

THE DEVELOPMENT OF THE CEYLON CIVIL SERVICE

1802 - 1833

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P R E F A C E

This thesis is very largely based on the official records available at the Public Records Office. I have however attempted to present, along with the official viewpoint, the objective situation. To my mind there seems to be close connection between the historian and his environment. After completing my thesis I became conscious of the fact that the problems I had posed reflected a desire shared by the Ceylonese of the present day to understand the past without falling into the temptation to moralize on historical events. Historians who used to write about the white man's burden perhaps tempted others to write about the black man's virtues spoilt by European contact. To steer clear of both pitfalls seems to me to be the challenge of our times.

I wish to extend my warm thanks to my supervisor, Dr. K. A. Ballhatchet, for valuable guidance and for showing much patience and tolerance. I wish to thank the British Council for granting me a year's scholarship which brought me to London, to Miss Clive Smith of the British Council for her assistance, and to the Vidyalankara University, Ceylon, for granting me leave. Finally I wish to mention the warm interest that was shown with regard to my studies by the late Professor H. C. Ray of Vidyalankara University, Ceylon. To his memory this thesis is dedicated.

A B S T R A C T

The development of the Civil Service of Ceylon is closely interconnected with that of the Headman system. This thesis is partly a study of the interrelation between the offices and institutions established by the British and the Headman system. Chapter One deals with the growth of the central and departmental administrative machinery. A chief feature in this growth was a conflict between liberal and authoritarian trends. Chapter Two deals with the provincial and local administrative machinery. Besides displaying the above conflict the European part of this structure as well as the policy of the Government brought about a partial transformation of the office of Headman. Chapter Three deals with administrative development in the Kandyan provinces. Here the disarrangement of the Sinhalese feudal organization was the chief result of the establishment of European offices. Chapters Four and Five examine the internal organization of the Civil Service. The chief factor in the growth of this organization was the need that was felt to satisfy the aspirations of those setting out from England as Civil Servants. Chapter Six examines the forces that were behind the movement for reform and states the problems of reform. The social and political problems associated with an exclusive Civil Service were the chief among them. Chapter Seven examines the nature of the Colebrooke-Cameron reform proposals. The liberalization of the administrative machinery that was recommended by them was the natural corollary to a desire to create a more individualistic and competitive economy and society.

INTRODUCTION

The establishment of foreign authority over a country which had its own political, economic and social organization is undoubtedly a change of much consequence. At the time the first Europeans arrived in Ceylon as conquerors the island had a social, economic and political organization which may generally be described as feudal. Perhaps the most significant feature during a long period of administrative development under the Europeans was the superimposition of European authority and institutions over a part of the administrative machinery which had belonged to the medieval feudal monarchs of Ceylon. This seems to have been necessitated by the need to win over to their rule the nobility of the country. This superimposition brought about changes in the feudal organization which varied according to the period during which the successive European nations ruled the island and the policies that were pursued by them.

When the Portuguese became the rulers of the Maritime Provinces of the island in 1597 they had the intention of making Ceylon a part of Portugal, administering it according to Portuguese laws and ordinances. This intention if implemented would have perhaps involved great changes in the administrative machinery. But certain factors took them in the opposite direction. Considering the period when the Portuguese ruled in Ceylon, they could not have had much objection to the feudal character of the institutions which they found in the island. They might even have found it convenient to adapt them to suit their interests.

Besides, the Portuguese appear to have been faced with the necessity of winning over to their rule the nobility of the country. All these factors may have combined to bring about the decision reached at Malwāna to govern the country according to its laws and customs. The Sinhalese Chiefs, representing the districts, or Korales, who were summoned to a convention, stood against a change in their laws and institutions.¹

This decision led to the superimposition of Portuguese civil and military authority and certain new institutions and offices over the civil and military authority retained by the Chiefs, who continued in some of their former positions. At time, especially towards the latter part of the rule of the Portuguese, when they were dissatisfied with some Chiefs the policy was followed of retaining native offices but appointing Portuguese to hold them.

Theoretically the King of Portugal was acknowledged as the sovereign of the country. But in the eyes of the people of Ceylon the real King was the head of the Portuguese administration in Ceylon who was called a Captain-General. He enjoyed civil, judicial and military authority, and in fact took the place which the King had occupied under the former system. Royal honours were paid to him, and some of the tributary ceremonies that had been associated with the former Kings, such as receiving the Chiefs and their customary tributes, or dekum, three times a

¹P. E. Pieris, Portugal in Ceylon, p.10. Ceylon and the Portuguese, pp. 139-140, Joao Ribeiro, The Historic Tragedy of the island of Ceilao, pp. 24-25.

year were continued. Similarly in his progress through the country he was received as the 'King of Malwana' with Royal honours. The emblems of Royalty were carried during such journeys.¹

As in the time of the Kings the Captain-General was the chief judicial authority in the country. For the sake of convenience, and perhaps as a continuance of a former institution, a tribunal of eight high ranking nobles were authorized to dispose the ordinary suits of the native inhabitants, reserving all matters of importance to the General.² Attached to the General were native officials called Basnāyakas and Mohottiaras, and in practice they appear to have wielded a considerable amount of influence over the decisions of the General. They also acted as his chief advisers in other matters such as land grants.³

Portuguese Judges named Ouvidors are mentioned as being stationed at Colombo and Jaffna. Their special duty seems to have been the trial of cases in which the Portuguese were involved, and the charge of those banished to the island. It was however alleged that they tried to attract other cases to their courts for the sake of profit. They appear to have gone on circuit accompanied by palanquins, secretaries and peons, and following the practice of the former system they had to be received with honours and provisions by the people (Adukka and Pehindum,

¹Pieris, Ceylon and the Portuguese, p.140. Ceylon - the Portuguese era, Vol. II, pp. 86-87. Ribeiro, The Historic Tragedy of the island of Ceilao, p.45.

²Pieris, Ceylon - the Portuguese era, pp. 84, 246-247.

³Ibid.

dressed and raw provisions) so long as they were on duty in the districts.¹

Four Portuguese officials, who were designated Maralleiros, and who were sent once a year to the four disāvanis to hold assizes, are mentioned in contemporary Portuguese historical works. They were accompanied by native interpreters, assessors etc. and had also to be received with every mark of honour and hospitality according to custom. The chief business of these Judges was to examine and make an inventory of the property of deceased persons, look into the claims of their creditors, and assess the death duty or marāla which had been levied under the Sinhalese system to prevent the accumulation of property in private hands. Other matters such as thefts, debts etc. were also investigated, the native assessors giving the opinion on points of law. Murderers who had taken sanctuary also came before it to confess and free themselves of the crime. They were fined if they belonged to the higher castes and sentenced to death if they belonged to the lower. Oaths and ordeals were popular means of settling disputes. The right of sanctuary was also recognized.²

To assist the General in revenue administration there was a Portuguese official called Vedor da Fazenda. He supervised the preparation of the Thombo or land register and the collection of Royal dues in cash

¹ Pieris, Ceylon - the Portuguese era, Vol. II, pp. 249-250. The Kingdom of Jaffnapatam, p.1.

² Pieris, Ceylon - the Portuguese era, Vol. II, pp. 80-82. Ribeiro, The Historic Tragedy of the island of Ceilão, pp.58-60.

or kind. He was given a certain amount of authority independent of the General, and this became a considerable source of friction and trouble.¹ The Vedor was assisted by Factors, Secretaries and other Sub-Accountants.

On the military side the Captain-General was assisted by Captain Majors and Captains of Forts and divisions. They were in charge of the Portuguese soldiers, fortresses and camps.²

The Portuguese officials were paid partly by fixed salaries and partly by being allowed to enjoy various perquisites, some of them new, and others the customary privileges which had been attached to the native offices under the former system. In addition they became closely integrated into it by being assigned villages and lands. Some of the higher officials thus became lords of villages as well.³

This European structure which, as we have seen, was partly integrated into the former system, was built over the provincial administrative machinery of the former Kings. In this sphere the decision to govern according to the laws and customs of the country led to the retention of what is commonly called the Headman system, but which was in fact the former feudal organization without its own King and certain offices and institutions that would have been associated with his Court

¹Pieris, Ceylon - the Portuguese era, Vol. II, pp. 33, 54-55.

²Ribeiro, The Historic Tragedy of the island of Ceilao, pp. 40-42.

³Ibid., pp. 31, 42. For some particulars regarding the payments in the Kingdom of Jaffna, see Pieris, The Kingdom of Jaffnapatam.

and Household.

As in the time of the King the territory under the Portuguese was divided into units called disāvānis. During the Portuguese period there were four such disāvānis in existence. As before, the civil, military and judicial administration of these units was entrusted to an official called the Disāva. He led the Lascarins, or the local militia, to battle, administered justice, and looked after the general well being and prosperity of the province.¹ He was assisted in his military functions by Mudaliyars, Muhandirams and Arachchis, and in the judicial functions by Basnāyakas and Mohottālas.² At first both Sinhalese and Portuguese were appointed to the position of Disāva. Later however Portuguese were preferred.³

Each disāvāni was divided into a number of smaller units called Koralēs. Presiding over one or more Koralēs was an official called the Koralē Vidāna, who was a Magistrate as well as a collector of revenue. It was his business to collect Royal dues, enforce services, and settle disputes by fine and other customary punishments.⁴ Both Portuguese and Sinhalese, many of the latter being those converted to Catholicism, were

¹Pieris, Ceylon and the Portuguese, p.140.

²Pieris, Ceylon - the Portuguese era, Vol. II, pp. 84, 217, 218.

³Ibid., p. 194.

⁴Pieris, Ceylon and the Portuguese, p. 181.

appointed to these situations. These offices appear to have been eagerly sought for by Portuguese, because they found them to be lucrative. Attempts appear to have been made, without success, to appoint only Portuguese to these situations. There were also attempts, perhaps with some success, to reduce the influence and power attached to the Vidānas, by taking away some of the villages or Nindagam attached to their offices.¹ Mudaliyars assisted by Muhandirams appear to have exercised jurisdiction over the purely military departments of these units.

Groups of villages constituting a department or caste also had Vidānas for their management. Prominent among them during Portuguese times on account of the revenue that yielded were the elephant, cinnamon and gem departments.² In fact the cinnamon department was so important that the Portuguese appointed a European known as the Captain of the Mahabadde to function at the head of it. It is also stated that there was competition among the Portuguese to secure the gem department as it was a lucrative position.³

Villages had a number of petty Headmen whom the Portuguese called Mayorals representing either a department or a lord of the village. In addition to looking after the interests of the department or the lord

¹Pieris, Ceylon - the Portuguese era, Vol. II, pp. 46- 47, 82, 85, 86.

²Ibid., pp. 62-64, 66-68, 490.

³Ibid., pp. 63, 76.

in such matters as the collection of dues, enforcement of services, management of cultivation, enforcement of law and order, and acting as guards in times of war, the Mayorals appear to have had the special duty of looking after and feeding the soldiers and officials when they passed through the village on duty.¹

All the above officials were not paid salaries. Their remuneration was connected with the system of service land tenures prevalent in the country. They were thus assigned land according to their official position, the benefits of which they enjoyed during the tenure of office. The higher officials were lords of one or more villages, or Nindagam. During Portuguese times some of these villages appear to have been taken out of the hands of native officials and given over to the Portuguese. The privileges and honours to which the different grades of officials were entitled from one another or from the inhabitants, as well as the dues and tributes that had to be paid, and the services that had to be performed by each class, either to those above them or to the Crown were defined by customary law based on caste and land tenures. Thus every official had both obligations and rights.²

Though much of the former system was thus retained, yet in practice it seems to have begun to function much differently. The Portuguese offi-

¹Pieris, Ceylon - the Portuguese era, Vol. II, pp. 48, 49, 50, 221, 483, 484. Ribeiro, The Historic Tragedy of the island of Ceilao, pp. 28, 32, 42, 43.

²For an account of the changes supposed to have been made by the Portuguese in these rights and duties which gives some indication of the previous position, see Fernao De Queyroz, Conquest of Ceylon, Book VI, pp. 1003-1060.

cials and lords of villages were not only ignorant of the customary laws by which it had been regulated, but also may have been less inclined to adhere to them. The officials, some of whom in fact had bought their own offices in Portugal, were imbued with greedy ideas of profit, which they promoted both in their official and private capacities. The native officials, many of whom were converts to Catholicism, may have been inclined to follow their superiors. The result was that the traditional system became hopelessly disarranged. Divested of its proper setting, customary laws and usages, it gave the officials a fearful degree of discretion. A reckless degree of arbitrariness, which a Portuguese historian described with the aid of a petition said to have been submitted by the people, appears to have set in among all ranks of officials. Former tributes and fees, especially in the administration of justice, degenerated into open bribery. Officials exacted more dues than was customary, impressed the people for private services and trade, assumed arbitrary powers, honours and privileges. Oppression at all levels, arbitrary punishments, desertion of villages, and armies, and the occurrence of rebellions became the order of the day.¹

The Dutch who succeeded the Portuguese in 1658 belonged to a Company of merchants interested in heavy dividends. Nevertheless, they brought some semblance of order out of the chaos left behind by the Portuguese. Several general tendencies were prevalent during the period of

¹For more details on above see Fernao De Queyroz, Conquest of Ceylon, Book VI, pp. 1003-1060.

Dutch administration. Firstly, the European superstructure got further enlarged, and with it European authority got further entrenched. Secondly, the Dutch followed a more exclusive policy than the Portuguese and kept all the higher offices in the hands of Europeans, with the result that the European structure fell more apart from the rest of the administrative machinery. Lastly, the Dutch period witnessed a progressive reduction in the power and position which the Chiefs and Headmen had enjoyed in the country. With it there was a partial transformation of the feudal character of the offices that were retained.

At the head of the Dutch Government in Ceylon there was usually a Governor, who united civil and military power, and who also had a share in the judicial administration.¹ Special Commissioners were placed in charge of the Government in times of crisis when it was either weakened by strife among the officials or when the widespread abuses, which crept in from time to time, had to be put down.² Though it is likely that during the course of time the Governor would have lost the monarchic halo which had been attached to this office during Portuguese times, there is evidence to show that some of the ceremonies coming down from the time of the Sinhalese Kings were continued. Thus for instance, the custom of receiving presents and honours from the Chiefs and people was kept up as a means of reminding them of their subjection.³ It is however

¹ Memoir of R. Van Goens, (Junior) 1679, p.13.

² See Memoir of J. C. Pielat, 1734, pp. 1-3.

³ Memoirs of Van Goens, (Junior) 1679, p.28; Pielat, 1734, pp. 33-34.

likely that during the course of time they would have lost their former meaning, and become less and less effective.

The Governor was assisted by a Political Council, over which he presided, consisting of eight other ex officio members. They were the Chief Revenue officer (Hoofd Administrateur) the officer commanding the forces, the Disava, the Treasurer, the Political Secretary, Chief Warehouse keeper, Trade Commissioner and the Public Prosecutor (Fiscaal). The Commanders of Galle and Jaffna were also given seats in Council whenever they were in Colombo.¹ At first there was distinction between this Council and another that was known as the Council of Ceylon, although the same individuals composed the two bodies. The power of the former was limited to the area constituting the Commandary of Colombo. But in course of time, and probably as a matter of convenience, the Council at Colombo appear to have assumed authority over the whole island.² All important decisions affecting the government of the country were taken by the Governor after a discussion in Council. All letters received from the superior authorities had to be opened and read in Council. Outgoing despatches had also to be signed by members of the Council.³ The Council was not always a check against the assumption of absolute power.⁴

¹R. G. Anthonisz, The Dutch in Ceylon, pp. 181-182.

²Memoir of C. J. Simmons, 1707, pp. 19, 30.

³K. W. Gunawardena, The Foundations of Dutch power in Ceylon, pp. 141-142. Memoirs of Simons, 1707, p. 19, Van Imhoff, 1840, p. 63.

⁴See Memoir of Pielat, 1734, pp. 11-12.

The Dutch territory in Ceylon was divided into the Commandaries of Colombo, Galle and Jaffna. At first there was an official known as the Commander at each of these three places. But the later practice was for the Governor to function also as the Commander of Colombo. The Commanders of Galle and Jaffna were the chief military and civil officers in their respective divisions. They were assisted by Councils over which they presided. The other members of these Councils usually were the Disāva, the Revenue Officer, the Pay Officer, Trade Commissioner, Warehouse Keeper, Public Prosecutor and Secretary. These Councils were associated in the decision of all important matters such as the renting of revenue, sale of goods etc.¹

At each of the three Commandaries there was usually a Revenue Officer, Pay Officer, Trade Commissioner, Warehouse Keeper, Public Prosecutor, and other Sub-Accountants and Clerks. In addition Colombo had a Political Secretariat and an Audit Office.² It appears likely that the offices of Colombo co-ordinated the activities of the three Commandaries. In addition an office known as the Visite Comptoir was set up in 1715 to perform the functions of a visiting audit in the outstations.³ There were also many Boards which were set up for special functions whose members changed annually. The most prominent among them were the Staads

¹ Anthonisz, The Dutch in Ceylon, p.184.

² Ibid., Memoir of Simmons, 1707, p.4.

³ Memoir of H. Becker, 1716, p.41.

Raad or Town Council in Colombo, Orphans Chamber, Commissioner of Marriage Causes, School Board and Wardens of the town and fort.¹

In each of the three Commandaries there was a subdivision known as the Disāvani. It was presided over by a Disāva, appointed usually for five years, who acted in subordination to the Commander. This office was similar to that which had existed under the Sinhalese, and which had been continued by the Portuguese. To the Dutch it denoted an office the duties of which specially lay in the rural districts and with the people of the country.² Only Dutchmen were appointed to this position with the result that it may have somewhat changed in character during this period. But a part of the pomp, ceremony, perquisites and duties that had been attached to the former Disāvas appear to have been continued. For instance when the Disāva of Colombo went on circuit he was accompanied by a battalion, or ranchu, of Lascarins with its colours, five drums, a horn and a trumpet. As before the Disāva was entitled to free provisions while on duty.³ The Disāva was vested with executive judicial and military authority. The judicial powers were exercised both as a member of the newly created judicial tribunals, and independently, as before, in small disputes.⁴ The duties of a

¹ Memoirs of Van Goens (Junior) 1679, p.13. Simons, 1707, pp. 20-21, 30.

² Anthonisz, The Dutch in Ceylon, p. 184.

³ Pieris, Ceylon and the Hollanders, p.84. Memoir of Van Goens (Junior) 1679, p.28.

⁴ Pieris, Ceylon and the Hollanders, pp. 3-4. Anthonisz, The Dutch in Ceylon, p.185.

Disāva were naturally numerous. He was responsible for the military outside the forts, acted as the head of the Lascarins, or local militia, attended to the maintenance of roads, tanks and the development of agriculture, presided over the Courts, and exercised a summary and paternal jurisdiction over small disputes.¹ These duties were in addition to the commercial and administrative duties which he performed for the Company as one of its Merchants. The Disāvas had in fact so much to do that a Headman called the Attapattu Mudaliyar attended to some of his duties such as inquiring into disputes.² During the early days of Dutch rule an office of Lieutenant Disāva is mentioned. It probably referred to the Chief Residents known as Opperhoofd, who were stationed in outstations. Their main duty seems to have been to attend to the collection of revenue, and the interests of trade, under the orders of the Disāva.³

The Dutch also established an European structure for the administration of justice. According to Dutch practice seven members were necessary to constitute a criminal and five a civil Court. Consequently, Boards were set up for the administration of civil and criminal justice. The chief judicial tribunal was the Raad Van Justitie of Colombo, Galle

¹Pieris, Ceylon and the Hollanders, pp. 3-4. Memoirs of Van Goens, 1679, p.13. Pielat, 1734, p.17. Van Imhoff, 1740, pp. 19-20.

²Memoir of Van Imhoff, 1740, p.20.

³Anthonisz, The Dutch in Ceylon, p.184. Report on the Dutch records in the Government Archives, p.7.

and Jaffna. The President of this court at Colombo was the Chief Revenue Officer, and at Galle and Jaffna the Commanders. The other members were chosen from among those in the Councils. These Courts exercised an exclusive criminal jurisdiction and an original and appellate civil jurisdiction. The original civil jurisdiction was confined to suits occurring among the Dutch community, or those against native inhabitants living within the fort, where the subject matter in dispute exceeded 120 rix-dollars. There was an appeal from the inferior courts to the Raad Van Justitie of Galle and Jaffna and from all of them to the Raad Van Justitie at Colombo.¹ In practice the criminal cases of these Courts were conducted by the Fiscal, who submitted his records and findings to the Court which then gave its decision on them. In extreme cases two Commissioners watched his examination. The Fiscal was also often found to be imprisoning, fining and flogging the people without any reference to the Court.² Civil Raad or town courts, also consisting of executive officials were established at Colombo, Galle and Jaffna, to try petty civil cases.³ In the countryside Courts known as Landraads were established to all civil cases, but mainly the disputes between the native inhabitants over land. The Disāvas presided over the

¹ Anthonisz, The Dutch in Ceylon, pp. 185-186. Memoir of Van Imhoff, 1740, p. 62.

² Pieris, Ceylon and the Hollanders, pp. 38-39. North to Court of Directors, 26 February and 10 June 1799. C.O. 54, 1. Memoir of Pielat, 1734, pp. 10-11.

³ Anthonisz, The Dutch in Ceylon, pp. 183-184. C. R. de Silva, Ceylon under the British Occupation, Vol. I, pp. 310-315.

Landraad Courts at Colombo, Galle and Jaffna. The other members were the Fiscal, a junior merchant or a bookkeeper, Thombo holder, or the keeper of records, and the Attapattu Mudaliyar.¹ There were Landraads in other smaller stations, constituted similarly with five members, an European President, and a Mudaliyar being among them.

The Dutch thus made no attempt to separate executive and judicial authority. The Courts of Justice were constituted with executive officials who were busy with commercial and other duties. As a result not only were the members of the Courts generally uninformed, but they attended to their duties indifferently.² Some of the worst defects arising out of ignorance appear to have been partly removed by a codification of some of the customary laws undertaken from the time of Governor Joan Simmons. Where the customary laws were not clear Roman Dutch law was applied. However, judicial proceedings in these Courts were generally characterized by delays, negligence and other abuses. In fact from time to time some of the Landraad Courts, in particular, ceased to function altogether. It appears therefore likely that the Mudaliyars in these Courts often acted as the real arbitrators in disputes between the native inhabitants.³

¹ C. R. de Silva, Ceylon under the British Occupation, Vol. I, pp. 310-315. Van Sanden, The Chieftains of Ceylon, pp. 3-4. Memoir of Van Imhoff, 1740, pp. 21-22. Anthonisz, Report on the Dutch records in the Government Archives, pp. 68-69.

² Memoir of Pielat, 1734, pp. 9-10.

³ Pieris, Ceylon and the Hollanders, pp. 30, 51. Memoirs of Van Imhoff, 1740, p.20.

The officials that were required to hold the several positions in the above superstructure were taken from an exclusively European Civil Service consisting of six grades. The commercial character of the administration was reflected in the designations that were used to differentiate these grades. The six grades were the Senior Merchant (Opperkoopman), Merchant (Koopman), Junior Merchant (Onderkoopman), Bookkeeper (Boekhouder), Assistant (Assistent) and Apprentice Clerk (Ankweekelingen by de pen).¹

All officials were paid salaries varying according to their grade and office, but they were generally low. Perhaps as compensation, they enjoyed the right to carry on a certain amount of private trade. This led to widespread abuses from time to time and attempts to suppress them never appear to have met with complete success. The officials sometimes formed a smaller Company of their own and carried on trade to the detriment of the interests of the Company by which they were employed.² The officials also enjoyed several perquisites and commissions, both old and new. The Disavās for instance continued to enjoy some of the traditional perquisites that had been attached to these offices. They however generally ceased to be lords of villages or Nindagam holders.³

It should be noted that in addition to this civilian structure the

¹ Anthonisz, The Dutch in Ceylon, p.182.

² Memoirs of Simons, 1707, p. 3. Becker, 1716, pp. 2-3, 19-20. Anthonisz, Report on the Dutch records in the Government Archives, pp.7-8.

³ Pieris, Ceylon and the Hollanders, pp. 32-33, 50, 84, 85.

Company employed a paid army consisting partly of mercenary regiments. The military officials were employed in civilian work whenever conditions permitted it.

The European superstructure, civil and military, which was thus enlarged, necessarily involved the reduction of the native machinery in numbers, importance and position, and also its partial transformation. Several important and connected changes took place. As we have already noticed the office of Disāva changed much in character when it became exclusively Dutch. As a result of the establishment of the Dutch judicial institutions the Basnāyakas and Mohottālas, who had been associated in the administration of justice during Portuguese times, ceased to exist. The Mudaliyars who assisted in commanding the local militia survived because they were still useful. In addition to military duties the Mudaliyars now began to be associated in whatever civilian duties in which their assistance was required. Those associated with the Governor came to be known as Maha Mudaliyars, and those associated with the Disāvas were known as Attapattu Mudaliyars. As we have seen these Mudaliyars were also given places in the new Courts of Justice.¹

A similar development took place in the lower ranks. As in Portuguese times the Dutch at first continued with the office of Korālē Vidāna, who was now called Korāla. He looked after the Company's revenue, collected dues and enforced the services of his division. As before, he was assisted by Atu korālas. Mudaliyars, assisted by Muhandirams, continued to com-

¹See Memoir of Van Imhoff, 1740, pp. 21-23.

mand the militia of the Korālēs. However from the time of Governor Van Imhoff, 1736-1740, the Dutch carried out the policy of abolishing the offices of Korāla and entrusting their duties to the Mudaliyars and Muhandirams respectively. Thus the Mudaliyars of the Korālēs, as they now came to be called, gradually began to be entrusted with both civilian and military duties.¹ At first the military duties were real as the Dutch continued to maintain the Lascarins on a military footing. They were found to be useful because of the threat of invasion from the Kandyan country. But the long period of peace which the Company maintained with the Kandyan Kings, as well as the existence of the European army, gradually diminished their importance. The Lascarins began to be employed more and more in civilian duties as messengers, minor revenue and police officials, and guards to the higher officials.² To these higher officials the Lascarins who surrounded them became more and more a status symbol.

Groups of villages and single villages continued to be presided over by Vidānas and Mayorals or petty Headmen. It is likely that when separate civil and military officers ceased to exist at the higher levels a corresponding reduction of the number of petty Headmen also took place. Headmen of different castes also continued to exist, perhaps with reduced numbers. As in Portuguese times the cinnamon caste, or Department,

¹Pieris, Ceylon and the Hollanders, p. 53. Memoir of Van Imhoff, 1740, pp. 24-25.

²Ibid. pp. 4, 53, 84. Memoirs of Van Goens (Junior), 1679, p. 7. T. Van Rhee, 1697, p.46.

continued to have a European Chief as its head. He was assisted by other Headmen of the caste of varying rank.¹ The importance of the pearl fishery made the Company place it under Dutch Commissioners, who were assisted by the Headmen of the fisher caste.² Other castes also had Headmen, who collected the taxes and enforced the services due to the Company from the people of their castes. New fiscal and commercial policies either reduced or increased their importance.³

These Headmen of varying rank were not as yet paid salaries. In return for their services to the State they continued to enjoy land grants, which were now called accommodessans, and other perquisites. It is likely, however, that the whole system of remuneration had moved much further away from the traditional system. The practice under the Sinhalese Kings, which was continued by the Portuguese, was for the higher officials to receive whole villages, (Nindagam) with certain rights and duties attached to them. Some of the Headmen appear to have enjoyed such villages during early Dutch times. But the Company, which was naturally anxious to increase its revenue, and which also deliberately set itself to destroy the power of the Headmen, adopted the policy of reducing the size of the land grants, and granting uniform fixed portions according to rank. The Mudaliyars and Lacarins appear to have received

¹See Memoirs of Van Rhee, pp. 40-47, Simons, 1707, p.28.

²Memoirs of Van Rhee, 1697, p.20, Becker, 1716, p.13.

³Memoirs of Van Rhee, 1697, pp.28, 32.

preferential treatment, while the village Headmen were neglected.¹ These developments undoubtedly had the effect of changing the character of the higher native offices.

The nobility of the country, thus cut to size to suit the Dutch, were made use of to promote the interests of the Company. They became the agents through whom the commercial and mercantile policies of the Dutch Company were carried into effect.² Services due to the Company were enforced by them. Some of the taxes that had to be paid were rented out.³ Where direct collections prevailed it appears to have been the practice to come to a settlement with the Headmen for the payment of the taxes within their divisions, and to make them responsible in the case of a deficit.⁴ Though the amounts payable by the inhabitants were indicated in the Thombos, or registers, the Company may have been less interested in the methods adopted by the Headmen to enforce collection. Much larger ideas of private profit entered into the minds of the Headmen as they were encouraged with land grants, gold chains, medals, and so on to open plantation crops in which the Company was interested. The Dutch thus exploited the craving which developed among them for such

¹ Pieris, Ceylon and the Hollanders, p. 53. Memoirs of Becker, 1716, p. 23, Van Imhoff, 1740, pp. 26-30. See also Anthonisz, Report on the Dutch records in the Government Archives, pp. 52-62.

² See Memoirs of the Dutch Governors, for information on policies.

³ Ibid., for information on the renting of revenue.

⁴ Memoir of Van Rhee, 1697, pp. 24-25.

medals and titles to secure greater dividends for the Company.¹

Closely connected with the Headman system was a social and economic organization which was largely feudal in character. The two most important aspects of this socio-economic order were a system of service land tenures and the division of society into castes.² Under the Sinhalese system the King was theoretically the lord of the soil. Landed property of every description originated in him. The lien between the King and landholder was one of service. As lord of the soil, the King devoted the arable land to various objects of state, whether religion, finance, justice or defence, granting it to castes classes and individuals, who performed specific services in return for their holdings. Such services ranged from mere ceremonial functions to the most responsible services of war and peace. In each province there were broadly three groups of villages. There were the Gabaḍagam, or the villages that were retained by the Crown, Vihāragam or those granted to the temples, and Nindagam or those granted to the nobility of officials. The inhabitants of these villages were liable to pay tributes or perform services to the lords of the villages, and, or, to the Crown. These services and tributes varied according to the tenure of the land, and caste. Caste was usually, though not always identical with a profession, and involved a division of labour by birth. Society was divided into a number of castes with varying positions in it.

¹For land tenures and castes see Ribeiro, The Historic Tragedy of the island of Ceilao, pp. 26-32; Ceylon - the Portuguese era, Vol. II, pp. 51-53. Memoirs of Dutch Governors.

The definition of the position of a caste in society extended into detailed matters of dress and marriage. The Vellale or farmer caste was recognized as the highest caste and the chief officers of the State were selected from among them. Other castes however had their own Headmen.

Both the Portuguese and the Dutch made use of this system to promote their own interests. The Dutch in particular, while more carefully maintaining it than the Portuguese, perverted it to serve the ends of a commercial monopoly. This undoubtedly involved many changes of importance. Thus for instance the Vihāragam was given to the new Christian churches, or rented out and gradually changed beyond recognition. Nindagam in the old sense ceased to exist during Dutch times. The Gabadāgam began to be worked according to new modes which suited the interest of the Portuguese and the Dutch, a part of it being rented out in return for payments. All these in turn involved changes in the services to which the people were liable, changes in taxation etc., some of which even affected caste positions. The land grants given by the Portuguese and the Dutch on the basis of rent instead of service and the non-enforcement of services which were of no utility, tended to increase the proportion of a private property in the country.¹ These changes undoubtedly weakened the old socio-economic order at many important points. But it survived the Portuguese and Dutch periods and came

¹For above see Pieris, Ceylon - the Portuguese era, Vol. II, pp. 36-37, 42-46. Memoirs of Dutch Governors.

down to British times.

While the administrative structure in the Maritime provinces thus underwent many changes the Kandyan kingdom, cut off from contact with the rest of the outside world, and consequently more inwards looking, maintained its feudal institutions in their medieval purity. Under the Kandyan constitution the King was the head of the Government. Theoretically he was supreme and absolute. Law was the enactment of his will. He was also the highest judicial authority. In practice, however, it was recognized that the King should act in conformity with the institutions and customs of the country. Before innovations of importance were carried into effect, or when matters of public interest were involved, the principal chiefs and priests were consulted.¹

The authority of the King was exercised through a hierarchy of officials. The two officers of the highest rank in the kingdom were the Adigārs. There were usually two of them, known as the Udagampaha and Pallegampaha Adigārs, (Adigārs of the upper and lower regions), though sometimes a third was added.² The two Adigārs exercised a general jurisdiction over two broad divisions of the kingdom. Within their respective divisions they had equal powers and privileges. Their duties comprehended those of Court Ministers, Chief Justices, Commanders of military forces. They were the channel of the King's orders to

¹John D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, p.5.

²Ibid., pp. 5-13.

the Chiefs and people of the provinces, and advised him on such matters as the appointment of other Chiefs, granting of lands and other rewards for services.¹ They had the charge of special departments of people such as the Katupulle (messengers), Kasakara (whip crackers) and Rakavallo (guards of the gaol) and also of special duties at the capital such as its police, the superintendence of public works and festivals.²

The kingdom was divided into twenty one divisions. Twelve of them were termed Disāvanis and each one of them was placed under a Chief or Governor called Disāva. The rest (districts closer to the capital) were called Ratas and each of them was under a Chief called Rate Mahatmaya.³ The Disāva had a general jurisdiction over his division, excepting over certain Royal villages or those assigned to a separate Head or Chief of a department. He had his distinct flag and retainers. He led the armies of the Disāvani to battle, exercised judicial powers inferior to that of the Adigars, enforced the payment of dues and the performance of services, appointed inferior Headmen, and looked after the general prosperity of the province.⁴ The Rate Mahatmayas were of lower rank than the Disāvas. No flags or armed guards

¹John D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, p. 5.

²Ibid., p.6.

³Ibid., p.13.

⁴Ibid., pp. 13-29, 38-39.

were allowed to them. Their duties were similar but less responsible, being under more direct supervision from the capital.¹

The authority of the Disāva was exercised through numerous other Headmen. The Disāvanis were divided into other smaller units known as Korālēs and Pattus. They were under the general charge of Korālas who were assisted by Atu Korālas. These units contained a number of villages over whom there were petty Headmen bearing various names. Though these Headmen may have exercised a general jurisdiction over their respective divisions, their immediate authority seems to have been more particularly confined to certain groups or departments of people. The Disāva's authority over other groups or departments of people, some of whom were identical with separate castes, was exercised through departmental or caste Headmen, usually Lekams and Vidānas in departments of a civil nature, and Muhandirams and Arachchis in those of a military nature.² Some of the more important departments were at times placed under a separate Chief or Lekam.³ In such instances the Disāvas ceased to exercise authority over them, and the Lekam assisted by the Headmen of the department had jurisdiction over the people belonging to it distributed in the different villages of the Disavani. On occasions when it was necessary

¹D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, pp. 13, 29-41.

²Ibid., pp. 16, 29.

³Ibid., pp. 21, 24, 27.

to obtain the co-operation of the disāvani, they were placed under the orders of the Disāva.¹ H. Marshall, an army doctor who was in Ceylon at the time of the conquest of this kingdom by the British, observed that these officials "possessed kingly power in their own districts and assumed a state and dignity nearly allied to royalty".² The allegiance of the people was more immediately to the Disāva and through him to the King. It should also be noted that the King possessed no standing army (excepting a few bodyguards) and was dependant on the district armies under the command of the Disāvas.

Apart from the Disāvas there were various officials attached to the King's Household and Court, some of whom were heads of departments which had jurisdiction over people distributed in many villages. There were also lay officials or Chiefs who had the management of the villages granted to the temples. Prominent among them were Chiefs called Diyavadana Nilames.³

As we have already noticed, in the Kandyan state the organs of executive and judicial administration were not separated. The supreme judicial power was vested in the King, and was exercised either in original jurisdiction or in appeal. Cases originally entertained and decided by the King were those that arose between the principal Chiefs

¹D'Oyly, A Sketch of the Constitution of the Kandyan kingdom, pp, 24, 29.

²Marshall, Ceylon, p.169.

³D'Oyly, A Sketch of the Constitution of the Kandyan kingdom, p.6.

or principal officers and servants in his Household and Court, or where one of them was a defendant, suits among priests and the more serious crimes.¹ In civil cases every individual was theoretically free to appeal to the King from the decision of any Chief, without reference to time or value. There were well known ways of bringing the appeal to the King's notice, such as representation by a Chief or courtier, by prostrating oneself on the road when the King was travelling, by prostrating oneself towards the palace, at any other time, by ascending a tree near the palace and proclaiming aloud one's grievance, by taking refuge in a Royal or religious sanctuary. The cases coming before the King were either heard by him in person, the Chiefs questioning the parties according to his directions, or referred to the Maha Naduwa or the Great Court, for inquiry and report, after which a decision was given by the King.²

The Maha Naduwa consisted of Adigārs, Disāvas, Lekams, and Muhandirams, or any other Chiefs distinguished for their ability and judgment. It had a civil and criminal jurisdiction. The cases coming before it were either those referred to it by the King, or those originally instituted before it - usually introduced by the Chief to whose jurisdiction the complaining party belonged. In the latter type of cases the Court had only the same jurisdiction and powers of punishment as were vested in the Adigārs individually.² The Court gave its decision

¹D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, pp. 33-34.

²Ibid., pp. 34-36.

after questioning parties and witnesses, and examining written depositions and title deeds. In the case of an unresolved difference of opinion among the Chiefs the matter was referred to the King.¹

Chiefs and Headmen of all ranks exercised both civil and criminal jurisdiction, which was limited by the office held. Adigārs, Disāvas, Rate Mahatmayas, Lekams, and Chiefs of the King's court and household had civil as well as criminal jurisdiction. Their civil jurisdiction had no limitation with regard to value. In criminal jurisdiction they could hear all cases, except the higher crimes reserved for the King. However, they usually reported to the higher authorities any atrocious crimes which occurred. In such instances the Adigārs and Disāvas reported to the King, while the Lekams, Rate Mahatmayas and other Chiefs reported to the Adigārs.² The most important feature regarding the jurisdiction of the above Chiefs was that it was usually confined to the people under their control. Thus the Adigārs had an exclusive jurisdiction only over persons subject to their peculiar authority. As regards people under the Disāvas or other Heads of departments, the Adigārs could not entertain cases except in communication with the proper Chief or decide without his concurrence.³ Similarly the Disāvas normally had a jurisdiction only over persons and land in the Disāvani which were not attached

¹D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, pp. 34-36.

²Ibid., pp. 36-41.

³Ibid., p. 36.

to another Chief. He exercised a jurisdiction over the latter only on the application of the proper Chief, or when the department was specially placed under him. Similarly the other Chiefs above mentioned had jurisdiction only over persons subject to their orders.¹

Theoretically the above group of Chiefs had unlimited powers of punishment. But in practice they were limited by customary law. Punishments were assessed according to the rank and condition of the offender. The Chiefs were generally prohibited from inflicting corporal punishments over those immediately below them in office or social position. The Adigārs had the exclusive privilege of awarding corporal punishment with the cane while the others used the open hand or rods called ipal. All these Chiefs could dispossess a person of his lands. But only the Adigārs acting on behalf of the Mahanaduva or the King, or in their own right, the Disāvas, and the Chiefs of temple villages, could give written decrees with their signature called Sittu. The others could only issue a written statement without their signature, which merely recited the decision.² This distinction perhaps indicated that finality of decision rested with the King and the principal Chiefs.

Inferior Headmen of various ranks enjoyed minor powers of civil and criminal jurisdiction over persons under their authority. In civil matters they usually arbitrated in disputes regarding limits of fields,

¹D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, p.38.

²Ibid., pp. 37-42.

small debts, etc. and in criminal matters their power extended to robberies, petty assaults and quarrels. Powers of punishment were similarly limited to slight corporal punishments on common persons or those of low caste, small fines and a few days imprisonment. These powers were usually exercised when the Disāva or Chief was absent from the district. The minor Headmen in the Disāvanis had greater powers than those in the Ratas, where a reference to the superiors was easy. Thus for instance in the Disāvani these Headmen could, in land cases, grant written decisions without signature, dispossess lands, and sequester lands and crops. Those in the Ratas could only sequester lands, crops and dwellings. In the Disāvanis there was a tendency among the minor Headmen to assume greater power than was allowed.¹

At the village level there was a village Court called the Gam-sabha, which consisted of the principal and experienced men of the villages.² This Court aimed at the amicable settlement of disputes rather than at punishment and exercised both civil and criminal jurisdiction. It declared which party was in the wrong and decided upon compensation. If a Headman in office was one of the assembly, as it frequently happened, the Court levied fines for offences.³

The concepts of justice, like much of the machinery, was medieval and feudal in character. Oaths were not as yet a mere formality. If

¹D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, pp. 42-43.

²Ibid., p. 43. J. Forbes, Eleven years in Ceylon, p.71.

³D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom, p.44.

after an inquiry and examination of all the evidence on both sides a case should still be doubtful it was customary to decide it by oaths, which were connected with the religious beliefs of the country. Some of them were so important and occasional that only the King, the Adigārs, and the Disāvas, could give permission for their use.¹ Every person appearing before his Chief, whether on account of a complaint or for any other cause, was expected to bring with him (unless very poor) certain customary presents as a token of respect. During the course of a suit both parties to it would take presents according to their ability. It was a general rule that the presents given must be returned on demand by the losing party. The regular and recognized fee was the one given by the gainer of a suit upon receiving a written decree. All fees and fines were the perquisites of the Chiefs and Headmen.²

In normal times, with the paternal concepts of government which usually prevailed, with the binding influence of customary law, and with the moderating influence of religion, the judicial system secured substantial justice within the social and economic order for which it was meant, and which it was its chief function to preserve. Like the socio-economic order, however, the system was more favourable to the higher castes than the lower, to the rich than to the poor. Besides, in times of stress it was capable of being oppressive even by its own

¹D'Oyly, A Sketch of the Constitution of the Kandyan Kingdom,
pp. 37-38, 40, 56-60.

²Ibid., pp. 44-47.

standards,

As in the Maritime kingdoms before the advent of the Europeans, the whole administrative organization was knit together by the same system of service land tenures and the division of society into castes. At the advent of British rule the socio-economic order in the Kandyan kingdom¹ was generally less unhinged than in the Maritime provinces.

Thus when the British arrived in Ceylon at the turn of the nineteenth century a long period of European rule in the Maritime provinces and resulted in a partial change in the feudal organization that had existed there while in the Kandyan kingdom it remained virtually intact.

The period of this study covers roughly the first thirty seven years of British rule in Ceylon. During the years 1796-1801, Ceylon was governed as a part of the possessions of the East India Company and was under the government of Madras. In 1801 it was made a Crown Colony and this resulted in the establishment of a separate government under the control of the Secretary of State for Colonies.

The period covered by this study was a significant one in the history of England. The twin revolutions - the Industrial and French revolutions - were bringing about rapid social, economic and political changes accompanied by a conflict of ideas and the emergence of new ideals. It was truly an age of reform which culminated in the Reform

¹For more details on the social and economic organization of the Kandyan kingdom, see R. Pieris, Sinhalese Social Organization - the Kandyan period.

Act of 1832. These events and movements had an undoubted influence over Ceylon.

In Ceylon the period up to 1833 saw in many respects a continuation of the Dutch administrative and economic policies. Following the Dutch the British also built an institutional superstructure over the Headman system. In this study I have attempted to examine the character of the institutions and offices established by the British, the functions they were expected to perform, the powers that were conferred upon them, their relation to the Headman system, and the nature of the transformation which the latter underwent during this period.

The fact that by this time England had a social and economic order where the emphasis was on the freedom of the individual naturally brought about much conflict of thought and action among the new rulers. An attempt has been made to examine the nature of the conflicts occurring in their minds when they were faced with the task of devising institutions and offices for Ceylon, in defining their powers, and in operating the machinery. In this connection some attempt has been made to place the institutional growth in its political social and economic setting.

The Civil Service was the main organ through which a transfer of power to British hands was carried out. The forces and tendencies behind the growth of the Service in such matters as recruitment, salaries, promotions and pensions have been traced. An attempt has been made to

assign to the Civil Servants the social position which they occupied in the Colony.

The Colebrooke-Cameron reforms in Ceylon were in many ways a fundamental departure from the traditions of European rule. For the first time there was a plan of reform where the European rulers and the native ruled were treated as belonging to one large community. An attempt has therefore been made to state the problems that were involved in the reform of the administrative machinery in Ceylon and to examine the character of the reform proposals that were put forward by the Colebrooke-Cameron Commission.

Chapter I

CENTRAL AND DEPARTMENTAL ADMINISTRATION

The growth of the central and departmental administrative machinery displayed several tendencies. When devising institutions for Ceylon the British could not avoid thinking in terms of offices and institutions familiar to them either in England or in other parts of the Empire. Their main functions in Ceylon however led to the ~~care~~ ^{of} maintenance of the monopolistic economy and the feudalistic social order inherited from the Dutch. Not surprisingly the development of the administrative machinery took place amidst much conflict of thought and action. While the concepts and ideals of administration prevalent in England at the time carried the new rulers towards more liberal institutions, the political social and economic order in Ceylon pulled them towards authoritarianism.

When the possessions of the Dutch East India Company in Ceylon passed into the hands of the English East India Company in 1796, the articles of capitulation¹ provided for the continuance in office, for a period of time, of some of the Dutch commercial and judicial servants in Colombo, in order to enable them to settle the accounts of the Company, and the cases pending before the judicial courts. All other commercial and political servants were allowed to remain as private individuals, and subject to the ratification of the Madras Government

¹Articles of capitulation, 15 February 1796, C.O. 54, 1.

they were promised a reasonable means of subsistence. The native servants in the different departments were to continue in employment, subject to such regulations as the British might judge necessary. These articles of capitulation said nothing about the future form of the administration.¹

The years between 1796 and 1798 marked a period of confusion in the administration of the conquered provinces. The factors leading to this confusion were well summarized by Robert Hobart, when he stated that "the precariousness of our position, the short period the whole of the Dutch settlements have been in our hands, the difficulty of obtaining information, the distrust of the natives, the indisposition of the Dutch, were obstacles to a successful management".² The result of this confusion was the breakdown of the old revenue and judicial system. Expediency and convenience became the guiding factors. The administrative arrangements that were introduced, lacked proper form, and they had the limited objective of getting as much revenue as possible. The Madras Government took the most convenient step of introducing Madras Civil Servants to Ceylon to hold offices modelled on those in India. A Resident, who was also Superintendent of Revenue, a Commercial Resident, and a few Collectors were sent to organize the revenue collections of the island. For the sake of convenience they exercised both executive

¹Articles of capitulation, 15 February 1796. C.O. 54, 1.

²Minute, 9 June 1797. C.O. 55, 2.

and judicial power, in so far as a judiciary was necessary to enforce the collection of revenue.

Appropriate steps were not taken to have a proper degree of central control and direction. The Commander of the forces was no doubt vested with a discretionary authority, both civil and military.¹ The revenue and commercial servants were to be regarded as subject to his orders, and they were required to address him on all points on which a reference was required. A general order dated 10 December 1794 defining the powers and duties of the civil and military servants in the Northern Circars was to guide the relations between the civil and military servants in Ceylon.² How imperfect these arrangements were is seen from the fact that the revenue and commercial servants were permitted to correspond direct with the Madras Government without a reference to the head of the government of Ceylon. The difficulties created by this situation led James Stuart, the Commander, to request the Madras Government that all orders to the island should be communicated through himself.³ In reply he was merely informed that he would be furnished with copies of all orders transmitted to the revenue officials.⁴

¹W. C. Jackson to James Stuart, 1 March 1796, and 28 April 1796, C.O. 55, 1.

²Ibid.

³Stuart to Hobart, 7 June 1796. C.O. 55, 1.

⁴Jackson to Stuart, 30 June 1796. C.O. 55, 1.

Convenience and expediency arising out of the unfamiliarity with local conditions, the distrust of the native inhabitants, and the availability of Malabars who had flocked from India, tempted the Madras Civil Servants to adopt methods of revenue collection familiar to them in India. Long established land tenures were set aside and taxes introduced in their place, the right of collection being also farmed out to Malabars.¹ The means employed to carry out these changes were equally novel. They involved the appointment of Malabar strangers to positions formerly held by the Headmen, especially the Mudaliyars.² The loss of power and position experienced by the latter was by itself sufficient to cause discontent. The Mudaliyars and the other Headmen under them naturally refused to attend to the orders of the Superintendent of Revenue conveyed through his Malabar officials. They were thereupon threatened with fines imprisonment and confiscation of property.³

In the judicial administration of the country the disorganization was complete. The Dutch court at Colombo, which was authorized to settle cases that were pending, found itself unable to continue without suitable monthly allowandes to its officials.⁴ Stuart took the position

¹Proclamation, 16 August 1797. C.O. 54, 2.

²North to Mornington, 27 October 1798. Wellesley MS. 13,866.

³Proclamation, 11 November 1796. C.O. 55, 1.

⁴Proclamation, 9 March 1796. C.O. 55, 1. Also Court to Stuart, 26 March 1796. C.O. 55, 1.

that by the articles of capitulation the British Government was not bound to pay the expenses of the court. He however authorized it to make use of the stamp and other duties for the purpose.¹ But without the effective backing of the British the Court at times found itself unable to enforce obedience to its decrees.²

Meanwhile, the British began to feel the effects of the suspension of justice in Colombo. Stuart was faced with daily complaints, for which he had no remedy but that of invoking patience, and referring to Madras for instructions.³ The Madras Government advised him to re-establish the Dutch judicial system till such time as the European situation was settled. Stuart therefore authorized the establishment of the Dutch Courts of justice at Colombo, Galle and Jaffna, with their former civil and criminal jurisdiction.⁴ (excepting over revenue cases instituted in the Kachcheries). This intention was however defeated by the refusal of the Dutch to continue beyond the period that was necessary to determine the cases that were pending.⁵ As the future of the conquests was not yet firmly decided, they appear to have not

¹Stuart to Court, 16 April 1796. C.O. 55, 1.

