed the initial circular order, enjoining

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107 Board of Revenue, NWP, to Government, NWP, January 11, 1875, in ibid., Index No. 17, February 6, 1875, Proceeding No. 36.


109 Government of India, Circular Order No. 44 S-I (Confidential), August 17, 1887.
urgency in view of Lord Dufferin's departure from India earlier than anticipated and the necessity of completing the enquiry accordingly.\textsuperscript{110}

The local Governments set to work organizing the collection of information as instructed, a time-consuming task. In the NWP and Oudh, the circular order (again confidential) which instructed the commissioners of divisions as to how to proceed with local investigations was published by the Secretariat on January 12, 1888,\textsuperscript{111} nearly five months after the first order from Calcutta. By June 8 following, such reports as had reached the Government offices at Allahabad were collected together and, with a covering letter by the director of land records and agriculture summarizing their content, were despatched to Calcutta on July 25; the submissions covered fourteen of the forty-two districts.\textsuperscript{112}

The obstacles encountered in the course of the enquiry had been formidable. Throughout Agra Division, and especially in the districts of Muttra and Etah and in parts of Etawah, the kharif of 1887 had been a near-total failure. Since, as the commissioner observed, "the cultivator lives on the autumn harvest's produce, and pays his rent chiefly from the spring harvest . . . , a year where the cultivator has no autumn crop is a bad one to inquire into the sufficiency of the cultivator's food. During the past winter months, the cultivator had certainly not a sufficiency of food. The particulars collected in Muttra at any rate," he added, "are interesting only as showing how this class pull on in times of scarcity."\textsuperscript{113} Otherwise, the reports of his district officers could offer nothing beyond general facts as to the common condition of local food supplies. Elsewhere, frustrations arose from the failure of the Secretariat to time its requests in conjunction with district officers' routine. "Such an inquiry as is contemplated in the orders of Government can only be made during the tour season," J. J. F. Lumsden commented from Benares, "and it is to be regretted that the orders on the subject were not received before half the tour season had passed."\textsuperscript{114} By this time, the officers were well occupied with their inspection of tehsili accounts, the hearing of

\textsuperscript{110}Government of India, Circular Order No. 35 (Confidential), March 21, 1888.
\textsuperscript{111}Government of India, Circular Order No. 53 I-6 (Confidential), January 12, 1888.
\textsuperscript{112}For the districts covered by the enquiry, and by the Famine Commission report, 1879–1880, see endpaper map.
\textsuperscript{113}W. Kaye, Commissioner, Agra, to Director, Land Records and Agriculture, May 29, 1888, in Dufferin Enquiry (Enclosures, NWP and Oudh), p. 3.
\textsuperscript{114}J. J. F. Lumsden, Commissioner, Benares, to Director, Land Records and Agriculture, April 14, 1888, in \textit{ibid.}, p. 129.
revenue disputes, and a myriad of items of routine business. Their reports did little more than corroborate the general impressions which already filled bulging files in Government offices—a conclusion which the commissioners of Allahabad and Rae Bareli admitted without surprise, given the circumstances.\textsuperscript{115}

The greatest impediments of all were raised by the nature and terms of the enquiry itself. It asked the impossible, even of officers whose duties in the field placed them in an unrivalled vantage point vis-a-vis agrarian conditions. Thomas Stoker, Settlement Officer in Bulandshahr district in 1887, in submitting "the following considerations," showed one reason why:

My daily work for five months in the year brings me into contact with the people in their fields and villages; I am surrounded by them for hours every day; for weeks together I speak to nobody else; I see them under every condition, and hear all their complaints. It is part of my business to visit every one of their homesteads, and to note generally their style of living, their appearance, the character of their houses, their surroundings, their stock and equipment. It is impossible that any person of ordinary intelligence and observation can mix on these terms with the people and remain in ignorance of such broad facts as to whether they are sufficiently fed and clothed and properly equipped for the business of agriculture. If no more than this were required, I could at once and with some confidence give an answer to the inquiry which is now made. . . . But . . . generalizations are not required, . . . an inquiry is to be instituted into specific cases. This I feel bound to represent that I do not think I can carry to a useful or safe conclusion. It is the object of every person who lives by the land to place the condition of himself and his industry before the Settlement Officer in the most disparaging light. It will be useless for me to say that the inquiry has no connexion with settlement; I will not be believed. I cannot divest myself of my official character. Every man whom I question will believe I am seeking a basis on which to assess his rent or revenue, and he will answer accordingly. He will declare that his fields do not return even the seed and labour, and that he and his family are starving. The evidence of my own sight will show him to be lying; but unless I make an inquisition and hunt up evidence, the record will

\textsuperscript{115}A. J. Lawrence, Commissioner, Allahabad, to Director, Land Records and Agriculture, April 10, 1888, in \textit{ibid.}, p. 120; F. Currie, Officiating Commissioner, Rae Bareli, to Director, Land Records and Agriculture, April 2, 1888, in \textit{ibid.}, p. 173. See also the comment by T. W. Holderness, Collector, Pilibhit, in forwarding "notes of such enquiry as I have been able to make at intervals during the last three months . . . The enquiry is very imperfect, but as the sole European officer here, I have found my time occupied by other matters." Holderness to Commissioner, Rohilkhand, April 13, 1888, in \textit{ibid.}, p. 106.
misrepresent the facts. And, indeed, the evidence being that of his fellows, will most likely support than contradict him. These are not mere speculations. I find . . . that since I have been engaged in settlement work my relations with the people are much changed. I am regarded as an enemy, to be opposed by their only weapon, that is to say, deception. I tried at first when going among the fields and villages to help the people by explaining to them such matters as the great improvements which have recently been made in the methods of well-sinking, or the better methods of cultivation I had seen followed, or better staples grown in other parts of the country. I desisted only when I found myself credited with the Machiavellian policy of seeking in this manner fresh grounds and reasons for raising the revenue. My object in making a house-to-house inquiry will certainly be misunderstood, and the facts will certainly be misrepresented. I can answer for the accuracy of my own observations; but I do not think the information supplied by cultivators or proprietors will be equally trustworthy.  

Where European officers were replaced by "native" subordinates, for example in Etawah during the furlough of Alexander (the Collector), and where tehsildars were consequently entrusted with the compilation of data for the enquiry, impossibilities persisted. Alexander subsequently reported how the tehsildars' calculations of cultivators' annual budgets had been reckoned theoretically on the basis of so many people per family and so many seers' expenditure on food at such and such average price, with little or no regard to the actual amount involved. In any case, it was a hopeless task, Alexander himself admitted, "dealing with a long period like a year and after an interval of several months." Other amongst his colleagues were more sweeping in their condemnation of the terms of the enquiry. "I have the honor to state," J. S. Porter wrote from Shahjahanpur, "that, after much consideration and consultation with persons well acquainted with the subject, I have found it impossible to make an exact valuation of the normal income and expenditure of the poorer

116T. Stoker, Settlement Officer, Bulandshahr, to Commissioner, Meerut, February 3, 1888, in ibid., pp. 1-2. The effect of local suspicion on the validity of agricultural enquiries was early acknowledged. See, for example, a note of 1864-65 apropos of returns on the value of agricultural produce to be submitted by collectors. "As their value will depend upon their accuracy, and as the habitual distrust of the natives of the motive by which the Government is actuated in directing such information to be furnished will for a long time tend to the concealment of the real outturn of the crops by the cultivators, much reliance cannot be placed upon the results which will be reported for some years to come." NWP Revenue Administration Report, 1864-65, p. 2.

classes in this part of the country . . .”\textsuperscript{118} The problem was fundamental. The food supply of the majority of cultivators, the object of the enquiry, could not be assessed by the statistical means of monetary calculations which official instructions insisted should be employed. As C. W. McMinn had noted nearly twenty years earlier with regard to conditions in Oudh, “the poorer classes habitually use as food things which never appear in the market quotations: dried blossoms of the mahwa tree, stones of the mango and other fruits, leaves and tops of gram, a very wholesome and palatable vegetable, and millet stalks—all are common articles of diet.”\textsuperscript{119} Like the Famine Commission’s report, the Dufferin Enquiry resulted in an accumulation of a wealth of accurate, informative, but unwanted observations which the administration could not utilize and a mass of budgetary statistics conforming nominally to requirements but useless in content.

\textsuperscript{118}J. S. Porter, Collector, Shahjahanpur, to Commissioner, Rohilkhand, May 15, 1888, in \textit{ibid.}, p. 106. See also W. Lane, Commissioner, Meerut, to Government, NWP, and Oudh, April 3, 1888, in \textit{ibid.}, p. 1.

\textsuperscript{119}C. W. McMinn, \textit{Introduction}, p. 181. For attempts at an adequate estimation of the amount of food grains required for local consumption which, on deduction from the estimate of total outturn, was assumed to leave the amount available for export, see A. B. Patterson’s notes from Fatehpur district. Allowing for a consumption rate at 1.5 lbs. per capita per day, he calculated that 4,542,972 maunds would be required annually for the district, the total produce of which he estimated at 5,905,136 maunds; see \textit{Fatehpur Settlement Report}, pp. 22–23. C. A. Elliott estimated consumption throughout the province in a famine year at 1/6 ton per capita; see “Memorandum on Existing Food Stocks in the NWP and Oudh,” January 15, 1898, para. 4, in Government of India, “Famine Proceedings,” March–June 1898, File No. 127, Serial No. 16. Meanwhile, general observations—of McMinn, the Famine Commission, and the Dufferin Enquiry, for example—persistently showed the impracticality of such abstract calculations in the actual circumstances.