²Ibid., 31 August 1796. C.O. 55, 1.

³Stuart to Hobart, 1 April 1796. C.O. 55, 1.

⁴Act of authorization, 1 June 1796. C.O. 55, 1.

⁵Court to Stuart, 11 June 1796. C.O. 55, 1.

wished to compromise their position by accepting office under the British. Stuart was therefore left with the alternative of providing for the administration of criminal justice by martial law, and requesting for more assistants to attempt the establishment of any other Courts.¹ The Madras Government merely authorized him to act in whichever way he thought proper.² A Court Martial, and a Court of Equity in Colombo were the only Courts he was able to provide. The ordinary inhabitants were at the mercy of the tax farmers who exercised their own authority to enforce the collection of the revenue.³

All the above circumstances produced their inevitable consequences. The restlessness among the people, encouraged and led by the displaced Headmen, and perhaps supported by the Dutch, culminated in open revolt. It clearly demonstrated that Indian forms and methods of administration, however convenient to the officials, could not safely be adopted wholesale in Ceylon because of divergent conditions in the two countries. This realisation first occurred to Stuart, who advised Madras not to reduce the military force "till after the change of system which it may be the intention of Government to introduce in the revenue department shall be perfectly understood and established".⁴

¹Court to Stuart, 16 June 1796. C.O. 55, 1. Also, Stuart, to Hobart, 22 June 1796. C.O. 55, 1.

²Jackson to Stuart, 11 August 1796. C.O. 55, 1.

³North to Mornington, 27 October 1798. Wellesley, MS. 13,866.

⁴Stuart to Hobart, 7 June 1796. C.O. 55, 1.

He rightly pointed out that the Mudaliyars and other Headmen were likely to lose many advantages and suffer in their consequence by the changes and that they could therefore be expected to make some struggle to oppose them.¹ "The aversion which the Sinhalese must naturally feel to have the power transferred from the heads of their own [sic] casts, to Malabars who are entire strangers, and for whom they can as yet entertain no respect," he wrote, "will greatly assist the Mudaliyars in raising discontent."² Hobart too gave expression to such a realization in his minute in council, which set out the reasons for the appointment of a committee of investigation. This minute expressed considerable dissatisfaction with the manner in which revenue administration had been carried on, and implied the need for the establishment of a system grounded on existing local conditions, especially where they touched upon the rights of the people.³ This minute in fact amounted to a repudiation of the idea of adopting Indian forms and methods of administration, and perhaps had some influence in counteracting any tendency to merge Ceylon with India, or to treat it merely as a part of Britain's Indian possessions. The first need that had to be met before establishing any new system was obtaining

¹Stuart to Hobart, 7 June 1796. C.O. 55, 1.

²Ibid.

³Minute, 9 June 1797. C.O. 55, 2.

more information on the Dutch administrative arrangements. This object was uppermost in the appointment of a committee of investigation, with Brigadier-General Pierre Frederick de Meuron as Chairman, and Robert Andrews and P. Agnew as members.¹ The choice of De Meuron, who was acquainted with the country, to be chairman, showed the importance that was attached to obtaining information.

De Meuron brought with him a realistic approach to the investigation.

"The habits and prejudices of a nation," he wrote, "can only be changed by one of two means - gradually by mildness and a clear demonstration of the superior advantages they will derive from the proposed alterations, or violently by the compulsive efforts of superior force ... Mildness and persuasion, it appears, were not the distinguishing features of our change of system, and our force was inadequate to compel obedience."²

The De Meuron Committee of investigation was one of the principal means of bringing back some of the important features of the Dutch administrative arrangements. De Meuron took great pains by means of Dutch documents to understand what was required to bring about stability. The principal recommendation which he put forward in the administrative field was the restoration of the hierarchy of Headmen to a share of power. This was to be accompanied by a revival of the former land tenures and a restoration of the Dutch revenue and judicial system.³

¹De Meuron was in command of the mercenary regiment, that was transferred from the Dutch to the British at the height of the crisis. Robert Andrews was a Madras Civil Servant, who was sent as Resident and Superintendent of Revenue. Agnew was a military officer who carried out much Proceedings negotiations with the Dutch, prior to conquest.

²Proceedings of the De Meuron Committee, C.O. 55, 2.

³See Proceedings and report of the De Meuron Committee, C.O. 55, 2.

Meanwhile an important development took place in England in 1798. Perhaps because of the importance of the new possessions it was decided that the Crown should participate in its administration. Though at first a complete transfer had been under contemplation, it was finally decided to transfer the Sovereignty to the Crown, giving to the company the entire administration and the disposal of the revenue.¹ This led to what is known as the dual system of administration. The sovereignty of the Crown was asserted by the appointment of a Governor. The Honourable Frederick North² was sent as Governor and Commander in Chief. All powers of Government, legislative, executive, judicial and military, were vested in him. He was required to exercise these powers in correspondence with the Court of Directors of the East India Company and the Secretary of State through the Court. He was to obey orders received from the Court of Directors, its secret committee, and from the Governor-General of India.³ The position that was thus created was no doubt a difficult one to execute and partly accounts for the difficulties that occurred. North complained that the powers of his Government were ill defined and difficult of execution.⁴

¹North to Mornington, 5 June 1798. Wellesley MS 13,866.

²Frederick North, 1766-1827, fifth earl of Guilford. He matriculated at Oxford and held several important civilian positions. Was member of Parliament from 1792-1794. First Governor of Ceylon, 1798--1805.

³Royal Commission, 19 April 1798. Royal Instructions 26 March 1798. C.O. 55, 61.

⁴North to Mornington, 5 June 1798. Wellesley MS 13,866.

By the Royal Instructions North was required to establish the Dutch judicial and revenue system. He had however the power of making useful and expedient alterations, in communication with the Company.¹ As North admitted, 'the masterly labours' of the committee of investigation left him little else to do in the revenue sphere than to carry out its recommendations.² Among the recommendations implemented by North were the re-appointment of the Mudaliyars and the restoration of the service land tenures.³ The re-establishment of the Dutch judicial system, as we shall see later, presented many difficulties. Here too, however, North succeeded in devising a plan to re-establish, in a modified form, some of the Dutch courts in the provinces. In place of the Dutch Raad Van Justitie he proposed a Supreme Court with a Madras Civil Servant as president and two Dutch Assistants as members.⁴ Later he constituted it with the Governor as President, the Commander of the forces, the Chief Secretary, and a Barrister as members.⁵ It was given full criminal jurisdiction throughout the island. To hear civil appeals two Courts were established.

¹Royal Instructions, 26 March 1798. C.O. 55, 61.

²North to Court of Directors, 26 October 1798. C.O. 54, 1.

³North to Court of Directors, 26 February 1799. C.O. 54, 1.

⁴North to Mornington, 10 May 1798. Wellesley MS 13,866.

⁵Proclamation, 14 October 1799. Skeen, A Collection of Legislative Acts of the Ceylon Government,^{vol. 1} pp. 9-11.

One was called the 'Greater Court of Appeal' and was constituted, in accordance with Royal Instructions, with the Governor, the Commander of the forces, and the Chief Secretary. It was to hear appeals exceeding 2,000 rix-dollars in value. The second Court was called the 'Lesser Court' and was constituted on North's own authority with the same members to hear appeals in cases exceeding 500 rix-dollars and below 2,000 rix-dollars.¹ Before these underwent a real test another change occurred in the government of the country.

In 1801 the decision was announced to take the administration out of the hands of the East India Company, and to turn Ceylon into a Crown Colony. The Governor received a new Royal Commission and additional instructions. The Royal Commission, which was the regular mode of appointing a colonial Governor, contained a short statement of his powers and had to be publicly read and proclaimed in the colony. The Royal Instructions which accompanied it were more important in that they were more exhaustive and defined the powers and duties of the Governor more closely. Along with these was sent a Charter of Justice, which created a Supreme Court, appointed a Chief Justice, and defined generally the main principles of judicial administration. A despatch from Dundas to North announced the creation of a Civil Service and laid down the main principles on which it was to be organized. These instruments taken together could be said to have provided the constitution of the country.

¹Proclamation, 14 October 1799. Skeen, A Collection of Legislative Acts of the Ceylon Government, pp. ^{vol. 1} 9-11. North to Court of Directors, 5 October 1799. C.O. 54, 1.

These instruments of Government displayed a duality of thought. The need to display power in the new Colony made it desirable to unify, as much as possible, the powers of government in the hands of the Governor. An authoritarian form of government similar to that prevalent in India was therefore adopted. The Governor was conferred with supreme legislative and executive powers and a share in the judicial administration. As against this was the reluctance to confer unlimited power and authority on an individual, as well as the tendency to think in terms of a separation of powers. This duality of thought led to the creation of institutions, which were intended to impose checks and balances on the exercise of the Governor's powers, but which proved to be ineffective in practice.

The Council which was associated with the Governor was one of the ineffectual checks that was thus devised. Henry Dundas instructed North to create an Advisory Council, arguing that it was desirable to have such an institution for the sake of 'more solemnity', and to give more satisfaction to those who would be regulated by the Governor's proceedings in his legislative and executive capacity.¹ These instructions show that it was not intended to create a Council whose members were in any way to have a share in the legislative and executive authority, which was clearly vested in the Governor alone. Consequently, it was laid down that the Council was to be consulted on all "great and import-

¹Dundas to North, 13 March 1801. C.O. 55, 61.

ant occasions", but at the discretion of the Governor.¹ The members were not to be held responsible for any opinion (or advice) they might give in that capacity. Questions were not to be put to the vote, but a member differing from the Governor on any measure under deliberation, was to be free to enter a minute stating the grounds of his opinion and dissent.²

Though no legal limits on the Governor's powers were thus contemplated, it was perhaps expected that the Council would impose checks and balances on their exercise. Such an intention is noticeable in the composition of the Council decided upon by Dundas. It was to consist of not more than five members, of whom the Chief Justice, the Commander of the forces, and the Principal Secretary were to be members ex officio. The Governor was given freedom to choose the other two members, but Dundas suggested that it might be useful to have the head of the revenue department as a member of the Council.³ The Governor was given power to suspend any member or to cease to require the attendance of such member altogether if he found sufficient reasons for dispensing with his advice and opinions, or if his attendance would interfere with the execution of his official duties.⁴ But these were powers which a Governor

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²Ibid.

³Ibid.

⁴Ibid.

would be reluctant to exercise without clear reasons that could justify his actions before the Colonial Office.

With such a composition there was a strong possibility of the Council developing a fair amount of independence. The Commander, and the Chief Justice, who owed their appointments to the Crown, and were therefore less dependent on the goodwill of the Governor, could have developed into independent-minded members of Council, and therefore in a position to provide a reasonable check on the Governor's activities. At first the Chief Secretary too was in a similar position, as his appointment was also made by the Crown. In fact such a tendency was noticeable in the early days of the Council. General David Douglas Wemyss, the Commander of the forces during the time of North, attempted to make use of the Council to agitate questions on which there was disagreement with the Governor. Thus for instance on one occasion he requested the Governor to summon a meeting of the Council to decide on his request for the immediate removal of the Supreme Court from the fort of Colombo.¹ A meeting was summoned, but North prevented a discussion by stating that the subject belonged exclusively to the executive government.² Similarly, almost throughout the period of our study the Chief Justice made use of the Council to agitate questions on which he was interested. The conflicts between the Chief Justice and the Governor, of which we shall see more later, which usually involved im-

¹Wemyss to North, 19 October 1804. C.O. 54, 16.

²North to Wemyss, 20 October 1804. C.O. 54, 16.

portant questions affecting the form of government such as the independence of the judiciary, usually ended with both of them entering opposing minutes in council. It is clear that the position occupied by the Chief Justice in the Council was not much to the Governor's liking. On the occasion of one of these conflicts Governor Thomas Maitland¹ took the extreme step of dispensing with the attendance of the Chief Justice.² He was re-appointed on the orders of the Secretary of State, but Maitland's action may have affected the character of the Council.

Other developments regarding the composition of the Council also worked in the direction of making it more subservient to the Governor. Though according to the original instructions of Dundas, the Council was to consist of five members, North constituted it with only the ex officio members. During the time of Maitland, two more were added to the Council, the Revenue Commissioner in 1806, and the Vice-Treasurer and Accountant-General in 1810. In 1810 the Colonial Office sent instructions to make the Vice-Treasurer and the Revenue Commissioner ex officio members of the Council.³ While in England however Maitland objected to these arrangements, arguing that a general rule should not be laid down but that the additional members should be appointed with reference to the person, his characters, and his situation in the Service rather than

¹Thomas Maitland, 1759-1824. He had a long and distinguished military career in various parts of the Empire, and reached the position of Lord Commissioner of the Ionian Islands and Commander-in-Chief of the Mediterranean, 1815-1824. Member of Parliament from 1794-1796, and 1800-1804. Governor of Ceylon from 1806-1811.

²Maitland to Castlereagh, 18 August 1808. C.O. 54, 28. The occasion for this conflict is noted on p.

³Liverpool to Maitland, 30 September 1810. C.O. 54, 41.

to the nature of the office he held.¹ Because of these objections the Colonial Office revoked its instructions during the time of Governor Robert Brownrigg.² Thus changes which might have had beneficial results were not implemented. Apart from the fact that the new members added to the Council belonged to the Civil Service, and were therefore dependent on the Governor, their appointment to the Council, and their continuance as Councillors, also depended on his goodwill. As we shall see later the Chief Secretary too fell into a position of subservience, with the result that the Council was not composed of a majority of members whose main interest was to please and flatter the Governor. These developments gradually turned the Council into a convenient tool in the hands of the Governor.

This is seen in the manner in which the Council functioned. Though by the instructions of Dundas no distinction was made between the executive and legislative business of the Governor, North at first declared his intention of not convoking it "for any subjects but such as are of primary, if not of legislative importance."³ Such a distinction was however not made in practice, and matters of an executive as well as of a legislative nature were brought before the Council. It only met

¹Memorandum of Maitland, ND. August 1811. C.O. 54, 41.

²Robert Brownrigg, 1759-1833. He had a long military career which culminated in a promotion to the rank of General in 1819. He was Governor of Ceylon from 1811-1820.

³North to Dundas, 16 March 1802. C.O.54, 5.

when summoned by the Governor. Legislative measures were presented in their final form, and executive measures in the form of minutes in council. Some discussions undoubtedly took place, but they were not entered in the minutes of the Council, except in the form of a dissenting opinion which a Councillor wished to place on record.¹ The Civil Service members usually supported the Governor, so that Council business neither took time, nor did it usually involve prolonged controversy. The support from the Civil Service members in fact encouraged Maitland to deviate from the usual practice and to permit the members to enter minutes of 'positive approbation', which were no doubt useful in strengthening the Governor's hands. From the time of Brownrigg a practice also developed of sending to the members, occasionally, 'minutes in circulation' on a matter pending before Council. Minutes of the Council were not regularly transmitted to England. Brownrigg initiated the practice of sending home regularly those minutes in council which usually accompanied the promulgation of new legislation, or the sanctioning of expenditure over £200.² The dissenting opinion of the Chief Justice was also usually submitted especially when the subject was a matter of controversy. As for the rest of the minutes they were forwarded or not at the discretion of the Governor.³ This

¹Evidence of Eden, 26 October 1829. C.O. 416, 8. Colebrooke, Report upon the Administration, C.O. 54, 122.

²Ibid. See also Brownrigg to Liverpool, 7 September 1812. C.O. 54, 44. Brownrigg to Bathurst, 10 July 1813. C.O. 54, 47 and 30 November 1813. C.O. 54, 49. The sanctioning of expenditure over £75 in Council was ordered by the Treasury in 1817. Expenditure over £200 required the sanction of the Home Government. See Treasury Instructions to the Ceylon Government, 28 January 1817. C.O. 54, 67.

³Colebrooke, Report upon the Administration, C.O. 54, 122.

usually enabled him to build up in England an impression of general support for his measures.

The Council thus became a convenient instrument which would afford protection to the Governor, where he needed such protection, and which would give additional weight to his opinions, where he needed it to strengthen his hand. It was made use of frequently in this manner when the Governor was dealing with Civil Service and financial matters, where he needed both protection and additional weight. Thus for example from the time of North the Council was associated with the Governor when he conducted inquiries into the conduct of Civil Servants.¹ Witnesses were summoned and examined in Council, and the Civil Servants involved were called upon to state their defence in Council. The decision of the Governor regarding such Civil Servants went in the form of a decision in Council. Similarly financial matters, such as the sanctioning of expenditure involving large amounts, and the granting of remissions to tax farmers were usually performed in Council. The association of the Council in the above matters perhaps protected the Governor from suspicions of favouritism. It certainly gave added weight to his opinions at the Colonial Office, especially when they were accompanied by minutes of positive approbation.

A shortlived change in the position of the Council deserves attention. In 1810 on the advice of Alexander Johnston the Colonial Office

¹North for instance conducted an inquiry in Council into the conflicts between civil and military servants. Minutes of 24 September 1804. C.O. 54, 18. Maitland similarly associated the Council into the Conduct of H.A.Marshall, Provincial Judge of Colombo, Minutes of 27 June 1810. C.O. 54, 55.

ordered far-reaching changes in the structure and functions of the Council, which if implemented, would have affected the legislative and executive powers of the Governor. It was to be re-constituted to consist of six members, five of whom were to be ex officio while the remaining member was to be nominated by the Governor.¹ The Chief Justice was to be made the President of the Council, while the Governor was to be there as the 'King's representative'. The powers of the Council were also increased. Functions which the Governor had hitherto performed without being bound to consult the Council such as the granting of lands and the appointment of judicial officers and Headmen, were to be henceforth performed by the Governor in Council. All legislative acts were to be enacted by the Governor and Council.²

These changes were in fact partly carried out.³ But while out of office in England Maitland strongly objected to all the new provisions, especially the increase of the powers of the Council, and the improvement of the position of the Chief Justice by making him its president. He argued that the changes would destroy the authority and position of the Governor.⁴ The objections raised by Maitland seem to have carried much weight with the Colonial Office, for it revoked its instructions,

¹Liverpool to Maitland, 30 September 1810. C.O. 54, 41.

²Ibid. The difference in the meaning of the phrases 'Governor in Council' and 'Governor and Council' was well understood at the time. The first implied acts done by the Governor himself though in Council, while the second implied a decision of a majority of Councillors.

³Wilson to Liverpool, 26 February 1812. C.O. 54, 42.

⁴Memorandum, 30 August, 1811. C.O. 54, 41.

and ordered Brownrigg to restore the Council to its original position.¹

These developments showed on the one hand a pull towards more liberal institutions, and on the other a desire for authoritarian control. The Government of Ceylon was sensitive to what it considered a local need to preserve the authority and prestige of the Governor especially in the eyes of the native people. In fact Maitland considered the absence of any great differences in Council a virtue.² Brownrigg wrote of the necessity of "keeping from the view of foreign subjects those doubts and difficulties and changes of opinion unavoidably incident to the intricate, difficult and truly delicate duty of devising, digesting, and qualifying the provisions necessary even for their benefit..."³ He thought that advice on legislation should take place in such a way "that measures consulted and resolved on have come forth to the public not in an unfinished state, still less under doubt, or debate and controversy, but in the final and obligatory form of a resolution of the Governor in Council".⁴ No more ideas of reforming the Council occurred until the emergence of the liberal critics on the scene during the latter part of our period of study.

This duality of thought found expression in the Charter of Justice, which defined in a general way the relations between the executive and

¹Liverpool to Brownrigg, 5 November 1811. C.O. 55, 62.

²Memorandum, 30 August 1811. C.O. 54, 41.

³Brownrigg to Bathurst, 28 August 1814. C.O. 54, 52.

⁴Ibid.

the judiciary.¹ By this instrument the Governor was not only given the power, which rightly belonged to the legislature, of creating judicial institutions locally, but he was also made the President of a High Court of appeal over the value of £200. The other members of this court were the Chief Justice, the Puisne Justice, and the Chief Secretary.² As against this was the creation of a Supreme Court, consisting of well paid professional Judges, over whom the Governor had no control except the extreme one of suspending them from office. It was given original civil and criminal jurisdiction over cases arising between the Europeans or where they were defendants. It was also given an original civil jurisdiction over the fort and district of Colombo. Provision was made for the extension of this jurisdiction whenever the Governor thought fit to do so. It was made the supreme criminal tribunal throughout the island. The trial of all the graver crimes was to take place before it, while it was to have a superintending control over the Courts to be set up for the trial of small criminal offences. It had no jurisdiction over revenue cases except under a warrant of the Governor empowering it to try them.³

A recurring feature of the subsequent history of the island was a clash between the Supreme Court and the Governor. It was partly a

¹ Charter of Justice, 18 April 1801. C.O. 55, 61.

² Ibid.

³ Ibid.

clash of personalities brought about by the fact that both the Chief Justice and the Governor derived their power and emoluments from the Crown, and were generally independent of each other. The sensitivity of society in Ceylon to distinctions brought about a competition between them for status. Thus, for instance, to impress its authority on the people, the Supreme Court found it necessary to assume certain oriental forms of honour associated with power. When the Court was on circuit it was accompanied by the tom tom beaters and other retainers.¹ The Governor, not without some reason, felt that the state assumed by the Supreme Court was a threat to his position. Thus Maitland considered it necessary to assume comparable honours. Brownrigg complained that the Supreme Court far exceeded the executive government in the external appearance of power and, on the ground of a reduction of expenditure attempted unsuccessfully to do away with its retainers. This competition for status remained unchanged throughout the period of our study.

A competition for power also developed between them. It arose mainly on account of the imperfect demarcation and definition of legislative and executive authority on the one hand, and judicial authority on the other. The Supreme Court, as we have seen, was vested by the Charter with a superintending control over the criminal jurisdiction of subordinate Courts. On account of the nature of the distribution

¹See Brownrigg to Bathurst, 13 March 1817. C.O. 54, 65.

of duties among provincial officials, of which we shall see more later, it was unavoidable that the exercise of the powers of the Supreme Court would bring it in contact with the former in one way or the other. Thus from very early days the Court while on circuit addressed charges to Magistrates and Justices of the Peace setting forth their duties, examined the criminal diaries of Magistrates, looked into the conduct of Headmen who acted as police officers, of the Collectors in their capacity of Fiscals and Justices of the Peace, and of the Provincial Judges in their capacity of Justices of the Peace.¹ The Court had no disciplinary power over these officials except in the extreme form of judicial censure and punishment. It also became the usual practice from about 1813, for the Judges to send to the Governor reports on their circuits incorporating their opinion of different officials, the state of the law and other matters and suggesting remedies. These reports appear to have been a cause of much annoyance to the Governor.² Apart from other things the Governor appears to have viewed with suspicion the degree of control exercised by the Supreme Court over the public service. Maitland and Brownrigg disapprovingly noted that the functions exercised by the Court made almost every department its ministerial office.³

¹C. E. Carrington to North, 25 November 1802. C.O. 55, 37.

²Brownrigg to Liverpool, 21 January 1813. C.O. 54, 46.

³Memorandum of Maitland, 30 August 1811. C.O. 54, 41. Brownrigg to Bathurst, 13 March 1817. C.O. 54, 65.

This circumstance combined with the fact that the supervisory duties of the Court were ill defined, and the legislative and judicial spheres of authority imperfectly demarcated, resulted in the occurrence of a series of conflicts between the Governor and the Judges. Brownrigg objected to a number of orders issued by the Supreme Court on the ground that they encroached on the legislative authority of the Governor. From the early days of British rule it became the usual practice for the Governor to issue instructions to the subordinate judicial and police officers, laying down their duties and the modes and forms in which they should be exercised.¹ These usually took the form of legislative enactment, though sometimes executive orders were also issued. In course of time, and especially when Alexander Johnston² was the Chief Justice, the Supreme Court also began to issue similar instructions by way of Court orders. Brownrigg objected to several such orders regulating the conduct and practice of Magistrates, and the control and superintendence of the police.³ He pointed out that in both

¹ See Regulation VIII of 1806 laying down instructions to Magistrates. C.O. 54, 25. Regulation XVIII of 1813, on the mode of keeping diaries, and taking information in criminal cases by Provincial Judges and Justices of the Peace. C.O. 54, 49.

² Sir Alexander Johnston, 1775-1849. He spent his childhood in India with his parents and thus acquired a sympathetic understanding of Asians. Returning to England he studied law and was called to the bar. He came to Ceylon as Advocate-Fiscal in 1805, was appointed Chief Justice in 1811, and continued in this situation till his retirement in 1819.

³ Most of the orders considered to be objectionable were directed at Sitting Magistrates, Provincial Judges, Fiscals, and Justices of the Peace, and mainly concerned the exercise of their police duties. Thus for instance they were required to report on the defects of the police, and on the means of remedying them, the conduct of Police Vidānas, the causes for the increase or decrease of crime etc. Fiscals were directed to see that a certain number of the Police Vidānas were in attendance on the Supreme Court when it went on circuit. For details see Barnes to Huskisson, 24 July 1828. C.O. 54, 101. Brownrigg to Bathurst, 9 July 1817. C.O. 54, 66.

these spheres directions had been given by the Government from time to time and that if fresh directions were required they should emanate from the same authority. The proper function of the Court, he thought, was to control the power exercised by the inferior Magistrates, correct erroneous and illegal proceedings, and punish violation of duty. Such duty, however, was to be measured not by the orders of the Court, but by the law of the land. He thus argued that the Supreme Court had usurped the authority and regulations of government, departed from its proper province, and "assumed completely the character of political power".¹ Brownrigg seems to have been particularly sensitive to the fact that the orders of the Supreme Court had placed the Magistrates, as well as the whole establishment of peace officers under a degree of subjection and subservience to the Court. He complained that the Government's management of the police through the Collectors and the various gradations of Headmen had been disarranged.²

The Governors who followed Brownrigg continued to protest at the 'encroachments' of the Supreme Court. Thus James Campbell³ urged the Secretary of State to annul the orders to which Brownrigg had objected.⁴

¹Brownrigg to Bathurst, 9 July 1817. C.O. 54, 66.

²Ibid. Also, Brownrigg to Bathurst, 17 November 1815. C.O. 54, 57.

³He was Commander of the forces when Edward Paget who was Governor for a short time from August 1821 to March 1823 left the island to take up another appointment. He thus acted as Governor of the island till the arrival of Barnes towards the end of 1824.

⁴Campbell to Bathurst, 12 January 1824. C.O. 54, 86.

Governor Edward Barnes¹ complained of the 'injudicious and illegal' manner in which the Supreme Court continued to exercise its superintending power, and urged that orders and rules framed by it should be subjected to the revision and approbation of the Governor.²

At first the only decision taken by the Colonial Office was to insist that the Supreme Court should, when sending its orders for the Secretary of State's sanction, submit them through the Governor and not directly as before.³ It was thought unwilling to give a decision on the general points that were raised regarding the relationship between the executive and the judiciary until the matter was investigated more fully. However, in 1825, on the advice of James Stephen, it ruled that though the Supreme Court possessed the power of regulating its own practice, process and proceedings, it had exceeded its powers in framing rules for the general regulation of the police throughout the colony, which properly belonged to the Governor in Council. It therefore ordered the revocation of many of the objectionable orders and their promulgation, where necessary, as regulations of the Governor in Council.⁴ The Supreme Court thus found itself faced with the necessity of revoking orders issued since 1807, and Barnes proceeded to provide for some of them by legislative enactment.⁵

¹After a long military career during which he also held administrative positions in the West Indian Colonies, Sir Edward Barnes arrived in Ceylon as Acting Governor on the departure of Brownrigg in 1820. He was displaced for a short time by Paget and returned to England. However he returned with the appointment of Governor in 1824 and held it till 1831.

²Barnes to Bathurst, 20 July 1825. C.O. 54, 89.

³Bathurst to Brownrigg, 21 November 1816. C.O. 55, 63.

⁴Bathurst to Barnes, 12 September 1825, and, 14 June 1826. C.O. 55, 69.

⁵See Barnes to Huskisson, 24 July 1828. C.O. 54, 101. Regulations V and VI of 1827. C.O. 54, 98.

Barnes also objected to the manner in which the Supreme Court had carried out its power of supervision over the proceedings of inferior Magistrates. He complained that the court had often quashed and superceded the convictions of inferior Magistrates without any complaints by any of the parties to a case but merely by an examination of their proceedings. He regarded it as an illegal exercise of power, which was prejudicial to the police and good order of the country. In this connection he objected to an order of the Supreme Court which called upon the Magistrates to send copies of their monthly diaries.¹ He argued that these orders and practices had the effect of depriving the population of the services, in the capacity of Magistrates, of British gentlemen of the regular Civil Service, and throwing it into a class receiving low salaries, for whom the native inhabitants had little respect and esteem. He requested the removal of this 'degrading system' of proceeding to enable him to call upon the Civil Servants to give their aid to the administration of justice in the capacity of Magistrates.² By attributing to the practices of the Supreme Court the reluctance of the Civil Servants to perform Magisterial duties, and the consequent predominance of Dutchmen in this field of employment, Barnes was, as we shall see later, taking a partial view of the situation.

While the above conflicts, though partly motivated by a competition for power and position, also reflected the desire of the legislature to

¹Barnes to Bathurst, 11 March 1821. C.O. 54, 79. Barnes to Bathurst, 20 July 1825. C.O. 54, 89.

²Ibid.

safeguard its sphere of authority, others showed the Judiciary as represented by the Supreme Court struggling for its independence. Drawing inspiration from the forms and ideals of Government prevalent in England it stood out for judicial independence, individual liberty, or liberty of the subject as it was called, and generally for a more liberal form of government. The executive on the other hand looked at problems from the point of view of governing a country under conquest where the people were not only different in race, language, religion and customs, but were also living under different social and economic conditions. Apart from a need to display power the executive government was faced with the task of enforcing services, collecting a land tax from numerous small landholders, and maintaining monopolies. It was therefore not only opposed to an independent judiciary but generally stood out for a more authoritarian form of government.

Maitland stressed one factor when he made out a case for keeping the revenue courts under the control of the executive government.

"Revenue in India," he wrote, "is of a nature so different from that of any other country - the habits of the people are so singular in themselves, and the mode of collection so very different from what exists in any other part of Europe that no rules applicable here can be relied on as forming any analogy upon which we ought to proceed there; and if we are, in all instances, to limit the trial of revenue cases or the practical modes of collecting revenue, to the strict and precise formula of the proceedings of a British Court of justice, I must fear that without giving any satisfaction to the natives we will materially deteriorate the revenue of the island."¹

¹Memorandum, 30 August 1811. C.O. 54, 41.

During the early days of British rule the sense of insecurity in fact tempted the Government to assume extra-judicial power. The instructions issued to the Governors of this period authorized them to remove from the island persons whom they suspected of adhering to the enemy, or whose residence might be inconvenient or prejudicial to the peace, order and security of the settlement.¹ Up to 1806 it was generally understood that the execution of this power necessitated prior legal proceedings. In 1806 not only was this condition removed but also the clause conferring this power was given a wider construction. It was laid down that whenever it appeared that such offences existed, and where it was not possible from various causes to institute legal proceedings, all such offending persons would be banished to the island of Delft till such time as the Governor thought fit.² As Delft was within the jurisdiction of the Government of Ceylon, it amounted, in effect, to an assumption of the power of imprisonment without trial. This power was, however, seldom exercised.

The pull in the direction of more liberal forms and institutions on the one hand, and towards authoritarianism on the other, was reflected in some of the issues raised by the Supreme Court. One of the earliest to arise involved the right of the Supreme Court, on its own initiative, to prevent the execution of a Governor's order on legal grounds. In 1808, Maitland issued a warrant of pardon to a prisoner, thereby exercising

¹See Revised Royal Instructions to Governor North, 18 February 1801. C.O. 55, 61. The Royal Commissions and Instructions issued to the other Governors were generally based on those issued to North. Important changes took place only in the Commission and Instructions issued to Horton. (1831)

²Regulation XII, 14 August 1806, clause iv, Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p.90.

the prerogative powers vested in him, When it went before the Supreme Court the Chief Justice held that the warrant was not legal as it contained the signature of the Deputy Secretary and not that of the Chief Secretary as required by the Governor's instructions. The warrant was returned with directions to draw a fresh one. On hearing this Maitland directed the Advocate-Fiscal to carry it into execution. The Supreme Court then issued a warrant to re-arrest the man. Maitland thereupon issued a regulation legalising the signature of the Deputy Secretary.¹

Maitland took objection to the action of the Chief Justice on several grounds, both particular and general. Firstly, he questioned the right of the Supreme Court to ground a judgment on the instructions issued to him as Governor which, he said, were not meant to be public documents.² Secondly, he questioned the general right of the Supreme Court to agitate questions of this nature. The proper mode, he thought, was for the Chief Justice to make representations to the Secretary of State, if he found the Governor exceeding his powers, or acting against the honour and interests of the branch of government entrusted to the Supreme Court.³ He conceded that the action of the Chief Justice could not be found fault with when viewed in the light of the 'principles of the British Constitution'. But he questioned the applicability of these

¹Maitland to Castlereagh, 18 August 1808. C.O. 54, 28.

²Ibid.

³Ibid.

principles to Ceylon.

"I am well aware," he wrote, "it may be said that the opinion of a Judge is of that nature that following it can degrade no Government. I am extremely well aware of all the doctrines that can be held upon the subject according to the enlightened and well understood principles of the British Government. But when you come to apply those principles to this country, if you come to say once that everything that is most salutary in England may not under certain circumstances be extremely prejudicial here, but still because it is good in England it is good in this country, I am afraid you will not find any considerate man, whether Judge or Governor, who will not tell you a very different story. Indeed, ... if you were to follow all those minute rules and distinctions that are followed in England to the letter of what a Judge might do, you would overthrow the possibility of carrying on the Government itself."¹

While conceding that the objection of the Chief Justice was to the form of the warrant and not the act of pardoning, he maintained that in the eyes of the native inhabitants the exertion of authority on the part of the Supreme Court, amounted to a transfer of power from the Governor to the Chief Justice.² Maitland thus viewed the subject not as a question of strict law, but as one of policy which involved a threat to the authority of the Governor in the eyes of the people. His attitude displayed his sensitiveness to what he called "the feelings of the natives regarding superior authorities..."³ He was supported in this attitude by the Civil Service, whose spokesman in Council asserted that the collision between the executive and the judiciary had the effect

¹Maitland to Castlereagh, 18 August 1808. C.O. 54, 28.

²Ibid.

³Maitland to Edward Cooke, 3 September 1808. C.O. 54, 28.

of "lessening in the minds of the natives the powers of Government by causing doubts to arise upon the supremacy of the executive authority".¹

A second conflict that arose between the Governor and the Supreme Court displayed similar opposing tendencies. In 1818, a case came before the Court where a Mudaliyar was charged with having abused his authority in pressing coolies for the army. The case was postponed on account of the absence of a material witness. But the Puisne Justice addressing the Magistrates, Civil Servants and Headmen who were present, referred to the English law about pressing for troops. He informed them that the legal and proper mode was for a Collector or any other person to be authorized by a commission to exercise these powers. He should in turn direct his warrant to the principal Headmen. In the case of a fugitive coolie the Headmen should make an affidavit before a Magistrate, whereupon the latter should issue a warrant of arrest. The Puisne Justice suggested to the Governor the drafting of a regulation to give effect to these suggestions.² Meanwhile, the Collector of Colombo complained to the Governor that the address from the bench had placed him in a situation of 'unprecedented embarrassment', and that the Chief Justice had not taken into account the system of service land tenures prevalent in the country. He held that because of the limited

¹Minute of Wood, the Revenue Commissioner, 10 December 1808. C.O. 54,32.

²See Brownrigg to Bathurst, 17 July 1818. C.O. 54, 71.

number of Magistrates, it was not possible to execute that branch of his duty under the restrictions placed by the Puisne Justice.¹ Brownrigg accepted the Collector's viewpoint and, instead of adopting the regulation suggested by the Puisne Justice, exacted one which declared that the practices which had hitherto prevailed were 'entirely legal'.² He supported his stand by obtaining the opinions of the Collectors and the Maha Mudaliyar on the services which the various castes of people were liable to perform.³ This conflict illustrated the manner in which the Supreme Court stood for the liberty of the individual, while the system of compulsory services carried the executive Government towards authoritarianism.

A short time later the Supreme Court took an important stand on caste. At a session in Jaffna it examined the proceedings of the Collector in his capacity of a Justice of the Peace, and without any individual complaints quashed a conviction against a person of the slave caste (Covia) for using a palanquin. The Judge based his decision on the ground that there being no known regulation on the subject, the action of the Collector was illegal, and also that it fostered and perpetuated distinctions.⁴ The Collector submitted the case to the Governor for

¹ See Brownrigg to Bathurst, 17 July 1818. C.O. 54, 71.

² Ibid.

³ Ibid.

⁴ Judges to Barnes, 3 July 1820. See Barnes to Bathurst, 11 March 1821. C.O. 54, 79.

instructions as to whether it was part of his duty to maintain the customs and usages connected with caste. He held that "this infraction of the customs and usages of the district was calculated to create a serious ferment", and cited instances where his predecessors had checked them by punishing people.¹ He was supported by the Revenue Commissioner, who raised the fear that the decision of the Supreme Court would become a precedent for the inferior Courts, and that it would be regarded by the higher class of the native inhabitants as an important violation of their ancient customs.² Barnes recognized that the privileges of caste stood in the way of development by "cramping the energies of the lower orders", but considered it neither 'political or just' to subvert them by any premature act of power.³ In this case he showed a reluctance to bring in new legislation. Nevertheless, he enacted a regulation which implied that the laws on the subject in the Dutch codes were valid until repealed by the British Government.⁴

The most important conflict which aroused a great deal of interest and controversy in the Colony, and which even went before the British Parliament, concerned a soldier in the Company's service. In 1823

¹Hooper to H. Boydell, 13 April 1820. C.O. 54, 79.

²See Barnes to Bathurst, 11 March 1821. C.O. 54, 79.

³Ibid.

⁴Ibid. Regulation II, 5 February 1821. C.O. 54, 79.

the Governor of Ceylon, James Campbell, received a letter from Calcutta enclosing a description of a soldier named Daniel Rossier who, it was said, had deserted without leave, and was travelling in a ship bound for England. It contained a request that this person might be apprehended and sent to Bengal. The Governor ordered the Sitting Magistrate of Colombo to arrest the man and keep him in custody until further orders. A short time later an application came before the Supreme Court for a writ of Habeas Corpus. The application was granted and the Supreme Court directed that the prisoner be brought before it with the authority on which he was detained. Before the matter came up for hearing the Governor issued a regulation "for removing all doubts respecting the right of the Governor of this island to arrest and detain in custody any persons within the same".¹ Without denying the Supreme Court the right to issue writs of Habeas Corpus, this regulation provided that it was lawful for any officer, civil or military, under whose custody there may be persons kept under the orders of the Governor, to produce a copy of such orders as the authority under which they were detained, in return to any process of court. Such a return was to be taken as a bar to any further legal proceedings. When the case came up for hearing the Supreme Court was faced with a new legislative enactment. The Chief Justice was thus compelled to dismiss the case after addressing the

¹Regulation I, 10 January 1824. C.O. 54, 86.

Court in words which later echoed in the British Parliament.¹

"It is not that such a regulation impends over me as well as every other subject on the island," said Sir Hardinge Giffard,² "it is not from the possible case of a bad Governor, though a tremendous use might be made of this power, that I abstain from making any observation. I trust that if personal danger only were to be encountered, I should not fail in my duty but it is because I bow to the authority of my Sovereign, thus, as I trust, temporarily exercised by his delegate, that I saw that this return is supported by the regulation, that this regulation is the law of Ceylon, and that we have no right to inquire why this British subject is deprived of his liberty; and that this Court is reduced to the heart-breaking necessity of saying that his Majesty's writ of habeas corpus is of no effect."³

The Governor justified himself on the ground that it had always been the practice for the Governor to arrest and detain persons in custody, and that the action of the Supreme Court was subversive of the authority of the Governor. He thought that he was defending the "official privileges and authorities of the King's representative", who had been delegated with the political administration of the country.⁴ He argued that on account of the existence of certain state prisoners, who had been detained after a rebellion in the Kandyan provinces, the release of persons held under the Governor's authority on the process of a law court "would plunge the island into the most serious and irre-

¹For details of this case see Campbell to Bathurst, 14 January 1842. C.O. 54, 86.

²Sir Ambrose Hardinge Giffard, 1771-1827. After studying law he was called to the bar. He arrived in Ceylon as Advocate-Fiscal, in 1811, was appointed Puisne Justice in 1818 and succeeded Johnston as Chief Justice in 1820. He held this situation till 1827.

³Hansard's Parliamentary Debates, new series, Vol. XXIV, p. 1158.

⁴Campbell to Bathurst, 14 January 1824. C.O. 54, 86. Minute, 10 January 1824. C.O. 54, 86.

mediable evils".¹ The Chief Justice naturally protested against the regulation, which he thought condemned every person in the island to perpetual imprisonment at the pleasure of the Governor.² He argued that after its enactment "British and Indian subjects must alike hold their liberty at the tenure of the Governor's good pleasure".³ He appealed to the Home Government to rescue the island "from the reproach of being the only part of his dominions where His subjects possess no security for their personal liberty".⁴ In a direct communication to the Secretary of State he added an explanation as to why there would be no protests in Ceylon at the Governor's action. "The British and European subjects here," he wrote, "almost universally hold their means of existence at the will of the Governor ... and the natives are too deeply imbued with reverence for authority to suppose that they have a right to think upon such matters."⁵ The Chief Justice was supported by the Advocate Fiscal, who in a protest sent direct to the Secretary of State, characterized the regulation as "contrary to the fundamental principles of English law, and so subversive of those personal rights, inalienable but by act of Parliament, which British subjects are entitled to claim

¹ Minute, 10 January 1824. C.O. 54, 86.

² Minute of Giffard, 10 January 1824. C.O. 54, 86. Also, Giffard to Bathurst, 14 January 1824. C.O. 54, 87.

³ Minute of Giffard, 10 January 1824. C.O. 54, 86.

⁴ Ibid.

⁵ Giffard to Bathurst, 14 January 1824. C.O. 54, 87.

wherever the King's Courts of justice are established."¹ He said that if such a regulation is permitted "the Governor would be absolutely despotic, and accountable only to God and his conscience".²

On the advice of James Stephen, to whom the matter was referred by the Colonial Office, the Secretary of State ordered the immediate repeal of the regulation, and its substitution by another which provided for the case of the political prisoners. In such cases the order of detention was to be signed by the Governor, and two Council members, and reported to the Home Government for approval.³ Barnes, by whom this despatch was received, put off its implementation on the ground of the existence of certain defects in the wording of the draft regulation sent by the Colonial Office.⁴ This question therefore remained in abeyance till revived by the Colebrooke-Cameron Commission.

¹C. Marshall to Bathurst, 16 January 1824. C.O.54, 86.

²Ibid.

³Stephen to Robert Wilmot, 23 January 1824. C.O. 54, 87. Also Bathurst to Barnes, 8 July 1824. C.O. 55, 66.

⁴Barnes objected to the phrase "the Governor of His Majesty's island of Ceylon by and with the advice of His Majesty's Council", which was used in the draft regulation. He argued that the adoption of the regulation in this form would bring about a change of the Constitution. It was clear that Barnes was merely making it an excuse to postpone the implementation of the orders. He disliked the requirement that two members of the Council should sign detention orders, and was against giving the Supreme Court an unqualified power to grant writs of Habeas Corpus. He too acted on a desire to preserve the Governor's authority. Another draft regulation was submitted by him which while conceding the right of the Supreme Court to issue writs, excluded the examination of those detained under the Governor's orders. See Barnes to Bathurst, 12 May 1825. C.O. 54, 88.

The opposing tendencies above noted were also reflected in the discussion of judicial reforms in Ceylon. The Governors, quite expectedly, not only opposed the strengthening of the judiciary, but even desired more control over it. The Judges, understandably, stood for a greater degree of judicial independence. As early as 1802 North urged in a private letter the removal of the Chief Justice and the transfer of the supreme criminal jurisdiction to a Court composed of the Governor, Commander of the forces, an experienced lawyer and the Chief Secretary. Maitland desired more control over the Supreme Court. Arguing that the power vested in the Governor of suspending a Supreme Court Judge was of no utility for ordinary purposes of government, because of its exercise was of a delicate nature, he argued that the executive should be armed with the power of suspending the proceedings of the Supreme Court, assigning the reasons for doing so in Council, and transmitting them home by the first opportunity.¹ The grounds on which he considered such a power desirable were political. He had in mind a situation where an executive order was challenged by an individual, and where the Judges had no alternative but that of acting according to the strict rules of their duty, though they were aware that such action would cause immense political injury to the Government. In fact he cited the instance of an order made by him to seize a horse that was being taken to the Kandyan kingdom, when there was no general prohibition against an exportation of horses there, and where a contest before

¹Maitland to Alexander Johnston, ND. 1809. C.O. 54, 31.

the Supreme Court had been avoided by persuading the owner to withdraw it.¹

It was mainly to urge the point of view of the executive that Maitland sent Alexander Johnston, who was then Advocate Fiscal, to England.² While in England, however, Johnston, who had by then been appointed Chief Justice, tendered very different advice. On his recommendation a new Charter of Justice was drawn, which extended the jurisdiction of the Supreme Court and enhanced the power and position of the Chief Justice. It extended the civil jurisdiction of the Supreme Court over the whole island giving it also a revenue jurisdiction, gave the Chief Justice the power to establish inferior courts at suitable places and determine their jurisdiction, and with the concurrence of the Governor to make rules of proceeding and appoint Secretaries and other officers. All judicial and semi-judicial officers were to be constituted into a judicial department, which was to be directly under the control and management of the Chief Justice, who was to be required to make a report of the state of his department and the conduct of the officials to the Governor in Council once every six months.³

The new Charter was brought by Johnston himself and was proclaimed in the Colony. A judicial department was created, and a circular was

¹Maitland to Alexander Johnston, ND. 1809. C.O. 54, 31.

²Memorandum, 30 August 1811. C.O. 54, 41.

³Charter of Justice 9 August 1810. C.O. 55, 62. Also Liverpool to Maitland, 30 September 1810. C.O. 55, 62.

issued giving instructions that all judicial correspondence hitherto addressed to the Chief Secretary should in future be sent to a newly established Deputy Secretary for the information of the Chief Justice.¹

Meanwhile the Charter came under the observation of Maitland, who was by then out of office in England. Accusing Johnston of acting through a greed for more power, he opposed vehemently the changes that had been made.² The extension of the jurisdiction of the Supreme Court was opposed on the ground that it would handicap the collection of the revenue, cause delays, and affect the tranquillity of the country.³ The power given to the Chief Justice to decide on the establishment of inferior courts at suitable places was opposed on the ground that the Governor being responsible for the revenue he was the best judge to decide on their formation. The proposed change, he said, took away from him the power by which he had hitherto collected the revenue.⁴ Patronage, he thought, should rest with the Governor alone as it was necessary for the due maintenance of his authority. "The moment a single appointment of one of the regular Civil Servants is taken out of the hands of the Governor," he wrote, "that moment there is an end of the whole constitution of the Civil Service as it at present stands."⁵

¹Wilson to Liverpool, 26 February 1812. C.O. 54, 42.

²Memorandum, 30 August 1811. C.O. 54, 41.

³Ibid.

⁴Ibid.

⁵Ibid.

The creation of the judicial department was opposed because it would place almost the whole Civil Service under the special authority of the Chief Justice, lead to a collision of authority and furnish the inferior officers with an apology for inactivity.¹ Finally, he argued that the main effect of the changes would be to alter the character of the office of Governor in the eyes of the native inhabitants, thereby paralysing the means of maintaining subordination and good government.²

Maitland's objections appear to have carried much weight with the Colonial Office for it replaced the new Charter of Justice with another which restored the jurisdiction of the Supreme Court and the powers of the Chief Justice to their original position.³ No more changes occurred in the constitution of the Supreme Court till 1833, though discussions on the subject continued to take place in the colony.

An important change which was initiated by Alexander Johnston along with the above reforms was, however, allowed to continue. This was the introduction of trial by jury for the decision of criminal cases coming before this court. The Jury system established in Ceylon was however much different from that prevalent in England. There was no intervention of a Grand Jury and the prosecution therefore depended

¹Memorandum, 30 August 1811. C.O. 54, 41.

²Ibid.

³Charter of Justice, 30 October 1811. C.O. 55, 62. Liverpool to Brownrigg, 5 November 1811. C.O. 55, 62. Brownrigg to Liverpool, 29 March 1812. C.O. 54, 42.

entirely on the officials. The petty jury consisted of thirteen members and unlike in England decisions were by a simple majority. The juries were selected according to the race or caste of the accused persons. Though the system was thus very different its introduction was regarded as a liberal measure which was beneficial in practice.¹ It certainly did not evoke any protests from the executive.

Another office of a judicial nature which was involved in conflicts with the executive during this period was that of Advocate-Fiscal. It was created by the Charter of Justice and was held by a Crown nominee. Its duties were not defined in detail, the Charter merely assigning it the functions of a public prosecutor.² From the early days of British rule the Advocate-Fiscal began to assist the executive in framing laws, acted as the legal adviser of the Government, and performed the functions of a public prosecutor.³ Partly on account of the fact that the powers of the Advocate-Fiscal were ill defined, but also as a result of the appointment of a Deputy Secretary in charge of legal matters, which appears to have brought about a loss authority to the former,⁴ there were several conflicts

¹ See evidence of Johnston, 16 March 1830. Report from the select committee of the House of Lords on the affairs of the East India Company, pp. 220-232.

² Charter of Justice, 18 April 1801. C.O. 55, 61.

³ Memorial of Alexander Johnston, 14 June 1803, C.O. 54, 11.

⁴ See p. 42. The Supreme Court gave this as the reason for the occurrence of conflicts. See Johnston and Coke to Bathurst, 12 October 1816. C.O. 54, 64.

between the Advocate Fiscal and the Governor during the time of Brownrigg. They may have been accentuated by personal differences between Brownrigg and Hardinge Giffard. As regards his duties as public prosecutor the Advocate-Fiscal, supported by the Supreme Court, began to act under the view that he was exempt from executive control.¹ On the other hand Brownrigg objected to any independent authority being given to the Advocate-Fiscal which would tend to limit the power of the Government to protect its interests before the courts of law.² The Colonial Office was inclined towards the point of view of the Advocate Fiscal. It held that though the Governor had a discretionary authority he took upon himself 'a heavy and unnecessary responsibility' if he acted according to that discretion in a case where the law authority pronounced that there was no prospect of success.³ Brownrigg also protested that the tendency displayed by the Advocate-Fiscal to interpose his advice uncalled for by the executive. In matters submitted for the drafting of regulations he had decided not only on their form but also on their substance. He regarded it as an arbitrary assumption of power which infringed upon the legislative authority of the Governor.⁴

¹Johnston and Coke to Bathurst, 12 October 1816. C.O. 54, 64.
Also Brownrigg to Bathurst, 30 November 1813. C.O. 54, 48.

²Ibid. Also Brownrigg to Bathurst, 28 August 1814. C.O. 54, 52.

³Bathurst to Brownrigg, 30 July 1814. C.O. 55, 63.

⁴Brownrigg to Bathurst, 28 August 1814. C.O. 54, 52.

In this matter the Advocate-Fiscal appears to have been clearly exceeding the limit of authority which the Colonial Office was inclining to assign to it. The Advocate-Fiscal was told that on matters of legal advice he held the same position which the Attorney-General held in relation to the Crown.¹ Partly on account of the above decisions and partly because of changes of personnel as more conflicts occurred between the Governor and the Advocate-Fiscal after the period of Brownrigg. During this time the office in fact provided a link between the executive and the judiciary and one means through which the executive maintained a degree of control over the Provincial Judges and the Magistrates.² The Governor was the head of a centralized administration. A tendency towards greater centralization was already present during the time of North, as is seen in the establishment of a number of central offices designed to assist the Governor in maintaining this control. But it was certainly incomplete because of a failure to draw up adequate rules for the purpose. North's period of Governorship generally marked a formative period during which foundations were laid but the structure was incomplete. Though offices and departments were established their powers, duties and modes of proceedings, were as yet ill defined.

Maitland found on arrival that the Civil Servants were enjoying a good deal of independent authority in practice. The heads of depart-

¹Bathurst to Brownrigg, 20 June 1817. C.O. 55, 63.

²Cameron, Report upon the Judicial establishments and procedure. C.O. 54, 122.

ments as well as provincial officers had hitherto enjoyed a considerable amount of freedom to arrange their establishments, subject however to the approval of the Governor. In spite of the existence of a central Treasury, Maitland found that every Kachcheri of a Collector had virtually become a separate Treasury and every Collector a public Accountant.¹ Similarly in spite of the existence of a central Revenue Board, he found that the Collectors had almost unlimited freedom in the farming of the revenue, and the granting of remissions.² He also found that officers had considerable powers of initiating expenditure, provided they were supported by receipts which, he added, were often irregularly drawn up. He wrote about a "monstrous view of having with a revenue which has never exceeded £100,000 gross, six Treasuries open, with every individual in the island a Public Account, and drawing upon them as he choose".³ He noted that the practice prevailing regarding expenditure was for the subordinate officers to spend according to their own fancy first, and then apply for the sanction of the Government.⁴ Added to all this, confusion had been caused by defective modes of keeping accounts and the absence of uniformity in them. The absence of detailed codes defining the duties of the different officers had

¹Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

²Maitland to Camden, 19 October 1805. C.O. 54, 18.

³Maitland to Camden, 28 February 1806. C.O. 54, 21.

⁴Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

given them the opportunity of taking shelter behind excuses such as ignorance of duty, or that they were merely following what their predecessors in office had done, whenever they were found fault with. The laxity with which even existing rules had been enforced also came to the notice of Maitland. For instance, he was informed that the instructions issued by the Board of Revenue and Commerce regarding the keeping of accounts had not been adhered to by some of the Collectors.¹

The circumstance which gave Maitland a quick insight into these defects was an inquiry into the conduct of the Collector of Jaffna, of whom we shall say more later. He conducted this inquiry not merely to probe into the activities of this particular Civil Servant, but also with a view to find out general defects. "Before however we enter into any new system, or adopt any new measure," he told Wood, the Commissioner of Revenue, who conducted the inquiry, "it is absolutely necessary that we should be thoroughly aware of every part of the practice and proceedings of those who have hitherto conducted it."² Both during and after the inquiry his intention was to devise permanent regulations for the future guidance of the Civil Servants.³ In devising these regulations Maitland was much influenced by considerations arising from the condition in which he found the Civil Service, of which we shall say more later. On account of these conditions he did not place much

¹Edwards to Maitland, 12 December 1805. C.O. 54, 20.

²Maitland to Wood, 14 November 1805. C.O. 54, 20.

³Maitland to Wood, 15 December 1805. C.O. 54, 20.

confidence in the Civil Service. This in turn made him reluctant to place original authority in the hands of the Civil Servants. Consequently, in the regulations that he drew up during this period, he attempted not merely to bring the provincial Civil Servants under more central control, but also to have, as far as possible, a personal direction in the administration, especially in matters of finance.

Maitland's reforms in this sphere began in 1806, when he adopted some far reaching changes regarding the expenditure of public money. He himself laid down afterwards the principles on which his regulations were based. Firstly, "that the necessity of ... expenditure should be clear and defined antecedent to a shilling being laid out on the object whatever it may be, and that the necessity and propriety of the expenditure should be fixed solely by the person who has the right of expenditure in him".¹ Secondly, "that the necessity of that expenditure should be as nearly ascertained as possible before the expense commences".² Thirdly, "that when expended upon any object, the best possible report should be had on how far the expense is moderate for the work done".³ Maitland's reforms of 1806 and 1808 were no doubt based on the above principles. By the reforms of 1806 the expenditure of the Government was divided into three heads. The first head was to be

¹Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

²Ibid.

³Ibid.

the civil expenditure which would be fixed at the beginning of each year on the basis of returns obtained from the different offices. Maitland initiated the practice of fixing this category of expenditure by an annual legislative enactment, which was to be the authority for incurring such expenditure. The second head was to be fixed contingent expenditure, that is expenditure contingent in amount but certain in occurrence. The authority necessary for incurring this expenditure was to be obtained every month by applying to the Chief Secretary's Office.¹ The third head was to be unfixed contingent expenditure, that is expenditure contingent both in amount and in occurrence. As regards this category, which was by far the most important, Maitland imposed the rule that no expenditure should be incurred under this head without previous sanction from the Secretary's office.²

The salary increase given to the Civil Servants in 1808, of which we shall say more later, was turned into an opportunity to enforce more comprehensive rules for the guidance of the different officers.³ The general regulations for the Civil Service promulgated in 1808 were based on the financial regulations imposed earlier. They defined the powers and duties of the principal officers of the Government, so that no one could plead ignorance of duty in the future. The central offices

¹Regulation XVII of 1806. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 104-106.

²Regulation XVIII, 27 October 1806. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 104-106.

³Instructions to Heads of Department, 25 August 1808. C.O. 54, 28.

were turned into more efficient instruments of financial control, while the limits of authority and power enjoyed by the different officers were defined. Simplified but uniform modes of keeping accounts were laid down which aimed at getting a quick and clear picture of the revenue and expenditure of the Government.¹

The rules drawn up by Maitland are important for several reasons. They marked the first comprehensive effort made by the British to regularize the systematize Government procedure. The administrative system which had hitherto rested too much on the strength and character of personalities, was now made to depend on rules and regulations binding on both the Governor and the Civil Servants. An organized machinery was thereby created which would enable the Government to go on irrespective of changes in personnel. "These rules," declared Maitland, "will in future prevent any considerable change in the essential forms of conducting business, and hinder either myself, or any other Governor appointed by His Majesty, from breaking through the fundamental rules established for the guidance not only of all subordinate officers of Government, but of the Governor himself."² They also marked the establishment of a greater degree of central control. Maitland not only arranged the duties of the central offices in such a manner that they would

¹Instructions to Heads of Department, 25 August 1808. C.O. 54, 28.

²Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

become effective instruments of central control, but also brought under the Chief Secretary's office, which was more under his personal supervision, the duty of sanctioning all expenditure. As early as 1806 he was able to claim that not a shilling was advanced or paid without his previous authority and warrant, and that on the tenth of every month he was aware of every shilling expended and received in the antecedent one.¹

The codes and rules drawn by Maitland were approved by the Commissioners of the Treasury in England, and remained in force throughout the period of our study.² The financial rules acquired more force when in 1817, the Treasury issued a new set of permanent instructions for the conduct of the Government of Ceylon, based on those already in existence.³ Though these new instructions contained some modifications on points of detail they did not alter the system laid down by Maitland.⁴

The principal means by which the Governor exercised control were a number of central offices. Though they originated during the time of North their position in the administrative machinery was more particularly determined during the time of Maitland. Generally speaking they

¹Maitland to Camden, 26 February 1806. C.O. 54, 20.

²See Commissioners of Audit to Commissioners of the Treasury, C.O. 54, 39. Also, Commissioners of the Treasury to Peel, 16 August 1810. C.O. 54, 39.

³Treasury Instructions to the Ceylon Government, 28 January 1817. C.O. 54, 67.

⁴Additional Instructions to the Heads of department, 31 December 1817. C.O. 54, 70.

remained, throughout this period, on the footing on which they were placed by him. These offices were usually presided over by a senior Civil Servant and functioned with or without a junior Civil Servant as Assistant, and a varying number of Clerks drawn from the local European community.¹

The most important among the central offices was that of the Chief Secretary. It was by now an established practice in colonial administration to have a Chief Secretary associated with a colonial Governor. Hence the office was first created with the appointment of North as Governor in 1798. Hugh Cleghorn, whose services had been valuable in the conquest of Ceylon, was appointed Secretary, perhaps as a reward for those services.² His powers and duties were not defined in detail, but he was generally to hold a position similar to that occupied by the Chief Secretary at the Cape of Good Hope.³ In the Royal Instructions to Governor North it was laid down that "all public acts and judicial proceedings shall be done, issued, and performed, in the name of the Governor, and previous to being published or put in execution, be signed by the Chief Secretary to the Government by the authority of the Governor".⁴ The fact that he was the only other person besides

¹See schedules of annual fixed civil establishment for this period.

²Cleghorn rendered very useful service at the time of the conquest by negotiating the transfer of the De Meuron regiment. See W. Neil (ed.) The Cleghorn papers.

³North to Mornington, 5 June 1798. Wellesley, No. 13866.

⁴Royal Instructions to North, 26 March 1798. C.O. 55, 61.

the Governor to be appointed to an office by the Crown in 1798 added to his importance. It is therefore not surprising that it took some time for the relations between the Governor and the Chief Secretary to be adjusted. At first Cleghorn was in the habit of corresponding directly with the Secretary of State on official matters. This, and other circumstances, made North suspect that he was allied with the Madras civilians to offset his authority. A bitter conflict prevailed between North and the Chief Secretary, which culminated in the premature departure of Cleghorn.¹

Cleghorn was followed in office by Robert Arbuthnot who was on friendly terms with North. He was followed by John Rodney, who held the office almost as a sinecure till 1831. He was noted for his inefficiency and was generally ignored by the Governors of this period.² These factors prevented the growth of a fair degree of independence in the office of Chief Secretary. Besides, with the creation of the Civil Service it was decided that the practice of appointing the Chief Secretary directly from England would cease and that it would be thrown open to the Service. Though this decision could not be implemented immediately, yet it would have worked towards reducing the importance of the position.

Though the Chief Secretary thus fell in importance, the Governor required a Secretariat to handle the multifarious work that he had to

¹ See North to Mornington, 15 July 1799, 14 September 1799, and 19 January 1800. Wellesley MS 13,866, 13,867.

² See Brownrigg to Bathurst, 8 November 1817. C.O. 54, 66.

deal with. The result was that other Civil Servants attached to the Chief Secretary's office, who were trusted, and were efficient, began to be employed directly in duties belonging to the Chief Secretary. The office that assumed most importance in this manner was that of the Deputy Secretary. It was first created by North in 1798, and was certainly intended to assist the Chief Secretary. But when conflicts occurred between North and Cleghorn, North appointed one of his favourites to the office and began to handle business through him without reference to the Chief Secretary. Thus, for example, public acts such as Proclamations were issued on the authority of the Governor by the Deputy Secretary, though by a strict interpretation of the Royal instructions of 1798, they were perhaps invalid. This was not however challenged at the time and Maitland therefore continued to make use of the Deputy Secretary, in the same manner as North had done. It led to a dispute with the Chief Justice over the validity of acts which contained the signature of the Deputy Secretary and led to the passing of the regulation already noticed.¹ This gave a legal status to the position already acquired by the Deputy Secretary.

The instructions to create a separate judicial department under the control of the Chief Justice led to the appointment of another Deputy Secretary. Lieutenant Governor Wilson in whose time the instructions were received created the office of Deputy Secretary, Judicial department,

¹See p. 68.

which was to be combined with that of the Registrar of the Supreme Court.¹ Though, as we have seen, these instructions were revoked, Brownrigg allowed the Deputy Secretary, Judicial Department, whose office was now separated from that of the Registrar of the Supreme Court, to remain under the complete control of the Governor. He transferred to this office all the work connected with the preparation and transmission of despatches to England, and it was now named that of Deputy Secretary, Political, Home and Judicial Departments. With the annexation of the Kandyan provinces a Kandyan Department was created under the same Deputy. Though one of the Deputies was removed in the third decade of the nineteenth century, the Deputy Secretary continued to occupy the chief place in the Secretary's office.

Though the standing of the different officers in the Chief Secretary's office changed, yet taken collectively it became the main 'organ' of the central Government.² The duties handled by this office could be divided into a few broad categories. It handled all matters connected with the Civil Service as well as the other public services. All applications or references from any officers regarding their situations, which did not relate merely to revenue, were addressed in the first instance to the Chief Secretary's office. All order and regulations were to be issued in the first instance from the Secretary's office,

¹Wilson to Liverpool, 26 February 1812. C.O. 54, 42.

²Instructions to Heads of Department, 25 August 1808. C.O. 54, 28.

though various departments participated in their preparation. It was 'the great office of record in the island'.¹ All despatches were received, filed, and the answers prepared and despatched in the Secretary's office. In this category could be placed the publication of the Government Gazette, which also served as a newspaper during this time. The Governor's orders, and other correspondence regarding judicial affairs, though originally part of the ordinary business of the Chief Secretary's office, was separated from it in 1811 and thereafter became a separate category of work handled by the office in a separate department. With the capture of Kandy the office handled a large volume of Kandyan affairs, which were also handled by a separate department. Finally it handled an increasing volume of financial business. As early as 1802 abstracts of allowances of the employees of outstation offices were sent to the Chief Secretary's office for sanction and signature. But because of Maitland's emphasis on more centralized control and personal direction, a large volume of financial work came to be handled in the Chief Secretary's office. As Brownrigg observed, Maitland enforced the principle "of debarring all departments from the exercise of original authority".² Consequently, all warrants for the expenditure of public money had to be obtained by applying to the Chief Secretary's office. This brought about a considerable amount of work, especially because Maitland enforced the rule that no expenditure was to be undertaken without

¹Instructions to Heads of Department, 25 August 1808. C.O. 54, 28.

²Brownrigg to Bathurst, 30 April 1813. C.O. 54, 47.

previously obtaining such a warrant. Brownrigg very well summarized the change that had occurred in this office.

"The term Chief Secretary's office," he wrote, "can hardly convey to your Lordship an idea sufficiently comprehensive of the details which fall under that department, through which, by an arrangement apparently capable of much beneficial change, all the civil accounts of the island at present pass; that is to say the warrants of the civil expenditure, the preliminary authority for all such charges as are contingent, the cash accounts or returns of receipt from all departments of collection, the accounts of the Agents as well as the Presidencies of India, as that of the Colonial Agent in London, besides various other matters in the simple branch of public accounts."¹

He therefore pointed out that as a result the Chief Secretary's office was burdened with business which little corresponded to the common ideas of such an office.

The Governor's control over the revenue was exercised through a central revenue office which underwent several changes during this period. Between 1796 and 1798 the central revenue direction was carried on by officers named the Superintendent of Revenue and the Commercial Resident.² North abolished the office of Superintendent of Revenue almost immediately after his arrival. He gave two reasons for taking this step. Firstly, that the appointment of a Governor rendered it useless.³ Secondly, that "being vested in one person, and extending with absolute authority over the most important and complicated branch of the public service, it was an ineffectual control over others and was

¹ Brownrigg to Bathurst, 17 August 1814. C.O. 54, 52.

² ~~The Commissioner~~ ^{Superintendent} of Revenue also functioned as Resident in the island and Ambassador to Kandy.

³ North to Mornington, 27 October 1798, Wellesley MS 13,866.

itself difficult to be controlled".¹ The first argument was invalid, as he himself soon found. The second, though true under the conditions prevailing when he arrived in the island, could have been remedied by a proper organization of the office. The real reason for the abolition is to be found in his anxiety to get rid of Robert Andrews, who had "shown no disposition either to overthrow his old system or to reform its abuses".² The most convenient way of getting rid of him was to abolish his office. This is supported by the fact ~~that~~ he did not immediately abolish the office of Commercial Resident.

North did not create a central agency in its place but gave the Collectors independent control over parts of the island. It did not, however take long for him to see the need for a central revenue office. Because of the influence of India, where Boards of revenue existed in each of the Presidencies, he conceived the central office in the form of a Board with several members. But very strong local circumstances took him in the same direction. Great emphasis was placed on pearl fisheries during this time and North believed that the revenue from land rents, taxes, and customs would not equal in any degree the revenue from the pearl fisheries.³ He therefore thought that the superintendence of this "will be

¹North to Court of Directors, 10 February 1801. C.O. 54, 3.

²North to Mornington, 27 October 1798. Wellesley MS 13,866.

³North to Court of Directors, 10 February 1801. C.O. 54, 3.

vested with much more propriety in a Board than in any individual Collector".¹ Secondly, he argued that a Board would remove the danger of making the revenue collections dependent on the inclinations and talents of individual Collectors. He said that under the former system great inconveniences and extensive evils will follow from any accidents which may deprive the Government of an experienced Collector "whose place would be directly supplied by a person new to the country, unacquainted with its customs and resources, and open to the false and interested suggestions of the native or half European agents of his Kachcheri".² Thirdly, he argued that experience would be constantly secured in the administration by the permanency of the Board and the accession of a new member would be attended with little inconvenience. "The weaknesses that are inseparable from humanity, prepossession, irresolution, occasional negligence, want of information on particular subjects, illness, inability of temper, all those things of which the effect in an individual Collector are dangerous to a province," he wrote, "cannot pervade a Board."³ There was yet another reason, though not definitely stated, which led to North's decision. The conflicts between him and the Madras Civilians of which we shall say more later made him reluctant to confer independent authority on Provincial Collectors

¹North to Court of Directors, 10 February 1801. C.O. 54, 3.

²Ibid.

³Ibid.

drawn from the Madras Civil Service. They also made him think of ways and means of confining the employment of Madras Civilians. He therefore thought that he could by this means confine the Madras Civilians to the revenue board at the centre, and employ the local recruits, for whom he was anxious to provide employment, in the provinces as agents of the Board.¹

This plan was carried into effect in 1801 when North created the Board of Revenue and Commerce, consisting of six members, a secretary and a deputy secretary. This Board was to take up the entire superintendence and control of revenue and commerce, and exercise the duties of the former Commercial Resident and Collectors whose offices were suppressed.² His plan provided for the appointment of agents of the Board to be stationed in the provinces on a much lower footing than the former Collectors.³ Thus it is seen that North aimed at a good deal of centralized control in revenue collections.

The establishment of Crown Colony rule and of the Civil Service brought about a change in the structure and functions of the Revenue Board. Indian influence at the Colonial Office made Dundas instruct North to create a Board of Revenue consisting of three members, with powers "to superintend, examine, and control ... all matters relative to the public receipt and expenditure".⁴ It was to be given authority

¹North to Court of Directors, 10 February 1801. C.O. 54, 3. Also North to Mornington, 13 August 1801. Wellesley MS. 13,867.

²North to Court of Directors, 10 February 1801. C.O. 54, 3.

³North to Mornington, 12 August 1800. Wellesley MS 13,867.

⁴Dundas to North, 13 March 1801. C.O. 55, 61.

over all local Collectors and officers of revenue. North was specifically required to arrange it by a reference to the regulations and usages of the Boards of Revenue in India, in as much as they were applicable to Ceylon.¹ It appears that the Board suggested by Dundas, though smaller in numbers, was not very different from the one already established by North. But other changes which accompanied the establishment of the new Board brought about a change in its character and functions.

The establishment of the Civil Service, which led to the re-creation of the office of Collector, with more authority and power in the provinces, made North doubt the usefulness of continuing such an expensive Board, and to contemplate another change in its structure. In September 1802 he wrote that the business of that Board, which is not very immense, might be well executed by one composed of the Chief Secretary, the Vice-Treasurer, Civil Auditor and Accountant General, and the Paymaster-General.² This was accepted by the Colonial Office, which instructed North to constitute the new Board and entrust it with the duty of directing and controlling the revenue and commerce of the country according to such regulations as he might establish.³ The members of the Board were to receive no other allowances than the salaries attached to

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²North to Hobart, 11 September 1802. C.O. 54, 7.

³Hobart to North, 7 May 1803. C.O. 54, 62.

their situations.

This structural change accentuated the tendency already prevalent to vest more authority in the hands of the Collectors, and to make the Board more a supervisory one. The new members of the Board, who were called upon to do this work in addition to their other duties, could not have been expected to undertake a detailed management of the revenue. In fact a good part of the work of the Board was performed by a Secretary attached to it, recruited from the Civil Service, who on that account later claimed that he was the head of the revenue department. Thus the Board became more and more an ineffectual supervisory, or audit Board.

After Maitland became Governor a change took place in the central revenue office. He was not satisfied with the functioning of the Board and was convinced that it had failed to keep proper control over the activities of the Collectors. "As a Board of audit," he wrote, "it was perfectly nugatory as far as related to the interests of Government, but it was undoubtedly not nugatory as far as related to the unfair interests of individuals."¹ Besides, in view of the condition in which he found the Civil Service, he was less inclined to give independent authority to the Collectors, and was determined to take personal charge of such matters as the letting of rents and the granting of remissions. All this required a central revenue office more easily manoeuvrable

¹Maitland to Castlereagh, 1 March 1806, C.O. 54, 22.

than a Board consisting of several members. A single person functioning directly under the Governor's orders was better suited to the type of central control that the Governor desired. He therefore abolished the Board of Revenue and appointed a Commissioner of Revenue in its place.

"The utility of this appointment," wrote Maitland, "would consist not in his sitting down here and receiving ex-parte statements, by letters, from the different Collectors, but in being actively employed under the orders of the Governor, in visiting the different posts in the island, in controlling all the different petty abuses that might occur in any district, and in generally convincing the natives as well as the Collectors, that the first are to look to the Government and not to the Collector for protection; that the second would have no refuge in any statement they could make under the control of an active and effective head of the revenue."¹

The manner in which Maitland hoped to make use of the Commissioner of Revenue for more central control in revenue matters is seen from the powers and duties vested in him by the instructions issued in 1808. He was given complete powers, subject to the orders of the Governor, over the receipt of revenue, but no authority whatsoever over the expenditure. In all points of detail and reference from the Collectors, the Commissioner was given the power to decide at once, except in certain matters which he had to refer to the Governor. Of the latter the most important was the approval of the annual revenue farms and the recommendation for remissions. Both duties were to be exercised by the Governor in Council, no doubt taking into consideration the recommendation of the

¹Maitland to Castlereagh, 1 March 1806. C.O. 54, 22.

Collectors, and the advice and opinion of the Commissioner.¹ Hitherto the Collectors had the power of appointing Headmen below the rank of Muhandiram. This power was now taken out of their hands and vested in the Commissioner of Revenue, who was to exercise it after giving due weight to the recommendations of the Collectors, and according to specific instructions from the Governor.²

The most important part of the Commissioner's duties was his supervisory and audit duties. He was to go on circuit examining the activities of the different Collectors and giving orders on the spot where necessary, which were to be obeyed as direct orders from the Governor. During such circuits he was to have the power of suspending any of the Civil Servants belonging to the revenue department, or any of the higher native officers, until a reference could be made to the Governor.³ As it was considered impossible to submit revenue receipts to any other audit more rigid or efficient than that of the Commissioner of Revenue, he was to be the final audit for the revenue. The Collectors were required to submit a number of quarterly, monthly and annual statements, which were to be compared with the conditions laid down in the rents, with a view to ascertaining the difference and the causes for it. Also the monthly

¹Instructions to Heads of Departments, 25 August 1808. C.O. 54, 28.

²Ibid.

³Ibid.

cash accounts of the Collectors were to be closely examined with the receipts accompanying them. On the basis of the different statements received from the Collectors, the Commissioner was required to prepare general quarterly and annual statements for the whole island.¹ Thus it is seen that Maitland made use of the newly established office to bring about more central control in revenue matters.

In practice the Revenue Commissioner's office fell far short of these expectations. In many matters it merely acted as the medium through which the Collectors corresponded with the Chief Secretary's Office. The usefulness of the office was therefore much in doubt towards the end of this period.²

As the Governor's chief responsibility during this period was finance it was natural that a number of offices would be created through which he could exercise financial control. Moreover, there seems to have been an irresistible tendency to think in terms of offices existing in England, irrespective of the smallness of the Colony, and the small scale of its finances. The establishment of the Civil Service, which brought with it the need to establish a gradation of offices, also brought about a tendency to multiply offices.

A central office of finance which arose during this period was that of the Vice-Treasurer. This office was at first meant to be under

¹Instructions to Heads of department, 25 August, 1808. C.O. 54, 28. Also, Treasury Instructions to the Ceylon Government, 28 January 1817. C.O. 54, 67. Additional Instructions to Heads of department, 31 December 1817. C.O. 54, 70.

²Barnes to Bathurst, 13 November 1819. C.O. 54, 74. R. Boyd who was the Commissioner of Revenue for nearly two decades was of different opinion. See Evidence of Boyd, 20 February 1830. C.O. 416, 7.

the immediate control of the Governor as the latter was the ex officio Treasurer of the Colony. North created the post in 1799, and appointed his favourite William Boyd to it in addition to the other offices that he held. This led the Colonial Office to suspect that it was a sinecure, and also, perhaps, that it was unwise to allow a person so close to North to hold the office. This was perhaps why he was instructed to vest the office either in the hands of the Chief Secretary or the Deputy Secretary.¹ North however objected, explaining that it was by no means a sinecure, and that it required a constant attention to minute details which could not be neglected without danger. He proposed handing it over to the president of the Board of Revenue, or to one of its members, if no salary was to be annexed to it. This seems to have been a means of continuing William Boyd in the post for the latter was appointed a member of the Board of Revenue.² However, the Colonial Office appears to have regarded the office as one that would provide a check on the exercise of the Governor's power as Treasurer. This is seen by the fact that it sent Capt. John Rodney from England with instructions to North to appoint him Vice-Treasurer. This order was carried out in September 1804.³

¹Hobart to North, 7 May 1803. C.O. 55, 62.

²North to Hobart, 1 January 1804. C.O. 54, 13.

³North to Hobart, 25 September 1804. C.O. 54, 13.

Mainly on account of the inefficiency of Rodney, but also from a feeling that the office was unnecessary, Maitland recommended its abolition.¹ Later, however, he withdrew the recommendation on the ground that he did not wish to do away with "an office created by His Majesty's Government, and which might be in some degree considered as one instituted to be a check on myself as Governor."² Though the office was neither originally created by the Home Government, nor intended to be a check on the Governor, yet the reply given by the Colonial Office shows that it had begun to conceive of its importance in that manner. "There can be no doubt of its being most accurately managed in your hands," wrote Castlereagh, "but it is not to be expected that all your successors shall be either as laborious as yourself, or as well versed in the details of business. And it seems necessary from keeping the offices of Governor and Treasurer distinct that they should be reciprocal checks upon each other."³ The Vice-Treasurer was however not to be independent of the Governor's control, for it was stipulated that he should not be authorized to issue money without the Governor's warrant, and that he should be subject to such checks and balances as might be decided by the Governor and approved in England.⁴

¹Maitland to Castlereagh, 1 March 1806. C.O. 54, 22.

²Maitland to Windham, 20 September 1806. C.O. 54, 22.

³Castlereagh to Maitland, 11 June 1807. C.O. 55, 62.

⁴Ibid.

One result of this development was the transfer of a good part of the work which normally belongs to a Treasury, such as the sanctioning of expenditure, to the Chief Secretary's office, which was more under the immediate supervision of the Governor. The Vice-Treasurer became, as Maitland termed him, 'the universal receiver'.¹ The importance of the office considerably increased with Maitland's desire for more centralization. As we have seen, he resisted the tendency to have separate Treasuries, and enforced the rule of a central Treasury.² In 1808 the rules to be followed by the Vice-Treasurer and the duties of his office were laid down along with others.³ He was to be in general charge of the receipt and disbursement of money in the island (under the instructions of the Governor) and the preparation of a weekly statement. The Accounts had to be made up monthly specifying the balance at the end of each month.⁴

The office of Auditor and Accountant was first created by North in 1798. The tendency to multiply offices, which the existence of the Civil Service brought about, tempted North not only to separate the office

¹Instructions to Heads of departments, 25 August 1808. C.O. 54, 18.

²See p. 84.

³Instructions to Heads of departments, 25 August 1808. C.O. 54, 18.

⁴Ibid. Also, Treasury Instructions to the Ceylon Government, 28 January 1817. C.O. 54, 67. Additional Instructions to Heads of departments, 31 December 1817. C.O. 54, 70. For details on the nature of the receipts and issues of the Vice-Treasurer, see evidence of W. Granville, 2 December 1829. C.O. 416, 7.

of Accountant from that of Auditor, but also to create several audit offices for civil, judicial, and military accounts. The Colonial Office objected to the plan of a separate audit for judicial accounts, stating that it ought to constitute a part of the duty of the civil Auditor.¹ It instructed North to have one auditor for civil accounts in all its branches. It does not appear that the office of Civil Auditor-General which thus came into being, was organized properly, or that it functioned efficiently during the time of North. But with Maitland's emphasis on centralized financial control it began to assume a new importance. This is reflected in the rules that Maitland drew up for the Auditor-General's office. They show that he intended to make use of this office to enforce strictly the financial rules imposed by him. On the revenue side the Auditor-General was required to undertake only a general audit, as the Revenue Commissioner's office was expected to provide a detailed one. Here his main duty was merely to see that the Commissioner of Revenue had complied with the Governor's instructions in the examination of the accounts of the Collectors. But on the expenditure side he was to check every detail of expenditure, mainly with a view to finding out whether the Civil Servants had complied with the rule that no expenditure could be incurred without the previous authority of the Governor.²

¹Hobart to North, 7 May 1803. C.O. 55, 62.

²Instructions to Heads of departments, 25 August 1808. C.O. 54, 28. Also Treasury Instructions to the Ceylon Government, 28 January 1817. C.O. 54, 67. Additional Instructions to the Heads of departments, 31 December 1817. C.O. 54, 70. Evidence of H. A. Marshall, 10 December 1829. C.O. 416, 7.

The Accountant-General's Office was from time to time combined either with that of the Auditor-General, Vice-Treasurer, or Controller of Customs. This office certainly did not handle sufficient work to justify a separate existence. Its duty was to keep the general account books of the Government, preparing them from the statements of revenue and expenditure which the various departments were expected to send, and the preparation of the annual statements of account, both civil and military, which were required for submission to England.¹ Maitland made use of the office for a general picture of the state of the finances of the country every three months. For this purpose the Accountant-General was required to make up a general statement of the money transactions of the island at the close of every quarter. This office was also charged with the duty of preparing and issuing, on the Governor's orders, all bills and debentures, and maintaining registers of them. It had also to register all issues of paper currency ordered by the Governor.²

The remaining important office of financial control was that of Civil and Military Paymaster-General. This office arose during the days of Company's rule and was modelled on that of the Paymaster-General in India. The establishment of the Civil Service led North to create the offices of Civil Paymaster and Military Paymaster. However, Lord Hobart

1 Instructions to Heads of Department, 25 August 1808. C.O. 54, 28. Treasury Instructions to the Ceylon Government, 28 January 1817. C.O. 54, 67. Evidence of H.A. Marshall, 10 December 1829. C.O. 416, 7.

2. Ibid.

instructed him to vest both offices on one person with the designation of Civil and military Paymaster-General.¹

As is seen by the rules drawn by Maitland he intended to make use of this office too to tighten the central control over finance. He characterized the Paymaster-General as the 'universal expender' through whose hands passed the whole expenditure of the island.² But in the instructions to the Paymaster-General it was stated that no disbursement of any kind, however, minute, will be admitted in his accounts unless authorized by warrants sanctioned by the Governor.³

This period also witnessed the growth of departments with specialized functions, and offices entrusted with special duties. They were mostly concerned with the revenue or with policies of land reform and economic development.

One sphere in which there was at first a tendency towards the emergence of a departmental structure was that of the customs. Its beginnings go back to 1796, when the Madras Government sent an officer named the Commercial Resident to take charge of the commercial side of the revenue collection, which included the management of the Government trade monopolies and the collection of the custom duties.⁴ The revenue assist-

¹Hobart to North, 7 May 1803. C.O. 55, 62.

²Instructions to Heads of departments, 25 August 1808. C.O. 54, 28.

³Ibid. Also, Treasury Instructions to the Ceylon Government, 28 January 1817. C.O. 54, 67. Additional Instructions to Heads of departments, 31 December 1817. C.O. 54, 70.

⁴See p. 40.

ants who functioned during the period 1796 to 1798 seem to have assisted in the collection of both land and customs revenue. It also appears that there were subordinate officers named 'Sea Customers' stationed at Galle and Colombo.¹ In a plan submitted by Robert Alexander, the acting Superintendent of Revenue, to the De Meuron Committee of investigation in 1798 it was proposed to appoint such 'Sea Customers' to eight ports in the island, with a view to a better collection of the customs duties. The Madras Government, however, deferred a decision till the arrival of North.² When the latter drew up his plans for the better collection of custom revenue, he created the posts of Custom Master. They were stationed at the principal ports in the island to function under the Board of Revenue and the Chief Secretary's office.

In accordance with the arrangements made by North Lord Hobart provided three Civil Service posts of Custom Master at Colombo, Galle and Jaffna.³ When the Service was classified in 1808, Maitland provided for only two posts at Colombo and Jaffna.⁴ Besides these, custom offices were established at various smaller ports in the island and the Custom

¹Proceedings of the De Meuron Committee, 15 June 1798. C.O. 55, 2.

²Ibid.

³Hobart to North, 7 May 1803. C.O. 55, 62.

⁴General regulations of the Civil Service, ND. 1808. C.O. 54, 28.

Masters of these places were drawn from the local European community on smaller salaries.¹ A subsequent development was for the Collectors, excepting the one at Colombo, to be appointed Collectors of Customs as well. Only the office of Custom Master, Colombo, now named the Collector of Customs, Colombo, thus remained as a separate Civil Service post.² These changes relegated the local European Custom Masters, by whom the work was actually performed, to the rank of Assistant Custom Masters.³ It also led to the disappearance of the departmental structure which at first showed signs of emerging.

The custom officers of this period acted as the main instruments through whom the restrictive trade policy inherited from the Dutch was carried out. There were state monopolies in certain articles of export carried over from Dutch times, where there was a complete prohibition of private export. In addition there were prohibited imports such as gunpowder. The customs officers were expected to enforce these prohibitions, and were therefore given the power to board ships and search for such goods.⁴ In the case of articles in which trade was allowed, but on which import and export duties were levied, they had to collect the duties and issue port clearance certificates. To prevent fraud they

¹By 1829 custom offices were located at Colombo, Galle, Weligama, Tangalle, Trincomalee, Mulativu, Jaffna, Pt. Pedro, Kaits, Manar, and Calpentyn. See Return of the duties performed by the public officers of Ceylon, C.O. 416, 8.

²See schedules of the annual fixed establishments for the second half of this period. Also, Return of the duties performed by the public officers of Ceylon, C.O. 416. 8.

³Ibid.

⁴Proclamation, 30 September 1802. Skeen, A Collection of the Legislative Acts of the Ceylon Government, Vol. I, pp. Regulation VI, 6 March 1820. (cont.)

were given the powers of search and confiscation of goods.¹ It should be noted that all Collectors and Assistant Custom Masters, whenever they were appointed as Sitting Magistrates, had the power of Magistracy.

In 1817, perhaps to complete the departmental structure that was then emerging, and also to provide for a displaced Civil Servant, Maitland created the post of Controller-General of Customs.² He exercised an ill defined supervision over the customs officers. As the Commissioner of Revenue audited and checked the customs revenue the Controller's office became a mere repository of correspondence and accounts. He was required to supply the Governor with a monthly statement of the total receipts from the customs.³ In addition he would have also functioned as an adviser to the Governor in regulating and modifying custom duties and on general commercial policy. The advisory capacity appears to have been prominent during the time in which Bertolacci, who was very conversant with commercial affairs, held the office.⁴ But during the time of his successors this aspect of the functions also fell in importance. On account of the non-emergence of a departmental structure the office gradually lost its utility and was finally abolished.⁵

(cont.) C.O. 54, 77. Regulation XVIX, 16 November 1820. C.O. 54, 79.

¹Ibid.

²Maitland had allowed A. Bertolacci to continue in trade taking the rank of an unemployed Civil Servant. When later he wished to give up his trading connections, and return to a more active public life, Maitland faced the problem of finding him a suitable post.

³Additional instructions to the Heads of department, 31 December 1817. C.O. 54, 70.

⁴His book published during this time indicates much acquaintance with commercial affairs. His usefulness was also acknowledged by Brownrigg.

⁵See Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65.

Closely associated with the customs officers were the Master Attendants. Their origin goes back to the days of Company rule when the Madras Government sent a few rules for the conduct of what was then called a 'Beach department' at Trincomalee under a Master Attendant.¹ North found on arrival three Master Attendants at Colombo, Galle and Trincomalee. He increased their salaries thereby raising the importance of the offices. The establishment of Civil Service salary scales in the island, brought about a corresponding increase in the salaries of the Master Attendants, thereby bringing about a further increase in the importance of these offices. A Master Attendant was also appointed for Manar. This expansion disturbed the Colonial Office, for it instructed North to discontinue the post of Master Attendant at Manar and to conduct an inquiry into the emoluments and advantages of the department, as it appeared to have been organized on a scale much higher than was required in the island.² The Master Attendant at Manar was consequently removed, but the others continued to exist up to the end of this period.

Their offices having been modelled on similar ones in India, the Master Attendants were required to perform identical functions. They were in charge of the pilotage of ships into the harbours, had to see that all goods liable to duties were landed at the allotted places, and

¹Webbe to Committee of investigation, 30 September 1797. C.O. 55, 2.

²Hobart to North, 8 February 1803. C.O. 55, 61.

were required not to sign the clearance certificates of the Customs Masters until all dues had been settled. They had to maintain registers of all vessels arriving and departing, with the names of the passengers and the tonnage of goods that they carried and send monthly returns on them to the Commissioner of Revenue.¹ They superintended the embarkation and disembarkation of Government troops and stores, sometimes tendering for goods available for sale in ships, on behalf of the Government.² In this connection it should be noted that regulation XIX of 1813, which laid down rules for the ports and harbours, sought to provide more revenue for the Government, and more work for the Master Attendants, by controlling and regulating private enterprise in the ports. Thus it was laid down that all square rigged vessels, sloops and schooners, must employ the boats attached to the Master Attendant's Department for the landing and shipping of cargoes, and no others. As the Master Attendant's fleet would not be sufficient for this purpose, he was to license a certain number of private boats, whose boatmen were to be subject to all his orders. A two third share was to go to the owners of the boats, while the remaining one third was to be Government revenue.³

¹Regulation XVIX, 5 August 1813. C.O. 54, 49. Skeen, A Collection of the Legislative Acts of the Ceylon Government, Vol. I, pp. 159-166.

²Ibid. Also Bagshaw to Arbuthnot, 16 October 1802. C.O. 54, 37. Gordon to Arbuthnot, 20 December 1802. C.O. 54, 37. Return of the duties performed by the public officers of Ceylon, C.O. 416, 8.

³Regulation XVIX, 5 August 1813. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 159-166.

One of the traditional caste departments whose lone survival had been ensured by the lucrative cinnamon monopoly was the Mahabadde. Its continuation by the British was made necessary by the existence of the monopoly as well as of the policy of controlling the caste of cinnamon peelers in the same manner in which it was done in Dutch times. During the brief regime of the Madras Government the cinnamon monopoly was placed under the Commercial Resident and the Dutch department was also abandoned. This, combined with the abolition of service tenures, brought about considerable disadvantages. Apart from a loss of revenue the Challias, or caste of cinnamon peelers, it was said, began to show independence of authority excepting that of their own immediate chiefs, and to claim various privileges and exemptions.¹ It was therefore thought that to bring them under control it was necessary to appoint a separate European Chief as in Dutch times.² North carried out this recommendation and established an officer named the Superintendent of Cinnamon.

The main duty of the Superintendent, who was assisted by Headmen of the caste, was to manage the Government cinnamon gardens planted by the Dutch, and to collect and prepare the cinnamon for exportation. Both duties involved the enforcement of the compulsory services due from the people of the cinnamon caste. As in Dutch times therefore the Superintendent had to settle disputes among these people or those regarding

¹Proceedings of the De Meuron Committee, 10 November 1798. C.O. 55, 2.

²Ibid.

services and was therefore vested with the powers of Magistracy.¹

To reduce the dependence of the Superintendent on the Headmen three to four European Assistant Superintendents were appointed in 1822 on the suggestion of Paget.² They were charged with the daily superintendence of labour in the plantations.

The pearl fisheries formed another branch of the revenue which attracted early attention. The Madras Government, as well as North, acted on the belief that it was the main source of Government revenue. This accounts for the importance that was attached to the pearl fisheries during the early period. Towards the end of our period of study however, the pearl banks became unproductive mainly because of continuous and unscientific fishing. The pearl fisheries were conducted as in former times. They were usually rented out to speculators, generally drawn from the coast, who could fish only in certain specified areas, for a specified time, and a stipulated number of boats and divers. It was only occasionally, and that too as experiments on a small scale, that the fishery was conducted on Government account.³ Under the renting system the principal concern of the Government was to supervise the fishery, and especially to see that the renters abided by the conditions of their farms.

¹ A Return of the duties performed by the public officers of Ceylon, C.O. 416, 8. Evidence of Rajapaksa Mudaliyar of the cinnamon department. 24 June 1830. C.O. 54, 145.

² Paget to Bathurst, 31 October 1822. C.O. 54, 82. Bathurst to Barnes, 25 July 1823. C.O. 55, 66.

³ Barnes to Bathurst, 19 May 1820. C.O. 54, 77. Evidence of Boyd, 20 February 1830. C.O. 416, 7. J. Stuart, An Account of the Pearl Fisheries of Ceylon, pp. 9-21.

To perform these functions North experimented with a body consisting of the Chief Secretary and two Madras Civil Servants, who were named the Pearl Commissioners. He was considerably dissatisfied with the conduct of these Commissioners, and with the intention of having a personal control over the fishery he initiated the practice of placing it in charge of his private secretary, who in that capacity was known as the Superintendent of the Pearl Fishery, and enjoyed a percentage of the collection. He was assisted by an Inspector of the Pearl Banks, who was usually the Master Attendant of Colombo. This arrangement continued till Barnes complained, in 1822, of the ineffectual custody and superintendence of the fishery, resulting in loss of revenue.¹ The Colonial Office authorized the appointment of a permanent Superintendent. But in view of the uncertainty of the revenue, Paget showed an unwillingness to create such a situation. He however took the step of making the custody of the fishery a part of the duties of the Collector of Manar who in that capacity was to be known as the Supervisor of the Pearl Banks and was entitled to a separate allowance. The Commissioner of Revenue was to take charge of operations during the time of a fishery.²

The duty of the Superintendent, or supervisor, as well as the Inspector of the Pearl Banks, was to examine the banks from time to time

¹Barnes to Bathurst, 19 May 1820. C.O. 54, 77.

²Paget to Barthurst, 1 June 1822. C.O. 54, 82.

with the aid of the fisher caste Headmen, and to report upon the feasibility of holding a fishery. They also supervised Government interests on the occasion of a fishery. Each fishery also involved special duties for the Supervisor such as the erection of quarters for the Government officers by means of compulsory labour.¹

Salt had played a prominent part in the politics of the Dutch period, especially in their relations with the Sinhalese kingdom. It was therefore a closely guarded monopoly in Dutch times. The British continued almost the same arrangements for the management of this monopoly. At first there was a tendency towards the emergence of departmental structure, when an Agent for salt was stationed at Himbantota, the main salt producing district. Perhaps on account of the fact that the salt, which was naturally formed, was collected mainly through compulsory labour over which the Collectors had the supervision, the latter were entrusted with the duty of collecting the salt, storing and transporting it. They were assisted by Salt Storekeepers, who were generally local Europeans, and by Headmen. Salt was retailed at fixed prices by a group of semi-officials known as Salt Retailers, chosen from among the local Europeans.²

Timber was a source of revenue which did not attract much attention during this period. The British continued to derive revenue from

¹J. Steuart, An Account of the Pearl Fisheries of Ceylon, pp. 21-22.

²See evidence of Collectors. Answers to questions 74-91. C.O. 416, 29-32.

it in very much the same way that the Dutch had done. Licenses had to be obtained for the felling of timber and the Government collected taxes and duties from its sale and exportation. Mudaliyars, functioning under the control of the Collectors, attended to the duties connected with it.¹ The Government from the time of North was conscious that these arrangements were unsatisfactory. Proposals were made in 1812 to divide the island into certain areas and to appoint Superintendents of Forest to act under the Collectors.² These plans were however not carried into effect during this period.

The attempt to continue the Dutch cotton plantations led to the appointment of a Superintendent of Cotton Plantations. This attempt failed and the office was abolished in 1803. The creation of a new monopoly in tobacco led to the creation of the office of Agent for Tobacco at Jaffna.³ The duty of the Agent was to purchase tobacco from the inhabitants at fixed rates, superintend its preparation for exportation, and sell it by contract or public sale.⁴ The Colonial Office however discouraged the idea of establishing any new monopolies, though it did not go to the extent of revoking the arrangements that had been

¹Evidence of Collectors. Answers to questions 70-11. C.O. 416, 29-32.

²Wilson to Liverpool, 26 February 1812. C.O. 54, 42.

³Regulation VI, 18 May 1812. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 141-142.

⁴Ibid.

made.¹ Perhaps on account of this objection, but also because of the death of the Civil Servant who originated the plan, Brownrigg abolished the monopoly and the Agency in 1813.² The continuance of the Dutch horse breeding establishment at Delft led to the creation of the post of Superintendent of Delft. He exercised the duties of a Collector as well as of Sitting Magistrate within the island, in addition to superintending the breeding establishment.³

A special department under a Registrar General arose during the time of North on account of the ideas of land reform which he entertained. Though at the beginning he re-established the service tenures abolished hastily by the Madras Civil Servants, yet he himself could not resist a desire to promote the concept of private property, or as he called it, "the spirit of industry and individual property ... more rational, more equitable, and more calculated for the mutual benefit of the Government and the Governed".⁴ By the first land regulation he made provision for the voluntary conversion of service tenures into private tenures, and for the voluntary division of undivided land among the several owners.⁵ This attempt at voluntary commutation appears to

¹Liverpool to Brownrigg, 23 January 1813. C.O. 55, 63.

²Brownrigg to Bathurst, 30 April 1813. C.O. 54, 47.

³Memorial of Nolan, 27 April 1829. C.O. 54, 106.

⁴North to Court of Directors, 30 August 1800. C.O. 54, 2.

⁵Proclamation, 3 May 1800. Skeen, A Collection of Legislative Acts of the Government of Ceylon, Vol. I, pp.

have met with little response, probably because of the influence of the Headmen, with whose interests the old system was closely bound. The next step was to introduce an element of compulsion, which was done by a Proclamation in 1801. Without abandoning the right to require the people to serve the Government according to their castes, adequate payment being given in return, North abolished the obligation of service on tenure of land and imposed a grain tax varying from one tenth to one fourth of the produce.¹ The new policy does not appear to have evoked opposition probably because North took care to win over the principal Headmen by assigning them salaries in place of their accommodessans.²

North attempted to enforce these land reforms with the assistance of a department of land registry. With the expectation of a large scale transfer of property, and changes of tenure, he saw a need for a better organized department, both as a means of recording such changes and to ensure their proper enforcement. At first the arrangement that appears to have been made was to have a registration section under the control of the Collector of the district. But whatever the advantages and disadvantages were it appears that North could not resist thinking in terms of a special department of land registration.

Such a department was virtually created by the Proclamation of 1 March 1801. This act authorized the presidents and acting presidents

¹Proclamation, 3 September 1801. Skeen, A Collection of Legislative Acts of the Government of Ceylon, Vol. I, p.

²North to Hobart, 10 September 1802. C.O. 54, 7. For further information on North's land reforms see Colvin R. de Silva, Ceylon under the British Occupation, Vol. II, Chapter XI.

of the Civil and Landraad Courts to hold the offices of Registers of land within their district. They were not only to draw up and register title deeds of the changes of property taking place under the land regulations, but were also to attend to all transfers in the future. It was stipulated that such transfers could be drawn up and registered in future only by the persons authorized to be Registers. All customary rights, power and authority hitherto vested in any other persons were abolished. Perhaps with a view to the enforcement of the land reforms, and the re-registration of old titles, it was laid down that the title deeds made by the new Registers would have preference over those which had been executed before a notary or any other person.¹ The organization of the department was completed by the creation of a central office called the Registrar-General's office, to direct and supervise the activities of the district Registers, and through which the Governor could maintain his control over them.²

Judicial reforms which brought about the abolition of the Landraad and Civil Courts, and problems arising out of the establishment of the Civil Service, tempted North to remodel the land registry. By the Proclamation of 9 May 1803 he took into his hands the power of appointing separate officers called Registers of Land at such places as he considered necessary.³ Several Registers were appointed to different

¹Proclamation, 1 March 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 31-33.

²Proclamation, 9 May 1803. Ibid., pp. 48-49.

³Proclamation, 9 May 1803. Ibid., pp. 48-49.

districts, a few of them regular Civil Servants, but most of them Dutchmen. These changes made the Registrar-General's department ever more specialized than before.

North's land reforms did not produce the results that he expected. Assuming some form of co-operation from the Headmen, his measures were not sufficiently attractive to the people. Formerly each holder of service lands knew the exact extent of his liabilities, by way of service, to the Government. Now in addition to service (though payment was promised) he was called upon to pay taxes.¹ Besides, land registration as North planned it involved examining old Dutch and native titles, and surveying and assessing the value of the land. Such activities besides being suspected by the people could not be handled by the machinery that he created. The Registers were therefore idling, except where an enterprising man forced registration on the people, thereby producing a 'crop of deeds'.²

North soon realized that the department of land registration was a failure. But he was inclined to attribute it to the absence of proper direction.

"The want of perfect comprehension of the nature of the registry of lands and deed," he wrote, "had occasioned such dissimilitude of practice between the various register holders, that I have at last been convinced that they could neither be brought into a regular or uniform system, nor kept in it, without the establishment of a central committee, which may

¹See Colvin R. De Silva, Ceylon under the British Occupation, Vol. II, Chapter XI.

²See Farrell to Arbuthnot, 20 October 1802. C.O. 55, 37. Also, Maitland to Edward Cooke, 19 October 1805. C.O. 54, 18.

first investigate, and afterwards regulate their proceedings."¹

Thus a central committee consisting of five officials was appointed to investigate and regulate the proceedings of the Registers.² Three months later he reported that the new committee had brought good results.³ But by then Maitland had arrived.

Maitland arrived with discretionary authority to take whatever steps necessary regarding the land registry.⁴ He brought with him a conservative approach to the land problem which had necessitated the registry.

"It would have been a most strange and unaccountable measure, supposing it possible, when we were in this state of society," he wrote, "if one of the ancient Barons had pulled out of his pocket Adam Smith, and said, I will apply to you vassals, whose situation renders it impossible to carry it into effect, all the rules and regulations laid down by him for a society in the last state of civilization and wealth."⁵

Apart from considering the measures adopted by North as being premature, Maitland found that the expenditure of the Government had increased on account of hired labour, thereby occasioning a loss.⁶ He also believed that they diminished the 'political power and energy of

¹North to Camden, 1 March 1805. C.O. 54, 17.

²Ibid.

³North to Camden, 13 June 1805. C.O. 54, 17.

⁴Camden to Maitland, 21 February 1805. C.O. 55, 62.

⁵Maitland to Camden, 28 February 1806. C.O. 54, 20.

⁶Ibid.

Government'.¹ He destroyed North's measures by administrative action which restored compulsory services in particular fields, and completed it by a legislative regulation in 1809. This regulation however represented only a partial reversion to the old system, which was more beneficial to the Government than to the people. It declared that service lands were inalienable, thereby merely implying that they were liable to services as before. But services were not positively reinstated, the land tax was retained, and the accommodessans were not restored.² Thus Maitland's regulation gave the Government much greater freedom with regard to services, thus making the whole system more oppressive on the people in practice.

The natural corollary to these measures was a change in the land registration department. He wrote that the Registers "did nothing except where they deluded the people and plundered the public..."³ He therefore decided to abolish the Registers as well as the committee formed at the centre. In devising institutions to take their place Maitland was very much influenced by the arrangements that had been made during Dutch times. Following the Dutch practice the School Masters or the Headmen were re-appointed to take charge of the Thombos or

¹Maitland to Camden, 28 February 1806. C.O. 54, 20. For further information on Maitland's ideas see Colvin R. de Silva, Ceylon under the British Occupation, Vol. II; Chapter XI.

²Regulation VIII, 18 October 1809. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p.

³Maitland to Edward Cooke, 19 October 1805. C.O. 54, 18.

registers of land.¹ He also reverted to the Dutch arrangements to record the new transfers of private property. In the towns of Colombo, Galle, Jaffna, and Trincomalee, licensed notaries public were in future to attend to all transfers of property. In other areas persons to be appointed as licensed sub-distributors of stamps were to function as Notaries, and to draw up transfers of property at the request of individuals.² They were entitled to fixed fees, the European and Burgher Notaries at a higher rate and the native Notaries at a lower.³ The Notaries were required to draw up the deeds in duplicate and send them to the Collectors, who, after checking the accounts, were to forward them to the Provincial Courts, where one copy was to be filed as a record, while the other was to be signed and sent back to the Notary.⁴ The arrangements made by Maitland remained unchanged throughout this period. It should be noted that in practice the Government began to pay less and less attention to the old Thombos. With regard to transfers it was laid down in 1824 that no deed relating to land would be valid unless passed and executed before a Notary.⁵

¹Regulation XVIII, 9 December 1806. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 106-107.

²Regulation I, 1 January 1806. Ibid, pp. 81-82, 128.

³Ibid. Also Regulation XX, 16 December 1824. C.O. 54, 88.

⁴Ibid. Also Instructions to Provincial Courts, 20 December 1824. C.O. 54, 88

⁵Regulation XX, 16 December 1824. C.O. 54, 88.

The establishment of the Surveyor-General's department was also very much connected with North's land reforms. At first he was much impressed by the arrangements that had been made by the Dutch for the survey of the land, whenever necessary. There had been a number of sworn Surveyors, whose services had been specially required when the Courts were deciding upon land cases, and when drawing out new title deeds. Their surveys were submitted to a Board of Engineers, who finally ratified them.¹ North called it an 'excellent institution', which had not cost the State fifteen hundred pagodas, as the Surveyors were remunerated by the fees paid by the individuals who made use of their services. He therefore declared his intention of re-establishing it.² Much larger plans, however, came to his mind in connection with his land reforms. Simultaneously with the provision for the registration of land, North established the Surveyor-General's department by a Proclamation of 22 August 1800.³ It provided for the appointment of a Surveyor-General, who was to reside at Colombo, and receive orders directly from the Governor. There were to be five principal Surveyors, to be stationed at Negombo, Colombo, Matara, Trincomalee and Jaffna, each having one Assistant Surveyor and one sub-surveyor under him. They were

¹North to Mornington, 27 October 1798. Wellesley MS. 13,866.

²Ibid.

³Proclamation, 22 August 1800. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 20-21.

to obey the requisitions of the Collectors and Landraads. The surveys made in the districts were to be sent to the Surveyor-General's office, where the final plan was to be drawn.¹ Perhaps to provide more work for the department the Proclamation of 1 March 1801, which provided for the registration of land, also provided for its compulsory survey. It was here laid down that no deed of property would be valid unless it was authenticated by a figure issued by the office of the Surveyor-General. All transfers had to be accompanied by a new survey.²

The first signs that the department was not functioning as expected was a Proclamation in 1802, which repealed the rule that deeds would not be valid unless accompanied by a survey.³ The limited number of Surveyors, it was said, made the regulation inconvenient and impracticable. The Surveyor-General's department however continued to exist throughout the period of our study, though on a smaller scale than that envisaged by North. Each Collectorate had one or more District Surveyors, drawn from among the local Europeans, whose duty it was to survey land belonging to Government, but which had been granted to individuals for cultivation, for the purpose of executing regular title deeds for them.⁴ They could undertake private work on being paid for the same. The departmental structure was not clear cut even towards the

¹Proclamation, 22 August 1800. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 20-21.

²Proclamation, 1 March 1801. Ibid., pp. 31-33.

³Proclamation, 14 July 1802. Ibid., p. 62.

⁴Return of the duties performed by the public officers of Ceylon, C.O.416,8.

end of our period. The District Surveyors functioned under the immediate control of the Collectors, though the Surveyor-General also appears to have exercised some form of general supervision. The reduction of the importance of the Surveyor-general's office is suggested by the fact that though at first a Civil Servant was appointed to the situation it was later handed over to a Dutch military officer.

The office of Civil Engineer originated in a grand idea of economic development. Lord Glenbervie, North's brother-in-law, conceived it as a useful instrument to conduct and superintend the repair of irrigation works.¹ Dundas endorsed it when he observed that "the assistance of an able Civil Engineer, as suggested by Lord Glenbervie, appears ... so essential in the island".² But though there was a desire on the part of the Colonial Office, as well as the local Government, to encourage the repair of irrigation works, yet they depended too much on the possibility of attracting private capital. Even when the Government was willing to invest in such ventures, there was hardly any money left after paying the civil and military services. The application of compulsory labour for other purposes worked in the same direction.

It was therefore not surprising that Maitland found the office 'totally unwarrantable'.³ He wrote that Lord Glenbervie's idea was "as ludicrous and ... romantic ... as anything that is found in the Arab-

¹ See Dundas to North, 13 March 1801. C.O. 55, 61.

² Ibid.

³ Maitland to Windham, 20 September 1806. C.O. 54. 22.

ian Nights entertainment". "His Lordship chooses to suppose," he continued, "that when the surplus revenue amounted, which he had no doubt it would in a year or two, from £50 to £150 thousand, then that £25 to £50 thousand could not be better thrown away than under the fortunate auspices of the Civil Engineer."¹ Maitland, however, allowed the situation to continue on a small scale, combined as it was now with that of the Surveyor-General, and held by the same Dutch military officer. He was kept occupied by such duties as the repair of Government buildings. Even when the great era of road building began under Barnes the office failed to become useful, on account of the fact that it was bypassed, the military officers of the Corps of Royal Engineers being employed in planning and supervising them.² Besides, the system of compulsory services would have stood in the way of the emergence of a centralised public works department, for the execution of public works very much depended on the Collectors.³

Another office that was established with a view to future economic development was that of the Chief Gardener, later known as the Superintendent of the Botanic Gardens. He was in charge of the Botanic Gardens established at Colombo and later at Peradeniya, and was expected to improve the horticulture of the island, make discoveries in botany, collect

¹Maitland to Windham, 20 September 1806, C.O. 54, 22.

²Barnes to Bathurst, 1 June 1821. C.O. 54, 80.

³Colebrooke, Report upon the Administration. C.O. 54, 80.

useful plants and seeds for transmission to England, and introduce useful plants from other places into the Colony.¹

The character of certain other departments and offices, which became the nucleus of important departments in later times, must be briefly noted. The existence of army doctors, and the need to provide medical assistance to the European civil population led to the formation of a civil medical establishment. The head of this establishment was a military doctor, who in the former capacity was designated the Inspector of Civil Hospitals in 1798, Chief Medical Superintendent by 1803 and Superintendent-General of the Vaccine establishment towards the end of our period. He was assisted by military doctors known as Superintendents of Vaccine stationed in the principal towns. The main duty of the civil medical establishment was to attend to the needs of the European civil population. But very early in the existence of this department it was called upon to perform preventive duties against small pox and attend to the native population in cases of epidemic.²

The continuation of the Dutch policy of having State aided schools led to the formation of the Schools establishment. Quite in keeping with the general attitude towards education during this time State aid was given to the Anglican Church, which was now the established Church in the Colony. At first the Colonial Chaplain, and later the Archdeacon,

¹Return of duties performed by the public officers of Ceylon.
C.O. 416, 8.

²Ibid.

was therefore the head of the Schools establishment. In that capacity he was designated the Principal of Schools. He was assisted by numerous proponents and School Masters, both European and native, the latter being converts to Christianity. They were in charge of Schools, kept the registers of marriages, and baptisms, and in certain places the Thombos.¹

The need for a postal service brought into existence the office of Postmaster-General. As in Dutch times the department was at first organized with the aid of the free services rendered by the holders of service lands. Towards the end of our period, however, as services became unpopular, the tendency was to employ hired runners. At first the Postmaster-General was assisted by Mudaliyars at outstations, who in that capacity were known as Postholders.² But on account of the change towards a paid establishment, and in conformity to the general policy of reducing the influence of the Headmen, separate Postholders were appointed from among the local European community. The Postmaster-General exercised a general superintendence over the conveyance of mails and kept the accounts of the department.³ Another office which for one reason or other was kept separate from that of the Postmaster-General

¹Return of the duties performed by the public officers of Ceylon..
C.O. 416, 8.

²Ibid.

³Ibid.

was that of the Commissioner of Stamps. The nature of the duties performed by this officer made his office of doubtful utility. Stamped paper was issued by the Chief Secretary's office on an estimate placed by the Commissioner of Stamps. They were then re-issued to the Collectors, Judges and Magistrates, and in turn sold through licensed stamp distributors. The provincial officers accounted direct to the Commissioner of Revenue, so that the Commissioner of Stamps merely performed the duty of a transmitting office.

Chapter II

PROVINCIAL AND LOCAL ADMINISTRATION

IN THE MARITIME PROVINCES

The main tendency in the development of the provincial administrative machinery during this period was an increase in the number of European executive and judicial officials, and almost a complete transfer of original authority to them. This expansion marked a further departure from the traditions of provincial administration in the country.

The main unit of provincial administration during this period, except for a brief interlude, was the Collectorate. The division into three Disāvanis that had prevailed during Dutch times was more or less continued by the British when the Maritime Provinces fell into their hands. The Madras Civil Servants preferred to call these units Collectorates because they had by this time become the recognized and established units of administration in India. The conquered provinces were therefore divided into three Collectorates, which were reduced to two and increased to four according to particular exigencies.¹

With the creation of the Board of Revenue and Commerce in 1801, North abolished the Collectorates and established in their place thirteen Agencies in charge of Agents of revenue and commerce who were, both in salary and authority, inferior to the former Collectors. He considered

¹These Collectors were stationed at Jaffna, Galle, Batticaloa and Colombo. See North to Court of Directors, 26 February 1799. C.O. 55, 3.

this division, not quite accurately, a 'natural division' for the Agencies were "almost all different from each other in their manners customs, religion, and even language of the inhabitants".¹ The Agents in the Northern provinces were placed in the immediate charge of a person designated the Commissioner Extraordinary.² The Agents of Batticaloa and Magampattu were designated Land Regents and were invested with special powers on account of their distance from Colombo, and on account of other special circumstances which appear to have existed.³

The establishment of the Civil Service led North to change the thirteen Agencies into six Collectorates, at Colombo, Jaffna, Matara, Trincomalee, Batticaloa and Puttalam. The reason for this step was stated to be the necessity of establishing a regular gradation of offices among Civil Servants, and the facility with which six superior Agents would manage the territorial revenue, "without employing to any dangerous extent the ministry of native agents".⁴

The tendency during this period, brought about mainly by the existence of the Civil Service, was for the Collectorates to increase in number.⁵ Thus by 1815 separate Collectorates had been established at Kalutara, Galle,

¹North to Court of Directors, 10 February 1801. C.O. 54, 3.

²Ibid.

³Ibid.

⁴North to Hobart, 10 September 1802. C.O. 54, 7.

⁵See schedules of the fixed civil establishments for this period.

Magampattu, Wanny and Manar, bringing the total number to eleven.

As Bertolacci, a retired Civil Servant, pointed out, the Collectorates were far too numerous in the context of the conditions prevalent during this time.¹ It would have been beneficial to have had a larger number if, as intended by Maitland, a positive agricultural policy had been carried out. Circumstances such as the employment of compulsory labour for non-agricultural purposes and the lack of funds prevented the implementation of such a policy. Without it so many Collectorates appeared unnecessary to supervise the collection of revenue. When therefore the Government faced a need for economy in the Civil Service certain Collectorates were amalgamated with others so that by the end of our period of study the number had been reduced to eight.² The centres were now at Colombo, Galle, Tangalle, Batticaloa, Trincomalee, Jaffna, Manar and Chilaw.³

The chief representative of the executive Government in these units was the Collector, who, after the establishment of the Civil Service, was almost always a comparatively senior Civil Servant. He functioned with or without a junior Civil Servant as Assistant. The establishment of the Kachcheri or the Collector's office, consisted of a Kachcheri Mudaliyar, a varying number of European Clerks, numerous Lascarins, and other

¹Bertolacci, Agricultural, Commercial and Financial interests of Ceylon, p. 438.

²See schedules of the fixed civil establishments for this period.

³Colebrooke, Report on Administration, C.O. 54, 122.

inferior native servants, the most important among the latter being the tom-tom beaters, who published the orders of the Government.¹

The establishment of the office of Collector and the powers and duties allotted to it marked in some ways, though not in all, a departure from the position that had been occupied by the former Disāvās. Such a departure occurred when the military functions were separated from the civilian. From the early days of British rule the need to station troops at strategic points, for security reasons, brought about the existence of Commandants of garrisons and other military officers. The area covered by a Commandant did not necessarily correspond with that of a Collectorate. Until the establishment of the Civil Service, and for a short time afterwards, these military officers were freely employed in civilian work. They were required to assist in the enforcement of Government regulations, while some were appointed to specific posts as that of Agent of Revenue and Commerce, Magistrate, Fiscal and President of Landraad and Civil Courts.²

The social and economic order in Ceylon made the separation of the civil and military concerns somewhat inconvenient. For instance, the military authorities were much dependant on the system of compulsory services and on materials procured through the medium of the civil authority. Thus, as Barnes pointed out, in many instances the Collectors of the dis-

¹See schedules of the fixed civil establishments for this period.

²Proclamations, 18 December 1798, and 30 July 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 4, 50-53.

tricts had actually to attend to the construction of military works.¹

This factor combined with the loss of emoluments and authority which the military officers suffered, together with the privileged position occupied by the newly arrived Civil Servant, did not fail to excite antagonism. It took some time for the re-adjustment of the relations between the civil and military authorities in the provinces. Several conflicts took place during the time of North and Maitland, on various issues, which affected not only the provincial civil and military servants but also the Governor, the Commander of the forces, and the Supreme Court.² It led Maitland to issue a strongly worded minute, forbidding the exertion of individual authority on the part of a Civil Servant to counteract the orders of the military authorities, or the use of irritating correspondence to redress a supposed grievance. It directed that all remonstrances should be addressed immediately to the Governor.

"No serious quarrel," he wrote, "can ever occur when both parties are actuated by that conciliatory and forbearing spirit which can alone secure a continuation of harmony and union between the two services ... His Excellency will therefore in future consider the fact of a difference existing, without reference to a critical investigation of who may be right or wrong, to be strong prima facie ground for displeasure and for the removal of the parties concerned."³

¹Barnes to Bathurst, 11 August 1828. C.O. 54, 101.

²For details of the most acute conflict that took place see North to Hobart, 5 October 1804. C.O. 54, 14. North to Camden, 26 December 1804, C.O. 54, 15. 24 April 1805, C.O. 54, 17.

³Maitland to Camden, 19 October 1805. C.O. 54, 18.

Whatever the effect of this minute was, in course of time the civil and military officers became accustomed to their respective positions. This, together with the peaceful state of affairs which usually prevailed and which reduced the need to invoke the aid of the military, tended to remove the occurrence of conflicts. The fact that both services were under the Governor's complete control, from the time of Maitland, also minimized them.

The new Collectors also lost the traditional military position which the command of the local militia had given to the Dutch Disāvas. The British abandoned completely the maintenance of a militia on the old footing with the result that the Mudaliyars and Lascarins were completely transformed into civilians. Some of the Lascarins, who were now either paid small salaries instead of being allotted accommo-
dassans, or served gratuitously, were usefully employed as messengers, peons, guards and minor police officials attached to the Civil Serv-
ants. Others became pure status symbols to which the Governor and the higher officials, and more specially the Collectors, clung with a remarkable fondness.¹ They were considered to be external marks of authority, and distinctions essential to their ranks, to which the native inhabitants, who were "fond of state" were long accustomed. Their removal, it was thought, would "introduce a state of things so

¹These Lascarins attended the carriages of the officials, held umbrellas over them and accompanied them when travelling. See Horton to Goderich, 2 October 1832. C.O. 54, 118.

foreign to the native mind", and take away part of the authority attached to the offices.¹ The officials also compared themselves with the "good folk at home" who were also fond of show, though of a different kind.²

On account of the duality of thought already noticed with regard to the relations between the executive and the judiciary, and the controversies prevalent in India, the question whether the Collectors should be vested with judicial power became a subject of controversy among the new rulers. Some stood for a separation of functions, while others thought that a combination was necessary.

During the days of Company rule in Ceylon, the Collectors assumed such judicial powers as were necessary to enforce the collection of the revenue. But in view of the disturbances of 1797, which were partly occasioned by the excesses committed by the Malabar agents of the Collectors, the De Meuron Committee took the matter under their consideration. De Meuron and Agnew were strongly in favour of a separation.³ They did not give substantial reasons for their opinion, but appear to have been largely carried away by the feeling that the union of the powers of Collector and Judge was oppressive, and incompatible with the liberty of the subject. They were supported by North and Hobart.⁴ North

¹See Horton to Goderich, 2 October 1832. C.O. 54, 118. Also, Horton to Goderich, 1 February 1832. C.O. 54, 118.

²Ibid.

³Minutes of De Meuron and Agnew, 16 September 1797. C.O. 54, 2.

⁴Hobart to Committee of investigation, 10 October 1797. C.O. 55, 2.

wrote of a "vicious system of Government which vests the judicial powers in the Collector".¹

"The wise and humane establishment of Adawlots in Bengal," he wrote, "has sufficiently declared to the world your opinion of the necessity of separating the judicial powers from the collection of the revenue. I need therefore, I presume, state at length the inconvenience which naturally results from their union in the Collector's Cutchery Sic, or the advantage which of course would arise from the re-establishment of distinct and independent Courts of law."²

As against these views was the opinion of Robert Andrews, who opposed a strict separation on the ground that it would place obstacles to the collection of revenue.³ Robert Alexander, who was later appointed to the committee of investigation, after pointing out that during Dutch times the Disavās had presided over the Courts, maintained that it was necessary to vest the revenue manager with a certain amount of control by making his signature necessary for the execution of court decrees, and obliging him if he dissented to refer his reasons to the Government.⁴ The point of view of these persons was later well stated by Maitland when he pointed out that without maintaining the supreme authority of the Collector over the district, it would be impossible for him to collect the revenue.

¹North to Court of Directors, 26 October 1798. C.O. 54, 3.

²North to Court of Directors, 10 June 1799. C.O. 54, 3.

³Minute, 16 September 1797. C.O. 54, 2.

⁴Minute, 9 November 1798. C.O. 55, 2.

"It is not the name of the Collector, not the instructions of Government, that enable him to collect the revenue," he wrote, "but the conviction in the minds of the natives that he has power to enforce such collection, and whenever they are persuaded that he has either no such power, or that they can go to any quarter where the effects of such power may be counteracted, from that moment there is an end of all hopes of the Collector being able to execute the functions of his office."¹

This duality of thought among the rulers was reflected in the powers and duties that were assigned to the Collectors. Although, in keeping with the views already noted, North established courts of civil and criminal justice, which, unlike in Dutch times, were presided over by judicial or semi-judicial officers, he made no attempt at a strict demarcation of the executive and judicial spheres of authority.

The fact that the Collectors were placed in general charge of the police in their respective divisions and were expected to supervise inferior police officers, appears to have made it necessary to confer on them minor powers of criminal jurisdiction. Prior to 1801 all Collectors were required to act as Magistrates within the districts in which they resided.² After 1801 North conferred the powers of Magistracy on Collectors and Assistant Collectors, wherever he considered it expedient to do so. During the time of Maitland to give the Collectors greater authority a regulation was passed which made all

¹Memorandum, 30 August 1811. C.O. 54, 41.

²See Proclamation, 30 July 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 52.

Collectors Justices of the Peace for their provinces, and which also conferred on them the powers of Magistracy.¹ They were also made the Fiscals of the province.² This regulation remained unrepealed till the end of our period so that Collectors were legally vested with the powers of Magistracy, which carried with it a jurisdiction over small criminal cases.

It is difficult to determine with exactness the extent and manner in which these powers were exercised. It appears however that they were intended to be reserve powers which Collectors would exercise in the event of a need to do so. Maitland for instance indicated that they were meant to give them more weight in the country, rather than that they were to be considered as a primary part of their duty.³ He told the Collectors that generally speaking where there was a Provincial Judge or a Sitting Magistrate, all judicial discussions ought to be left to them. He also advised the Collectors to make use of their judicial powers principally during circuits.⁴ These factors, as well as the reluctance shown by the Civil Servants to exercise Magisterial duties, appear to have brought about the tendency to refer crim-

¹Regulation I, 19 October 1805. Skeén, A. Collection of Legislative Acts of the Ceylon Government, Vol. I, p.80.

²Ibid.

³Instructions to Collectors of Jaffna and Matara, N.D. 1806. C.O. 54, 25.

⁴Ibid.

inal cases, which involved prolonged investigation, to the Magistrates. Perhaps to display their authority, the Collectors appear to have inflicted summary punishments in small cases that came before them.

As regards civil jurisdiction the judges and Magistrates were normally expected to try all civil cases according to the jurisdiction given to them. But the power of Magistracy given to the Collectors carried with it a limited civil jurisdiction. Besides, several regulations of this period empowered the Justices of the Peace (all Collectors were Justices of the Peace) to inflict punishments for the breach of revenue laws.¹ The social and economic order prevalent in Ceylon, as well as a need to display power, appears to have led the Government to abandon the adherence to judicial forms and resort to the former practice of summary punishments. Thus, for instance, after establishing separate courts of justice for the protection of the liberty of the subject, North fell into the contrary position of declaring that no new law or order was meant to take away the right of every head of department or other person superintending the execution of any public service to inflict reasonable and moderate correction immediately on the persons employed under him when they disobeyed his orders, such punishments by no means exceeding twenty five strokes with a rattan.²

¹Evidence of Collectors Answers to Question: 69. C.O. 416, 25-28.

²See Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

The role played by the Collector is best understood by examining the broad divisions into which the civil cases generally fell. Firstly, there were the disputes between the inhabitants or between them and the Government concerning landed property. These disputes were almost entirely left to the decision of the courts. Secondly, there were complaints by the renters or Headmen concerning the non-payment of taxes or the non-performance of services. These cases, many of which involved small amounts, appear to have been summarily punished by the Collectors as well as by the Judges and Magistrates. Thirdly, there were the complaints made by the people against the tax farmers or their agents. It appears that such complaints were seldom carried to the courts of law, but that they were inquired into by the Collectors or their agents.¹ This was partly on account of the fact that the sums involved were usually small, and as one Magistrate observed, "any poor person would sooner lose two or three rix-dollars than have recourse to a tedious and circuitous application for justice".² Perhaps as a continuation of former practice it became usual to appeal to the Collector for redress. This mode was in fact encouraged by the Government. Thus Maitland instructed the Collectors to inquire into the complaints of the tax farmers while they were on circuit.³ Finally, there were

¹Evidence of Collectors. Answers to Question 69. C.O. 416, 25-28.

²O'Connell to Arbuthnot. 16 June 1802. C.O. 55, 37.

³Maitland's instructions to the Heads of Departments, 25 August 1808. C.O. 54, 28.

cases in which a tax farmer either defaulted or claimed damages from the Government. As regards the former it is clear that the Collectors had to sue the renter before a Provincial Judge or Magistrate empowered with revenue jurisdiction. It should however be noted here that the special procedure laid down in 1809 for the trial of revenue cases gave the Collector certain special powers. It was laid down that he could act in advance upon mere knowledge or notice of a default of payment and seize property to an amount sufficient to cover the debt, after which the Judge or Magistrate was required to give the Collector a warrant to sequester the property. The trial of the case was to begin only subsequent to all this.¹ It appears that the latter type of case had not been put to a test till the year 1813. During this year a case was filed against the Collector of Trincomalee by the renter of a toddy farm claiming damages for obstructing the exercise of his privileges, by imposing restrictions on the sale of toddy. This case occasioned a regulation which laid down that "no suit could be instituted before any Magistrate appointed for the trial of revenue cases but by the officers of the Crown in behalf of His Majesty's revenue, nor concerning any act done in the collection of such revenue according to the usage and practice of the country, or the regulations of His Excellency the Governor in Council".² Brownrigg explained the

¹Regulation VII, 9 September 1809, Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 121.

²Regulation I, 8 January 1813. Ibid., p. 147.

intention of this regulation as that of protecting the Collectors "against vexatious demands on the part of a multitude of public farmers of revenue".¹ He claimed that the renters were protected sufficiently by the established modes of settling demands on the part of the Crown, where renters' complaints were regularly matters of defence.² Besides, he referred to the "constant, easy and well known access to Government by petition, wherein subjects of remission are most commonly and most regularly brought forward".³ It is clear from this observation that the usual mode of action in matters in which renters claimed damages was not to institute a court case, but to appeal to the Collector for a remission.

The authority which the possession of judicial power secured to the Collectors was enhanced when they were appointed to function as Fiscals to the courts of law. The two important duties attached to this office were the charge of prisons and prisoners and the execution of writs of court. The exercise of these duties was at first ill defined: as a result very much discretion was left to individuals and there were great variations between the different districts. This situation was partly remedied when the Fiscal's power over the prisoners under him was defined.⁴ More control by the Governor was a principal

¹ Brownrigg to Bathurst, 26 January 1813. C.O. 54, 46.

² Ibid.

³ Ibid.

⁴ See Proclamation 30 July 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, vol. 1, p. 52. Regulation VI, 4 May 1807, Ibid., p. 111.

outcome of this definition. His powers and duties connected with the execution of writs remained ill defined till 1824, when on the occasion of a Supreme Court decision that resistance to legal process might be justified if such process had been executed in an illegal manner, a regulation was passed which laid down the general duties and responsibilities of the Fiscal and the manner in which they ought to be exercised.¹

As in the time of the Dutch Disavās the main executive duty of the Collector was to attend to the interests of the Government in revenue collections, enforce services due to the State, and superintend public works undertaken by means of compulsory labour. His revenue duties were much simplified by the renting system which was extended by the British when the collection of the new grain tax was also rented out. Only a small proportion of the revenue was collected directly through the Headmen.² When the collection was thus rented out the duty of the Collector was the monotonous one of drawing up the conditions on which the farms were to be sold (which were generally the same from year to year), deciding on their amounts, and selling them by public auction. Thereafter he was expected to enforce the collection, where necessary, see that the renters did not default or oppress the people, prosecute defaulters, and report on claims for remissions. From the

¹Regulations XIII, 26 March 1824, and XIII, 30 November 1827. Skeen, A Collection of Legislative Acts of the Ceylon Government,^{vol. I} pp. 305-308, 348-352.

²Evidence of Boyd, 20 February 1829. C.O. 416, 7.

time of Maitland these duties were performed under much central control. The power of sanctioning rents and remissions was taken into the hands of the Governor in Council. The Collector was also required to submit to the central Government various monthly and annual statements of account.

The general duty of supervising the renters was comparatively easy as they were in fact a group of semi-officials under adequate security and legal obligations. The difficult part of the duty, which was to prevent oppression by the renters, tended to be somewhat neglected. As a liberal critic alleged, it is possible that the average Collector interferred as little as possible with the renters fearing that it would diminish the revenue and in turn his commission.¹ When inquiries were conducted through the agents of the Collector, who were not under a sufficient sense of responsibility, it is possible that proper justice was not done as his agents could be bought over or influenced by the renters. The evils of the renting system were well known and acknowledged. They were perhaps exaggerated because the cultivators were often more aware of their rights than they were thought to be.² Nevertheless, it is possible to agree with Hobart that the renting system amounted to transferring a good portion of the powers of Government into the hands of people whose rapacious dispositions were perpetually

¹Peter Gordon, 'The actual political condition of Ceylon', C.O. 54, 112.

²Evidence of Boyd, 20 February 1829. C.O. 416, 7.

encouraged by the precariousness of their tenure.¹ Maitland described it as a "system destructive of His Majesty's interests, extremely oppressive to the people, and directly in the teeth of every principle that ought to be maintained on the subject".² In spite of the awareness of the evils the renting system was continued as it was found to be the most convenient and economical.³ The inability of the Collectors to supervise a system of direct collections, and the reluctance to place responsible power in the hands of local men, made it impossible for the Government to provide the necessary administrative machinery for direct collections. To a Government so circumscribed it was a choice of evils.⁴

The duties attached to the enforcement of compulsory services, the attendance of Lascarins, and summary punishments may have surrounded the Collectors with some of the traditional characteristics that had been attached to the office of Disāva. Indeed the existence of a feeling of continuity in the popular mind is indicated in the use of the word Disāva to denote a Collector. The traditional position would however have been further weakened by other changes that took place and by the manner in which the new Collectors functioned. For instance, though Lascarins continued to attend on the Collectors this

¹Minute, 9 June 1797. C.O. 55, 2.

²Maitland to Windham, 28 February 1806. C.O. 54, 28.

³Evidence of Boyd, 20 February 1829. C.O. 416, 7.

⁴Observations of Anstruther, N.D. 1831. C.O. 54, 114.

would not have had the former appearance and effect of the attendance of a militia. The fact that the new Civil Servants were paid regular salaries and forbidden to draw perquisites may have hastened a change in the relationship between the Collector and the people. Through sheer force of habit the people continued to give presents to the Civil Servants, which the Liberal critics of the day regarded as bribery.¹ They may, however, have lost much of their former meaning. Increased central control in such matters as the appointment of inferior Headmen, and the enforcement of services may have also worked towards a change in the character of the office. The emphasis on the Collector's revenue duties and the further neglect of his traditional responsibilities to agriculture, may have worked in the same directions.

Maitland was perhaps attempting to re-establish a useful aspect of the old system when he insisted on the Collector making circuits through his districts. He noticed that the common duties of a Collector had hitherto been considered to be limited to a residence in the chief town of his district. The Government of North, he thought, had encouraged that view by allowing an extra charge for travelling expenses whenever they moved from the place of their immediate residence.²

"In the view I entertain of the duties of an Agent of Revenue and Commerce," he wrote, "by much the most important part of it appears to me to make himself thor-

¹See Peter Gordon, 'The actual political condition of Ceylon', C.O. 54, 112.

²Instructions to the Collectors of Jaffna and Matara, N.D. 1806, C.O. 54, 25.

oughly master of the situation and the state of his district by frequent and personal inspection; and I cannot admit for one of any extra charge when an officer of Government is merely executing any common part of his immediate duty."¹

He therefore instructed the Collectors to make a complete circuit of their districts once a year usually during the time of letting the rents. They were required to keep diaries of the proceedings of such circuits and to forward them to the Government through the Commissioner of Revenue.²

These circuits were partly intended to make the revenue duties of the Collector more effective. They were intended to prevent oppression by the renters on the one hand and frivolous complaints by the people on the other.³ They were aimed at bringing about more personal contact between the Collector and the people, and more personal supervision over the activities of the inferior Headmen.⁴ Above all they marked an attempt to make the function of the Collector something more than one of mere revenue collection. It is clear that Maitland expected the Collectors to carry out positive agricultural activity. They were required to inform themselves of the state of cultivation in the districts, meet people and explain that the Government was prepared to assist and support them in the cultivation of waste

¹Instructions to the Collectors of Jaffna and Matara, N.D. 1806. C.O.54, 25.

²Instructions to the Heads of Department, 25 August 1808. C.O. 54, 28.

³Instructions to the Heads of Department, 25 August 1808. C.O. 54, 28.

⁴Ibid.

lands, to look into the ways and means of supplying water to the cultivators, to repair and clear up tanks and canals, and to find out by personal inspection whether any taxes were oppressive and injurious to agriculture. During their circuits they were also to make advances of various kinds in order to stimulate the inhabitants to an increased cultivation of rice.¹

Maitland no doubt expected much benefit from these circuits.

"Possessing on the one hand," he wrote, "the ready means of settling all disputes in the different villages of his district, without moving the inhabitants to a distant court, and on the other the means of supplying them with seed grain, clothing and agricultural tools, and, as far as may be, relieving them from the vexation of a tax gatherer by letting to the cultivators themselves the tythes of their villages, Government has a right to expect that such circuits of the Collector must be, and will be, attended with the happiest consequences to the district over which he presides."²

These hopes were not fulfilled to any great extent. The fact that the Collectors had now to bear the expenses of circuit, the difficulties involved in travelling, the general disinterestedness which the Civil Servants of this period showed in establishing direct contact with the people, the ineffectiveness of the intended agricultural policy, seem to have all combined to make circuits less frequent. They appear to have ceased entirely from about 1824.³ Even when

¹Instructions to Collectors of Jaffna and Matara, ND. 1806. C.O. 54, 25. Also, Instructions to Heads of Department, 25 August 1808. C.O. 54, 28.

²Ibid.

³Colebrooke, Report upon the Administration, C.O. 54, 122.

undertaken the circuits may have looked very different from the entry into a district of a former Disāva surrounded by his militia.

The Collector's office or Kachcheri became a general co-ordinating office for the Government activities of the province. The Collectors were expected to publicize all Government regulations by beat of tom-tom. All provincial officers, excepting the Provincial Judge, functioned in a degree of subordination to the Collector, although the relationships were as yet not very well defined. All officers in the provinces were required to submit their collections and accounts to the Kachcheri to be examined and credited to revenue. The Collectors' office was similarly becoming a general pay office for the whole province.¹

The judicial officers in the provinces varied with the changes in the judicial system. These changes were frequent during the formative years 1798-1805. After 1805 the judicial system was more or less fixed till the end of our period of study.

As we have seen North arrived in the island with instructions to establish the Dutch judicial system. He had also the power to make expedient and useful alterations.² Shortly afterwards he proposed the establishment of seven or eight Landraads for the decision of civil cases among the inhabitants, composed of a European President and the

¹Instructions to Heads of Department, 25 August 1808.C.O. 54, 28.

²See p.

usual number of Mudaliyars. He also proposed the appointment of three Fiscals to manage the police, to receive and examine criminal accusations from the Magistrates and Mudaliyars, and to commit persons for trial.¹

This plan was however defeated by what North called the "obstinate refusal of the Dutch" to take the oath of allegiance.² By the time these obstacles had ceased to exist, North had turned a reformer. Judging matters by the forms and concepts of justice to which he was accustomed, he became critical of the Dutch Raad Van Justitie, "composed of men unlearned in the law, without salary as Judges, and even the obligation of hearing cases in open court...."³ The manner of their proceeding, he thought, "was liable to every defect of negligence, uncertainty and corruption..."⁴ The Dutch Civil Courts, excepting the Landraads, were also considered unsatisfactory on similar grounds.⁵ He proposed to remove the Judges from other civil employments, and pay them adequate salaries in order to ensure judicial independence.⁶ He wrote of the need for a judicial system "for securing

¹North to Mornington, 10 May 1798. 10 May 1798. Wellesley MS 13,866.

²North to Mornington, 3 October 1798. Ibid. Also North to Court of Directors, 10 June 1799. C.O. 54, 1. North to Dundas, 10 September 1802. C.O. 54, 7.

³North to Court of Directors, 10 June 1799, 5 October 1799. C.O. 54, 1.

⁴North to Court of Directors, 10 June 1799. C.O. 54, 1.

⁵Ibid.

⁶Ibid.

the property of the people, and for suppressing the arbitrary authority of their Chiefs".¹

When therefore the proposed judicial system reached the stage of finality considerable modifications had been made. The Rand Van Justitie of Colombo, Galle, and Jaffna was abolished, and criminal jurisdiction throughout the island was vested in one tribunal over which the Governor presided.² The jurisdiction of the Dutch Civil Courts was enlarged to cover all civil cases occurring within their local limits. The Dutch practice of having five Judges to constitute a civil court was abandoned, and it was declared that one Judge was sufficient to form a competent court. The Landraads were re-established in the same form as under the Dutch.³ A subsequent proclamation shows that they were established at eleven different places throughout the island.⁴ The Dutch practice of having witnesses or accused examined by a Fiscal or a Commission out of court was abandoned, and all cases were required to be publicly examined in court. The Fiscal and others appointed by the Governor was to continue to try inferior offences and disorders against the police. As the Dutch procedure was considered "unnecessary and impracticable" they were to be simplified. In civil suits the proceedings were to be summary. Torture of suspected persons

¹North to Court of Directors, 10 June 1799. C.O. 54, 1.

²See p.

³Proclamation, 23 September 1799. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 6-9.

⁴See Proclamation, 22 January 1801. Ibid., pp.25-30.

and "barbarous" modes of execution and punishment were abolished.¹

Further changes were made during the following year. Minor courts styled the Fiscal's Court, composed of three members with the Fiscal as president were established at various places in the island. They were empowered to try small civil cases where the sum or matter in dispute did not exceed 25 rix-dollars, and small criminal cases. Powers of punishment were limited to fines not exceeding 50 rix-dollars, imprisonment not exceeding one month and corporal punishment not exceeding 40 strokes.² Subsequently their jurisdiction and powers of punishment were enlarged, twice within one year. By July 1801 they were given jurisdiction over all criminal offences, excepting certain higher crimes that were named, and were given the power to impose fines to any amount whatever short of entire forfeiture of property, imprisonment to any term short of the term of natural life and corporal punishment to any degree short of loss of life. However, when any sentence exceeded two months' imprisonment, a fine exceeding 100 rix-dollars or corporal punishment exceeding 100 lashes, the sentence was not to be carried into execution until approved by the Governor.³ The Fiscals acting singly were given the jurisdiction and powers of a Magistrate, of which we shall say more later.

¹Proclamation, 23 September 1799. Ibid., pp. 6-9.

²Proclamation, 2 July 1800. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p.19.

³Proclamations, 20 February 1801, and, 30 July 1801. Ibid., pp. 31, 50-53.

The summary trials prescribed in 1799 led to such diversities of practice that a uniform procedure based on the former Dutch procedure, but with certain modifications, was laid down for the Civil and Landraad Courts. Suits under 25 rix-dollars were to be heard and determined in a summary manner. No written pleadings were to be required in land cases between 25 and 50 rix-dollars in value and in other cases between 25 and 100 rix-dollars. In cases above 100 rix-dollars pleadings were to be by petition. The manner in which the courts were to proceed to trial was also prescribed.¹ Prior to the arrival of the Civil Servants the courts thus constituted were presided over by military officers and Dutchmen.

The establishment of Crown Colony rule, which brought with it a Charter of Justice and a Civil Service, led to further changes in the judicial system. The Charter of Justice, besides establishing a Supreme Court laid down that all inferior offences should be tried before Justices of the Peace and Magistrates.² This led to the development of the Magistracy of which we shall say more later. The Charter also created an office of Fiscal for the purpose of executing the processes of the Supreme Court. It therefore became necessary, in order to avoid confusion, to change the former Fiscal's court to that of the Court of the Justices of the Peace. Its powers of punishment were reduced to fine not exceeding 75 rix-dollars, imprisonment

¹Proclamation, 22 January 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, 23-30.

²Charter of Justice, 18 April 1801. C.O. 55, 61.

not exceeding two months and whipping not exceeding 100 strokes.

Its civil jurisdiction was extended to cover cases, excepting those on land, up to 100 rix-dollars in value.¹

The establishment of the Civil Service, which necessitated the transfer of superior judicial power to new hands, led to the gradual disappearance of the Civil and Landraad Courts. The process began when the Landraads of Galle and Jaffna were abolished and their jurisdiction vested in the Civil Courts. This step was justified on the ground that it was convenient if cases occurring within the district were tried by one and the same tribunal.² A further step was taken when the name of the Landraad Court at Colombo was changed to that of Provincial Court and a Civil Servant was appointed as its president.³ Thereafter the Landraads and Civil Courts were amalgamated, forming six Provincial Courts at Colombo, Matara, Puttalam, Trincomalee, Batticaloa and Jaffna.⁴ These changes were justified on the ground that it was "expedient that the several tribunals.... should be as few in number as may be consistent with the due and convenient administration of justice".⁵ The number of Judges in these Courts was not

¹Proclamations, 13 February 1802, and 25 June 1802. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 59-62.

²Proclamation, 20 August 1801. Ibid., p.54.

³Proclamation, 13 February 1802. Ibid., pp. 59-60.

⁴See Proclamations, 25 June, 12 July, and 10 November 1802. Ibid., pp. 61-64. North to Hobart, 10 September 1802. C.O. 54, 7.

⁵Proclamation, 25 June 1802. Ibid., pp. 61-62.

specified, the Governor reserving the right to decide on it.

The practice followed by North was to constitute them with two persons, a senior Civil Servant as president, and a junior person as member. These Courts were given the power to determine all civil matters in the district, where the sum or matter in dispute exceeded 100 rix-dollars in value.¹ One important consequence of these changes was the displacement of the Mudaliyars from a share of judicial power.

Maitland, who arrived with instructions to reduce expenditure, rounded off the process that had set in during the time of North. On the report of Chief Justice C. E. Carrington, from whom he obtained advice on the best means of effecting economy, he carried out several changes.² Thus the Courts of the Justices of the Peace were abolished. The proclamation announcing the decision contained the reason that led to it. It was stated that the number of Civil Servants were too small to admit of the establishment of Courts, with three Judges as members, at all the stations at which they were required.³ The number of the Provincial Courts was fixed at five. They were now to be constituted with only one Judge selected from the Civil Service. The Provincial Judges were made Justices of the Peace throughout the island, and given

¹North to Hobart, 10 September 1802. C.O. 54, 7.

²See Carrington to Maitland, 5 October 1805. C.O. 54, 18.

³Proclamation, 19 November 1805. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p.80.

jurisdiction over small criminal offences, with powers of punishment by fine not exceeding 100 rix-dollars, by imprisonment not exceeding three months, and by whipping not exceeding 100 lashes. They were to have a civil jurisdiction over all cases of whatever nature between the native inhabitants, and over all cases not exceeding 100 rix-dollars between Europeans.¹ As it was reported that much inconvenience would be caused by making the people travel from one part of the province to another to attend the Provincial Courts, the Judges were required to proceed on circuit twice every year.² As it appeared that in some districts the inhabitants were in the habit of settling disputes among themselves by arbitration, it was announced that no such practice could be admitted under the British Government.³ This seems to have been in accordance with Maitland's wish to reduce the authority of the Mudaliyars.

Perhaps on account of a recognition that the system of Provincial Courts was not as successful as desired, the Governor in Council contemplated the re-establishment of Landraad Courts, with the Collector as president and other suitable members.⁴ On the advice of Alexander

¹Regulation I, 19 November 1805. Ibid.

²Carrington to Maitland, 5 October 1805. C.O. 54, 18. Also, Regulation I, 19 November 1805. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p.80.

³Maitland to Wood, 26 December 1805. C.O. 54, 20.

⁴See Minutes in Council, 14 December 1808. C.O. 54, 32. Maitland to Johnston N.D.1809. C.O. 54, 31.

Johnston, the Colonial Office made provision for their re-establishment by the Charter of Justice of 1810.¹ Landraads had a brief spell of existence when they were established in 1811.² But on the arrival of the second Charter of Justice the Provincial Courts were re-established.³ Thus the system of Provincial Courts remained on the footing on which they were placed by Maitland till the end of our period of study.

The number of these Courts was, from time to time, increased to six or reduced to four according to the exigencies created by the Civil Service. At the end of our period of study there were seven Provincial Courts in existence at Colombo, Galle and Matara, Jaffna, Trincomalee, Kalpitiya, Manar and Batticaloa. At the latter two places the Collector of the area functioned as Judge, without however the power over the revenue cases of his Collectorate.⁴

At each of these Courts the Civil Service Judge was assisted by a Dutch Secretary and Clerks, and a native interpreter with or without the rank of Mudaliyar and Muhandiram.⁵ However, both on account of the nature of the rules of proceeding drawn for the functioning of these Courts, and the fact that the Judges had constantly in mind the Courts

¹Charter of Justice, 6 August 1810. C.O. 55, 62.

²Wilson to Liverpool, 26 February 1812. C.O. 54, 42.

³Brownrigg to Liverpool, 29 March 1812. C.O. 54, 42.

⁴See Barnes to Bathurst, 6 January 1821. C.O. 54, 79.

⁵See Schedules of annual fixed civil establishment for this period.

of Justice familiar to them, the Provincial Court began to conform more and more to the type of Court prevalent in England. The rules of evidence and procedure were based on what was prevalent in England. Pleadings were by affidavit, and the litigants were required to pay certain fees which varied in amount from time to time - the Governor having the power to regulate them by executive order. Unlike in England however the Courts functioned without a Jury. This circumstance combined with the fact that the Judges were generally ignorant of the customary law of Ceylon may have not only led to mistaken judgments, but also made the Judges dependent on the advice given by outsiders or interpreters, who may have lacked a sufficient sense of responsibility.¹

The arrangements that were thus made for the provincial administration of the country resulted in the existence, in the provinces, of two members of the Civil Service, holding two different jurisdictions, one mainly of an executive and the other of a judicial nature. On account of the increase in the number of Collectorates the Judge had usually a larger area of jurisdiction than the Collector.

At first, in the Civil Service, there was a preference for Collectorships. They were considered to be more lucrative, while the judicial offices were considered to be more laborious and difficult, and as

¹Cameron, Report on the judicial establishments and procedure, C.O. 54, 122.

having lesser prospects of promotion.¹ This situation however changed from the time of Maitland. The Collectorships lost part of their attraction on account of the salary increases and other changes that he carried out. Collectors and Provincial Judges were placed on one line of promotion with the latter office being made more attractive than many of the former. In fact it became an object of ambition to some of those holding the office of Collector.

This situation would have naturally caused difficulties in places where the Provincial Judge was senior, and was holding the more important post in the Service, on account of the fact that the Collector was the chief representative of the executive government. It was perhaps this factor that accounted for the mutual jealousy between the Collector and the Judge which Maitland noticed.² In fact he regarded it as a virtue provided it was not carried to 'unbecoming and indecorous lengths'.³

No serious quarrel however took place between the Judges and Collectors, in spite of a situation which had potentialities for such conflict, either on account of a competition in the Service, or a clash of duties. Several factors contributed to bring about this comparative

¹ See memorial of S. Tolfrey, 21 November 1803. C.O. 54, 13. Part of the dislike for judicial office arose on account of the fact that North attempted to keep Civil Servants appointed as Judges permanently in those places. Besides, the Collectors enjoyed commissions while the Judges were not allowed fees for themselves. It was also likely that during the early days a Collectorship provided more opportunities for private trade.

² Maitland to Camden, 19 October 1805. C.O. 54, 18.

³ Ibid.

harmony. Firstly, the practice grew up of giving precedence in the province to the more senior Civil Servant, whether Judge or Collector. Secondly, the nature of the duties entrusted to them, as well as the fact that they were transferable from one to another, made the offices less antagonistic to each other than would have been brought about by a strict separation. Thus while the Collectors performed functions of a judicial nature, the Judges were from time to time called upon to participate in executive duties either singly or in various committees. Lastly, as the head of the executive the Governor exercised disciplinary control over the Civil Service as a whole, irrespective of office. Besides, the supervision over the civil jurisdiction of the Provincial Judges rested with a Court over which the Governor presided, although in criminal matters both Collectors and Judges were liable to judicial censure by the Supreme Court. The fact that ultimately both the Collector and the Judge held allegiance to a common head also prevented the two offices from being too antagonistic to one another. This was, as we have seen, one of the grounds on which Maitland objected to the judicial reforms of 1810.¹

The more numerous class of judicial officers in the provinces were the Magistrates. Perhaps having the ^Magistracy of England in mind, and in order to make the authority of the new rulers felt in the

¹See p. 80.

country, North conferred the powers of Magistracy on a large number of European officers, civil and military, who held other appointments.¹ Some of them were designated Sitting Magistrates, as North considered it expedient to have persons charged with the more regular duty of watching over the police and giving daily attendance to it.²

The establishment of Crown Colony rule led to further changes. By stipulating that inferior offences should be tried by the Justices of the Peace and Magistrates, the Charter of Justice gave an important direction to the development of the Magistracy. The establishment of the Civil Service brought about the tendency to remove military officers from the exercise of Magisterial duties. The office of Sitting Magistrate began to have a separate and independent existence. It was given mostly to persons displaced by the Civil Service, some of whom were Dutchmen. They were sent to areas where there were no Civil Servants, and where, it was supposed, the inhabitants required the presence of a Magistrate.³

When Maitland arrived, perhaps on account of some confusion that prevailed, he laid down that no one was to exercise the powers of Magistracy without a warrant from him.⁴ As we have already noticed

¹ See Proclamation, 30 July 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 50-53.

² Proclamation, 25 June 1802. Ibid., 61-62.

³ Arbuthnot to Sullivan, 15 June 1803. C.O. 54, 11.

⁴ Regulation VIII, of 1806. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 85-86.

he appointed all Collectors and Assistant Collectors to be Justices of the Peace and conferred on them the powers of Magistracy.¹ At the same time the number of Sitting Magistrates was increased. They were sent to the interior of the country with the declared intention of reducing the influence of the Headmen.² Most of the Sitting Magistrates thus appointed were Dutchmen.

This increase was not much liked by the Colonial Office which raised the fear that it would lead to dissatisfaction among the Mudaliyars, and also result in an increase of expenditure.³ In reply Maitland expressed no fears about the Mudaliyars, while on the question of expenditure he put forward a dangerous doctrine. He argued that the Magistrates had 'netted' enough to pay their establishment charges and gave the Colonial Office the assurance "that where an inferior Magistrate did not net a revenue to Government independent of his salary, such Magistrate's situation should immediately cease".⁴

Subsequent to Maitland's period the offices of Sitting Magistrate increased in number. At one stage there were about twenty eight of them dispersed in different parts of the country.⁵ The need for economy felt during later years reduced the number to about eighteen. By the

¹See p. 143.

²Maitland to Windham, 28 February 1807. C.O. 54, 25.

³Castlereagh to Maitland, 29 February 1808. C.O. 55, 62.

⁴Maitland to Windham, 20 September 1806. C.O. 54, 22. Also, Maitland to Castlereagh, 21 August 1808. C.O. 54, 29.

⁵See schedules of fixed civil establishments up to 1820.

end of our period of study Magistrates were stationed at Colombo, Kalutara, Panadura, Negombo, Balapitimodera, Matara, Tangalle, Hambantota, Galle, Mullaitivu, Point Pedro, Mallagam, Kayts, Chavakachchēri, Jaffna, Valigama, Poneryn, Kalpitiya. Of these, the Magistrates at Colombo and Jaffna were usually Civil Servants, while the rest were Dutchmen. On the occasion of one of the increases that took place during the time of Brownrigg, the Colonial Office repeated Maitland's principle, and informed the Governor that they would be sanctioned only if the increase of revenue was sufficient to cover their expenses.¹ Brownrigg therefore found it necessary to point out the dangers inherent in such a principle. He pointed out that a needy man obtaining the situation of a Sitting Magistrate under any idea that its permanency would depend on a collection of fees and fines, would instead of being the mediator and reconciler of disputes, consider it to be his object to see that they would end up in cases and fines which would enrich the coffers of the Court.² The establishment of the Magistrate consisted of a native interpreter, with or without the rank of Mudaliyar or Muhandiram, and a Secretary who was also a Dutchman.

The fact that Dutchmen predominated in this field of employment brought to the office of Sitting Magistrate a badge of inferiority in

¹Bathurst to Brownrigg, 23 January 1813. C.O. 55, 62.

²Brownrigg to Bathurst, 1 August, 1813. C.O. 54, 48.

the minds of the Civil Servants as well as the native inhabitants. The Civil Servants showed a marked reluctance to be associated with what the inhabitants called the 'Dutch Magistracy'.¹

The Magistracy was more particularly meant to control the police of the country. North gave the Magistrates the power to apprehend persons, sending them to prison or releasing them on bail, taking information and committing them for trial before the competent courts.² Maitland found the Magistrates exercising these powers without a proper degree of definition, with the result that in certain districts many people had been confined for months without any information being lodged or proceedings being taken against them.³ It was therefore laid down that committals were not to take place unless a well grounded suspicion existed about the guilt of the person on the information of one or more persons taken upon oath.⁴ A person had to be confined to prison or released on bail within three days of arrest, the prisoner being sent to the Fiscal in case of imprisonment. The Magistrate was given the power to search suspected persons and property, and in greater crimes where a positive suspicion prevailed, and where the offender

¹See p. 65.

²Proclamation, 30 July 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 50-53.

³Regulation VIII, of 1806. Ibid., pp. 85-86. Also, Maitland to Camden, 28 February 1806. C.O. 54, 21.

⁴Regulation VIII, of 1806. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 85-86

had absconded, to have the property under sequestration.¹ They were required to keep copies of the information taken and to forward them to the competent courts, and the Fiscal.

As police officers the Magistrates were immediately in charge of the native policemen called Police Vidānas in the rural areas, and constables in the principal towns.² This control was however exercised in subordination to the Collectors and the Provincial Judges. The Magistrates were called upon to perform various duties, some connected with the police, but others only remotely connected with it. Thus several regulations of this period required some of the Magistrates to act as the licensing authority for goldsmiths, silversmiths, brass founders, gambling houses, butchers, fishing boats, bakeries, etc. In the towns the Magistrates performed the duty of enforcing cleanliness, extinguishing fires, regulating the building of houses.³ It should also be noted that the office was at times combined with that of Custom Master or Assistant Custom Master.⁴

In addition to their duties of a police and an executive nature, the Magistrates were called upon to act as Judges in small civil and criminal cases. In fact they became another link between the executive

¹Regulation VIII, of 1806. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 85-86.

²See Regulations V, VI, and VII of 8 May 1813, VI, of 22 July 1815. Ibid., pp. 91-93, 149-155, 183-185.

³Ibid. Also XI, of 5 August 1806, III, of 5 February 1814, VI, of 22 July 1815. Ibid., pp. 89-90, 169, 183-185.

⁴See schedules of fixed civil establishment for this period.

and the judiciary. North gave to some of the large number of Magistrates that he created the power to hear and determine inferior and petty offences, other than those involving property, and punish them by fines up to 10 rix-dollars, and by whipping up to 50 strokes.¹ Subsequently they were empowered to try and determine civil cases, excepting those over land, where the sum or matter in dispute did not exceed 50 rix-dollars.²

These powers were enlarged during the time of Maitland. In criminal matters the powers of punishment were increased to fines not exceeding 50 rix-dollars, imprisonment at hard labour not exceeding two months, and whipping not exceeding 50 lashes. They were given a civil jurisdiction over all cases of whatever nature, excepting those concerning the revenue, where the sum or matter in dispute did not exceed 100 rix-dollars in value.³ Maitland believed that such an extension of powers and jurisdiction would enable all small cases to be decided on or near the spot, thereby reducing the influence of the Mudaliyars.⁴ Subsequently, some of the Magistrates resident in the principal towns were given the power of punishment by fine not exceeding 100 rix-dollars, by imprisonment not exceeding three months, and by whipping not exceed-

¹Proclamation, 30 July 1801. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 50-53.

²Proclamation, 10 November 1802. Ibid., p.64.

³Regulation I, 19 November 1805. Ibid., p.80.

⁴Maitland to Windham, 28 February 1807. C.O. 54, 25.

ing 100 lashes. Their civil jurisdiction was extended to cover suits, excepting those over revenue, where the sum in dispute did not exceed 300 rix-dollars.¹ Though at first Magistrates were generally excluded from the trial of revenue cases (perhaps on account of the fact that many of them were Dutchmen), Maitland took into his hands the power to appoint any of them to try them.² On account of the special powers given to the Collector, which we have already noticed, the revenue jurisdiction thus given to the Magistrates was much subordinated to the interests of the executive.³ The special duty of these revenue Magistrates in fact became the enforcement of the regulations passed from time to time for the protection of monopolies and other branches of the revenue.

The inferior and semi-judicial nature of the office of Magistrate made his position more difficult than that of a Provincial Judge. The conflicts between the executive and the judicial heads over the control and supervision of judicial officers have already been noted.⁴ These conflicts are an index to the difficult conditions under which the Magistrates were called upon to perform their functions. On the one hand they could be criticized by the Supreme Court for lapses in their judicial functions, while on the other hand they were liable to the censure of the Governor for disregarding the interests of the executive. These

¹See Regulations V, 26 July 1808, XV, 28 November 1812, XII, 26 June 1813, Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 114-115, 146, and 156.

²Regulation VII, 9 September 1809. Ibid., p.121.

³See p. 146.

⁴See p. 63.

difficulties are noticeable in a case that cropped up in 1818. In this year a complaint was made to the Sitting Magistrate of Negombo by a burgher family that their servant was taken away forcibly by a Mudaliyar and his men. The Magistrate held an inquiry and committed the latter for trial before the Supreme Court. There was no doubt that there were sufficient grounds for a trial, for when the case was referred to the Advocate Fiscal he held this view. The Collector of Colombo however objected to the manner in which the Magistrate had performed his functions, as it involved an action against a Headman supposed to be acting under his orders.¹ He maintained that the proper mode would have been to communicate with him first. He was supported by the Commissioner of Revenue, who held that the Magistrate had been endeavouring to set up his authority in opposition to that of the Collector, and that he certainly ought to have reported the conduct of the Mudaliyar instead of taking a strict legal line.² The Deputy Secretary on behalf of Brownrigg wrote to the Magistrate disapproving of his conduct in exercising his jurisdiction with a disregard for the convenience and interests of the Government, and finding him guilty of bringing into contempt the authority of the Collector.³ The Magistrate was dismissed while the Supreme Court helplessly looked on.

The fact that the High Court of Appeal at the centre of Government did not have jurisdiction over cases under £30, or 300 rix-dollars, in

¹Deane to Boyd, 14 April 1818. C.O. 54, 71.

²Boyd to Rodney, 16 April 1818, C.O. 54, 71.

³Lusignam to Tranchell, 18 April 1818, C.O. 54, 71.

value led to the creation, in 1809, of provincial courts of appeal. By legislative enactment the Governor took into his hands the power to constitute courts called the Minor Courts of Appeal at suitable stations. There were usually four of them at Colombo, Jaffna, Trincomalee, and Galle. They were to consist of two or more principal Civil Servants or other suitable persons available at such stations. They were so near civil appeals (excepting those touching the revenue) below the amount appealable to the High Court of Appeal.¹ It was soon found that the appeals from the Provincial and Magistrates Courts were too numerous and that the Minor Courts of Appeal could not cope with them. It was therefore decided to limit the right of appeal to these courts. Enunciating the doctrine that the right of appeal in cases of trifling value serves only to encourage petty litigation, it was laid down that appeals from the Provincial Courts would be limited to cases over 200 rix-dollars in value, and those from the Magistrates Courts to 25 rix-dollars in value. In land cases however appeals were to be allowed irrespective of the amount in dispute.²

The administrative structure described in the foregoing pages was in many ways a superstructure. Below this were the remains of an indigenous structure consisting of Headmen of varying rank. It provided the Government with an essential link with the people. It generally

¹Regulation V, 31 July 1809. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 118-119.

²Regulation IX, 17 August 1814. Ibid., p.172.

provided social stability, though perhaps at the expense of social change. It is a clue to the question how a body of Civil Servants, foreign to the country, ignorant of its customs, social values, and generally ignorant of its languages, were able to carry on the administration. Maitland was perhaps not exaggerating when he observed that the power of the Headmen "approximates so much to a perfect Imperium in Imperio that in truth the real Government of the island is more that of the Modeliers [sic] than of the British Government...."¹

The social and political stability which the system of Headmen provided is best seen from the consequences that followed the attempt to replace it with a hierarchy of Malabar officials. The result was confusion and discontent leading to open revolt, as Stuart had anticipated.² The De Meuron committee, which looked into the ways and means of restoring order in Ceylon recommended that this system should be re-established.³ In particular, the committee recommended the re-appointment of the Mudaliyars, who were to be invested with judicial power in lieu of that exercised by the farmers of revenue. They were to determine in the first instance all disputes and civil causes between the native inhabitants, or between them and the farmers of revenue.

¹Maitland to Camden, 19 October 1805. C.O. 54, 18.

²See p. 45.

³Proceedings of the De Meuron Committee, 16 August 1797. C.O. 55, 2.

They were to be the channel of communication for all orders from the Government to the districts, excepting those on the subject of revenue. Each Mudaliyar was to be held responsible for the police and good regulation of the district presided over by him. The committee recommended the payment to them of monthly salaries, till such time as the old system of tax free land grants was re-established.¹

All the members of the committee agreed that the restoration of the Mudaliyars was the surest means of restoring order. Besides De Meuron held the view that the Headman system was a good means of providing the country with a police system without much expense.² Agnew saw in it the means of providing a permanent barrier for the inhabitants against the oppression of the farmers of revenue, and a means of obtaining justice independent of the revenue officers. As such, though a few Mudaliyars had already become renters he thought that they should be considered as exceptions.³ Though Andrews agreed to the re-appointment of Mudaliyars he held the view that their appointment and removal should be vested in the Superintendent of revenue, and that all orders to them should be given in his name. He maintained that if the Mudaliyars were appointed independent of the Superintendent of revenue it would be a sure

¹Proceedings of the Meuron Committee, 16 August 1797. C.O. 55, 2.

²Minute, 16 August 1797. C.O. 55, 2.

³Minute, 16 September 1797. C.O. 54, 2.

means of creating dissensions and parties among the inhabitants.¹

The Madras Government was more in agreement with the views expressed by De Meuron and Agnew.

"By vesting the Modeliars [sic] with all the authority that may be deemed advisable to intrust to the superior native servants," wrote the Madras Government, "you confide power to men who are remarkable for the value they set upon their situations, who have a thorough knowledge of the disposition, prejudices, and customs of the people, to whose authority the inhabitants are in the habit of submitting, and whom ancient usage has taught them to respect".²

The Madras Government ordered the restoration of the Mudaliyars.³ This was carried out by the Proclamation of 3 July 1798.

At first North was very much in agreement with one committee concerning the importance of the Headman system.

"The class of Modeliars [sic] who are regarded as the nobility of the country," he wrote, "are all Christians and occupy very inferior posts of police, revenue, and justice, in the island with the perfect goodwill of the inhabitants, who are so much attached to them that their degradation by the Malabar Dubashes was one of the principal causes of the discontent of the people."⁴

But soon he too became suspicious of the 'nearly unlimited' authority of the Mudaliyars, especially in commanding the services of the people, and spoke of a necessity of defining their authority.⁵ The good relations

¹Minute, 16 September 1797. C.O. 54, 2.

²Revenue Department to De Meuron Committee, 10 May 1798. Wellesley MS 13866.

³Hobart to Committee, 10 October 1797. C.O. 55, 2.

⁴North to Mornington, 27 October 1798. Wellesley MS 13866.

⁵North to Court of Directors, 26 February 1799. C.O. 54, 1.

subsisting between North and the Mudaliyars, especially the Maha Mudaliyar, made him confident of carrying through some reforms. The establishment of the Civil Service on an exclusive principle took him in the same direction, for it brought about a need to assert, in a much greater manner, the superiority of the European officials.

His reforms aimed at reducing the number of Headmen, resuming the accommodessans and paying salaries instead, and reducing discretionary power which he said led to abuse of authority.¹ The appointment of a large number of European Magistrates was intended to reduce the judicial powers of the Mudaliyars. With the abolition of the Civil and Landraad courts the Mudaliyars were not associated with the new Provincial courts that were created in their place. These reforms appear to have been carried out without much opposition. North explained it away by stating that "a settled and ample income, a dignity secured and increased by the reduction of the number of individuals who enjoyed it, and above all the certainty of not being able to carry on their old system of capricious discretionary oppression, under a Government more vigilant and a people less servile than they were formerly accustomed to, has entirely reconciled them to this necessary and temperate reform".² It however appears that North was misjudging the situation. It was difficult to imagine that a people who had revolted with the Headmen a few

¹North to Court of Directors, 10 February 1801. C.O. 54, 3.

²North to Dundas, 16 March 1802. C.O. 54, 6.

years back were not less servile than formerly. It is equally difficult to think that the civil officers who were new to the country had so soon developed a degree of vigilance which prevented oppression and reconciled the Headmen to the new changes. It is of course true the military power would have encouraged submission. But it was not quite accurate to say that the payment of salaries, or the reduction of numbers, gave the Headmen a new dignity which the land that they formerly enjoyed could not provide. The absence of opposition may have been partly due to the good relations between North and the Mudaliyars. But it appears that it was also due to the fact that whatever legal changes were brought about by North's reforms they were not as fully effective in practice. The Headmen seem to have been little affected by the changes and in particular their social position remained unchanged.

Lord Hobart, now the Secretary of State, seems to have correctly anticipated what actually happened.

"The Moodeliars [sic]," he wrote, "were a body of men, who from various circumstances had obtained an important influence over the minds of the inhabitants, who had a thorough knowledge of their prejudices, customs and dispositions, and who, being held in the highest veneration and respect, had in fact become an important link of connection between the Government and the people: by reducing this establishment in the manner you propose you lower the condition of those whom you retain in the service, and relinquish that security for their attachment and fidelity, which was derived from the value they were at all times known to set upon their situations, and inevitably render them not only less disposed, but less capable of being useful instruments of Government."¹

¹Hobart to North, 1 May 1802. C.O. 55, 61.

The accuracy of this judgment is borne out by an examination of the contemporary situation. The reduction of the number of Headmen was not in practice as effective as North expected. It partly explains the existence of a group of self-constituted Headmen which Maitland noticed.¹ The confusion thus created was only remedied by regulation VI of 1809 drawn up by Maitland, which was styled "a regulation for ascertaining the persons holding the employ or title of Native Headmen in the Sinhalese districts, and for preventing the assumption of the authority of title of a Headman by persons not duly appointed for that purpose".² By this regulation provision was made for the issue of new acts of appointment to the Headmen after the examination of old acts. Only those who received such new appointments would be considered as authorized Headmen, and provision was made for the punishment of all those who assumed the rank and title of Headmen without such an appointment.³ Explaining the promulgation of this regulation Maitland observed that the abuses that it intended to correct were of a "flagrant and extensive nature", and that it put an end "to the assumed power of a number of self-constituted Headmen hardly credible, and that when it adds to the power of real Headmen it has relieved the people from a system of most vexatious oppression".⁴ Similarly, the removal of the Mudaliyars

¹Maitland to Castlereagh, 25 January 1810. C.O. 54, 37.

²Regulation VI, 1808. C.O. 54, 37.

³Ibid.

⁴Maitland to Castlereagh, 25 January 1810. C.O. 54, 37.

from the legal exercise of judicial powers did not entirely prevent them from continuing to enjoy such powers. Maitland for instance observed that the Mudaliyars derived considerable power and influence by deciding 'arbitrarily' on differences and disputes between native inhabitants.¹ The resumption of accommodessans and the abolition of service tenures upset the traditional balance of rights and duties, without something else equally binding taking its place, and also without undermining the social position of the Headmen to any appreciable extent. The Agent of Revenue and Commerce at Puttalam observed the change that had taken place when he wrote that "before the Accommodessans were resumed each Coral [sic] had four Lascoryns [sic] and some petty officers called Vidans [sic] and Atu Corals [sic] to assist him and all the people were obliged when called upon to carry Olas to any part of their Pattu. Since the first of May the inferior officers have in general murmured at being obliged to serve without some compensation, and the people have positively refused to act as Lascoryns [sic] unless paid as such."² This statement suggests two possible ways in which North's measures would have brought about social disorder. There may have been genuine instances which some people refused to serve, when called upon to do so, on the ground that they no longer possessed service lands. It is also probable that the Headmen now found ready excuses for the non-performance of their duties. Either way it brought about a general tendency for the

¹Maitland to Johnston, N.D. 1809. C.O. 54, 31.

²A. Johnston to Arbuthnot, 24 October 1802. C.O. 55, 37. Korala, Atu Koralas Vidana and Lascarin. Olas were letters written on the leaves of a palm tree. They were still in use for communicating with Headmen.

Headmen to be less attentive to their duties.

These developments resulted in the breakdown of the village organization, and partly account for the increase of crime and general disorder which Maitland noticed. Gangs of robbers went about their activities undetected. It was partly this confusion that led Maitland to re-establish the service tenures. It was also the same confusion that made him introduce an element of compulsion by regulation XII of 1806. It was laid down here that all Headmen of whatever rank would be strictly held responsible for seeing that no illegal combinations existed within their districts without being immediately reported by them to Government. If it were found that such combinations existed, of which the Headmen had not given information, such Headmen were to be dismissed from their situations and punished by fine and imprisonment. "It is impossible to suppose from the nature of the Government here," wrote Maitland, "that any such combination of the kind could have existed without their knowledge, I might almost say, without their positive authority...."¹

It is therefore clear that, as Hobart had anticipated, the Headmen were now less disposed, and less capable of being useful instruments of Government. Their capacity to do good had been reduced by the removal of their legal judicial powers, while their social position which remained undiminished, together with the freedom gained from the confusion in the traditional rights and duties increased their capacity to do evil. It is

¹Regulation XII of 1806. C.O. 54, 25. Maitland to Windham, 28 February 1807. C.O. 54, 25.

therefore not surprising that Maitland saw the evils of the Headman system in a much darker light than North. He described the control and power vested in the hands of the Mudaliyars as the 'greatest evil'.¹

Maitland clearly saw the factors which gave this power and influence to the Mudaliyars. One was their social position, which he said had been strengthened by the appointments made by North. He maintained that the selection of Mudaliyars made by North on the advice of his Maha Mudaliyar had "thrown the whole of the power of the Mudaliyars, or in other words the real and efficient authority over the whole of the Sinhalese part of His Majesty's dominions in this island, into the hands of the Maha Mudaliyar of this place. His family uniformly enjoys every place of power and emolument in the districts of Coombo, Galle, and Matara, and in fact to all intents and purposes carry on a distinct and separate Government of their own."²

Maitland also recognized that the Civil Service had failed to keep a check on the activities of the Headmen to the extent that the Government desired. He attributed it to the "natural disinclination from the unhealthiness of the interior, for our Civil Servants to interfere in the country".³ He would have been nearer the truth had he stated that the

¹Maitland to Windham, 28 February 1807. C.O. 54, 25.

²Maitland's instructions to the Collector of Matara. N.D. 1806. C.O. 54, 25.

³Maitland to Johnston, N.D. 1809. C.O. 54, 31.

Civil Servants were very much dependent on the Mudaliyars and other Headmen, which in turn increased the power and influence of the latter. The Collectors were dependent on the Mudaliyars for the information about their districts. A good part of the information available to them was what the Mudaliyars chose to tell. They were dependent on Headmen to carry out all types of orders into effect. Inquiries into complaints by the people were often made by the Headmen. Similarly the Headmen were in immediate charge of the duty of summoning the people for various services. During the time when private trade was permitted some of the Collectors were even dependent on the Mudaliyars for the furtherance of their trading transactions. It was such dependence which permitted Maitland to tell the Collector of Matara without the fear of offending him, "that the whole of your district may be with truth said to be under the indirect, if not the positive control of the Modeliars [sic] they being the Government servants".¹ The position of the other provincial officers was not very different. The Magistrates required the assistance of the Headmen to execute their police and judicial functions. Ignorance of the native languages made all officials dependent on interpreters, whose number and power thereby considerably increased. The functioning of some special departments were also very much dependent on the Headmen. For instance, regarding the functioning of the Cinnamon department Brownrigg observed that "the efficient realization of this important part of the

¹Maitland's instructions to the Collector of Matara N.D. 1806. C.O. 54, 25.

revenue very principally depends, whatever pains or talents may be employed by the Gentlemen in charge, on a few Headmen of the Challia caste Through those Headmen alone by long established custom all orders to the peeling classes must pass, and they are in consequence necessarily entrusted with the assembling and distribution of the peelers, as well as the payment of hire."¹ Similarly with the exception of the Post Master General, the rest of the postal services were at first carried out by the Mudaliyars and the men under them.

The social position of the Headmen, as well as the dependence of the Civil Service on them, placed the Government in a dilemma. It is clear that all the Governors of this period were dissatisfied with the extent of control and influence which the Headmen were able to wield. Like North, Maitland held that the limitation of their powers was 'indispensably necessary'.² He was conscious of the political threat to the British power that it brought about. He also held that it operated as a "paralysing medium between the Government and the people".³ It is equally clear, however, that the Governors were in a sense helpless, and that certainly they had to be cautious. Maitland for instance declared that the reduction of the powers of the Mudaliyars was a matter of extreme delicacy, and that it must be done, if done at all, with great caution

¹Brownrigg to Bathurst, 4 March 1813. C.O. 54, 46.

²Maitland to Johnston, N.D. 1809. C.O. 54, 31.

³Ibid.

and by slow degrees.¹

It was this difficulty which made Maitland conceive of indirect, rather than direct, methods to reduce their power and influence. It is true that he continued the changes already initiated by North. The payment of salaries instead of allotting tax free lands was continued as it was considered 'wise and politic' in that it tended to diminish their uncontrolled influence in the interior of the country.² The Headmen were also not re-invested with the judicial powers taken away by North. In addition, however, Maitland devised a policy of divide and rule. He worked to derive maximum benefits by exciting old feudal jealousies, and by creating new ones. This policy is clearly seen in several of the measures adopted by him.

Observing that part of the powers of the Mudaliyars rested on their kinship with one another he attempted to excite jealousies between families. "The policy therefore upon the whole, I wish you to observe with regard to the Modeliars [sic]" he told the Collector of Matara, "is 1st to excite as much jealousy as you possibly can, between the Maha Modeliar [sic] of Matura [sic] and this place, and 2nd, that you keep alive the system of jealousy that must prevail in the district itself against the Maha Modeliar [sic] of Matura [sic]"³ However, he warned the Collector

¹Maitland to Camden, 19 October 1805. C.O. 54, 18.

²Maitland to Windham, 26 February 1806. C.O. 54, 20.

³Maitland's instructions to the Collector of Matara, N.D. 1806. C.O. 54, 25.

that the success of this policy would depend on extreme caution. Similarly he attempted to create jealousies between the Mudaliyars, who were generally Christians, and the heads of the Buddhist religion, by maintaining friendly relations with the latter. This, however, excited jealousies in an unexpected quarter too. The Missionaries protested to the Colonial Office that Maitland was undermining the spread of the Christian religion. This compelled the Colonial Office to call for the observations of Maitland.

"It is surely rather a perversion of any doctrine I have ever held on the occasion," wrote Maitland, "to insinuate that because I wish to diminish the political influence of the Modeliars [sic]/profess ... What I complain of his, that this political consequence is now, and has ever been, attended with prejudicial effects; and if this complaint is well bottomed and founded I would then wish to ask whether the Modeliars [sic]/ being of one religion or another, alters in the smallest degree the evil of which I complain."¹

The death of the Maha Mudaliyar of Colombo in 1809 was made by Maitland an occasion to assert some principles which he wished to follow in the appointment of native officers, and which would again enable him to excite family jealousies. In selecting a successor he was prepared to recognize only the one positive rule that he should be a Sinhalese native of high family. He refused to recognize the claims of the male heir of the person deceased, and also of the second Mudaliyar, intending to break through rules of heredity and seniority - rules "if not positive in themselves, at least constantly attempted to be held out by the natives as such".²

¹Maitland to Castlereagh, 4 March 1809. C.O. 54, 34.

²Minute in Council 30 November 1809. C.O. 54, 37.

Several measures were also adopted with the aim of building up a counterpoise to the power and influence of the older families. Regulation VI of 1806 created a class of Headmen called the Police Vidānas, who were to be appointed by the Collectors and to be vested with powers of search and arrest.¹ Maitland told the Collector of Jaffna that "the Police Vīdaans [sic], if well managed.... are the best possible checks which you can have of the conduct of the Monigars [sic]"² "Be particular in the men that you appoint Vīdaans [sic]", he wrote, "make them give you weekly reports of all that passes in their divisions; throw all the power you consistently can into their hands instead of into those of the Monigars [sic]; appoint the police Vīdaans [sic] as much as you can out of the class from which School Masters were formerly chosen."³ These instructions clearly show that by appointing Police Vidānas Maitland intended to counterbalance the power of the regular Headmen. The re-appointment of the School Masters as agents of Government, whose position was further strengthened by making them in certain places notaries and sub-distributors of stamps, was also intended as a means "to come at a more thorough knowledge of the real state of the interior".⁴ Similarly Maitland considered North's policy of appointing Sitting Magistrates successful because this too created a class of

¹Regulation 6 of 1806. C.O. 54, 25.

²Maitland's instructions to the Collector of Jaffna N.D. 1806. C.O. 54, 25. Maniagār was a term used to describe the Headmen of the Tamil provinces, of the rank of Mudaliyar.

³Ibid.

⁴Maitland to Camden, 19 October 1805. C.O. 54, 25.

officials, who were useful to undermine one of the greatest sources of power of the Mudaliyars. This was the practice continued by the latter of arbitrating in disputes between the native inhabitants.¹ He therefore increased the number of Magistrates and appointed them to the interior parts of the country.

It is clear that though Maitland enunciated a strong policy, he was extremely cautious in carrying it out. In reply to the fears raised by the Colonial Office that serious consequences might flow from his policy he replied that however strongly he was convinced of the principle, he would not carry it into effect in a manner "to commit the integrity, or to hazard the tranquillity of His Majesty's Government".² Besides, the success of his policy very much depended on the activity and alertness of the Civil Servants in charge of the provinces. It was the realization of this fact which partly accounts for his insistence on circuits and a study of the native language.³ But in both these spheres he was not as successful as he wished. The result was that the policy towards the Headmen was not as effective as he intended. This is seen from the observations of the Chief Justice, Alexander Johnston that the Collectors were generally obliged to appoint Police Vidānas, on the recommendation of the chief Headmen, who would naturally put forward men in

¹Maitland to Johnston, N.D. C.O. 54, 31.

²Ibid.

³See p. 151.

whom they were interested.¹ This development was the exact opposite of the intentions of Maitland. It is also clear from the observations of Johnston that in certain places the newly appointed Police Vidānas were not much respected and that several cases came before him where resistance was offered to them, some being badly wounded or killed.² Johnston attributed it to bad selection and to ignorance of the law, while Brownrigg attributed it to a contempt for the law.³ It perhaps showed a contempt for change which was bound to appear in such a period of transition. A remedy for these difficulties, suggested by the Chief Justice, was that the Collectors should be required to appointas Vidānas only such men recommended by the Magistrate of the district.⁴ But the necessity to maintain the balance of power and authority between the Collectors, who were Civil Servants, and the Magistrates, who were generally of Dutch origin, seems to have prevented the implementation of this recommendation. Brownrigg, in whose time the question was raised, observed that the "proposed measure of making such recommendations mandatory on the Collectors would be a radical change in the general management of the district, withdrawing from the Government which the Collectors represent, the appointment of a great body of Native Headmen, and raising a new power in the country hitherto unknown in any political view, and possessing a power of control over the Collector not consistent with that

¹ See Brownrigg to Liverpool, 22 September 1812. C.O. 54, 44.

² Ibid.

³ Ibid.

⁴ Ibid.

authority which the interests of the revenue make it necessary to place in his hands".¹

After the period of Maitland's Governorship no further ideas of plans of reform originated with the local Government. It was partly a recognition of the difficulties which must have been prevalent in reforming a system bound up with the interests of the most powerful group of native inhabitants. The local Government would also have been reluctant to disturb a system on which the Civil Service was much dependent. Any radical plans of reform could hardly be expected amidst the reluctance and inability to disturb radically the economic and social set-up so closely tied to the Headmen system, and the unwillingness to trust local men with original power. The public service was, as we shall see later, already out of proportion to the revenue of the country, and this factor may have prevented the occurrence of any ideas of reform which involved additional expenses. The sense of urgency with which North and Maitland felt the need for reform seems to have also lessened during the second and third decades of the 19th century. North and Maitland governed at a time when the transfer of power to the new Civil Service was being carried out, accompanied perhaps by a certain amount of dissatisfaction on the part of the Headmen with the loss of certain privileges and powers which they had previously enjoyed. It was generally a period of re-adjustment of the relations of the new and the old rulers. The second and the

¹Brownrigg to Liverpool, 22 September 1812. C.O. 54, 44.

third decades brought about more certainty in these relationships. The original executive and judicial authority exclusively given to the Civil Servants and other Europeans brought them the necessary authority and position in the country. The Headmen as a class gradually began to be reconciled to their loss of power and were more transformed into a class of officials who carried out the orders of the European superiors. After a few years of patronage exercised by the new Government cordial relationships generally developed between the Government, the Civil Servants and the Headmen. Even during the time of a rebellion in the Kandyan Provinces, hardly a doubt was expressed about the allegiance of the low country Headmen. All these factors may have given the local Government a sense of satisfaction with the new position occupied by the Headmen in the administrative set-up. Barnes perhaps expressed this satisfaction when he took his stand against reformist tendencies that came from outside. "It makes no difference," he wrote, referring to the inferior and superior Headmen, whether they and their superiors are called Lords, Lieutenant Governors of Countries, High Sheriffs, Justices of the Peace, &c or Disavas, Rattamahatmayas [sic] Ratturales [sic] Modeliars [sic] Koralas Mohotales [sic] Mahandirams [sic]& - there must be persons in all countries to administer the laws and execute the public duties."¹

Far from originating any new plans of reform there was less enthusiasm, and also perhaps an inability, to carry forward the policies that were enunciated by North and Maitland. Thus a reluctance to displease the class

¹Barnes to Colebrooke, 10 September 1830. C.O. 54, 112.

of Headmen appears to have stood in the way of carrying forward the policy of reducing their number which North initiated. Even where reductions were carried out they were spasmodic and unconnected with any plan. When it was found convenient and desirable to suppress an office the usual practice was to wait till the death or retirement of an incumbent.¹

The reductions that were occasionally carried out did not alter to any great extent the basic structure of the Headman system prevalent at the advent of British rule.² The Maha Mudaliyars, Kachcheri Mudaliyars, Korālē Mudaliyars, Maniagārs, assisted by other inferior Headmen, continued to remain in their respective positions though with reduced powers. In fact the number of Kachcheri Mudaliyars increased with the increase in the number of Collectorates. There was hardly a change in the number of Korālē Mudaliyars. Reductions generally affected the inferior ranks of Headmen. The Mudaliyars of Kachcheries and Korālēs continued to be selected from the Farmer caste. Headmen belonging to other castes also continued their existence though with reduced numbers. The Fisher and Cinnamon castes in particular continued to have Headmen of the rank of Mudaliyar downwards. Single villages continued to be presided over by Vidānas generally belonging to the caste of the majority of its inhabitants.³

¹Horton to Goderich, 9 November 1831. C.O. 54, 114.

²See pp 21-24.

³See schedules of fixed civil establishments for the period. Also, Return of the duties performed by the several public officers under the Colonial Government of Ceylon. C.O. 416, 8.

The spasmodic reductions and changes however led to certain important tendencies. One was that reductions affected the caste or departmental Headmen much more than those presiding over territorial units, thereby giving a considerable accession of strength to the Farmer Headmen. The general practice was to do away with or reduce the Headmen of castes, which had ceased to perform useful functions or services to the State, and to bring the people belonging to these castes under the control of the territorial Headmen. The Fisher and the Cinnamon castes were the two least affected by this tendency. Though the collection of the fish tax and the conduct of the pearl fisheries were usually rented out, thus reducing the usefulness of Fisher caste Headmen, so far as the Government was concerned, yet this caste continued to enjoy the privilege of having Headmen of the rank of Mudaliyar downwards, perhaps because of the large number of people belonging to it.¹ These Headmen were dispersed throughout the districts in which this caste of people predominated. But as the petitions sent by the Fisher caste inhabitants indicate, reductions of fisher Headmen had also been occasionally carried out, thus bringing the people under the control of the Farmer Headmen.² By 1833 there were proposals to do away with these Headmen altogether or to transform them into custom house officials.³ The existence of the

¹See Horton to Stanley, 9 December 1833. C.O. 54, 131.

²Petition of thirty inhabitants of the fisher caste of Weligama, No. 138, N.D. 1829. C.O. 416, 29. Petition of 427 fisher inhabitants, 10 November 1830. C.O. 54, 131.

³Horton to Stanley, 9 December 1833. C.O. 54, 131.

cinnamon monopoly kept alive the usefulness of the Headmen of the cinnamon caste. A Mudaliyar was associated with the Superintendent of the Cinnamon Department and the orders of the latter, directed to the district Headmen of the caste, were conveyed through him.

The areas in which the cinnamon caste resided were divided into six divisions each under a Mudaliyar and other subordinate Headmen.¹

As we have seen, the European Superintendent was much dependent on these Headmen for the management of the monopoly.² Their importance diminished with the introduction of European Assistant Superintendents to manage the Government cinnamon plantations.³ They became almost completely useless to the Government from about 1829 with the abandonment of compulsory services to procure labourers and peelers for the department. Plans were therefore made to retire some of them with pensions and to bring the people of the caste under the control of the Farmer Headmen.⁴

The disposition of the Government to transfer Headmen who were less usefully employed to other spheres of public service brought about the tendency to attach some of them to the Government offices, both at the centre and in the provinces, and to the courts of justice, as inter-

¹Evidence of Rajapaksa Mudaliyar of the cinnamon department, 24 June 1830. C.O. 54, 145. Also Horton to Goderich, 16 July 1832. C.O. 54, 117.

²See pp 184, 185.

³See p. 116.

⁴See Horton to Goderich, 16 July 1832. C.O. 54, 117.

preters and translators. They came to be designated as Interpreter Mudaliyars or Muhandirams.¹

The reluctance to displease the class of Headmen made the Government allow some of them to continue with their titles sometimes with a small retirement allowance. They were called Titular Mudaliyars or Muhandirams and they continued to exist throughout the period of this study.² The existence of such a group would have naturally brought about some confusion. This is seen by the fact that as late as 1820 there appears to have been much uncertainty in the Tamil provinces as to the Headmen in actual office. In this year a regulation was drawn up similar to the one enacted for the Sinhalese provinces in 1809,³ to prevent the assumption of the authority or title of a Headman by persons not duly appointed for that purpose.⁴ This regulation noted the existence of abuses practiced by persons merely having the rank and title of Malabar Headmen.⁵

The patronage of the whole system was shared between the Governor, the Revenue Commissioner, and the Collectors. All superior Headmen were appointed by the Governor on the recommendation of the Collectors sent through the Revenue Commissioner. The latter either supported the nominations of the Collector or proposed another, assigning his reasons for

¹See schedules of fixed civil establishments of this period. Also Horton to Goderich, 21 November 1831. C.O. 54, 114.

²Ibid. See also Memorandum showing the amount of pay and allowances drawn monthly by the several district Headmen, 4 February 1830. C.O. 416, 8.

³See p. 130.

⁴Regulation XXIV, 14 December 1829. C.O. 54, 79.

⁵Ibid.

it, and the final decision rested with the Governor.¹ Inferior Headmen were appointed by the Revenue Commissioner on the recommendation of the Collector.² In the Sinhalese provinces the Maha Mudaliyars and the Mudaliyars appear to have been consulted in making inferior appointments, and they may have wielded much unofficial influence over them. In the Tamil provinces there were the remnants of an elective principle in operation. The Collector summoned the inhabitants whenever a vacancy occurred and obtained their opinion before submitting his recommendation.³ A knowledge of the English and native languages was considered as an essential qualification for a Mudaliyar of a Kacheri, but a knowledge of English was not considered important in the case of a Koralē Mudaliyar.⁴

The policy proclaimed by Maitland of making appointments strictly according to suitability does not appear to have been carried forward to any appreciable extent. In order to preserve the respectability of the office, a rank or station by birth and a certain amount of property in the district were considered requisite for an appointment.⁵ Consequently, the appointments of superior Headmen were generally confined to

¹Evidence of R. Boyd, 15 July 1830. C.O. 416, 7.

²Ibid.

³Ibid.

⁴Ibid.

⁵Ibid.

a few families. A greater amount of flexibility seems to have been prevalent in the appointment of inferior Headmen. Here the attempts to secure the patronage of the European officials, occasional dismissals, the disposition to overlook former families which held these offices, the limited field of employment open to the native inhabitants, the value and social status attached to these positions, all combined to bring about a peculiar form of competition, though it is difficult to determine the extent to which it prevailed. The usual mode of operation was for a person eyeing an office, and who was powerful enough to challenge a Headman in office, to attempt to win over the Government officials by various means, and especially by becoming informers against those in office.¹ In the Tamil provinces in particular each appointment left one party dissatisfied and desirous of accomplishing the dismissal of the successful individual.² This may have had the advantage of keeping the Headmen alert. But petitions alleging wrongful dismissal indicate the possible existence of a certain amount of factionalism, and instances where European officials had been misled by an opposing faction.³

The policy originated by North of paying fixed salaries to the Headmen was also not carried to its full extent. Till the end of our period

¹Several petitions dispersed in the volumes C.O. 416, 29-32 indicate the existence of such competition. For some instances see petitions 11, 25, 92, 102, 111, 120, of 1829 in C.O. 416, 29 and 151, 157, 171 of 1829 in C.O. 416, 30.

²Evidence of Boyd, 15 July 1830. C.O. 416, 7.

³See petitions referred to above.

of study only Headmen of superior rank in the Sinhalese provinces were paid regular salaries.¹ The original idea in paying regular salaries was to do away with the system of perquisites which had been attached to office. But neither were the salaries that were assigned adequate, nor were all the Headmen paid, to enable Government to put an end to them. Thus certain Headmen continued to draw recognized fees from the people,² while all of them derived indirect and unrecognized advantages by virtue of holding office.³ The Government also continued and even extended the practice of providing some of them with remuneration by way of commissions.⁴ The policy initiated by North of not investing the Headmen with original executive and judicial authority was consistently

¹ See schedules of fixed civil establishments of this period.

² The fisher caste Headmen for instance were entitled to a share of the fish caught by the fishermen. Similarly the Headmen of this caste associated in the pearl fisheries were entitled to certain perquisites. See Horton to Stanley, 9 December 1833. C.O. 54, 131. In certain districts Headmen were allowed to draw from the cultivators a share of the produce under the name of Huwandiram. See replies of the Collectors of Galle, Matara and Tangalle to a query by the Colebrooke-Cameron Commission. C.O. 416, 9. In certain Tamil districts Headmen who were charged with the duty of registering marriages, measuring land, and granting thombo extracts, were entitled to charge a fee from the people. See answers of Collectors to a query of the Colebrooke-Cameron Commission. C.O. 416, 9. Also, correspondence on the payment of the Headmen of the Maritime provinces, Horton to Stanley, 9 December 1833. C.O. 54, 131.

³ It was for instance well known, though not officially recognized that the Headmen derived indirect advantages from the system of compulsory services. See Horton to Stanley, 22 November 1833. C.O. 54, 130.

⁴ In the Tamil districts commissions were paid on the taxes collected directly. A practice developed of paying small commissions for serving the processes of the Courts. Police Vidanas were paid a commission on the stolen goods that were recovered. See Correspondence on the payment of the Headmen of the Maritime provinces. Horton to Stanley, 9 December 1833. C.O. 54, 131.

followed. Though, as we have seen, the Headmen continued to arbitrate in disputes between native inhabitants, the fact that the judicial decisions of the Magistrates and not those of the Mudaliyars had a legal sanction, compelled the inhabitants to seek the aid of the former whenever they required such legal sanction.

In their position of subordination to the European officials in the provinces, the Headmen continued to play an indispensable role in the administration. The Mudaliyars attached to the Kachcheries acted as the channel of communication between the Collectors on the one hand, and the inferior Headmen and the people on the other. They acted as the medium through which the orders of the Collector were sent out, countersigning them in some of the districts. Replies were similarly communicated to the Collector through the Mudaliyars. This did not, however, entirely prevent direct communications. These Mudaliyars were also in charge of the correspondence and the records in the native languages. They sometimes accompanied the Collector on circuit, interpreted to him, and settled small disputes, reporting to the former, cases which required further investigation.¹ The sale of revenue farms and direct collections wherever they were prevalent, were supervised jointly by the Collectors and the Mudaliyars. In general they acted as the chief advisers to the Collectors, whenever matters which involved local knowledge arose. The Mudaliyars of the Koralēs, and Headmen of similar rank in the Tamil pro-

¹Return of the duties performed by the several public officers under the colonial Government of Ceylon, C.O. 416, 8.

vinces, supervised in their respective divisions the execution of the orders sent out from the Kachcheris and the Courts of Justice. They superintended the pressing of the people for Government services, the collection of direct taxes and the execution of judicial processes. They were expected to be in general charge of the cultivation of their respective divisions.¹ The Muhandirams generally functioned as Assistants to the Mudaliyars in the performance of their duties. The Headmen below this rank were in charge of the actual execution of orders. They pressed the people for services, supervised working parties, assessed and collected direct taxes, and compiled lists of paddy fields and estimated their probable produce for the guidance of the revenue farmers and the Government when the taxes were farmed out, and carried judicial processes into execution.² The Headmen of castes, wherever they continued to exist, carried out the Government orders pertaining to the people of their respective castes, especially those relating to Government services.³ Though a separate set of Police Vidānas were created, Headmen of all ranks also acted as police officers. Many of these duties involved constant attendance, and some of them much travelling, time and expense.

The net result of these developments was a further partial transformation in the office of Headman from what it was at the advent of British rule. Certain feudal and traditional characteristics that had continued

¹Return of the duties performed by the several public officers under the colonial Government of Ceylon, C.O. 416, 8.

²Ibid.

³Ibid.

to surround these offices were much weakened though not entirely overthrown. Thus the loss of accomodessans reduced the capacity of the superior Headmen to support retainers on the old basis, though society continued to present a need for them. The loss of judicial power reduced the means of supporting their authority, while that authority continued to be indispensable to the Government. It also reduced their capacity to maintain the socio-economic order on which their authority rested. The existence of a much larger number of European officials in the provinces, with executive and judicial power concentrated in their hands, made the Headmen more vulnerable to attacks, especially by an opposing faction. But the close dependence of the Europeans on them, especially on those of superior rank, made them still much feared by the people. As one Magistrate observed, the people found that those to whom complaints had to be made were so far away from them in every respect while those against whom complaints were made were so near that if displeased they were capable of ruining them.¹ The very nature of the duties which the Headmen continued to perform as well as the social and economic position which they occupied, gave them some controlling influence over the people and the Government. Some Headmen were transformed into salaried officials while others were not. Inadequate remuneration made the former partially dependent on the old social and economic system, while those not remunerated at all were wholly dependent on it.

1 T. Farrell to Robert Arbuthnot, 5 October 1802. C. O. 55.37

This partial transformation may have worked towards a further loosening of the feudal and traditional bonds of rights and duties between the Headmen and the people. Already the Dutch commercial policy appears to have made the Headmen, through whose agency it was carried out, more speculative-minded and susceptible to change. Brownrigg noticed in 1814 that the Headmen had in them a more enterprising spirit than was found among the common people.¹ These tendencies may have been accentuated by the new changes in the system.

European officials of the day often saw the Headman system as something very oppressive. Coming from a country where society was undergoing rapid changes, it is likely that they misunderstood the relations between the people and the Headmen. For instance, it is likely that they misunderstood the custom of the country, which still survived, for the people, including the Headmen, to assist each other in the tillage of the soil.² It is also likely that changes in the Headman system as well as in the socio-economic order made the Headmen appear to be more oppressive in the minds of the people thus bringing about a dislike for what had been quite legitimate before. Thus a group of fishermen no longer saw any reason why they should pay fees to the Headmen of their caste when the others were paid salaries by the Government.³ Besides these factors,

¹Brownrigg to Bathurst, 22 September, 1812. C.O. 54, 44.

²Colebrooke Report upon the Administration. C.O. 54, 122.

³Petition of 58 fisher inhabitants, 27 October 1832. C.O. 54, 131.

however, it is generally true that, deprived of their service lands and made more dependent on the indirect advantages of office, less inclined to keep their rights within the traditional limits, less conscious of traditional duties and less capable of executing them, less conscious of having responsible power, more conscious of private profit, and under imperfect supervision from above, the Headmen became even more oppressive and less useful to the community than before.

The nature of their neglect of duty and of their oppression is seen by examining the broad groups into which the complaints generally fell. Firstly, it was alleged that the Headmen neglected their traditional duties towards agriculture in such matters as the maintenance of tanks, protection of crops from stray cattle etc.¹ This neglect of duty had taken place from Dutch times and is partly explained by the fact that the Headmen were not only less inclined, but (not having independent control over service labour) less capable of performing it. Secondly, there were complaints regarding the enforcement of the services of the people. The Headmen were charged with forcing the people to work free in their fields, with using their cattle for the same purpose, with taking a part of their produce and with exempting people from services either out of favour or for pecuniary considerations.² The frequency of such complaints was perhaps an indication of a further loosening of the old

¹Colebrooke Report upon the Administration. C.O. 54, 122.

²See Horton to Goderich, 20 May 1833. C.O. 54, Also, numerous petitions in volumes C.O. 4, 6 29-31.

society. It is likely that many of the people who complained no longer saw sufficient reason why they should serve the Headmen gratuitously, especially since the latter no longer paid sufficient attention to their agricultural needs. Besides, during the British period the Headmen appear to have enjoyed a much larger area of discretion in enforcing Government services. While the order requiring people to be sent for services came from above, the details were arranged by the Headmen who had necessarily a discretionary authority in selecting personnel. Formerly this discretion had been limited by the land tenures, the rights and duties attached to castes etc. which was recorded in the Thombos. When the British began to enforce services without reference to land tenures but according to what was vaguely termed as custom, and when the people were employed in new services to which they had not been liable before, sometimes without reference to caste, the area of discretion enjoyed by the Headmen was necessarily enlarged.¹ It is therefore likely that the Headmen gained more opportunities of acting according to personal inclinations. Besides, no new registers or thombos were formed by which the Headmen were to be guided in calling out the people. In certain districts the Headmen kept no record of their activities at all.² It is therefore likely that they gained better opportunities of acting according to their personal inclinations. In any case the whole system of services became more oppressive and part of the odium fell on the Headmen by whom they were enforced.³

¹Colebrooke, Report upon the compulsory services, C.O. 54, 145.

²Colebrooke, Report upon the Administration, C.O. 55, 122.

³See Colebrooke, Report upon the Compulsory Services, C.O. 54, 45.

Thirdly, there were complaints concerning the collection of taxes. It was said that when taxes were collected directly through the Headmen they frequently omitted names from the lists either through favour or for pecuniary considerations and exacted more than was due.¹ Both offences were generally committed by the unpaid petty Headmen by whom the details were arranged, and who were generally needy individuals under much temptation to abuse authority. Where taxes were farmed out there were complaints that the principal Headmen were connected with them either directly or indirectly. Although it appears that the Government did not encourage the Headmen to become renters there had been no absolute prohibition till 1831.² Even where rents were not taken directly some of the Headmen appear to have been much interested as sureties or as men behind the scenes. It is likely that such combinations brought about oppressive effects from which the people had very little hopes of redress. Part of the responsibility for this state of affairs rested with the Government. Perhaps because of the consciousness that the Headmen were paid inadequately, there was a tendency to disclaim Government responsibility for the possible oppression caused by the activities of the Headmen in their capacity as renters.³ On the whole, therefore, it

¹ See Scott to Boyd, 5 October 1824, and 10 December 1824. C.O. 54, 88. Also, Horton to Stanley, 9 December 1833. C.O. 54, 131. Numerous petitions in C.O. 416, 29-32.

² See Horton to Stanley, 9 December 1833. C.O. 54, 131.

³ Ibid. "But surely in investing these Headmen with such arbitrary and oppressive power, and in sanctioning their remuneration in so objectionable a way," wrote Colebrooke, "the Government could not divest itself of responsibility for the abuses which ensued." Colebrooke to J.C.S. Lesevre, (cont.)

is possible to agree with the Collector of Jaffna, P. A. Dyke, that there was a need for reforms which would make the offices open to the native community an advantage rather than a burden to them, thus giving the principal men of the country "the opportunity of being honest without a loss to themselves".¹

(cont.) N.D. June 1834. C.O. 54, 145.

¹See Horton to Stanley, 9 December 1833. C.O. 54, 131.

Chapter III

ADMINISTRATIVE DEVELOPMENTS IN THE KANDYAN PROVINCES

1815 - 1833

The Kandyan kingdom, which constituted the interior parts of Ceylon, fell into the hands of the British in 1815. A detailed analysis of the events leading to this conquest does not fall within the purview of this study. It is sufficient to note here that it was a culmination to long drawn out diplomacy,¹ interspersed by occasional warfare and expeditions on the part of the British. The occasion for this diplomacy and warfare was provided by the fact that the kingdom was going through one of the periodical struggles for power inherent in its economic, social and political set-up. The struggle however became unusual because of the presence of the British in the Maritime provinces, awaiting an opportunity to annex the kingdom to its dominions. When therefore the chief minister of the Kingdom, Ehelapola, felt himself persuaded that he could rely on the help of the British in his struggle with the King, the fate of the kingdom was virtually decided. With the guidance and assistance of Ehelapola and his faction the British armies marched triumphantly to Kandy, proclaiming on the way that the object of the war was the deliverance of the Kandyan people from the tyranny of the existing ruler.² The nature of the victory

¹For some aspects of this diplomacy, see H. W. Codrington, (ed.) Diary of Sir John D'Oyly.

²Proclamation, 11 February 1815. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 177.

becomes obvious when it is known that not a single soldier was lost in battle. In a military sense the resistance and consequently the danger was small. The principal Chiefs of the kingdom arrived with their retainers and submitted. The struggle was soon over when the King, isolated and abandoned by his Chiefs, was captured and taken prisoner. Brownrigg observed that it was an "enterprise which..... could not with any common prudence have been entered upon except with the most credible assurances of the concurring wishes of the Chiefs and the people, nor could ever have been brought to a successful issue without their acquiescence and aid".¹

The very nature of the conquest however imposed obligations when it came to the question of the formation of a new government. Some of these obligations were embodied in the 'Convention' signed on 2 March 1815 at the Palace between the principal Chiefs and the British. It was stated to have been signed by the principal Chiefs on behalf of the inhabitants, and in the presence of the subordinate Headmen and the people.² After a recital of the cruelties and the oppressions of the Malabar ruler and his "contempt and contravention of all civil rights", he was declared to have forfeited all claims to the power of Kingship, and to have been deposed from the office of King.³ The claim of his dynasty to the dominion was declared to be abolished.⁴ The King and

¹Brownrigg to Bathurst, 25 February 1851. C.O. 54, 55.

²Proclamation, 2 March 1815. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 180-181.

³Ibid.

⁴Ibid.

his relatives were proclaimed enemies of the kingdom, excluded and prohibited from entering it under the threat of heavy penalties.¹ Those Chiefs who had had any intention of mounting the throne themselves must have perhaps suffered their first disappointment when, along with the King also went the age-long institution of Kingship in Ceylon, and when the Kandyan provinces were declared to be vested in the Sovereign of the British empire.²

One section of the former rulers were thus easily got rid of by banishing them. The more powerful section, constituting the Kandyan chiefs, remained to be dealt with. The obvious need for their support in order to hold the kingdom prompted the British to assure them, and the subordinate Headmen "lawfully appointed by the authority of the British Government", the rights privileges and powers of their respective offices.³ All classes of people were assured the safety of their persons and property, and civil rights and immunities according to the laws, institutions and customs in force among them.⁴ The religion of the Buddha professed by the Chiefs and the inhabitants was declared 'inviolable' and its rites, ministers and places of worship were to be maintained and protected.⁵ The administration of civil and criminal

¹Proclamation, 2 March 1815. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. i, pp. 180-181.

²Ibid., p.181.

³Ibid.

⁴Ibid.

⁵Ibid.

justice and police was to be exercised according to established forms, and by the ordinary authorities, saving to the Government "the inherent right to redress grievances and reform abuses in all instances whatever, particular or general".¹ The Sovereign of England was to be represented by the Governor and 'Accredited Agents'.² The Royal dues and revenues were to be managed and collected according to lawful customs under the direction and superintendence of the 'Accredited Agents'.³

The nature of the political settlement thus embodied in the 'Convention' accounted for the small amount of change that was introduced into the government of the new province, and the establishment of a separate government distinct from that in the Maritime provinces. The Governor assumed full powers over it without the interposition of a Council. The Supreme Court was also excluded from the new province. A representative was appointed to function as Resident, and the obvious choice was D'Oyly, who was largely responsible for the victory, and who was intimately acquainted with the Chiefs.⁴ He was provided with two Assistants. A few military officers were appointed to function as 'Accredited Agents' under the instructions of the Resident. The powers

¹Proclamation, 2 March 1815. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p.181.

²Ibid.,

³Ibid., p.182.

⁴Brownrigg to Bathurst, 15 March 1815. C.O. 54, 55.

and functions assigned to them were vague. In accordance with the terms of the 'Convention' they were no doubt expected to direct and superintend the collection of revenue. They were also given some powers of Magistracy. It was however stated that these powers were not to extend to the Kandians.¹ This inconsistent position was undoubtedly occasioned by the feeling that it was "wholly impracticable to introduce English gentlemen into situations of authority in the different provinces".²

These arrangements led to the super-imposition of a loose form of European authority over a good part of the feudal organization that had belonged to the former monarchs. Certain offices and institutions associated with the King's Court and household disappeared along with Kingship. The provincial organization was maintained virtually intact. The Government took particular care to conciliate the Chiefs. Brownrigg invited some of them to Colombo on the occasion of the King's birthday, received them with all possible attention to their dignity and comfort, introduced them with great state and pleased them with presents. By such means he thought he was laying the "foundations of a friendly and confidential intercourse".³ In the manner of former Kings both he and D'Oyly held audiences with the Chiefs to hear their reports regarding the administration of justice, etc., and to

¹Instructions to Accredited Agents, 30 September 1815. C.O. 54, 61.

²Brownrigg to Bathurst, 15 March 1815. C.O. 54, 55.

³Brownrigg to Bathurst, 20 July 1820. C.O. 54, 56.

attend to changes of appointment and grants of land.¹ The Governor also attempted to keep up in his person something of the old royalty. As in the King's time ornamental arches were erected, and the streets decorated, when the Governor travelled about the country, attended by those who accompanied the King on similar occasions. Both Brownrigg and D'Oyly considered it an object of first importance to prevail on the Chiefs and the Priests to bring back the relic of the Buddha, secreted in the time of the invasion, to its temple. Having persuaded them to do so with some difficulty, the ceremonies connected with it took place with all "the state and solemnity usual on such occasions, and with proper marks of honour on the part of the British Residency and garrison".²

In spite of these precautions the very establishment of a foreign authority was by itself such a change that a great deal of uncertainty, as well as a loosening of former feudal relationships, was unavoidable. Major Hardy and Simon Sawers, who travelled about the country shortly after the conquest, found many villages deserted and the fields uncultivated, the people having taken refuge in the jungles.³ The few people who were seen about these places complained that they had been plundered by the soldiers of the army and its followers, who had been quartered in various parts of the country.⁴ The army was busy searching

¹Minute, 25 April 1816. C.O. 54, 60.

²Brownrigg to Bathurst, 20 July 1815. C.O. 54, 56.

³Hardy to Brownrigg, 21 May 1815. C.O. 54, 56. Also, Sawers to Brownrigg, 5 June 1815. C.O. 54, 56.

⁴Hardy to Brownrigg, 21 May 1815. C.O. 54, 56.

for prize property, and what was found soon presented Brownrigg with a problem.

It clung to the jewels and other valuables that were found secreted, amidst the claims by the Chiefs and Priests that part of it belonged to the temples. The negotiations and the bargainings that followed naturally disturbed the policy that was being followed by the Government to win over the higher classes.¹ There was also a certain amount of uncertainty concerning the exact policy that ought to be followed. The presence of some persons inclined to complain against their Chiefs tempted some of the British officials to form an exaggerated notion of the oppressive rule of the Disāvās and to believe that the British Government would be strengthened by making the change of government appear beneficial to the people. Major Hardy, to whose views Brownrigg seems to have been more inclined, thought that the removal of the former system of exacting fines and levying taxes was the thing most eagerly looked for by the lower classes in the interior.² As against this was the opinion of D'Oyly, who thought that there was no extraordinary degree of oppression.³ While agreeing that the British Government should liberate the people from their Chiefs, and that the rights and privileges of the latter which were incompatible with 'principles

¹Brownrigg to Bathurst, 20 July 1815. C.O. 54, 56.

²Hardy to Brownrigg, 12 June 1815. C.O. 54, 56.

³D'Oyly to Brownrigg, 12 June 1815. C.O. 54, 56.

of justice' should be done away with, he cautioned against sudden change. He believed that innovations must be attempted with a "cautious hand, and if possible accomplished with the consent of those who make the surrender".¹ The conflicting desire to win over the people without at the same time disturbing the Chiefs, and without making the former feel that the latter were not supported by the Government, involved it in some confusion of thought and action.

Thus the Disāvas were kept back at Kandy for a while and not allowed to go to their stations to avoid the levying of fees, which were legitimate dues under the former system, and which usually followed new appointments.² It was also felt that the burden of maintaining the Disāvas and their numerous followers might indispose the inhabitants to the change of government.³ As a result of this some of the inferior Headmen were either left with uncontrolled power, or in doubt as to whether their authority fell with the King.⁴ There were also ambitious men who had been in office, but who had now no prospect of securing it from the Disāvas, or those who had not been in office before, but who were aspiring to it. Such persons pinned their hopes on winning the goodwill of the British. They were probably loud in their complaints against the Disāva, and other Headmen in office, and

¹D'Oyly to Brownrigg, 12 June 1815. C.O. 54, 56.

²Brownrigg to Barthurst, 20 July 1815. C.O. 54, 56.

³Ibid.

⁴Hardy to Brownrigg, 7 June 1815. C.O. 54, 56.

by doing so they probably thought that they came nearer to the attainment of their object.¹ At certain other places the people declared that they knew nothing of the terms of the 'Convention', and as to whether they were to continue under the orders of the Adigars and Disāvas.²

The requirements of the army, as well as a lack of understanding of the proper channels of procedure in the administrative system, involved the British in actions which disturbed the former feudal relationships. Thus, to secure provisions or transport, the army officers entered into direct contracts with the inferior Headmen, or the people, thereby not only disturbing the authority of the superior Chiefs, but also affecting the system of services. By paying higher prices for such services or provisions a part of the people were tempted to accept them. Major Hardy's mission in the interior, for instance, was to secure bullocks to transport grain. He entered into direct contracts with the "Moors" of Vellassa, without going through the Disāva.³ It led to such incidents as the Disāva ordering a group of "Moors" back to their village, when he met them going with their cattle on government service.⁴ These "Moors", being generally the traders of the kingdom,⁵

¹Sawers to Brownrigg, 14 June 1815. C.O. 54, 56.

²Sawers to Brownrigg, 5 June 1815. C.O. 54, 56.

³Hardy to Brownrigg, 10 June 1815. C.O. 54, 56.

⁴Sawers to Brownrigg, 9 June 1815. C.O. 54, 56.

⁵See H. Marshall, Ceylon, pp. 180-181.

had much larger ideas of independence from the Disāva's control. They may therefore have been inclined to complain against the Disāva in exaggerated terms. They complained of heavy levies, and punishments by fines and imprisonment.¹ With the feeling for individual rights which flashed across the minds of Englishmen of the time, Hardy was tempted to speech making in which he assured the "Moors" "that they were now British subjects - that no person on earth whether British officer or soldier, Disāva or Ratērala should injure them."² The presence of a person inquiring into grievances promising redress, and the desire to benefit by engaging in trade and other transactions unhampered by the restrictions of the former system, encouraged the Moors to overthrow the Disāva's authority. The Disāva complained that contrary to custom the 'Moors' did not wait upon him when he visited the district.³ He may have been perhaps annoyed when Hardy met him and communicated the complaints of the 'Moors', and urged the removal of the former system of exacting fines and levying taxes.⁴ Hardy thus overlooked the fact that what the 'Moors' complained about were legitimate dues and services which they owed to the State and to the Disāva under the former system. While Hardy was tempted to encourage the 'Moors'

¹Sawers to Brownrigg, 14 June 1815. C.O. 54, 56.

²Hardy to Brownrigg, 10 June 1815. C.O. 54, 56.

³D'Oyly to Brownrigg, 9 July 1815. C.O. 54, 56.

⁴Hardy to Brownrigg, 12 June 1815. C.O. 54, 56.

D'Oyly held to the opinion that the Government could not countenance their actions in overthrowing the legitimate authority of the Disāva.¹

Generally speaking the attitude of the Sinhalese inhabitants of the several districts was a sharp contrast to that of the 'Moors' of Vellassa. They showed their Chiefs a degree of respect and obedience amounting almost to veneration, and were generally prepared to follow them in whichever direction they moved. This perhaps accounts for the fact that while in certain districts, where the Chiefs appear to have been more satisfied with their position, remained quiet, others in which the Chiefs themselves were much dissatisfied, became discontented and restive. Sawers noticed that the Sinhalese inhabitants of Uva and Vellassa showed an unfriendly disposition to the British, and doubted the permanence of the new government.² Rumours of dissatisfaction and revolt by the Chiefs and people of these areas tempted Brownrigg to send the First Assistant of the Resident to Badulla, with authority to hear complaints, repress abuses and restore order and confidence.³ That perhaps made the situation worse. "Interposition was regarded with great jealousy both by the Disāvas and the inferior Headmen," wrote Brownrigg, "and the revenue and services therefore did not materially improve, and the inhabitants though perfectly subdued to the new order of things did not

¹D'Oyly to Brownrigg, 27 June 1815. C.O. 54, 56.

²Sawers to Brownrigg, 9 June 1815. C.O. 54, 56.

³Brownrigg to Bathurst, 20 July 1815. C.O. 54, 56.

evinced attachment and confidence".¹ The Headmen showed an unwillingness to obey orders under the plea that the people had thrown off their authority" in consequence of having been sometimes directly applied to be English gentlemen".² In the case of the inferior Headmen it was also likely that they acted either through attachment to or fear of the superior Disāva, or on his instructions.³ This situation led to such incidents as the Disāva ordering the people not to give their bullocks to a certain Vidāna who was supplying the garrison with provisions for payment, on the ground that he was acting contrary to custom, followed by an order of the British official to reverse this order.⁴

Besides all these conflicts the absence of a King created a void which was hard to fill. The new men and their measures were poor substitutes for kings and the splendour of their courts. What Brownrigg wrote of D'Oyly was also true of himself.

"The Court of the late King," he wrote, "barbarous as it was, had yet a certain splendour sufficient to attract a great interest - and the Chiefs though slaves in one relation, and hourly threatened with the indiscriminating violence of absolute and wanton power, were in another view potentates themselves exercising high and extensive authority, and receiving without measure the increased flattery and abject submission from their inferiors. To this state it is probable that their taste was completely formed by habit and education, and that they view not without disadvantageous comparisons a re-

¹Brownrigg to Bathurst, 5 June 1816. C.O. 54,60.

²Ibid.

³Sawers to Brownrigg, 5 June 1815. C.O. 54, 56.

⁴Sawers to D'Oyly, 30 June 1815. C.O. 54, 56.

presentation of government where the principal officer is a private gentleman of very retired and unostentatious habits - and their own situation pretty much that of attending at his audiences - their consequence most sensibly fallen, and their power considerably abridged as well as their emoluments."¹

The strong desire for the re-establishment of Kingship was not unconnected with the ambitions of Ehelapola, who began to assume Kingly state and show pretensions to the throne.² He may have been supported by the Buddhist priests, who are known to have thought that a Sinhalese King was necessary to protect their religion.³ This feeling however was kept down by the feudal jealousies, which kept Ehelapola apart from some of the other principal Chiefs. The first Adigar, who was next in importance and rank to Ehelapola, protested against the pretensions and interference of the latter.⁴ There is much evidence of these two factions clashing with each other on various matters. Thus the British found much relief when it became obvious that Ehelapola was not supported by the inclinations and interests of the class of Chiefs as a body. Though the people may have desired Kingship, and though they respected their Chiefs to a very great extent, it did not go to the extent of conferring Royal Honours on a Chief unconnected with a dynasty.⁵

¹Brownrigg to Bathurst, 5 November 1815. C.O. 54, 61.

²Brownrigg to Bathurst, 20 July 1815. C.O. 54, 56.

³Ibid.

⁴Brownrigg to Bathurst, 26 September 1815. C.O. 54, 56.

⁵Brownrigg to Bathurst, 20 July 1815. C.O. 54, 56.

Brownrigg was also faced with a conflict in his own camp over a legal question raised by his somewhat insubordinate Advocate-Fiscal, underlying which was a consciousness of the rights of British subjects and a preference for British institutions. By the eighth and ninth sections of the 'Convention', Brownrigg, while providing for the administration of justice to the Kandyan according to their laws and institutions, had laid down separate provisions for Europeans and non-Kandyan.¹ Europeans serving in the army were made liable to military discipline. All other non-Kandyan were to be tried for civil and criminal offences by the 'Accredited Agent' or Agents. In cases of murder they were to be tried by special Commissions to be issued by the Governor.² The Advocate-Fiscal basing himself on some provisions in the Charter of Justice of 1801, argued that these sections, as well as those which provided for the administration of justice for the Kandyan according to their own laws and institutions, were illegal, and that every person in the newly acquired provinces, whether native or European, was subject to the criminal jurisdiction of the Supreme Court, and entitled to the privileges of a trial by jury.³ A varying claim was put forward by the Chief Justice, who while accepting that the Supreme Court did not necessarily have a jurisdiction over Kandyan,

¹See p. 210.

²Proclamation, 2 March 1815. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 181.

³H. Giffard to Brownrigg, 11 March 1815. C.O. 54, 55.

argued that the Charter of Justice provided it with a jurisdiction over all non-Kandyans resorting to that country.¹

This conflict, which reached Council level, not only made Brownrigg feel uneasy about the political settlement he had reached in the Kandyan country, and the administrative arrangements that followed, but also made him anxious to create the impression that it was only a temporary phase, and to display intentions of future change. Apart from pointing out that the provisions for the administration of justice arose out of an unavoidable political settlement he adduced further reasons to justify himself before the Home authorities. Firstly, he argued, that a "very considerable period must elapse before His Majesty's new territory will safely admit the exercise of any authority, political civil, or judicial, which does not in a direct and ostensible manner emanate from the executive government".² He thought it to be politically unsafe to introduce a judicial establishment, which stood in competition for power with the executive authority, and far exceeded it in external appearance.³ Secondly, he pointed out that his arrangements would enable the Home Government to decide upon a revenue and judicial system unimpeded by anything established on local authority.⁴

¹See Brownrigg to Bathurst, 17 November 1815. C.O. 54, 57.

²Brownrigg to Bathurst, 15 March 1815. C.O. 54, 55.

³Ibid. See p. 60.

⁴Brownrigg to Bathurst, 15 March 1815. C.O. 54, 55.

Thirdly, he dwelt on the necessity to have more time to collect information. He believed that there was no particular hurry for a new system, and that any change should be founded on accurate facts obtained from a careful inquiry. Such a plan would avoid violent changes and facilitate cautious measures, which would "gradually and insensibly supercede the deeprooted prejudices of these people without their perceiving them to be attacked".¹ It is clear from these arguments that Brownrigg was playing for time to undermine the institutions he had guaranteed.

The first task was to collect information, a task which was immediately entrusted to the officials sent to the Kandyan country, especially to D'Oyly. Brownrigg also undertook a tour of the country to make himself acquainted with the possibilities of reform. There were several lines of change which immediately occurred to him. He was soon convinced that the original policy of introducing as few British officials as possible was a mistake which might be fatal to British interests and commerce.² A plan was therefore drawn up to divide the Kandyan provinces into five divisions, and to place a British official at the head of each, with powers agreeable to the provisions of the 'Convention'.³ The implementation of this proposal was however postponed in deference

¹Brownrigg to Bathurst, 15 March 1815. C.O. 54, 55.

²Brownrigg to Bathurst, 26 July 1816. C.O. 54, 60.

³Brownrigg to Bathurst, 15 July 1815. C.O. 54, 56.

to D'Oyly's opinion, who objected to the additional expenses involved, but who may have had misgivings about the policy involved in this change.

The disagreements with D'Oyly would have perhaps prompted Brownrigg to make changes in the establishment of the Residency. He was certainly impatient with D'Oyly's fondness for a minute study of Kandyan institutions, to the neglect of what he thought was practical business.¹ Brownrigg may have also had misgivings about vesting in one individual so much of power and authority. In any case he considered the duties devolving on the Residency too much to be handled by one individual.² He therefore decided to divide the functions of the Residency between three Civil Servants. One was to be immediately in charge of the collection of the revenue, the Government lands, cattle and other property, and the exaction of services. The second official was to be immediately in charge of the judicial work.³ No attempt was yet made to contravene the provisions of the 'Convention'. The main function of the Judicial Commissioner was to be present at the trial of capital cases and to witness any other inquiry of importance. The Commissioner was however informed that the eighth clause of the 'Convention', which gave the British a right to reform abuses in the judicial system, admitted of a great latitude of supervision and review. He was also told

¹Brownrigg to Bathurst, 5 June 1816. C.O. 54, 60.

²Minute, of Brownrigg, N.D. 1816, C.O. 54, 60.

³Ibid.

that by a rule laid down by the Governor at an Audience with the Chiefs to the effect that it was "the custom and duty of a British Government to return a distinct answer to every application for justice, a ground is laid down for considering every complaint whatever in the light of an appeal".¹ D'Oyly who was to be thus relieved from details was to represent the Government on all necessary occasions, and to have a general superintending control over the whole government. It is significant to note that the Assistants were not debarred from communicating direct with the Government at Colombo, the Governor also reserving a right to send orders direct to them. D'Oyly was however to have a right to see such correspondence.²

Further changes were made a little later when the three Civil Servants were constituted into a Board of Commissioners. This Board was to be presided over by the Resident. Correspondence addressed to the three officials was to be regarded as addressed to the Board, and was to be discussed at its meetings and minuted. Similarly all acts and proceedings of the three Civil Servants, and correspondence originating with them, were to be noted in the minutes of the Board. The Board was to deal with matters concerning the general administration of the Kandyan provinces on the motion of one of its members. No measures were, however, to take effect without the assent of the Resident or in

¹J. Sutherland to Gay, 30 September 1816. C.O. 416, 19.

²Minute of Brownrigg, N.D. 1816. C.O. 54, 60.

his absence the senior Commissioner. D'Oyly was also given the power to reserve to himself matters of a secret and political nature, reporting them to the Government.¹ The Board thus constituted was immediately entrusted with the task of collecting information on the various aspects relating to Kandyan administration, and to suggest remedies that would be expedient for correcting defects.² Soon after, Brownrigg reported that the Board was functioning with "unanimity and great activity"; that the Chiefs have been brought into constant and active co-operation, and that there was now "the impression of a regular ostensible and energetic Government".³ He believed that it would pave the way for a permanent constitution.⁴ Meanwhile it appears from correspondence that changes in the Headman system, the system of compulsory services, and in the administration of justice were under contemplation.⁵

It was not surprising that this sort of development should have ended in a rebellion, which was however not supported by a section of the Chiefs, and the people under their control. Brownrigg was not entirely unprepared for it as is seen from the measures taken to keep up the military strength. He was aware that it was very sanguine to expect that the Chiefs would be fondly attached to the new order of things.⁶

It is not the intention here to examine the events connected with the

¹Commission constituting the Board, 30 September 1816. Also, Minute, Brownrigg, 21 October 1816. C.O. 54, 61.

²Ibid.

³Brownrigg to Bathurst, 5 November 1816. C.O. 54, 61.

⁴Brownrigg to Bathurst, 29 May 1817. C.O. 54, 65.

⁵See Brownrigg to D'Oyly, 21 February 1816. C.O. 54, 60. Also, Brownrigg to Bathurst, 5 June 1816. C.O. 54, 60.

⁶Brownrigg to Bathurst, 5 November 1816. C.O. 54, 61.

rebellion which occurred towards the end of 1817 and continued throughout a good part of 1818. It is sufficient to note that a number of Chiefs were directly or indirectly involved, while others were undecided and still others were positively loyal to the Government. The appearance of a pretender to the throne, claiming descent from the former Royal dynasty, shows that the aims and interests of the rebels were identified with a restoration of Kingship and an independent State. The magnitude of the rebellion, its protracted nature, and the difficulties of suppressing it, were probably not accurately anticipated. Strong military measures, combined with disunity among the rebel Chiefs, as well as the aloofness of others, finally put an end to it.

The rebellion though attended with much difficulty also provided Brownrigg with a much desired opportunity. As he himself observed, its successful suppression helped to establish British dominion in the Kandyan provinces on a more permanent basis.¹ Even before the rebellion was suppressed Brownrigg had decided to make use of the opportunity to introduce far-reaching changes in the Government.² He neglected rebel overtures to surrender on condition of being restored to favour in order to be more free to frame a constitution, which would secure sovereign authority to the British.³ The fact that certain Chiefs

¹Brownrigg to Bathurst, 31 October 1818. C.O. 54, 71.

²Brownrigg to Bathurst, 8 November 1817. C.O. 54, 66.

³Brownrigg to Bathurst, 9 October 1818. C.O. 54, 71.

had participated in the rebellion gave him the argument that, since they had broken their part of the 'Convention', it was no longer completely binding.¹ The new military strength naturally gave him the courage to undertake reforms which required a great deal of imposition. He was impressed with the necessity to act without loss of time.²

A measure adopted even before the rebellion was completely over indicated the direction in which reforms were coming. Making use of the opportunity provided by the implication of the Disāvās of Sabaragamuwa, and the Seven Korales in the rebellion, Brownrigg appointed two British officials to function as Agents of Government in these areas, with powers of control over the Chiefs, and of punishing them and the people for disobedience of orders.³ The new Chiefs that were appointed to these provinces were required to agree to act under the orders of the Agents of Government. Appointments of the inferior Headmen were to emanate from the Agent and not as before from the Disāva. In Sabaragamuwa the additional step was taken of carving three divisions out of the area formerly held by the Disāva, and appointing three Chiefs to function under the Agent. The Agent, acting with the Disāva, was given the power to try civil cases subject to appeal in cases over 100 rix-

¹Minute, of Brownrigg, N.D. 1818. C.O. 54, 73.

²Ibid.

³Brownrigg to Bathurst, 12 April 1818. C.O. 54, 70.

dollars or reference in case of disagreement between the Disāva and the Agent, to the Resident. Brownrigg also declared his intention of vesting the Agent sitting with the Disāva with an extensive criminal jurisdiction.¹

The successful suppression of the rebellion provided the opportunity to consider a more comprehensive plan of reform. Several connected aims and objects naturally entered into the minds of the British, when they considered changes in the Kandyan administrative machinery. Firstly, there was a desire to introduce more British Agents, to fortify their hands by increased judicial and executive powers, and to place them in a position of superiority over the Chiefs both in appearance and in reality.² Secondly, there was the connected aim of reducing "the Aristocracy obstructive of the operation of Government, and oppressive of the populace", to the rank and office of stipendiary organs for carrying out the regulations and orders of the supreme executive authority.³ Thirdly, it was thought desirable to give independent ideas to the mass of the population, ween them away from their dependence on their Chiefs, and to establish a nearer connection between them and the Government.⁴

¹Brownrigg to Bathurst, 12 April 1818. C.O. 54, 70.

²Minute, of Brownrigg, N.D. 1818. Also Brownrigg to Bathurst, 8 January 1819. C.O. 54, 73.

³Brownrigg to Bathurst, 19 February 1818. C.O. 54, 72. Brownrigg to Board of Commissioners, 25 September 1818. C.O. 54, 73.

⁴Brownrigg to Bathurst, 19 February 1818. C.O. 54, 70. Also, Brownrigg to Bathurst, 8 January 1818. C.O. 54, 73.

Lastly, there was a desire to do away with or transform institutions to suit the ideas and interests of the new Government.

All the above aims and objects were visible in the Proclamation of 21 November 1818, which announced the new system of government.¹ Unlike the earlier 'Convention' it was an instrument issued on the sole authority of the British. It began by a reference to the rebellion that had occurred. It put the blame for it on the Chiefs who, it was stated, had been "restored to honours and security by the sole intervention of the British power", and who had been "seeking for an opportunity to subvert the Government for no purpose but to assume to themselves absolute power over the lives and properties of the general mass of subjects".² After referring to the evil consequences which had resulted from "the blind obedience which the people have thought due to their Chiefs instead of to the Sovereign of the country..." the Proclamation asserted a necessity for Government to perform 'by its inherent right' such functions as would not make the people lose sight of the 'Royal Government' or feel wholly dependent on the power of their Chiefs.³ The Proclamation then went on to determine the future form of Government in the Kandyan provinces.

The Kandyan provinces were to continue to be administered as a

¹ Proclamation, 21 November 1818. Skeen, A Collection of Legislative acts of the Ceylon Government, ^{vol. 1} pp. 223-229.

² Ibid.

³ Ibid., Vol. 1, p. 224.

separate government distinct from that in the Maritime provinces. It was declared that the "Sovereign Majesty of the King of Great Britain and Ireland, exercised by His representative the Governor of Ceylon and His Agents in the Kandyan provinces, is the source alone from which all power emanates, and to which obedience is due...."¹

As it was considered desirable to continue the Kandyan concept that the supreme authority should not be excluded from the power of granting redress under any circumstances, the Governor assumed some of the powers which had been exercised by the former King. In the administration of justice, he was to be the final court of appeal in cases where the object in dispute was either land, or personal property exceeding 150 rix-dollars in value, if the appeal was lodged within ten days of a decision. In addition, he was to have the power to order an appeal either to the Judicial Commissioner's court or to himself, within one year of a decision.² Again, no punishments exceeding 100 lashes, imprisonment with or without chains or labour exceeding four months, or fine exceeding 50 rix-dollars, could be carried out without the confirmation of the Governor.³ Appointments to the rank of superior Chief were to take place by written instruments signed by him. He also retained part of the former monarchical paraphernalia.

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative acts of the Ceylon Government, Vol. I, p. 224.

²Ibid., p. 227.

³Ibid.

Thus the palanquin bearers, talpat bearers, and torch bearers, who had been attached to the former King were to continue and serve the Governor in their respective capacities.¹ When the Governor travelled about the country he was to be attended by all persons in office in the provinces, in the manner in which they had attended the former Kings of Kandy.² Certain forms of obeisance which were considered inconsistent with a 'liberal administration' were however abolished. Thus all prostrations from or to, any person including the Governor, were positively abolished. The requirement that Chiefs coming into the presence of the Sovereign authority should remain on their knees was also abrogated.³

Apart from the exercise of these functions the general executive and judicial authority in the Kandyan provinces was declared to be delegated to the Board of Commissioners, and under their superintendence to the resident Agents of Government in the provinces.⁴ Subject to the control of the Governor the power to take all important executive and judicial decisions was vested in the Board. It was given the power to issue orders to Chiefs and Headmen of all ranks, punish them by suspension, dismissal, fine or imprisonment, subject to the ratification by

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 226.

²Ibid., p. 224.

³Ibid.

⁴Ibid.

the Governor in the case of Chiefs appointed under his warrant. It was to have the power to decide upon the number of attendants and services to which the Chiefs were entitled, command the services of the people, vary it according to need, order appeals from the Agents' courts to the Judicial Commissioner's court within one year of a decision, and report upon the cases submitted to the Governor for a final decision.¹

The division of the Board of Commissioners into three main departments, which we have noticed before, was continued. The Resident, who had the immediate charge of political affairs, was given a sort of supremacy over the others. In addition to the presidency of the Board of Commissioners, he was to have the power to preside over the court of the Judicial Commissioner whenever he considered it necessary, and also to hold a court of his own, with two Kandyan Chiefs as Assessors, and with the same jurisdiction assigned to the Judicial Commissioner.² He was also to be the final authority in all the appointments of Headmen not reserved for the Governor.³

The Judicial Commissioner sitting alone was given the power to hear and determine civil cases where the object in dispute was not land, and which did not exceed 100 rix-dollars in value. He could also try

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. 1, p. 227.

²Ibid.

³Ibid., p. 224.

alone criminal cases of an inferior description, with the power of punishment not exceeding a fine of 25 rix-dollars, corporal punishment not exceeding 30 lashes, and imprisonment with or without labour not exceeding two months.¹ The Judicial Commissioner, with two or more Kandyan Chiefs as Assessors, was to have the power to hear all other cases, civil and criminal, excepting treason, murder, or homicide, with power in criminal matters to award any punishment short of death or mutilation, subject to the ultimate ratification of the Governor.² If the opinion of a majority of the Assessors was different from that of the Judicial Commissioner the case was to be transferred to the board, and by them reported to the Governor for his final decision. In cases of treason, murder, or homicide, the trial was to be before the Court of the Resident or the Judicial Commissioner, with Kandyan Assessors, the Court merely reporting to the Governor, through the Board, for a verdict and sentence.³ All criminal and civil cases in which a superior Chief was defendant were to be instituted and heard before the Resident or the Judicial Commissioner.⁴ The Judicial Commissioner's Court was also made an appeal court for civil cases coming from the Agent's Court, if the appeal was made within ten days, and if the object in dispute was either land, or personal property exceeding 150 rix-dollars in value. In

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. 1, p. 227.

²Ibid.

³Ibid.

⁴Ibid.

addition where the opinion of a majority of Assessors in the Agent's court differed from that of the Agent, the proceedings of the court were to be transferred to that of the Judicial Commissioner. The latter could decide on it either on those proceedings, or after rehearing the case himself, or after ordering the Agent to take further evidence.¹ Thus it is seen that the Board collectively, and the members separately, were given executive and judicial powers which had formerly been enjoyed by the principal Chiefs, the latter being now relegated to the position of Assessors.

One principal means to establish a closer connection between the people and the Government, and to reduce the power and influence of the Chiefs, was to multiply the number of British Agents in the provinces, and to arm them with extensive executive and judicial powers. The Proclamation vested in the Governor the power to place Agents of Government in such places as he considered fit and to vary their powers by instructions. An immediate arrangement that was made was to place a number of districts near the capital under the control of the Board of Commissioners, with two Agents of Government to be stationed in the Four Koralēs and Matale to hear minor cases. Agents were also to be placed at Uva, Seven Koralēs, Sabaragamuwa, and the Three Koralēs. The district of Tamankaduwa was to be brought under the Collector of Trincomalee.²

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. 1, p. 227.

²Ibid., p. 228.

Following the Kandyan practice both executive and judicial authority was to be combined in the hands of the Agent. In the executive sphere the Proclamation conferred on them the powers, which had formerly been enjoyed by the Disāvās, of giving orders for the collection of revenue and the performance of public services, under the directions of the Board of Commissioners. Chiefs and Headmen of all ranks by whom these orders would be carried into effect were placed under the control of the Agent. They were empowered to punish them for disobeying orders etc., subject to the ratification of the Resident and the Board of Commissioners.¹

In the judicial branch the Agents were given the power to determine alone civil cases, where the object in dispute was not land, and which did not exceed 50 rix-dollars in value, and criminal cases of an inferior description such as common assaults, petty thefts, breaches of the peace, with power of awarding punishment not exceeding a fine of 25 rix-dollars, corporal punishment not exceeding 30 lashes, and imprisonment, with or without labour, not exceeding two months.² In addition the Governor could empower any of the Agents to hold a court with two Assessors (either Disāvās, Mohottālas, or Korālas) to try all other civil and criminal cases, excepting treason murder or homicide, and to assess any punishment short of death and mutilation of limb, subject to

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. i, p. 228.

²Ibid., pp. 226-227.

the limitations noticed before.¹

Attempts were made to secure to the British authority thus established on a new basis its due respect, and to obtain for the British officials the necessary social position, which Kandyan society was slow to recognize. It was laid down that on entering the Hall of Audience every person should make obeisance to the portrait of the King. All Chiefs and other persons coming before, meeting, or passing any British officer of rank, civil or military, were required to give up the middle of the road, and if sitting rise up and make suitable obeisance. In a court of justice similar obeisance was to be made to the presiding authority.² When members of the Council, or the Commissioners, or the Officer Commanding the Troops, travelled on duty they were to be attended in the same manner as the Disāvas.³ The resident Agents and the officers commanding troops in the provinces were to be similarly attended and to receive similar honours.⁴ Only the Chiefs who had warrants of appointment signed by the Governor, or those who had obtained a special license for the purpose were to be entitled to sit in the Hall of Audience or in the presence of the Agents of Government. Of these only the two Adigārs, or those having a letter of license, were to be permitted to sit in chairs. The rest were to sit on benches covered with mats, of various heights, according to their rank. In the courts of

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. i, pp. 226-227.

²Ibid., p. 224.

³Ibid.

⁴Ibid.

the Agents of Government Assessors of the rank of Mohottālas or Korālas were to sit on mats laid on the ground.¹

It is clear that all the above reforms involved a corresponding reduction of the powers and positions of the Chiefs. They were, as we have seen, subordinated to the British officials introduced into the administration. More control over their actions was aimed at in the stipulation that no person would be considered entitled to execute the office (either of the higher or the lower class) of Headman, unless appointed by a written instrument. No person who was not thus appointed was to be entitled to obedience and respect.² The Chiefs thus not only became more dependent on the Government's goodwill, but also lost the power, which they had formerly enjoyed, of appointing inferior Headmen. It was only in the villages allotted for the personal services of the Disāvas that they retained the power of making such appointments.³ The old practice of paying fees at the time of appointment was abolished, the Government also relinquishing its right to receive them.⁴ The only exception to this was to be in the temple villages, where appointments were to be made by the Resident on the recommendation of the Diyavadana Nilamē or the Basnayaka Nilamē, the latter officials receiving the usual

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. i, p. 225.

²Ibid., p. 224.

³Ibid.

⁴Ibid., p. 225.

fees.¹ It was specifically laid down that the Adigārs, Disāvas, and all other Chiefs, and inferior Headmen, were to perform duties to the Government under the orders of the Board of Commissioners and the Agents, and not otherwise.²

The Chiefs lost much of their former judicial powers. As we have seen, their main judicial function became that of sitting as Assessors in the courts of British officials. At the time the reforms were under discussion a fear was raised by the Board of Commissioners that a total removal of the judicial powers of the Chiefs would leave them without the means of supporting their authority. The Commissioners also pointed out that a single Agent could not be expected to hear all the small cases which occur within an extensive territory. They therefore held that the Disāvas, Mohottalās, and Korālas should be invested with limited powers of criminal jurisdiction and punishment in such cases. The Board also suggested that the Adigārs should be vested with fairly extensive civil and criminal jurisdiction.³ Brownrigg considered the proposals objectionable on the ground that it would lead to the perpetuation of the old system.⁴ But perhaps to satisfy the Board of Commissioners on this point, and in consideration of the loyalty of the

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 225.

²Ibid., p. 224.

³Proceedings of the Board of Commissioners, 26 October 1818, C.O. 54, 73.

⁴Brownrigg to Board of Commissioners, 26 October 1818. C.O. 54, 73.

the first Adigār,¹ the Proclamation of 1818 laid down that the first and second Adigārs might execute civil jurisdiction over all Katupullē people and their property,² and also over such other persons and property as the Governor might by special warrant assign to them, subject to an appeal to the Judicial Commissioner.³ They were also to have the power to punish disobedience of their orders and petty offences by inflicting corporal punishment not exceeding 50 strokes with the open hand, or 25 strokes with a rattan on the back, or by awarding imprisonment for a term not exceeding 14 days.⁴ The Judicial Commissioner and the Agents were also empowered to refer cases to Adigārs, Disāvas and Mohottalās for hearing, who were then to report to the courts.⁵ Disāvas or Chiefs holding the Governor's commission were given the power to punish offences by corporal punishment not exceeding 25 strokes with the open hand, and imprisonment for a term not exceeding 14 days.⁶ The principal Mohottalās, liyanarālas and Korālas in office were given the power to inflict corporal punishment not exceeding 10 strokes with the open hand for offences by persons over whom they might have exercised such jurisdiction

¹Brownrigg to Board of Commissioners, 26 October 1818. C.O. 54, 73.

²Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. 1, pp. 227, 228.

³Ibid.

⁴Ibid.

⁵Ibid.

⁶Ibid.

under the former Government. They could also imprison for a term not exceeding 3 days.¹ Comparable changes were made in the traditional honours to which the Chiefs were entitled from their people. They were to receive all their former honours only in so far as they were consistent with the abolition of the 'degrading' forms noticed before. Besides, the Government assumed a control over the retainers and the attendants attached to the Adigars, Disavas and other Chiefs. They were to be entitled to such attendance only in such numbers as would be decided by the Governor on the report of the Board of Commissioners.² When such attendants did not belong to the villages allotted to the Chiefs, the application for attendance was to be made to the Resident or the Agents of Government.³ Native inhabitants coming into the presence, meeting, or passing Disavas and other Chiefs were to make a proper inclination of their body in acknowledgment of their rank.⁴ The first and the second Adigars were to be the only Chiefs who were to be entitled to honours from British officials. They were to be received by carriedarms by sentries whom they passed during the day, and by all soldiers off duty or by other Europeans by touching their caps or taking off their hats.⁵ Native inhabitants, whether Kandyans or not,

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. 1, pp. 227, 228.

²Ibid., p. 225.

³Ibid.

⁴Ibid., p. 224.

⁵Ibid.

were to rise from their seats, leave the middle of the road, and bow to the Adigārs as they passed.¹

As in the King's time land provided a convenient weapon to control, divide, and humble a proud aristocracy. Lands of those in revolt or disobedience were to be confiscated. If their lands were restored they would have to pay an increased tax of one fifth of the produce. The lands of certain Chiefs who were named as having been loyal to the Government were to be exempted from duty during their lives and that of their heirs.²

Many of the reforms enumerated above involved also a loss of emoluments and advantages to the Chiefs. As we have seen the principal Chiefs lost the right of levying fees when conferring appointments. The judicial reforms led to the abolition of the fees received by the Chiefs on hearing cases. The provincial barriers were broken down thereby occasioning the loss of tolls levied at them. The loss of their power to summon people for services also deprived them of many advantages. The Government was conscious of a need to compensate them for such losses. It also seemed politic to transform the aristocracy into a paid agency employed to carry out the orders of the Government. A decision was therefore made to pay the Adigārs, Disāvas, and other superior Chiefs, fixed monthly salaries.³ The inferior Chiefs and Headmen were to receive one twentieth

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 224.

²Ibid., pp. 225-226.

³Ibid., p. 226.

part of the revenue collected by them from the people divided into portions by the Board of Commissioners.¹ In addition lands belonging to Chiefs, both superior and inferior, were to be exempted from duty during the time they were in office. Though the Chiefs were perhaps adequately compensated by these provisions, the losses they had sustained were not merely pecuniary. By the loss of the right to levy judicial fees and to impose fines the Chiefs lost some of the principal means which they had of keeping the lower classes under control.²

The above reforms were accompanied by changes which overturned, though not totally, the economic and social order by which the Kandyan administrative machinery had been knit together. All contributions and gratuitous services were declared to be abolished, subject to certain reservations and exceptions, and a tax of one tenth of the produce on paddy land was imposed. The exceptions were to be in the villages allotted to the Chiefs, temples, and certain duties which were specified. Service on the roads was declared to be a general gratuitous service falling on all the people. The Government also reserved the right to call for services according to custom, family, and tenure of land, in return for payment, and to substitute services which were now useless by those more beneficial.³

¹Proclamation, 21 November 1818. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, p. 226.

²Ibid.

³Ibid.

The system of Government thus established remained basically unchanged up to 1833. It represented, as we have seen, a mixture of the old and the new. In practice the new machinery became more and more important as the old faded and went through a process of transformation. By the end of this period the old and the new resembled their counterparts in the Maritime provinces, both in form and their relations with one another.

At the beginning there was even less differentiation between legislative and executive action in the Kandyan provinces than was found in the Maritime provinces. Laws were promulgated by proclamations, minutes, or even by simple orders issued on the sole authority of the Governor.¹ The practice however grew up of extending to the new provinces, after a consultation with the Board of Commissioners, regulations that were passed by the Governor in Council to the Maritime provinces. On such occasions a declaratory proclamation was issued notifying such extension. With the arrival of Wilmot Horton, with a new Royal Commission and instructions, the Council assumed the position of a legislative body for the whole of Ceylon.²

The Board of Commissioners at Kandy continued its existence up to the end of this period. The Officer commanding the troops was appointed to the Board in 1819, and when the office of Resident was suppressed in 1824, he began to function as its president. The Board acted collectively

¹Evidence of John Downing, the Judicial Commissioner, 1829. C.O. 416,19.

²Horton to Goderich, 26 October 1832. C.O. 54, 118.

in the more important judicial and revenue matters that arose in the provinces. Because of the programme of road building that was being carried out, the most important executive business that came before the Board concerned the exaction of services. Claims for exemption from services, and disputed points regarding them, were frequently discussed. Occasionally the Kandyan Chiefs were summoned to attend when it became desirable to obtain their opinion on points of dispute or doubt. Amidst the general tendency that was prevalent in the Colony to concentrate authority in the hand of the Governor, the Board failed to develop into an organ exercising any great degree of independent authority. Its main function continued to be one of acting in an advisory capacity to the Governor.¹

The detailed day to day judicial and revenue work was carried on by the Revenue and Judicial Commissioners in their respective departments. The main duty of the Revenue Commissioner was to give direction to the district officers on matters connected with the collection of the grain tax and the exaction of services.² The details were arranged in correspondence with the Agents, the Chiefs and the Headmen.

The Judicial Commissioners' court contained a mixture of the old and the new. It assumed the form of an English court house that was by now existent in the Maritime provinces.³ The presence of the

¹The above conclusions are drawn from an analysis of the proceedings of the Board of Commissioners for the year 1829. See C.O. 416, 21.

²See Evidence of Downing, 15 September 1829. C.O. 416, 20.

³See Evidence of Downing, N.D. 1829. C.O. 416, 19.

Kandyan Chiefs as Assessors may however have created the impression, in the popular mind, of the continuity of the former Mahanaduva, or Great Court. The Assessors were also however beginning to resemble a jury with the difference that they were being called upon to give their opinion, both on the facts of a case and the Kandyan law applicable to it. It became the usual practice for the Judicial Commissioner to sum up the evidence at the end of a trial, and to call upon the Assessors to pronounce a verdict on the accused.¹

Important cases, civil and criminal, came up for trial before this court. Among them were the treason trials that occurred from time to time, where sometimes as many as fifteen Kandyan Chiefs functioned as Assessors.² The Judicial Commissioner's court was also given a superintending power over the Agent's court, and it was required to bring to the notice of the Governor, through the Board of Commissioners, any illegal or irregular exercise of authority. For this purpose the Agents were required to forward periodically to the Commissioner their civil and criminal diaries.³

The powers and functions of the Commissioners, exercised both collectively and separately, removed much of the usefulness of the Adigars and other Chiefs of the King's Government, who were at the seat

¹Observations of P. Anstruther, see Horton to Goderich 14 December, 1831. C.O. 54, 112.
²See Barnes to Bathurst, 18 March 1821, for the proceedings of a trial in the Judicial Commissioner's Court. C.O. 54, 74.

²Campbell to Bathurst, 16 August 1823. C.O. 54, 84.

³Evidence of Downing. N.D. 1829. C.O. 416, 19.

of power. They were however maintained and supported with fixed salaries in order to keep the class of Chiefs satisfied, and their main duty became one of functioning as advisers, and occasionally as Assessors in the court of the Judicial Commissioner. Both on account of their traditional positions and their new functions the Chiefs continued to wield a considerable amount of influence, both with the new rulers and the people, though this was unaccompanied with a sufficient sense of responsibility.

The number of British Agents was progressively increased till by the end of this period there were eight Agents stationed at Sabaragamuva, Uva and Bintenna, Seven Koralēs, Three Koralēs, Four Koralēs, Matale, Harispattu and Tumpane, Lower Uva and Vellassa. In order to enforce services, the powers of an Agency were occasionally conferred on military officers superintending the construction of roads, in places remote from the established Agencies. The Agencies at Sabaragamuva and Seven Koralēs were considered superior by virtue of the fact that they were held by Civil Servants. As we shall see later, it was found impossible to expand the Civil Service in a manner which would enable the Government to appoint Civil Servants to the other Agencies. The expedient was therefore adopted of investing the military commandments of the divisions with the civil powers of an Agent.

Combining executive, judicial, and often military power, the Agents assumed a prominent position in the districts. Generally speaking they displaced the Disāvas from their former position of eminence. Their main duties in the executive sphere concerned the revenue. The

Agents were often the medium through which the orders of the Revenue Commissioner were communicated to the Headmen, though direct communications with the latter were also not infrequent. Generally the duty of the Agent, was the supervising of the Headmen who collected the revenue and enforced the services, rather than a detailed management of them by himself.¹ The Agent also acted as the chief police officer of his division.

The judicial functions of the Agent assumed more importance in practice. Almost all the Agents, except those temporarily created, seem to have had the judicial powers which were enumerated in the Proclamation of 1818.² Their civil jurisdiction was extended to cover cases where the sum in dispute did not exceed 100 rix-dollars in value.³ This civil jurisdiction included revenue cases, which were instituted by the direction of the Revenue Commissioner, or by the Headmen in charge of the collection, or by the Agent himself.⁴ There appears to have been no regular laws or instructions on the question whether lands could be sold for arrears of taxes. Some of the Agents considered themselves empowered or justified in the eyes of the Government in doing so, while others held that they were not authorized. All were however agreed that such cases were not frequent.⁵

¹ See Evidence of the Agents of Government. 1829. Answers to questions 2. C.O. 416,19.

² Evidence of the Agents of Government, 1829. Answers to question 5. C.O. 416,19.

³ Ibid.

⁴ Evidence of Agents of Government, 1829. Answers to question 71. C.O.416,19.

⁵ Ibid. Answers to questions 72, 74 and 75.

The Agent's court also displayed a mixture of the old and the new. In one view it resembled the English court house that had arisen in the Maritime provinces. Uniform but simple procedures, based on the practices of an English court, were laid down. The proceedings of the court were generally conducted in the same manner as in the Magistrate's court of the Maritime provinces. It resembled the latter in another respect. A knowledge of Sinhalese not being insisted upon from the Agents, they were provided with interpreters, who were generally drawn from the Maritime provinces, with or without the rank of Mudaliyar or Muhandiram.¹ The Agent had necessarily to depend much on them and, as in the Maritime provinces, they acquired a great deal of influence over the revenue and judicial work of the Agent. From 1825 Proctors, who were to be selected for their knowledge of the languages and respectability of character, were allowed in the Agent's court. However, they made their appearance only in a few of the courts. Very often litigants pleaded their own case, sometimes assisted by friends.²

In spite of some degree of uniformity and regularity of form thus established, a great deal of loose procedure continued to prevail. It was perhaps partly on account of the fact that feudal concepts of justice died but slowly in the popular mind. The experience of James Campbell, one of the above Agents, was perhaps not singular. He found both

¹Evidence of the Agents of Government, 1829. Answers to questions 2, 22 and 23. C.O. 416,19.

²Ibid. Answers to question 7. C.O. 416,19.

parties to a dispute disposed to bring before him the customary presents, which used to be given to the former Chiefs, and they appeared dissatisfied if they were met with a refusal.¹ It is also possible that the military men were even less suited temperamentally than the Civil Servants to bring about the atmosphere of a regular court house. In practice the Agent's court was also inadequately supervised by the Judicial Commissioner. Above all, as in the Maritime provinces, the collection of a land tax from numerous small landholders, in an atmosphere of mistrust, carried the Government towards authoritarianism. Thus from 1820 to 1829 the Agents were empowered to imprison revenue defaulters till the payment of the tax.² There is no evidence that this power was frequently used, and whenever it was resorted to a few days imprisonment seems to have had the effect of satisfying government claims.³ Similarly the enforcement of compulsory services led to summary punishments by flogging.⁴ The diaries of the Agents did not generally indicate the extent to which this mode of punishment was resorted to, as such offenders were not subjected to a judicial trial.⁵ Frequent

¹ J. Campbell, Excursions, Adventures and Field Sports in Ceylon, vol. II, pp 166, 285.

² Circular, 21 March 1820. See Return of the number of persons imprisoned under the above circular. C.O. 416,21.

³ Ibid.

⁴ Evidence of Downing, 1829. Answer to question 48, C.O. 416,19.

⁵ The Agent Matale for instance pointed out that in the diary of his predecessor for 1828 the number punished by flogging was stated to be five, while to his knowledge it was about ten times that number. No records were available at all of the punishments inflicted by Headmen. Forbes to Colebrooke, 22 September 1829. C.O. 416,19.

enforcement became perhaps all the more necessary because of the changes that had taken place in the system of services. The road building programme involved much more heavy services than had been performed under the King's Government. Complaints were heard that services were being exacted without much regard to the former rights and duties by which they had been regulated. As the Government Agent of Matale observed the alternatives before the Government were becoming clearer. It had either to use stronger means of coercion to enforce them, or to emancipate the people.¹

The Disāvas and the subordinate Headmen generally fell into a position similar to that of the Mudaliyars and the subordinate Headmen of the Maritime provinces. They ceased to exercise any independent authority, but nevertheless continued to be indispensable not only to maintain social stability, but to execute the day to day activities of the Government. Headmen of all ranks acted as police officers and their traditional position of authority worked considerably towards the maintenance of law and order. In the case of the occurrence of a crime the necessary preliminary actions, such as those of arrest, were taken by the Headmen, with or without the warrant of an Agent.² In revenue administration some of them played a more vital part than in the Maritime provinces because of the existence of a system of direct collections. Headmen known as the Webadde Lekams, some of whom were drawn from the

¹Evidence of the Agent of Government Matale, 1829. Answer to question 55. C.O. 416, 19. Marshall, Ceylon, pp. 216-217. J. Forbes, Eleven Years in Ceylon, p.57.

²Evidence of the Agents of Government, Answers to questions 91. C.O. 416,19.

low country, were employed in assessing the crops, collecting the tax in grain, and disposing of it by sale or otherwise according to instructions received from the Government.¹ The Registers were also kept by them. It was perhaps this dependence on the Headmen which tempted the Government to try out a commutation system in the Kandyan provinces, although the Maritime provinces were in many ways suitable for such a step.²

Though the Proclamation of 1818 displayed an intention of conferring some independent judicial powers to the superior Chiefs, in practice they seem not to have exercised any such independent authority. There is some evidence that occasionally they inflicted corporal punishments, either to enforce their authority, or to enforce services. But the fact that people could now carry complaints against them to the British Agent, which in turn would lead to an inquiry disliked by them, may have perhaps tempted the superior Chiefs, in particular, to adopt the line of least difficulty, by referring a case to the Agent. More frequent use seems to have been made of the authority which was given

¹ See Return of the duties performed by the public officers of Ceylon, C.O. 416,

² From 1829 a system was adopted in some of the districts closer to the capital where a settlement was reached with the proprietors of land to pay a fixed amount in cash or kind for a given number of years, whether the lands were cultivated or not, instead of the previous mode of paying a share of each crop. One principal advantage cited in favour of the new system was that it was less dependent on inferior collectors. See George Turnour, the Revenue Commissioner, to Barnes, 3 October 1831. C.O. 54, 113. Barnes to Goderich, 11 October 1831. C.O. 54, 113.

to the British judicial officers to direct Headmen to conduct inquiries of a judicial nature. Commissions were issued to the minor Headmen to inquire into small disputes, mainly concerning the boundaries of land. In such instances the Headmen assembled the inhabitants of the village, heard their opinions, and settled the boundaries to the satisfaction of the parties. In the case of the failure of such a settlement the matter was brought to the Agent's Court.¹ The Gansabhā or Village Council also continued its existence. The inhabitants sometimes referred their small disputes to the Gansabhā, convened by the mutual consent and the request of the parties. It was generally admitted by the British officials to be a beneficial system of adjudication, and it derived some government support from the fact that the Judicial Commissioner, as well as the Agents, referred cases for arbitration by the Gansabhā at the request of the parties.² But the failure of the Government to confer, by its authority, the necessary powers, and thus give it a recognised legal existence, especially in view of the existence of the Agent's Court, where there was more finality of decision, brought about a tendency for people to resort more and more to the latter.³ Besides functioning in the above manner, the Headmen

¹Evidence of the Agents of Government, 1829. Answers to question 89. C.O. 416,19.

²Ibid., Answers to questions 85 and 89. C.O. 416, 19.

³Ibid. Also Evidence of Downing, 1829. Answers to question 85. C.O. 416, 19.

played a role in the new judicial institutions. They carried the processes of the new courts into execution,¹ and the Chiefs and Headmen of superior rank functioned in them as assessors. In the absence of written codes of Kandyan law in these courts, for purposes of reference, the assessors had probably a great deal of influence over the decisions which touched on the laws and customs of the country. However, as the Judicial Commissioner observed, some of these customs were so certain, immutable and acknowledged that they could not be perverted to suit the interests of the assessors.² The Agent was not bound to abide by the decisions of the Assessors and in case of a difference of opinion, or a doubt which his own experience might suggest, he could obtain the advice of the Judicial Commissioner, who was in a position to consult more authoritative Kandyan Chiefs.³

The new positions held by the Chiefs and Headmen fell far short of the situations which they had occupied before, The new administrative machinery undoubtedly set in a tendency to overthrow the old social order. The Chiefs found it increasingly difficult to maintain their aristocratic appurtenances. They, and the inferior Headmen below them, lost a part of their former authority over the people. The enforcement of unpopular services, without much regard to the customary

¹Evidence of the Agents of Government, 1829. Answers to question 90. C.O. 416, 19. Evidence of Downing, 1829. Answer to question 90. C.O. 416, 19.

²Evidence of H. Wright, 1829. Answer to question 121. C.O. 416,19.

³Evidence of the Agents of Government, 1829. Answers to questions 4, 5 and 14. C.O. 416,19.

rights and duties, worked towards making the people and the Headmen fall more apart. The system of divided allegiance gave the people more enlarged ideas of independence. The Kandyan chiefs in particular had much to regret. "Although in other instances His Majesty Sri Vickrama was tyrannous and unjust, and invited the Chiefs to abandon him," wrote a group of superior Chiefs when they heard of a decision in 1833 to cut down their retainers, "yet His Majesty did not deprive the Chiefs of any part of the honours and emoluments appropriate to their respective stations by ancient usages but he rather augmented them, and although the revolution in this country originated with the Chiefs, and not with the people, yet the petitioners render thanks to Government for having accorded relief to the people in the manner above alluded to..."¹ (by releasing some of the people from service to their Chiefs). The position occupied by the Civil Servants, and the military officers vested with civil power, under the new administrative arrangements, made them both by intention and otherwise agents of change. The winds of change began to blow across the Kandyan kingdom.

¹Petition of the Kandyan Chiefs, N.D. 1833. C.O. 54, 128.

Chapter IV

CONDITIONS OF SERVICE - I

The Civil Service of Ceylon originated with the establishment of Crown Colony rule in 1801. Though it is reasonable to expect that officials would have been sent from England to govern the new Colony it does not fully account for the establishment of the Civil Service on the lines on which it was organized. Certain circumstances in Ceylon, the experience of administration in India, and the desire for patronage felt at the Colonial Office, were the principal factors behind the formation of the Service.

Prior to 1801, when Ceylon was administered by the East India Company, the principal officials required for its administration were drawn from among the Civil Servants of Madras. This led to difficulties from about the year 1798, when North arrived as Governor with a dual responsibility to the Crown and the East India Company. He brought with him certain officials from England, some with specific appointments, and others without them.¹ The Royal Instructions issued to him also referred to Crown appointments and defined the Governor's powers whenever situations to which the Crown would appoint officers fell vacant.² These

¹Hugh Cleghorn arrived with an appointment as Chief Secretary to Government. Several others came with the permission of the Secretary of State, but without definite appointments. See Court of Directors to North, 25 May 1798. G. C. Mendis (ed.), The Colebrooke-Cameron papers, Vol. II, pp. 89-90.

²Royal Instructions to North, 26 March 1798. Ibid., p.76.

instructions did not also specifically require North to obtain his officials from Madras.

The Court of Directors, perhaps viewing this as a threat to its patronage, issued instructions to North requiring him not to employ persons authorized to be taken out from England in situations other than those specifically mentioned, or as vacancies occurred in the Chief Secretary's Office. The rest were to be selected from the Madras Civilians on the spot, or those that would be sent out by the Company from time to time. All officers were however to be subject to the orders and directions of the Governor.¹ The position thus created was no doubt a difficult one to execute, and partly accounts for the subsequent clashes that occurred.

Not surprisingly, North seems to have laboured under a disappointment over the absence of a greater latitude in the choice of his officials, and more particularly over the inability to promote as freely as he wished the interests of those whom he had brought with him.² The Madras Civilians also seem to have considered North as an outsider, and disliked some of the administrative measures initiated by him. The conduct of the Madras Civilians, who seem to have shown a greater loyalty to the Madras Government, and the independent spirit which the Governor was able to show on account of the fact that he derived his Commission from the Crown, soon

¹Court of Directors to North, 25 May 1798. Mendis (ed.), Colebrooke-Cameron papers, Vol. II, pp. 89-90.

²North to Mornington, 5 June 1798, 3 October 1800. Wellesley MS 13866, 13867.

brought about acute factionalism in Ceylon. North wrote of an "infamous faction of Madras Civilians", led by Collector John MacDowall, who was described as the "primum mobile of the Civil or rather the civilian war..."¹ North also showed a disposition to act against certain Madras Civil Servants even before any charges against them were framed and proved.² His despatches to the Governor-General in India, to the Court of Directors, and to the Secretary of State, were full of complaints against them, in which he made various charges of insubordination, dishonesty and factionalism. In the despatches to the Court of Directors his language was a little restrained, but in those sent to the Governor-General he gave a full expression to his feelings about them.³

¹North to Mornington, 27 July 1799, 21 August 1799. Wellesley MS 13866.

²See footnote below.

³Regarding the dismissal of a Collector named Garrow, North wrote to the Court of Directors that "the execution of what I esteemed my duty was extremely painful to me..." North to Court of Directors, 5 October 1799. C.O. 54, 1. But in the letter to Mornington Garrow is described as 'a little pert black monkey'. "If I find," he had written, "the smallest impropriety provable, or indeed not disprovable, I shall undoubtedly send him off to the Coast." North to Mornington, 27 July 1799. Wellesley MS 13866. Again regarding Collector MacDowall he wrote to the Court of Directors that his dismissal was "a subject of still greater surprise and affliction to me". North to Court of Directors, 5 October 1799. C.O. 54, 1. To Mornington he had written that "whatever may be proved Collector MacDowall must be dismissed..." North to Mornington, 1 August 1799. Wellesley MS 13866.

A principal outcome of this conflict, about which we are concerned, was that North made out a case against the employment of Madras Civilians in Ceylon. Firstly, he argued that since Ceylon had been long used to a Government entirely different from that which had for ages been established on the Coast, the official education at Madras would not fit a man for a situation in Ceylon.¹ Secondly, he argued that Ceylon would not hold out the same advantages to the Indian Civil Servants as service in India. The higher situations would be too few to attract men of experience, while to bring young men would be to remove them from the normal line of patronage and to sacrifice their interests and prospects in life.² The only way of attracting good men, he thought, was to pay them higher salaries than in India, a solution which the revenues of Ceylon would not permit.³

By using such arguments North was not trying to safeguard the interests of the Madras Civilians, but to establish that their connections with the establishments in India was detrimental to the interests of Ceylon, and that in practice Ceylon would be a refuge for officials unwanted at Madras. He wrote of the "danger of surrounding the Government with principal officers entirely new to the island, and who have no tie to him either of gratitude or expectation, whose conduct he cannot

¹North to Court of Directors, 30 January 1800. C.O. 54, 2.

²North to Court of Directors, 5 March 1799. C.O. 54, 1.

³North to Court of Directors, 30 January 1800. C.O. 54, 2.

easily correct, but whose confederacy he might probably purchase".¹
 In effect he was making out a case for a separate Government and for a separate Civil Service for Ceylon.

North's arguments had an important bearing not only on the creation of a separate Civil Service, but also on the establishment of Crown Colony rule. They seem to have created an idea that it was desirable to have a set of officials, who would devote their entire career to service in Ceylon. Dundas used North's arguments against the employment of Madras Civilians as an additional justification for the establishment of Royal Government in Ceylon. Following North, he argued that the moderate scale of establishments in Ceylon would not holdout to the servants of the Company the same prospects that they were led to expect in India.

"It is obvious therefore," he told the Court of Directors, "that only those of inferior capacity and inferior talents would be found disposed to remain in Ceylon, and I need not stop to prove to you that this is not exactly the description of servants, which, with a view to the real interests of Ceylon, I should wish to see established in the island."²

The breakaway from India did not necessarily lead to the establishment of a separate Civil Service. There was yet another possibility of Ceylon forming a part of the Colonial Service under the control of the Commissioners of the Treasury.³ This also may have been prevented by

¹North to Court of Directors, 30 January 1800, C.O. 54, 2. Also, North to Court of Directors, 5 October 1799. C.O. 54, 1.

²Dundas to Court of Directors, 30 December 1800. C.O. 55, 61.

³See Dundas to North, 13 March 1801. C.O. 55, 61.

the impression, which seems to have been created by North, that there existed peculiar conditions, which called for a separate set of officials. Though neither North nor Dundas examined what these conditions were, the idea of a separate Civil Service derived support from the experience in India. This experience convinced Dundas of the "necessity and advantage of adopting a line of policy for the Civil Service of Ceylon, similar in all its leading principles to that which prevails in the Civil Service of the Company on the continent of India".¹ If Indian experience suggested the idea, the social and political conditions prevalent in England at the time reinforced it. At a time when patronage was considered a necessary attribute of social and political power, it is not unreasonable to suppose that a desire on the part of the Secretary of State to create a sphere of influence played a part in the proposal for the establishment of a separate Civil Service for Ceylon.

The establishment of this Service was conveyed by the despatch from Dundas to North dated 13 March 1801.² This despatch laid down the principles on which the Service was to be organized. These principles were, except on matters of recruitment, enunciated not as specific instructions, but as the general ideas by which North was to be guided in the organization of the Service. The freedom which thus appears to have been granted to the Governor was soon either withdrawn or circumscribed,

¹See Dundas to North, 13 March 1801. C.O. 55, 61.

²Ibid.

and the Service that was finally established was very largely the creature of the Colonial Office. Both in laying down principles, and later in working out the details, Dundas, and his successor Hobart, were influenced by experience in India. The Ceylon Civil Service, though smaller in numbers, was closely modelled on that of India.

Of the principles behind the Covenanted Service of the East India Company Dundas was most convinced of the system of patronage, which he thought had been very successful with regard to the former.¹ As such, following the rule in the Indian Civil Service, recruitment was to take place by nomination in England, but unlike the Company's practice, the patronage being in the hands of the Secretary of State. It was proposed to send out every year a certain number of 'gentlemen' answering to the description of Writers in the Indian Service. As an exceptional measure, Dundas proposed to send out a few persons, of more mature age and greater experience, to hold the chief offices of trust and importance. All future vacancies in the higher ranks, however, including the office of Chief Secretary, which was to be the highest, were to be filled by promoting those in the junior ranks.²

Dundas did not lay down minimum qualifications, or age limits, or any other rules, to be followed in the exercise of these powers of nomination. Indeed to have done so would have been to impose serious limitations to the exercise of patronage. In the absence of fixed rules it

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²Ibid.

would be too much to expect that a uniform practice was followed by the different Secretaries of State. But the appointments made by them reveal certain factors which were generally operative in the exercise of the powers of nomination.

As regards age, the practice initiated by Dundas, and followed by the others, was to send young men. The Writers nominated by him were between sixteen and twenty years of age.¹ This was perhaps done in the belief, which was shared by the East India Company, that young recruits would be able more easily to adapt themselves to the conditions of service in the East. North too shared this belief, for he reported that after a few years experience they were more capable of conducting the business of the Government than any persons of mature years less acquainted with the country.²

Certain circumstances, however, of which we shall say more later, which compelled the Governors to appoint the newly arrived recruits to responsible situations, made them unhappy about the age of recruitment. North, for instance, was unhappy over the fact that he had to confide to young men offices too important for their age.³ Maitland experienced much difficulty on this account. "Those who have recently come out, and who naturally will be sent without great attention been paid to this point," he wrote, "are generally boys totally uninformed."⁴ As a

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²North to Hobart, 24 September 1804. C.O. 54, 14.

³North to Hobart, 24 September 1804. C.O. 54, 14.

⁴Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

remedy he suggested that an invariable rule should be laid down at the Colonial Office that no person was eligible to the Civil Service under a certain period of life.¹ While out of office he expressed the opinion that between 22 and 26 years was the most suitable age of recruitment.² But the silence of the Colonial Office concerning this proposal suggests that considerations of patronage predominated on questions of this nature. The 'boys' of the Service remained a matter of comment and complaint throughout the period of our study.

The recruits of the period do not appear to have possessed any common educational qualifications. Indeed, the age at which recruitment took place precluded the possibility of their possessing advanced educational attainments. One would occasionally find a University graduate among them. But a large proportion appear to have been those just coming out of schools. Educational qualifications, whatever their nature, perhaps only provided an added qualification for selection and could not be effective by themselves. They seldom entered into the correspondence which preceded an appointment.

The factors which were frequently mentioned were family positions and connections. This brings us to the most important consideration present in these appointments. A person could be nominated as a Writer only if he could secure the patronage of the Secretary of State, either directly, or through an intermediary, who was able to exert sufficient influence with the former. Writers nominated to the Service would therefore either by those directly under the patronage of the Secretary of

¹ Haibland to Castlereagh, 17 August 1808. C.O.54,28.

² Haibland to Peel, 17 October 1811. C.O.54,41.

State on political or personal grounds, or those under the patronage of other men of influence in the social, administrative, or political fields. The number of places that were available imposed limits to patronage. Consequently, those selected would perhaps have been the closest to the Secretary of State. This was especially so in the later days of the Service, when the practice grew up of nominating Writers only when an occasional vacancy occurred. Besides, the benefits of the Ceylon Civil Service made appointments to it so very desirable that the Colonial Office was faced with numerous requests. Vacancies however were few and far between, partly because of the smallness of the Service, and partly on account of the fact that those who were eligible for retirement were continuing in it. Consequently, the candidates who were supported by the most influential patrons, some of whom were closely connected with the Colonial Office, were usually selected. The rest were usually informed that the claims upon the patronage of the Secretary of State were so numerous, and the occurrence of a vacancy so rare, that no expectation of an appointment could be held out. They enjoyed the privilege of having their names entered on a list which was maintained at the Colonial Office. Thus the Ceylon Civil Service formed an important part of the system of patronage in England, and was therefore subject to the increasing criticism that was being levelled against the latter from about the second decade of the 19th century.

The chief result of this system of recruitment was that the Ceylon Civil Service was usually drawn from men with influence and connections.

They also appear to have been generally drawn from the higher rungs of society. These factors had an important bearing not only on the development of the Civil Service, but also on the evolution of the administrative structure. North anticipated one tendency which it brought about, when he heard that Dundas was busily engaged in filling up the vacant offices in his gift.

"All that I have heard of most of the individuals," he wrote, "is that they are in too high a situation at home to come out merely for change of air, and I scarcely think that they would like to go through the drudgery which is cheerfully submitted to at present by the principal officers under me. The consequence will be an immoderate increase of the civil establishment, and a gentlemen like style of proceeding in all the departments, which this island cannot support. Clerk upon Clerk, and Secretary under Secretary, will be multiplied upon us without any consideration and the dignity of every situation will be considered in the salary much more than the trouble of it."¹

As we shall see later, this factor also had an important bearing on certain practices which developed in the Service on such matters as promotions and disciplinary control. They may have also increased the exclusiveness which was displayed by the Civil Servants.

Closely connected with recruitment was the question of numbers in the Service. Indeed to prevent the establishment of an outgrown Service, it was necessary that administrative arrangements should precede the appointment of Civil Servants. Dundas recognized that it was not possible to assess accurately in England the number of Civil Servants

¹North to Mornington, 7 July 1801. Wellesley MS 13867.

that would be required in Ceylon.¹ They would depend on the arrangements for the administration of the island, which would be made locally. He however mentioned the opinion that in the first instance six or eight experienced men to fill the higher and intermediate situations, and eight or ten young men to fill the junior situations, would be sufficient.² This number was to be increased by appointing Writers according to a statement of requirements to be sent by the Governor or as vacancies occurred.³ But the pressure of patronage, felt both at the Colonial Office, and by the Governor, resulted in a situation where the problem became not one of finding officers to fill vacancies, but rather one of finding suitable places for those appointed to the Service, as well as to those in the Colony expecting State employment.

At the beginning too many Writers were sent out without a reference to actual needs. Dundas himself appointed thirteen Writers, though he considered eight or ten sufficient. Hobart, who followed him, nominated seventeen Writers, thereby breaking the rule that they would be sent out according to the Governor's requirements. These appointments in fact led North to request the Home authorities not to send any more Writers "as from the limited extent and scanty resources of the island some years must elapse before those already upon the establishment can be provided for".⁴ Once they had been appointed North was fearful of

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²Ibid.

³Ibid.

⁴See Arbuthnot to J. Sullivan, 12 September 1802. C.O. 54, 7.

being accused of retarding their progress.

North also could not avoid the temptation, even the necessity, to exercise a measure of local patronage. Before the decision to make Ceylon a Crown Colony was known, he had, contrary to the instructions of the Court of Directors, ventured to recruit a number of Europeans locally, and under his new plans for the collection of the revenue,¹ he had made them function as Agents of Revenue and Commerce. He was therefore reluctant to participate in a "sweeping act of spoliation and disgrace" as the reward for what he considered as meritorious service.² He was also no doubt convinced that given the power he could recruit a number of servants locally, and much more economically.

The existence of the Dutch community was also a local circumstance of importance. At first the refusal of the Dutch to take the oath of allegiance, and the natural suspicions that came in the wake of conquest, precluded the possibility of their large scale employment, especially in positions of trust and importance. But these difficulties were fast disappearing, and prior to the establishment of the Civil Service many of them were actively employed as Presidents or members of the Landraad and Civil Courts. The establishment of the Civil Service, and the judicial reforms which North carried out,³ displaced many of

¹See pp 98, 136

²North to Hobart, 24 November 1802. C.O. 54,7.

³See p. 156.

the Dutchmen from their former positions, and brought about a clamour for employment elsewhere or for pensions.¹ At first North took the step of paying pensions equal to half their former pay.² This was however not sanctioned by the Colonial Office. Thereafter, though North advised the Dutch to "turn their minds to some other method of acquiring a subsistence", he was also conscious of the need to provide them with employment.³ It was possible to absorb some of them as Clerks in the new departments presided over by the Civil Servants. The Colonial Office could not have any objection to such an arrangement. This was however not sufficient to provide for the former Dutch Civil Servants of rank, who had already functioned as Judges under the British, and who stayed behind and transferred their allegiance when it became known that Ceylon would not be restored to the Dutch East India Company.

Under all the above circumstances, a clash between Colonial Office and local patronage was unavoidable. The occasion for it was provided when North requested that some of his nominees should be appointed to the Civil Service. The Colonial Office, perhaps viewing this question as one affecting its patronage, was naturally not in a mood to relax its powers. It was also perhaps considered desirable to check any ideas which the Governor might have, that he too had the power of recruiting persons to the Civil Service. The Colonial Office also may have been

¹See C.O. 54, 37 for instances of such applications.

²Circular, 8 September 1802. C.O. 55, 37.

³Order, 27 September 1802. C.O. 55, 37.

conscious of the necessity of advancing the interests of those already sent out or to be sent out as Writers. When therefore the appointments made by North were known in England he was accused of an improper attention to the rights reserved to the Government at home.¹

In the ensuing struggle the principle of recruitment at home became more rigidly fixed. At first North's request to appoint some of his nominees was met with a refusal.² Subsequently, the explanations given by him to the effect that the appointments originated not because of a desire on his part to exercise private patronage, but on account of the requirements of the Government Service felt long before the establishment of the new system was known, was accepted, and some of the nominees were absorbed into the Service.³ It was however followed by a warning that these were the last instances in which a deviation from the rule of originating all appointments at home could be expected.⁴

One result of this conflict was that it led to a definition of Civil Service posts. The Colonial Office, taking into consideration North's administrative arrangements, which were themselves partly motivated by a desire to provide for those sent out as Writers, went on in 1803 to draw up a list of offices which ought to be held by the Civil Servants. Its chief feature was the provision of a Civil Service Assistant for al-

¹Hobart to North, 1 May 1802. C.O. 55, 61.

²Hobart to North, 1 May 1802. C.O. 55, 61.

³North to Hobart, 24 November 1802. C.O. 54, 7.

⁴Hobart to North, 7 May 1803. C.O. 55, 62.

most every office.¹ The aim of this plan was largely to provide for the junior Civil Servants who kept on arriving in the Colony.

As is seen from Appendix A this list allocated to the Civil Service the chief executive offices, both at the centre and at the provinces. It also finally decided a matter on which there had been some uncertainty. This was the question as to whether Civil Servants should be called upon to perform judicial functions. North was convinced of a desirability of employing as judges men trained in the legal profession, whatever the judicial arrangements were finally going to be.² Lord Hobart on the other hand was convinced of the feasibility of employing Civil Servants for judicial work.³ This conviction arose partly out of a belief in the success of similar arrangements in India. But it may have also coincided with a desire to provide an additional field of employment for Colonial Office nominees. Thus, Hobart laid down that whatever the form of judicial institutions, the Judges, the Fiscals and Registrars of Courts should be taken from the Civil Service.⁴

The cadre thus established for the Service appears to have been decided upon without much regard to the nature and extent of the revenue on which it would depend. This aspect of the matter in fact hardly derived

¹Hobart to North, 7 May 1803. C.O. 55, 62. See Appendix

²North to Hobart, 16 March 1802. C.O. 54, 5.

³Hobart to North, 1 May 1802. C.O. 55, 61.

⁴Hobart to North, 7 May 1803. C.O. 55, 62.

the attention that it deserved. It was perhaps built on a pious hope that the revenue was or would become sufficient to defray the expenditure.

These factors led to a development of considerable future importance. Perhaps because of a much greater awareness of the extent of the resources of the island, and also of the need to give employment for the local Europeans, North established certain offices, which were not considered as exclusively appropriated to the Civil Service. One such office was that of Custom Master. As the most junior Civil Servant could not be employed without a minimum salary of £300 per annum, it was not possible to employ them at all the ports at which the presence of such an official was considered necessary. It would not be justified by the total amount of the custom collections at these places. The most economical solution was to vest the duties in the hands of the Collector or an Assistant Collector. North was however interested in keeping them as separate offices. Apart from any desire he may have had to exercise a measure of local patronage, the office of Custom Master provided him with a situation in which the Dutchmen could be employed with benefit, economy and security. Thus while the custom offices at Colombo, Galle, and Jaffna, which were more important on account of the volume of trade passing through them, came to be recognized as Civil Service posts, the customs offices located at the smaller ports were placed in the hands of Custom Masters selected from among the Dutch community, on lower emoluments.¹ The same tendencies were noticeable in the creation of the

¹ See schedules of the annual fixed establishments for this period.

office of Register of Lands. Though it was certainly possible to create a land registration section under the provincial Collector, North seems to have been anxious to have a separate office, perhaps to provide for the Dutchmen displaced by his judicial reforms. This was perhaps why he requested the Colonial Office not to regard these posts as exclusively appropriated to the Civil Service.¹ Most of the persons appointed by him to be Registers of Land were in fact Dutchmen. They were paid nominal salaries, and some none at all, and were therefore expected to remunerate themselves out of the fees collected from the people.² Similarly, notwithstanding the instructions of the Secretary of State to select Judges, Fiscals and Registrars of Courts, from among the Civil Servants, North allotted only the post of Provincial Judge exclusively to the Civil Service. The high salaries which had to be paid to Civil Servants if they were employed in the lower judicial situations, the presence of the Dutch community who were displaced from their former judicial positions, the willingness of the Dutch to serve on lower emoluments, the desire to create a sphere of local patronage, seem to have all combined to make North recruit many of the Sitting Magistrates and Registrars or Secretaries of Courts from among the Dutch community.³ It should also be noted that the offices of Master Attendant and of Civil Engineer and Surveyor General were kept out of the Civil Service as they

¹North to Hobart, 25 September 1804. C.O. 54, 14.

²See p. 123.

³See schedules of the annual fixed civil establishments for this period of study.

were regarded as specialized posts, which could not fit into the general system.¹

The result of these developments was the creation of a 'species' of establishment distinguishable both from the Civil and the Clerical services. It consisted mostly of local recruits performing civil functions, as important as those performed by the junior Civil Servants, but drawing lower emoluments and not considered as belonging to the Civil Service or as entitled to any of its privileges.

The final outcome of the administrative arrangements made by North was the creation of establishments in Ceylon out of proportion to its revenue. An expensive Civil Service at the top was followed by the second species of establishment already noticed. The Clerical Service that was formed also tended to be unusually large, on account of the necessity to give employment to the Dutch, the tendencies set in by the arrival of Civil Servants of a particular type, and the freedom which was given to them during the early years to determine the requirements of their respective offices, and even to select the personnel subject to the approval of the Governor.² It should also be noted that North undertook certain reforms in the Headman system which involved additional expenses.³

¹See Hobart to North, 8 February 1803. C.O. 55, 61. The office of Surveyor was at first held by a Civil Servant. It was later combined with that of Civil Engineer and kept out of the Civil Service. See p.

²For instances see C.O. 55, 37.

³See p. 174.

It was therefore not surprising that the establishments of Ceylon presented the Government with a problem of reform so soon after their formation. At first the tendency among the reformers was to overlook the circumstances in which North was placed, and to attribute the enlargement of the establishments purely to a desire on his part for patronage. The instructions issued to Maitland, and the despatches received by North himself, display such an attitude at the Colonial Office.¹ On account of a tendency to be over-critical of North's administration, Maitland accused him of creating places for unworthy favourites.² As regards the Civil Service he believed that the number was much greater than could be employed either with benefit to the Civil Servants, or to the public service.³ Administrative reforms which involved the appointment of Revenue Commissioner in place of the Board of Revenue, the removal of the second Judge from the Provincial Courts, the provision of Civil Service Assistants only to a few of the offices, the appointment of Collectors to function as Fiscals of Court, and the abolition of the separate existence of the Office of Accountant-General, enabled Maitland to reduce a few offices. He also checked the expansion of the Service. The only Civil Service post created

¹ See Hobart to North, 1 May 1802. C.O. 55, 61. Camden to Maitland, 21 February 1805. C.O. 55, 62.

² Maitland to Edward Cooke, 19 October 1805. C.O. 54, 18.

³ Maitland to Windham, 1 June 1806. C.O. 54, 22.

⁴ ~~See p.~~

during his time was that of Comptroller-General of Customs.¹

At first, Maitland was even less sympathetic to the second 'species' of establishment that grew up during the period of North. Administrative reforms such as the abolition of the land registration department led to the discontinuance of some of the local employees belonging to this establishment.² In general he regarded them as having "no claim upon the liberality of the Government".³ Soon after however, Maitland turned the existence of the second species of establishment into a virtue. "There are situations here," he wrote, "and these of a very great importance, which you can hardly get any regular Civil Servant to fill, and which when he does fill you would hardly get any service out of him."⁴ He therefore recommended that this species of establishment should not be extinguished.⁵ The inability to expand the Civil Service without bringing about a large increase of expenditure, which the island could not afford, and the necessity to leave a field of employment for the Dutch community, both combined to make Maitland continue with the Sitting Magistrates, Custom Masters (later Assistant Custom Masters) and the Registrars and Secretaries of courts which North

¹See p. 112.

²See p. 125.

³Maitland to Camden, 19 October 1805. C.O. 54, 18.

⁴Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

⁵Ibid.

created. In fact the number of Dutch Sitting Magistrates was increased.¹

During the second and third decades of the 19th century the need for reforms directed towards the reduction of establishments began to be more acutely felt in the Colony. Ceylon in fact shared in the general movement towards economy generated by the financial difficulties and social discontent visible in the politics of England towards the end of the Napoleonic wars and during the post-war years, and by the emphasis placed on it by radical opinion. Radical opinion stimulated a greater interest in the administration of the Colonies. Acting under the influence of these forces, the Treasury and in turn the Colonial Office, faced a need to effect economy in colonial administration.

"The means of this country," wrote Bathurst, "can now no longer be applicable to the relief of her several Colonies, and it is therefore absolutely necessary that the colonial civil and military establishments in all quarters of the world should undergo such a revision as may bring their expenditure within their respective means, or that the Colonies should be left to contend alone against the encumbrance which the excess of their expenditure must occasion."²

Following this policy the Colonial Office sent despatches year after year urging economy in expenditure. The great objects placed before the Ceylon Government, were, firstly, the equalization of revenue and expenditure, and secondly, the financial relief of the 'mother country'

¹Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

²Bathurst to Brownrigg, 7 August 1816. C.O. 55, 63.

by taking over the military expenditure incurred for the maintenance of the European regiments in Ceylon.¹ With those objects in view the Governors were repeatedly called upon to review the revenue and expenditure of the Colony. Because of the end of the war in Europe, the Colonial Office, quite understandably, placed greater emphasis on the reduction of military expenditure. In 1815 after a review of the finances of Ceylon, it held that military expenditure was susceptible of great and immediate reductions, but was not prepared to recommend any material reductions in civil expenditure.² It continued to stress the reduction of military expenditure throughout this period and ordered specific measures such as the reduction of colonial allowances, and the reduction and disbandment of regiments.³

This exclusion of civil expenditure was abandoned in 1816, when the Governor was asked to make a minute inquiry into all public expenses, both civil and military, and to submit a full report detailing the necessity of maintaining the salaries, fees and perquisites which then belonged to each office, and to recommend savings, "consistently with what may be due to individuals and becoming the character of the British Government".⁴

¹Bathurst to Brownrigg, 29 March 1816. C.O. 55, 63. Bathurst to Edward Paget, 21 August 1821. C.O. 55, 66.

²Bathurst to Brownrigg, 10 May 1815. C.O. 55, 63.

³Several despatches of this period too numerous to be referred to here displayed this emphasis on the reduction of military expenditure.

⁴Bathurst to Brownrigg, 29 March 1816. C.O. 55, 63.

Though a need for reductions was thus recognized the Colonial Office was torn between two worlds when it came to the adoption of practical measures, especially those affecting the Civil Service. On the one hand it had to recognize the world of patronage, still lingering on amidst much criticism, while on the other hand it had to move with the utilitarian and liberal emphasis on economy and efficiency, that was sweeping across England. Caught between such opposing forces, the Colonial Office found itself increasingly called upon to impose limits to the exercise of its patronage, without however totally abandoning the advantages that it gave.

The Governor was also caught between similar forces. Much more than the Colonial Office he saw the need for a reduction of the civil expenditure, and knew its possibilities. Brownrigg, for instance, found on his arrival that the establishment of public offices was disproportionate to the resources of the country and the duties to be performed.¹ The Governor was also repeatedly pressed by the Colonial Office to reduce expenditure, without however a definite indication from the latter as to whether such reductions were to include the Civil Service establishments. But the Governor was also more immediately faced with the hopes and desires of the Civil Servants, and therefore showed a reluctance to propose measures which would reduce their prospects in life.

All the above factors are visible in the difficulties that

¹Memorandum, 31 March 1813. C.O. 54, 48. Brownrigg to Bathurst, 30 April, 1813. C.O. 54, 47.

were experienced whenever an attempt was made to reduce Civil Service posts. The enthusiasm which Brownrigg showed as he arrived in the Colony made him suggest, through a private memorandum, the combination of a few higher offices of the Civil Service.¹ He recommended the combination of the office of Revenue Commissioner with that of the Comptroller of Customs, the Auditor-General with that of Accountant-General, the Paymaster-General with that of Vice-Treasurer. He found these combinations practicable as well as desirable not only because of a similarity in their duties but also because they did not involve any checks on each other. He also proposed to abolish the office of Chief Secretary as it had become a sinecure under its then incumbent.² After proposing these reductions Brownrigg began to show second thoughts on them, and he expressed doubts about the policy of reducing the number of chief offices of the Service to which the Civil Servants would look forward in promotions.³

These proposals were unnoticed by the Colonial Office till Brownrigg, who was again pressed by the former to reduce the expenditure of the Colony, revived them again in 1816, withdrawing however the proposal to abolish the office of Chief Secretary out of personal consideration for its in-

¹Memorandum, 31 March 1813. C.O. 54, 48.

²Ibid. Also, Brownrigg to Bathurst, 1 August 1813. C.O. 54, 48.

³Brownrigg to Bathurst, 1 August 1813. C.O. 54, 48.

cumbent.¹ On this occasion the Colonial Office took notice of them and instructed Brownrigg to carry them out whenever vacancies occurred in these offices stating that "whatever objections might have then presented themselves to the consolidation of the higher offices, must now yield to the necessity of the case".² No vacancies occurred till 1821 when, with the death of the Paymaster-General, Barnes combined his office with that of the Vice-Treasurer. He however brought in fresh objections to Brownrigg's plans of consolidation arguing that since the acquisition of the Kandyan provinces the duties of these offices had increased in volume. Consequently, he submitted certain modified plans of consolidation. He proposed that the offices of Paymaster-General and Vice-Treasurer should once again be separated, adding the offices of Accountant-General and Auditor-General to the former, and the Stamp Department to the latter. The office of Revenue Commissioner was to be abolished, transferring its duties to the Chief Secretary's office. In the latter office one of the two deputies was to be removed.³ These modified plans were approved by the Secretary of State, and carried out in part when one of the two offices of Deputy Secretary was abolished.⁴

¹Brownrigg to Bathurst, 7 November 1816. C.O. 54, 62.

²Bathurst to Brownrigg, 5 July 1817. C.O. 63.

³Barnes to Bathurst, 10 February, and 14 March 1821. C.O. 54, 79.

⁴Bathurst to Paget, 10 September 1821. C.O. 55, 66.

The rest of the plan underwent further modifications before being implemented by Edward Paget in 1822. The offices of Paymaster-General and Vice-Treasurer were separated and the stamp department was attached to the latter. The Office of Accountant-General was combined with that of Auditor-General, while the office of Revenue Commissioner was combined with that of Comptroller of Customs.¹

The hesitation that was shown in undertaking the above reforms serves to show the difficulties that were experienced in carrying out retrenchments in the Civil Service. They also reflected a reluctance to disturb the established cadre of the Service. Similar difficulties were experienced in other branches of the Service too. For instance Paget arrived with instructions to attempt a reduction of the number of Collectorates and Provincial Courts, by 'judiciously' enlarging the districts.² He was only able to announce the consolidation of two Collectorates. He entered into a detailed account of the duties performed by the several Civil Servants to show that no more reductions were possible. In fact he dwelt on a need to enlarge the junior branch of the Service, so that Assistant Collectors could be sent out to the Collectorates.³

¹Minute, 7 February 1822. C.O. 54, 82.

²Bathurst to Paget, 21 August 1821. C.O. 55, 66.

³Paget to Bathurst, 7 September 1822. C.O. 54, 82.

The reductions that were carried out were not of much consequence by way of economy. Nor did they affect very much the cadre fixed by Maitland. The abolition of the office of Comptroller of Customs meant a reduction of a post allotted to the first class of the Service under Maitland's classification.¹ The office of Deputy Secretary that was abolished was one created above the established cadre during the time of Lt. Governor Wilson.² Besides, with the acquisition of the Kandyan provinces the offices of Resident, Revenue Commissioner, Judicial Commissioner, and Agents of the Seven Korales and Sabaragamuwa,³ had been allocated to the Service with the result that the total number of Civil Service posts was not very much disturbed. Generally speaking, however, the need for economy felt during this period prevented the expansion of the Service, even where such an expansion was desirable, and as we shall see later, led to the adoption of expedients such as the employment of military men in the administration of the Kandyan provinces.

The development of the salary structure of the Service revolved round the aspirations of the men setting out from England as Civil Servants. Once it was determined that the Civil Service would consist of recruits sent from England it became a binding necessity to remunerate them in such a manner as would enable them, after a few years service, to come

¹See Appendix B

²See p. 92.

³See pp. 224-225, 247.

back with what was termed a fair 'competence'.

The despatch of Dundas detailing the formation of the Service did not lay down in detail the salaries to be attached to the different offices. Indeed, with his inadequate acquaintance with North's administrative arrangements such a task was virtually impossible. All that Dundas attempted to do was to lay down the main considerations to be borne in mind in fixing salaries, leaving the rest in the hands of North. One consideration stressed by him was the need for economy, a need which made him lay down that salaries should be fixed not so much by a reference to similar establishments in India, but by a due regard to the very limited resources from which they were to be paid.¹ It was perhaps Indian experience which made Dundas also lay down that all persons in Government employment should be paid salaries and not left to the inconveniences involved in payment by fees, commissions and other such methods.² While there was thus a conscious desire to deviate from the salary scales of the Indian Civil Service, yet having formed the Ceylon Civil Service along the same lines it was difficult to overlook the considerations which had brought about high salaries in India. It was therefore a constant factor influencing Dundas and his successors. This is reflected in the upper and lower limits of the salary structure that was fixed by Dundas. The highest salary, which was to be that attached to the office of Chief Secretary, was to be £3,000

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²Ibid.

per annum, while the Writers were to draw £300 per annum. Salaries between these two limits were left to the discretion and judgment of the Governor, who was to be guided not only by the general considerations above noticed, but also by the importance of the trust and the degree of labour and talents requisite in each respective situation.¹

The difficult task of fixing intermediate salaries thus rested on the shoulders of North. On the one hand he had to pay heed to the need for economy, while on the other he had to bear the actual pressure of individual claims based on the general aspirations of those going out of England, or formed by a comparison with India. He expressed this difficulty when he wrote home of the unpleasant predicament in which he was placed by the opinion entertained by persons coming out on the Ceylon establishment "that because they are to serve in the Indian ocean they have a right to Indian emoluments".² "Your Lordship will on the other hand," he added, "be rather inclined to blame me for not having more vigorously enforced the economical orders."³

Though North was himself well aware of the propriety of not forming the civil establishment on so expensive a scale as in India, he was inclined to sympathize with the aspirations of the Civil Servants. This

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²North to Camden, 4 March 1805. C.O. 54, 17.

³Ibid.

was because he was convinced that "many of the causes which have rendered necessary the expensiveness of those establishments must, to a certain degree, operate on those formed in Ceylon".¹

"By a necessity of a liberal remuneration to the public servants who pass their lives at a distance from their native country," he wrote, "I apprehend that it is meant that persons sent out to the Civil Service in Ceylon, should be sure, after twenty or five and twenty years of effective labour, to return to England with a fortune sufficient to enable them to live in a manner comfortable to the honourable situations in life."²

Drawing perhaps from the experience of the administrators in India, North also believed that if the aspirations of those coming out of England were not satisfied by way of salaries, it would be difficult to maintain the purity of the Service. "Care must be taken," he wrote, "not to introduce concealed receipts of thousands of rix-dollars by the harsh amputation of salaries of hundreds".³

North was therefore liberal in fixing salaries. He did not exceed the upper limit laid down by Dundas, though he recommended an addition of £500 per annum to the salary of the Chief Secretary. As regards the lower limit, he wanted to pay £100 per annum to Writers and to hold out £300 as an object to obtain as soon as possible by employment at the outstations.⁴ This was however overruled by the Colonial

¹North to Hobart, 16 March 1802. C.O. 54, 6.

²Ibid.

³North to Hobart, 24 November 1802. C.O. 54, 7.

⁴North to Hobart, 1 January 1804. C.O. 54, 13.

Office, which instructed that all Writers should be paid £300 per annum.¹ The other salaries were fixed at points in between these two limits, sometimes with reference to the person holding the situation.

The fact that North was not satisfied with the salaries he had assigned, or that he was under pressure to give more, is seen from certain tendencies which he allowed to develop, and certain practices which he adopted. As we shall see later he made no attempts to prevent the Civil Servants from engaging in private trade. He also permitted several individuals to hold more than one office, and draw separate allowances for each. He adopted modes of payment which were partly intended to benefit the civil and military servants. Though their salaries were fixed in sterling they were paid in rix-dollars, which were current in Ceylon. The exchange rate for the rix-dollar was fixed at $9 \frac{3}{8}$ rix-dollars a £, or 2s. 1 $\frac{3}{5}$ d a rix-dollar. On account of the fluctuations in the market rate of exchange there was usually a difference in the nominal and the real value of the rix-dollar, resulting in a reduction of the real salaries enjoyed by the Civil Servants. Partly to offset the difficulties created by this situation, and partly to find the money required to finance Government expenditure, North initiated the practice of receiving the private savings of the civil and military servants, and issuing to them Government debentures at nine per

¹Hobart to North, 7 May 1803. C.O. 55, 62.

cent interest, payable by bills on the British Treasury.¹ Along with it he also started the practice of issuing, for part of the salary, accommodation bills at the fixed rate of exchange.² Notwithstanding the instructions of Dundas to refrain from payment by fees and commissions, and in spite of his own awareness of the administrative and other difficulties arising out of such modes of payment, North continued a practice which had been prevalent in Dutch times, and which had been continued under the administration of the East India Company, of paying Civil Servants engaged in revenue work partly by a fixed salary and partly by a percentage on the revenue collections. The Collectors were allowed a commission of 1 1/2 per cent on the net amount of the collections in their districts. The justification for the continuance of this practice was a supposed need to encourage their exertions in order to increase the revenue. This was perhaps not a valid reason for the Government was in a position to command it as a duty as from Civil Servants in the other branches. Besides, the system of collection by farming made the revenue farmers more important in the matter of actual collections. He allowed the Custom Masters to draw a commission on the custom collections, and the Registers of Land to charge fees from the people. In the judicial sphere, however, he imposed a positive prohibition on exacting fees and commissions.²

¹See Castlereagh to Maitland, 16 June 1807. C.O. 55, 62. Also, Maitland to Castlereagh, 21 May 1806. C.O. 54, 22.

²See D'Oyly to Arbuthnot, 31 August 1802. C.O. 55, 37.

Lord Hobart, who succeeded Dundas, was very much in agreement with the sentiments expressed by North. He believed that it was essential to the public interests to offer fair prospects to retiring Civil Servants to return with the means of living comfortably at home.¹ Basing himself generally on the arrangements that had been made by North, he drew up a salary scale for the Civil Service. This was followed by instructions, which were repeated to the later Governors, not to deviate from these salaries without the previous consent of the Government at home.²

The general awareness that the resources of the country were limited may have prevented the Governor and the Secretary of State from giving full scope to their inclinations. The salaries fixed by Hobart were therefore stated to be on a lower footing than those of the Indian Civil Service. They were however still high, and disproportionate in comparison with the salaries that were paid to the local employees. While the salaries of the latter were fixed purely with reference to local conditions such as the cost of living and the extent of competition for employment, the salaries of the Civil Service were fixed more with reference to external considerations. || The salaries of the Civil Service showed an upward trend during the period after North. Like North, the Governors who followed him could not have been unsympathetic to the aspirations of the men of their age who had gone such a distance from their native country. Certain social

¹Hobart to North, 6 August 1802. C.O. 55, 61.

²See Hobart to North, 7 May 1803. C.O. 55, 61. Castlereagh to Maitland, 11 June 1807. C.O. 55, 62.

forces began to operate in the country which took them in the same direction. Placed in the situation of an exclusive and superior class of rulers, and in a society highly sensitive to distinctions, it became both a social and an administrative necessity to maintain a superior status at a considerable cost.¹ Consequently, forms and modes of living had to be maintained to display this superiority and to command respect not only from the native inhabitants, but also from the other Europeans resident in the Colony. As a social group the Civil Servants and their families seem to have felt the need to maintain an expensive social life.

Maitland, who was the first Governor after North to feel the impact of these forces, was also faced with a situation which called his more immediate attention to a general increase of salaries. It stemmed from some of the reforms that he initiated. At first he was determined to carry out the instructions he had received to reduce the expenditure of the Colony by doing away with the additional emoluments that North had provided by various means. One of the principal reforms that he enforced was the abolition of offices which he considered superfluous and the consolidation of others. By such means he hoped to remove the double pay which certain Civil Servants had enjoyed by holding more than one office. Generally he aimed at reducing emoluments to the level

¹Maitland, for instance, was deeply conscious of the necessity for Civil Servants to maintain a suitable status in the society of the colony. In fact he ordered the reduction of a salary of a Civil Servant on the ground that he had failed to keep up the necessary appearance. Maitland to Edward Cooke, 28 August 1808. C.O. 54, 29.

determined by Hobart in 1803.¹ As we shall see later Maitland also imposed a prohibition on private trading.

These reforms perhaps involved him in difficulties, for he told the Colonial Office that all orders for reduction "must have some reference to the situation in which the island stood on my arrival, to the antecedent conduct of my predecessor, and to the general view of combing economical retrenchment with general satisfaction".² He was aware that if he attempted to undo all the claims founded upon North's arrangements it would have been "merely governing by the iron hand of authority and power instead of carrying with me cordiality and support in the Civil Service".³ Thus though he abolished certain offices he was obliged to place some of the individuals exactly where he found them in point of emoluments.⁴ At this stage however no idea of a general increase of salaries entered his mind. The great fear he seems to have entertained was that the Colonial Office would interfere to favour individuals, and thereby upset his general plans.

"In a general plan of economy and retrenchment," he wrote, "all must be included and all must suffer, and here I beg leave to state to your Lordship that the whole footing on which the island will stand with regard to me, and the whole tenor of my subsequent Government, must rest on the generality of the principle I have adopted, I own it would

¹Maitland to Castlereagh, 9 March 1808. C.O. 54, 28.

²Maitland to Camden, 19 October 1805. C.O. 54, 18.

³Ibid.

⁴Ibid.

be most galling to my feelings if after the severe responsibility I have taken, and the great risk of odium I have incurred, any distinction was to be made at home from whatever interest, setting aside that principle, upon which the whole of this measure has entirely turned."¹

It did not however require Colonial Office interference, either in a particular or in a general way, to bring about a more positive desire in him to increase Civil Service salaries. A feeling of dissatisfaction which would have naturally arisen in the Service with the abolition of private trading, and extra emoluments, began to have its effects over him. By March 1806 he had formed the view that in general the Civil Servants were underpaid, and expressed the hope that if the island should pay for itself it might enable him to make an addition to their salaries.² This was followed by concrete proposals when he submitted a schedule of the establishments and the salaries which he proposed.³

A comparison between this schedule and the one drawn up by Hobart show that a substantial increase of salaries was recommended. The salaries of the Assistants were in Hobart's schedule generally fixed at £320 per annum. Maitland proposed to increase them to £512 per annum. The higher offices to which a salary of £1500 or £1600 per annum were attached in Hobart's schedule, were now to be given a salary of £2000

¹Maitland to Camden, 19 October 1805. C.O. 54, 18.

²Maitland to Windham, 1 March 1806. C.O. 54, 22.

³Maitland to Windham, 1 June 1806. C.O. 54, 22.

per annum. The Collectors who were allowed a fixed salary of £512 per annum and a commission of 1 1/2 per cent on the net amount of the revenue collected were now to have £650 per annum as fixed salary and a commission of 2 per cent.¹

Perhaps on account of the frequent changes at the Colonial Office no decision was taken on these recommendations till June 1807. During this period Maitland seems to have been quite uneasy for he spoke of an 'unpleasant suspense' caused by the delay.² The Secretary of State noticed an apparent contradiction between the earlier talk of reductions and the later recommendation of increases.³ This compelled Maitland to explain himself further by saying that it had never been his intention to reduce salaries beyond those fixed by Lord Hobart in 1803 and that his reforms were confined to cutting down those above it.⁴ The peculiar feature of the despatch of the Secretary of State is the vague terms in which it was framed. Having stated that it was not possible to give a decision on the recommendations without being furnished with the details of the reduction of some contingent expenditure which Maitland had promised, the despatch concluded with a statement which Maitland constructed as a sanction of his plans. "When however you have carried it into execution," wrote Castlereagh, "I must recommend to you not to

¹Maitland to Windham, 1 June 1806. C.O. 54, 22.

²Maitland to George Shee Bart, 27 May 1807. C.O. 54, 25.

³Castlereagh to Maitland, 11 June 1807. C.O. 55, 62.

⁴Maitland to Castlereagh, 9 March 1808. C.O. 54, 28.

make any further alterations without previous communication with Government at home."¹

It was not surprising that Maitland did not wait for further clarification. He considered it as a latitude 'liberally' given to him by the Secretary of State and proceeded to carry out the increases.² They were now incorporated into other plans which he had in the meantime formulated, of which we shall see more later, to divide the Civil Service into three classes. The first class of the Service was to have salaries varying from £200 to £300 per annum. The salaries of the second class were fixed between £1800 and £600 per annum. The salaries of the third class were not to exceed £550 per annum. Newly arrived recruits were not to belong to any class and were not to draw salaries exceeding £300 per annum.³ The salaries to be attached to the different offices were to be fixed at some point between the maximum and the minimum limits laid down for each class. These increases were carried out by regulation IV of 1808.⁴

The salary structure established by Maitland remained basically unchanged till the end of our period of study. The upward trend however continued to be felt during the second decade of the 19th century, in spite of the prevailing atmosphere of financial difficulty which we have

¹Castlereagh to Maitland, 11 June 1807. C.O. 55, 62.

²Maitland to Castlereagh, 9 March 1808. C.O. 54, 28.

³General regulations of the Civil Service, ND 1808. C.O. 54, 28.
See Appendix

⁴Regulation IV, of 1808. C.O. 54,

already noticed. Though perhaps on account of these difficulties a general claim for an increase of salaries did not occur, the aspirations of the Civil Servants, which were denied an outlet by the prohibition of private trading, manifested themselves in various particular claims for increases. Claims for increases, supported by the Governor sometimes on such grounds as an increase of duties or an inability to promote to higher situations, went before the Secretary of State.¹ The Governor being, on the spot was naturally more sympathetic to them. But the prevailing need for economy placed the Colonial Office in a more determined mood to resist any further increases. In the two instances cited above the Colonial Office also took objection to the grounds on which they were recommended. The first assumed that an addition of labour to a particular department entitled its holder to an augmentation of salary.² The second implied that every Civil Servant, who found his claim to promotion unattended, had a title to receive an additional salary as compensation for his disappointment.³ Though occasionally particular additions to salaries were effected, the attitude maintained by the Colonial Office prevented such changes becoming too general.

The aspirations of the Civil Servants were however too strongly felt by the Governor and the Colonial Office to bring about the possi-

¹There are several such applications dispersed among the despatches of this period. For a few instances see Brownrigg to Bathurst, 10 November 1815. C.O. 54, 59. Brownrigg to Bathurst, 5 November 1816. C.O. 54, 61.

²Bathurst to Brownrigg, 20 March 1820. C.O. 55, 63.

³Bathurst to Brownrigg, 8 August 1816. C.O. 55, 63.

bility of a reduction of salaries, which the situation in Ceylon perhaps called for. Thus, though the Colonial Office sent despatches year after year urging economy in expenditure and called upon the Governors to undertake a review of the civil and military expenditure of the Colony, it appears that it was not intended that this review should also embrace Civil Service salaries. "In recommending however a review of the civil establishments," wrote Bathurst, to Edward Paget who arrived with instructions to reduce expenditure, "it is not my object to suggest to you any general reduction of the salaries enjoyed by the Civil Servants of the Colony. As far as their salaries are concerned I do not consider them overpaid for the station in which they are placed."¹ Indeed there was much difficulty in resisting the temptation to sanction measures which granted advantages in an indirect manner.

These various factors were visible in the problems that cropped up regarding the mode of payment and the decisions that were taken regarding them. The practice initiated by North of granting to the civil and military servants accommodation bills at the fixed rate of exchange became a valuable privilege enjoyed by them, when Maitland discontinued the practice of issuing bills of exchange at that rate to others, and auctioned them instead, thus making the sale of bills profitable to Government.² The practice of issuing debentures was however discontinued on

¹Bathurst to Paget, 21 August 1821. C.O. 55, 66.

²Bertolacci, Agricultural Commercial and Financial interests of Ceylon, p. 89.

the instructions of the Secretary of State, who condemned it on the ground that it prevented the investment of capital in the island and also that the interest was excessive.¹ Maitland was no doubt considerably embarrassed and on his representations the Secretary of State permitted its revival.² Subsequently, the Colonial Office decided to fix the rate of exchange at 11 $\frac{3}{7}$ rix-dollars a £ or 1s. 9d. a rix-dollar. The salaries of the civil and military servants, fixed by the Home Government in sterling, were to be paid at the new rate. This concession was not to extend to those who held offices which were described as 'inland appointments', or to the allowances, commissions, and perquisites paid in rix-dollars. In view of the establishment of the new rate, which in effect brought about an increase of real salaries, the Secretary of State gave instructions to discontinue the practice of issuing accommodation bills and debentures.³ Though the latter measures were carried out, Brownrigg reported that they brought about problems of remittance, as bills of exchange could not be obtained at the fixed rate of exchange or within thirty per cent of it in the open market.⁴ Conse-

¹Castlereagh to Maitland, 16 June 1807. C.O. 55, 62.

²Liverpool to Maitland, 5 June 1810. C.O. 55, 62.

³Liverpool to Brownrigg, 5 November 1811. Bathurst to Brownrigg, 23 January 1813. C.O. 55, 62. Brownrigg to Bathurst, 30 April 1813. C.O. 54, 47.

⁴Brownrigg to Bathurst, 27 November 1813. C.O. 54, 48.

quently, he revived the practice of issuing accommodation bills at par, instead of at the current exchange, for one half of the salaries of civil and military servants. In addition, as a means of finding the money required for Government expenditure, and as a concession to the civil and military servants, he opened, with the approval of the Secretary of State, a Government loan which would receive their savings in return for debentures payable at six per cent interest. The interest was to be paid in Ceylon while the principal was to be paid in England.¹ These measures, in addition to providing an easy means of remittance also opened a field for speculation during times of a favourable market rate of exchange. Thus, for instance, in 1817 the possessors of Government bills were able to sell them above the price paid for them. Therefore in effect it could have brought about an increase of salaries as the sale of bills appears to have been practiced by the civil and military servants.²

In 1817, under the pressure of reducing Government expenditure, Brownrigg fixed the rate of exchange for accommodation bills at 12 1/2 rix-dollars a £ instead of 11 3/7 rix-dollars. He thought that it gave no serious ground for complaint though it reduced real salaries, and would not have been adopted except under the pressure of public exigency.³

¹ Advertisement, 28 October 1815. C.O. 54, 59.

² Brownrigg to Bathurst, 28 February 1817, 29 May 1817. C.O. 54, 65. J. Stuart, Notes on the monetary system, pp. 3-4, 9.

³ Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65.

He was however immediately faced with the dissatisfaction of the civil and military servants. Consequently, in 1819 he had to adopt the measure of issuing one half of the salaries in accommodation bills at par and two thirds in debentures.¹ Brownrigg's measures were supported by Barnes, who questioned the justice of paying civil and military servants in a depreciated paper currency, when salaries were fixed in sterling.² The Colonial Office saw some justice in adopting these measures with regard to the military, as they were entitled to receive the 'King's pay' on the same terms as in other foreign possessions. But it was not prepared to admit the principle with regard to the Civil Servants. "They are," observed Bathurst, "servants of the island, and ought to receive their salaries in colonial currency without reference to foreign exchange."³ Considering, however, that circumstances might warrant a temporary increase of salaries, Brownrigg's measures were sanctioned.

The matter did not end there. In 1821 with the intention of putting an end to a variety of complaints and discussions which had arisen on the subject of paying salaries in a depreciated paper currency, the Colonial Office adopted the measure of sending to the Colony silver rix-dollars.⁴

¹Brownrigg to Bathurst, 19 November 1819. C.O. 54, 74.

²Barnes to Bathurst, 13 November 1819. C.O. 54, 74.

³Bathurst to Brownrigg, 18 June 1820. C.O. 55, 63.

⁴Goulburn to G. Harrison, 18 September 1820. C.O. 55, 65.

The Governor was instructed to pay the civil and military servants in this coin and to withdraw the practice of granting accommodation bills. Though these instructions were carried out, Paget gave the civil and military servants the option of having three fourths of their pay in debentures at four per cent interest, if the interest was paid in England and six per cent if it was paid in Ceylon. In addition, those who bona fide required the means of remittance were to be granted accommodation bills instead of debentures equal to one half of their pay and allowances for three months.¹

The several measures thus adopted show that the Civil Servants formed an important group who had to be taken into account in deciding upon financial policy.² Not surprisingly, the problems that were involved regarding the mode of payment were settled only with the introduction of British currency into the island in 1825. From this year the pay and allowances of the civil and military servants were issued and accounted for in this currency. The practice of issuing debentures and accommodation bills had no longer any justification and was discontinued. Bills were to be granted to all alike at the rate of one hundred pounds to every one hundred and three pounds paid into Treasury in Ceylon. The rix-dollar was to continue to be current for

¹ Paget to Bathurst, 22 August 1822. C.O. 54, 82. Minute, 29 August 1822. C.O. 54, 82.

² There were undoubtedly other aspects involved in this complicated problem. For details of some of these aspects see De Silva, Ceylon under the British Occupation, Vol. II, Chapter XVII.

other purposes at the new rate of 13 1/3 rix-dollars a £ or 1s. 6d. a rix-dollar.¹

Closely connected with the salary structure of the Civil Service was the question whether Civil Servants were to be allowed to engage in private trade. "I shall inculcate upon all those who may be sent out to supply the places of the Company's servants," wrote Dundas at the time of the formation of the Civil Service, "that they are not to go out with the ideas of pecuniary prospects such as are too often instilled into the minds of those who at an early period of life are sent to pursue their fortunes in India."² Despite this determination, and the possible awareness of the difficulties that had arisen in India by allowing the right of private trading, both North and the Colonial Office adopted an indifferent attitude towards the problem. The general feeling that salaries were inadequate, and a desire to be liberal towards the 'gentlemen' of the Service, may have tempted North and the Colonial Office to allow the concession. There was indeed nothing in the Colonial Office attitude to indicate that it had any objection. Though Dundas prohibited the civil and military servants from purchasing land, this was not because of a belief that agricultural pursuits would interfere with public duties, but rather because of the policy of the time, which sought to prevent all approaches towards European colonization in Ceylon.³

¹Regulation VIII, 4 July 1825. Barnes to Bathurst, 26 July 1825. C.O. 5489. Bathurst to Barnes, 14 March 1825. C.O. 55, 66.

²Dundas to North, 13 March 1801. C.O. 55, 61.

³Ibid.

As regards trading it appears that the Colonial Office in fact gave it definite encouragement. Thus it sought to provide the capital which the Civil Servants would require by recommending the utilization of the pension fund established for the Service, for commercial speculations which would "yield a fair profit to the servants of the public engaged in the speculation".¹

Because of this latitude the Civil Servants in Ceylon soon began to indulge in private trading, which, if not countenanced by North, was at least tacitly admitted by him.² Once begun it spread quickly among all ranks of the Service and the Civil Servants became not only administrators, but also a set of speculators. Inevitable bad consequences soon followed. Three cases of abuse of authority, which came to light not because of any extra vigilance on the part of North, but almost by accident, served to show the risks that were involved.³

¹Hobart to North, 7 May 1803. C.O. 55, 62.

²See Maitland to Camden, 19 October 1805. C.O. 54, 18.

³The first case was that of Garvin Hamilton, a Deputy Paymaster whose sudden death necessitated the examination of his accounts. A deficit of £19,675 was detected: the money had been used for private trade. North to Hobart, 1 January 1804. C.O. 54, 13. The second case was that of Alex Johnston, a Store Keeper and Deputy Paymaster. His connections with Messrs Neil and Gibbon, and abuse of authority in connection with this firm came to light at an inquiry which North reluctantly conducted at the insistence of the military. North to Camden, 10 July 1805. C.O. 54, 18. Also, Maitland to Windham, 28 February 1807. Co. 54, 25. The third case was that of George Melville Leslie, the Paymaster-General, who was detected with a large cash deficit. Though inquiries were not pursued, he was suspected of having speculated. See Maitland to Windham, 28 February 1807. C.O. 54, 25.

By the time Maitland arrived the attitude of the Colonial Office appears to have undergone some change probably because of the cases that had already gone before it. In the instructions that were issued to Maitland he was required to examine the sources of profit made by the Civil Servants. He was given the option of permitting those which did not interfere with the prosperity and revenue of the island, or which did not increase its general charges.¹ These instructions did not convey a positive desire to prohibit private trading. The Colonial Office had no objections to the government officers gaining 'honourable advantages', independent of their allowances from the State, provided they were consistent with its interest and economy.²

Maitland was compelled to take a more rigid view of the matter, for soon after his arrival, he found that the Civil Service was not only inefficient but to an extent corrupt.

"The nature of my predecessor's character," he wrote, "had been attended with prejudicial effects to His Majesty's interests in the island by enabling many of the Civil Servants to follow the bent of their natural indolence, when in others it had enabled them to direct their natural activity to purposes more connected with their own immediate emolument than with the advantages of His Majesty's Government ... In some instances a total inactivity prevailed, in others, the most pernicious violation of every principle that ought to actuate the servants of the Crown."³

¹Camden to Maitland, 21 February 1805. C.O. 55, 62.

²Ibid.

³Maitland to Camden, 28 February 1806. C.O. 54, 20.

However, an exact picture of the state of the Service cannot be obtained because of the fact that Maitland consciously avoided a retrospective inquiry. He felt that such an inquiry was neither 'prudent or advisable'.¹ But the inquiries which originated in the time of North, and which were continued by Maitland, into the conduct of Alex Johnston, and Melville Leslie,² and an inquiry which Maitland himself originated into the conduct of G. Lusignan, the Collector of Jaffna,³ undoubtedly gave him an insight into the state of the Civil Service and the degeneration to which it had fallen. The inquiry at Jaffna in particular resulted in the revelation, as Maitland somewhat exaggeratedly said, "of a scene of petty floggings, peculation, and villainy as great ... as was ever heard in the annals of India".⁴ He stated that had inquiries similar to those at Jaffna been instituted in the different districts, similar results would have followed.⁵ In fact, looking round for an explanation as to why the measures adopted

¹Maitland to Camden, 28 February 1806. C.O. 54, 20.

²See footnote on p.

³During this inquiry it came to light that the Collector had been in league with some European merchants, helping them in their trading transactions by advancing Government money without interest, and favouring them in obtaining Government contracts. It was also revealed that the Collector had himself carried on trading transactions, using the Headmen for the purpose. Inquiry proceedings are found in C.O. 54, 20.

⁴Maitland to Camden, 25 December 1805. C.O. 54, 20.

⁵Maitland to Camden, 28 February 1806. C.O. 54, 22.

by him have been taken without a protest he came to the conclusion that "their natural consciousness that their conduct could not bear the test, led to their being perfectly satisfied with any new regulation provided their former conduct was not to be too closely investigated".¹

Maitland quickly perceived that an immediate cause for this state of affairs was the latitude which North had shown towards Civil Servants engaging in trade. Here again the extent to which trading rights affected the Service as a whole, or had led to an abuse of authority, cannot be measured since Maitland avoided a retrospective inquiry. There is however no reason to doubt his assertion that nearly all the Civil Servants, irrespective of the situation they held, were engaged in trade, either as principals, or as agents for one another, or for commercial houses in Ceylon and India.² He found most of them acting as agents for the house of Lautour and Company.³

Maitland perhaps drew inferences from actualities when he reasoned out some of the possibilities. Firstly, he said that it amounted to "giving a latitude to the servants of Government ... to employ Government money, and the power of Government placed in their hands, for the sole purpose of cheating the Government itself".⁴ Secondly, he argued

¹Maitland to Edward Cooke, 10 March 1806. C.O. 54, 22.

²In a letter to Edward Cooke Maitland wrote: "I have only stated my reasons generally to Lord Camden, for so doing, because I do not wish to enter into instances where I must have named individuals, who I trust may yet be brought to a true sense of their past imprudence." Maitland to Edward Cooke, 19 October 1805. C.O. 54, 18.

³This was a Madras commercial firm. Maitland to Edward Cooke 10 March 1806. C.O. 54, 22.

⁴Maitland to Camden, 19 October 1805. C.O. 54, 18. Maitland was perhaps

that it tended to wean away the public servants from their duties and thereby affected the administration.

"Can any man suppose," he asked, "that a Garrison Store-keeper will do his duty to the public, where he is the private agent of the merchant who supplies the stores of that garrison."¹

Thirdly, he argued that it would affect the general commercial interests of the island and Government plans to improve them, by giving unfair advantages to Government servants engaged in trade. He pointed out that a Collector, whose power in a district was nearly co-extensive with that of the Government, would be able, as a merchant, to secure to himself monopolies of all the staples of his district, and at times even to secure them at the prices he chose. Thereby "he not only drives off all chances of a fair commercial enterprise, and competition, but shuts the eyes of Government completely to the real state of the commerce of the district, and renders null and void every attempt on the part of Government at any system of general improvement and financial arrangement".²

Lastly, he pointed out that it would affect the Civil Servants themselves by bringing about a general looseness of thinking and acting. As the Civil Servants were generally young men without firm principles, they would, he thought, be unable "to entertain a distinct comprehension of

(cont.) having in mind what was revealed in Jaffna. See footnote on p.

¹Maitland to Camden, 19 October 1805. C.O. 54, 18. He had perhaps in mind the case of A. Bertolacci, whom he found in this position.

²Ibid.

what is honourable and dishonourable in the complex transactions of public life".¹

"If then, "he continued, "in their youth, and at their first setting off as public men, they are for a moment permitted to confound every principle of right and wrong, and to suppose the species of public swindling above alluded to, to be fair and honourable transactions it must ultimately lead to a similar confusion of principle in every other point, and render them totally unfit in the end to be either good public servants or useful members of society."²

Maitland thus made out a strong case against Civil Servants engaging in private trade. The fact that he thought it necessary to make out such a strong case indicates the climate in which he worked. When they originally set out, the Civil Servants may have formed aspirations of creating fortunes, and during North's period they had been led to form the expectation that they would be able to do so by engaging in speculations. The arguments put forward by Maitland may have been partly meant to overcome the opposition that was likely to arise from their disappointments. They may have also been intended to convince the Colonial Office of the need for a prohibition.

The difficult circumstances under which he acted are also to be seen from the manner in which he imposed the prohibition. Having decided that a general prohibition was preferable to taking disciplinary action against those who were found to be abusing their authority, he

¹Maitland to Camden, 19 October 1805. C.O. 54, 18.

²Ibid.

issued a minute in which he directed that no Civil Servant was in future to embark on any mercantile speculation, and that where they were already engaged in such concerns, they should close them with all possible expedition. Those who felt that the situations which they held might be exempted from the rule were required to state their case specifically in writing to the Board of Revenue.¹ This Board was made the tribunal which would decide who was to have a latitude to trade. In the instructions to this Board, Maitland stated that no public servant who was employed in any department connected with the collection of the revenue, or was a Storekeeper, or was entrusted with the secrets of the Government, ought to be permitted to trade.² The Board was required to reject applications from such persons and to allow only those from persons whose duties did not indicate the impropriety of their being permitted to do so.³ Since most of the situations during this time were of such a nature that the collection of revenue was involved at some point, these instructions suggest a disposition to achieve the effects of a total prohibition giving at the same time the appearance of flexibility. Besides, it should be noted that the orders were conveyed by a minute of the Governor which did not have the force of a law. Nor were any penalties prescribed for violating these orders. Maitland

¹Minute, 27 August 1805. C.O. 54, 18.

²Maitland to Board of Revenue, 1 September 1805. C.O. 54, 18.

³Ibid.

seems to have considered it necessary to give the Colonial Office a still greater impression of flexibility, for he informed the Secretary of State that, though the instructions were specific, it was not his intention that they should be pertinaciously adhered to, where the character of the individual was fixed and established, and where the species of commerce was fair, avowed and ascertained.¹ It should also be noted that the Colonial Office did not commit itself on this issue by conveying either a favourable or an unfavourable opinion. It treated Maitland's rules with silence, and left the Governor to think for himself whether silence meant approval or disapproval.

Though it appears that the order prohibiting private trade was generally enforced during Maitland's period several circumstances suggest that it was not completely enforced. Those who held civil situations, but who were not considered as regular Civil Servants, were allowed to continue their trading transactions, perhaps as compensation for the non-enjoyment of the privileges of the Service.² In the instance of a regular Civil Servant, who wished to continue in trade, Maitland took the extra-ordinary step of making him an 'unemployed' Civil Servant, drawing an allowance of £300 per annum, and performing some nominal duties.³

¹Maitland to Camden, 19 October 1805. C.O. 54, 18.

²See Bathurst to Brownrigg, 23 January 1813. C.O. 55, 62.

³See Bertolacci to Lord Glenbervie, 30 September 1809. C.O. 54, 38.

It was perhaps this incompleteness that tempted Maitland's successor, Brownrigg, to bring forward regulation IV of 1813. Thereby he enacted a rule which had the advantage of having the force of law. It was laid down that no person holding an office of trust could engage in trade, as principal, partner, agent, or factor, unless expressly authorized by a license under the signature of the Government.¹ For the proper enforcement of this regulation, these officers were required to take an oath against having any concern in trade. Though it is difficult to determine to what extent, if any, direct trading transactions gave way to indirect ones, it appears that prohibition was enforced in a more effectual and comprehensive manner.² It helped to reduce the speculative spirit among the Civil Servants, removed a strong temptation to diverge from a strict line of duty, and generally brought about better standards of conduct in the Service.

The prohibition on trading may not have been popular in the Service and was perhaps disadvantageous from the point of view of trade. Bertolacci perhaps expressed a feeling that was general, when, while admitting its evil effects, he argued that it did injury to the 'greater interests' of the island, as the Civil Servants were the 'only persons' who possessed the means to call labour into action, to encourage cultivation, manufacture and trade.³ Nevertheless, the good effects of the

¹Regulation IV, 8 May 1813. Skeen, A Collection of Legislative Acts of the Ceylon Government, Vol. I, pp. 148-149.

²Brownrigg to Liverpool, 29 May 1812. C.O. 54, 43.

³Bertolacci, Agricultural, Commercial and Financial interests of Ceylon, p. 434.

prohibition seem to have been too clear and visible to permit a relaxation of the rules.

This prohibition did not cover agricultural pursuits. The Civil Servants were not excluded from the benefits brought about by the relaxation of the rules regarding the acquisition of lands by Europeans. From 1809 they were allowed to acquire land up to 4,000 acres.¹ Though they were even encouraged to take advantage of this, neither the good nor the bad effects of it were visible because very few of them took to agriculture. Bertolacci perhaps provided an adequate explanation for this, when he argued that Civil Servants arrived too young to turn their minds to agriculture, and that by the time they had acquired 'more solid and enlarged' views, as well as a knowledge of the country, they were then too near the time of their departure to attempt it.² However, as Colebrooke noted later, it was also likely that the system of compulsory services and monopolies tended to discourage agricultural pursuits even among the Civil Servants. Whatever may be the reason the Colony was spared the planter Civil Servants, who in later times became a source of considerable difficulty.

¹ See Liverpool to Maitland, 5 June 1810. C.O.55,62.
Bertolacci,

² Agricultural, Commercial and Financial interests of
Ceylon, p 434.

Chapter V

CONDITIONS OF SERVICE - II

One aspect of the organization of the Service which derived little attention right from the beginning was a scheme of training for the Civil Servants. Though the smallness of numbers certainly precluded the possibility of grand ideas such as those that led to the establishment of Haileybury, occurring in the minds of those concerned with the Ceylon Civil Service, the very fact that the problem was not discussed at all showed that the Colonial Office, as well as the Governors of the Colony, were not sufficiently alive to its importance. Both Dundas and North appear to have acted in the belief that in a career devoted to Ceylon the Civil Servants would soon acquire sufficient experience and a knowledge of the country in the junior ranks before being called upon to perform the functions of higher and responsible offices. For this purpose they created the office of Assistant and appointed the junior Civil Servants to function as Assistants at several offices. As we have seen Hobart provided an Assistant to almost every office.¹

Though the creation of such Assistant offices was perhaps unnecessary, when the amount of work available for them was taken into consideration, they would have certainly provided a training ground

¹See p. 270.

where the juniors could have acquired a familiarity with the country, its laws and customs, and where they could have adapted themselves to the unfamiliar conditions of service. But as we have already noticed, the limited finances of the Colony, as well as the high salary scale of the Civil Service, prevented its expansion to the extent hoped for. Thus Assistants were not appointed to all the Civil Service offices. Besides, the growth of another species of establishment led to a situation where certain important offices, which were generally acknowledged to be the most suitable to obtain an insight into the character of the people, were kept out of the Civil Service. Thus for instance many of the inferior judicial offices such as Sitting Magistrates, Registrars and Secretaries of Courts, were held by local Europeans, who had no chances of entering the Civil Service.¹

Even where Assistant offices were provided they failed to become a useful training ground. The existence of another species of establishment for the performance of functions which could be allotted to a Civil Service Assistant gradually reduced the need for them. North also failed to arrange the remaining duties in such a manner as would tend to educate the Assistants. With the prohibition on outside recruitment for Civil Service posts, and with the Colonial Office maintaining a watchful eye on his actions, North was perhaps anxious to avoid the charge that he was unmindful of the interests of those sent out as Writers. He had

¹See pp. 272-273.

therefore been compelled to appoint juniors with two or three years service to important and responsible offices. Thus any intention which had prevailed of making the office of Assistant a training ground remained unfulfilled, and this aspect of the usefulness of the office soon lost its significance.

It was not surprising that Maitland saw the office of Assistant in a far less useful light. "All Assistants here," he wrote, "do nothing. The business of the office is carried on by the principal, and the establishment of the office, and the Assistant, unless in the absence of the principal, neither does, or has anything to do."¹

As we have seen the fault partly lay in the failure of North to attend to a proper distribution of work. The remedy was therefore to make the office more useful. In fact Chief Justice Carrington, from whom Maitland obtained a report on the reform of the judicial system, made a recommendation along these lines.

"The Assistants to the Agent of Revenue and Commerce," he observed, "are in general appointed shortly after their arrival, a period when, while their time of life facilitates the acquisition, they are particularly enforced to acquire the languages of the country.... By dividing the course of their labour between the duties of revenue and the administration of justice in inferior cases, it may reasonably be expected that they will speedily become masters of the Sinhalese and Malabar languages, and be equally qualified to each department of the Service to which they may be called."²

¹Maitland to Windham, 1 June 1806, C.O. 54, 22.

²Carrington to Maitland, 5 October 1805. C.O.54, 18.

He therefore recommended increasing the number of Assistants, and their appointment to perform magisterial duties. Behind this proposal there was a recognition of several facts connected with the Civil Service. It was recognized that the office of Assistant to a provincial Collector, to which magisterial duties were attached, was a good training ground for the junior Civil Servants, because such duties were likely to bring them more in touch with the people. It was also recognized that in a small service it was not possible to have specialized offices for judicial and revenue work, and that the whole Service should be equally qualified for both.

As we have seen Maitland adopted the measure of vesting in the Assistants to the Collector, wherever they existed, the powers of Magistracy. Instead of increasing the number, however, he reduced them. He assigned one to each of the central offices, where he thought it was necessary to get some of the Civil Servants trained in their work.¹ A fixed Assistant was not sent to every Collectorate. Only the Collectorates of Colombo, Galle and Jaffna were provided with Assistants. After Maitland's period of government the Assistants began to disappear even from the central offices other than that of Chief Secretary. Of the Collectorates only Colombo and Jaffna were regularly provided with Assistants. Though from time to time Assistants were appointed to

¹ Maitland to Windham, 1 June 1806. C.O. 54, 22.

other Collectorates and offices they depended entirely on the exigencies of the Service.¹

One reason for the gradual diminution of the number of Assistants was the fact that the Civil Service could not be expanded in view of the salary scale attached to it. The Assistant offices were the first to suffer from the pressure for economy. Besides, in spite of some efforts on the part of Maitland, the Assistants, especially those sent to the provinces, failed to become useful. The presence of the Dutch Sitting Magistrates removed almost entirely the need for Civil Service judicial assistants, while the amount of revenue work in a province could not alone justify their existence. Also, after a few years, the existence of the Civil Service side by side with another inferior establishment, brought about barriers between them. The Civil Servants, who considered themselves superior, appear to have shown some dislike for the performance of magisterial duties, perhaps because they did not wish to be associated with an inferior group of officials.²

As a means of giving some sort of training to newly arrived recruits, Maitland initiated the practice of attaching them to the Chief Secretary's Office, either as Assistants or as unemployed Civil Servants. He hoped

¹See schedules of the annual fixed civilestablishments for the period.

²Brownrigg noticed a reluctance among the Civil Servants to attend to the details of custom house duties such as the examination of packages. Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65. Barnes, taking a partial view of the case, attributed the disinclination to function as Magistrates to the interference of the Supreme Court. See p.

that here the young men would derive a knowledge of office business as well as of the languages of the country.¹ This manner of employing a new recruit was perhaps preferable to investing him with an office, however, inferior, which involved a certain amount of power and responsibility - provided it was accompanied by a definite scheme of training. But such a scheme did not arise. Some experience was undoubtedly gained. But it was more in office routine than in the peculiarities of the revenue and judicial administration of the country, or in the languages, customs or character of the people.

One particular aspect of the training of the Civil Servants attracted the attention of Dundas, as well as of the Governors of the Colony. They considered it necessary that the Civil Servants should be equipped with a knowledge of the languages of the country. Dundas instructed North to endeavour to induce the young Civil Servants of the government to apply themselves to a study of the languages, and to make them understand that promotions would depend not only on general good conduct, but also on their linguistic proficiency.² Though North was also convinced that Civil Servants should have a perfect command of the languages, he failed to draw any rules for the purpose. The Civil Servants were liberally provided with interpreters, thereby removing the sense of urgency which would have been otherwise present. It was therefore not surprising that at the end of North's period only two of the

¹Maitland to Windham, 20 September 1806. C.O. 54, 22.

²Dundas to North, 13 March 1801. C.O. 55, 61.

Civil Servants were adequately proficient in a native language.

Maitland naturally found that due attention had not been paid to what he described as an "irksome but very important part of their duty".¹ The only change that he made however was to offer some encouragement by stipulating that when Civil Servants offered themselves to be examined in the Sinhalese and Portuguese languages, and were found to be proficient in them, the number of years required for promotion from one class to another would be reduced.² He also made the office of Chief Translator to Government open to anyone qualified by a knowledge of the languages to hold it.³

These measures, though steps in the right direction, failed to overcome the antipathy which the Civil Servants appear to have shown towards the study of the native languages. This is seen from the fact that up to 1819 no examinations were held by the Government in order to determine the proficiency of the Civil Servants in the languages and to confer to them the above benefits. Meanwhile, a knowledge of the languages became more important with the acquisition of the Kandyan kingdom, which had never before been subject to European rule. Brownrigg therefore recognized the necessity of adopting some plan of encouragement for this purpose.⁴ But all that he did was to arrange to

¹General Regulations of the Civil Service, N.D.1808. C.O. 54, 28.

²Ibid. Portuguese was considered as a language that ought to be studied perhaps because a large number of Clerks were proficient in it. On the instructions of the Secretary of State, in 1823, it was withdrawn. Bathurst to Barnes, 25 July 1823. C.O. 55, 66. Tamil was a surprising omission in 1808. It was rectified in 1813. Brownrigg to Bathurst, 10 July 1813. C.O. 54, 47.

³General Regulations of the Civil Service, N.D.1808. G.O. 54, 28.

⁴Brownrigg to Bathurst, 15 March 1815. C.O. 54, 55. At this time only two Civil Servants, John D'Oyly, and William Tolfrey, were proficient in the Sinhalese language. See also Brownrigg to Bathurst, 6 February 1817. C.O. 54, 65.

hold an examination and to offer four monetary premiums to the successful candidates. The most successful of them was, in addition, to be given the post of Chief Translator.¹ This scheme underwent some modification, when the post of Chief Translator was abolished shortly afterwards. But Brownrigg went ahead with the rest of the plan increasing the amount of the total premium.² He also urged on the Secretary of State the idea of awarding two premiums annually to the two most successful candidates at an examination confined to junior Civil Servants with less than three years resident service.³

After some postponements the first examination was eventually held with two Civil Servants appearing as candidates, the examiners being John D'Oyly and the second and third Maha Mudaliyars. The examiners reported that both candidates had attained a considerable proficiency in Sinhalese, but that they had not become such 'complete masters' of it as to be no longer in need of assistance.⁴ Brownrigg divided the total monetary premiums between the two, but failed to give these half successful Civil Servants, and others who watched them, the necessary encouragement

¹Minute, 11 January 1817. C.O. 54, 65. The accumulated salary of the Chief Translator to Government, which had been vacant for some time, was divided into four premiums of £200, £150, £100 and £50.

²Minute, 24 June 1819. C.O. 54, 74.

³Ibid. Also, Brownrigg to Bathurst, 8 July 1819. C.O. 54, 74.

⁴The examination consisted of two written translations from English into Sinhalese, three from Sinhalese into English, a viva voce translations of a Sinhalese ola into English, and the examination of two Sinhalese parties in a complaint. Report of the examiners, 17 December 1819. C.O. 54, 76.

by decidedly preferring them in the Service. In fact, the most successful of the two complained that in his case even seniority which, as we shall see later, generally regulated promotions, was overlooked. Besides no more examinations were held till 1822.

The arrangements in this sphere generally suffered from the failure of the local Government and the Colonial Office to take a more realistic attitude. The local Government left too much option in the hands of the Civil Servants, perhaps out of consideration for them. It failed to adopt an element of compulsion, by insisting on qualifications in the languages as a necessary condition for promotions. The Government also did not provide sufficient facilities for a study of the languages, nor did it make arrangements to hold regular examinations. The Colonial Office broke a long silence on the subject by taking a more unrealistic attitude. It held that honorary rewards in the manner of University degrees would provide better incentives than monetary premiums.¹ It was only during the time of Barnes that a more realistic approach emerged. He stated that the only way to get the desired effect was to make the absence of a tolerable proficiency in the languages a disqualification for employment in situations higher than that of Assistant.² This view was accepted by the Secretary of State, on whose instruction Paget issued a minute in which there was a positive declar-

¹Bathurst to Brownrigg, 10 March 1820. C.O. 55, 63.

²Barnes to Bathurst, 23 November 1821. C.O. 54, 80.

ation to the above effect.¹ Though effectually stated this rule was, as we shall see later, not very effectually implemented.

The failure to promote the study of the native languages was partly the result of developments which took place with regard to promotions in the Service. Once the decision was taken that recruitment to the Service would always be to the rank of Writer it followed that future vacancies in the higher ranks would be filled by promotion from the lower. Dundas possessed decided opinions on the question of the exercise of the powers of promotion. He believed that the patronage of the Home Government should cease with the first appointment, and that thereafter it should rest with the Governor on the spot, who was to act according to his own discretion, judgment and responsibility.² "Nothing can be more unjust and heart-breaking to young men going to so great a distance from their native country," he wrote, "than to labour under the apprehension of having their service superceded by favour and interest at home."³ Dundas only wished to keep the power of ratification in the hands of the Secretary of State. But even with regard to this he assured North that unless in case of manifest injustice, or abuse, it would seldom be exercised.⁴

¹Minute, 23 September 1822. C.O. 54, 82.

²Dundas to North, 13 March 1801. C.O. 55, 61.

³Ibid.

⁴Ibid.

Several factors appear to have led Dundas to this opinion. Firstly, there was a belief in the success of a similar system in India, where the Governors were allowed freedom in internal changes.¹ Secondly, it was thought necessary in the interests of the efficiency of the Service, as well as to maintain the authority of the Governor, that the servants of the Government should look up to him with respect, and that they should be made to feel that their rise would depend not upon interest and solicitation at home, but upon ability and industry which would be noticed by the Governor on the spot.² A large scale interference with the internal arrangements made by the Governor, or a frequent reversal of his decisions, would certainly have embarrassed him, and affected his authority. In this matter the Colonial Office appears to have acted in the belief that it was necessary to suppress the natural desires of patronage in the interests of good government and security. Lastly, the most important factor was the difficulty of exercising this power from England. At a time when it took nearly six or seven months for a despatch from Ceylon to reach England, and a similar time for a reply to reach Ceylon, it was perhaps unavoidable that the representative on the spot would have to be given a discretionary power in such appointments. The same factor would have perhaps created a reluctance to reverse a Governor's decision, which was bound to occasion

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²Ibid.

much disappointment to individuals and even to complications in the administration.

The position laid down by Dundas was on the whole maintained. His determination not to appoint Civil Servants directly to a rank above that of Writer became virtually an unwritten law. Only two such appointments appear on the official records of this period and they occurred during the formative years of the Service.¹ Though the Colonial Office required the Governor to submit for its ratification all the internal changes he had made in the Service, it did not attempt any large scale interference with them. It became the usual practice to confirm all the changes.² Only one case appears on record, where the Colonial Office exerted official pressure to reverse a decision made by the Governor.³ It is of course difficult to determine whether private communications played a part in the decisions taken by the Governor. It is likely that owing to the growing importance of seniority, of which we shall say more later, even such communications had little effect.

In spite of all this, however, fears of Colonial Office interference were not entirely absent. They arose partly from the fact that the Civil Servants who arrived in the Colony were well connected at home.

¹The two appointments were: Saumarez appointed Vice-Treasurer in 1802 and John Rodney appointed to the same office in 1804. See Hobart to North, 10 August 1802. C.O. 55,61. North to Hobart, 25 September 1804. C.O. 54,14.

²This conclusion is drawn from examination of the official despatches of this period.

³The case was that of H.A. Marshall who had been under suspension for some time. Brownrigg showed a reluctance to appoint him as Comptroller-General of Customs, to which he laid claims on grounds of seniority. Marshall thereupon made direct representations to the Colonial Office. The Colonial Office ordered his appointment. For details of the case see Brownrigg to Liverpool
(cont.)

These connections may have been well known in the Colony. The Colonial Office also sometimes made its interest in a Writer felt by issuing a letter of recommendation, in which the Governor was merely asked to show whatever 'civility' in his power whenever an opportunity afforded it.¹ The climate of uncertainty created by these factors was perhaps accentuated by the practice, which appears to have been prevalent among the Civil Servants, of communicating privately either with their patrons in England or with other persons of authority, stating supposed injustices or grievances.² Although from the beginning the practice grew up for Civil Servants to make official representations to the Secretary of State through the Governor, and though the Colonial Office discouraged direct communications, attempts to lodge direct protests against a Governor's decision, or to ask for favours direct from the Colonial Office, were not entirely absent.³ Such attempts were usually made when the Civil Servants were on leave of absence in England.

These factors undoubtedly made the grounds on which the Governor stood somewhat uncertain. North perhaps dwelt amidst such uncertainty when he wrote home that "it is impossible to employ the peculiar talents and to encourage the labours of the various Civil Servants, if they are

(cont.) 22 August 1812. C.O. 54, 44, and 1 August 1813. C.O. 54, 48. Bathurst to Brownrigg, 5 April 1813, 30 July 1814 and 10 February 1815. C.O. 55, 63.

¹For one instance see Hobart to North, 14 March 1804. C.O. 55, 62.

²The C.O. 54 Miscellaneous volumes, usually one volume for each year, contain many indications of such activity.

³Ibid.

chopped down or stretched out at home..."¹ It is also seen by the fact that Maitland sometimes considered it necessary to employ means other than sending a public despatch to explain some of the changes he had made or proposed in the Civil Service.²

Some of the same factors appear to have made the Colonial Office sensitive to a feeling that the Governors were susceptible to favouritism. A certain amount of scepticism was indeed pardonable when there were known cases where the Governors advanced the interests of friends and relatives in the Colony. The private letters of North show that he was maintaining a correspondence with friends and relatives in England, especially his brother in law Lord Glenbervie, in which he reported the progress of certain officials in whom they were interested. The latter appears to have constantly been approached by persons appointed to Ceylon, for letters of introduction to North.³ North undoubtedly had an inner circle of favourites on whom benefits were bestowed whenever possible.⁴

¹North to Camden, 10 September 1805. C.O. 54, 17, and, 12 February 1805. C.O. 54, 17.

²Maitland made use of persons of influence returning to England, to explain to the Secretary of State certain changes that he had proposed in the personnel of the Civil Service. See Maitland to Arbuthnot, 30 December 1806. C.O. 54, 23.

³For such correspondence see North MS U471 C45.

⁴"He is surrounded by a set of excellent men too viz Boyd, Blair, Garvin Hamilton, Jonville, Bertolacci, and then come his two sons Sylvester and George... I think Robert and I stand a good change of being admitted into the cotteree above named; we are of it at present ex domicilis." George Arbuthnot to Glenbervie 6 October 1801. North MS U71 C43.

Maitland was known to have advanced some of his friends and relatives into higher positions, especially in the military services. Thus the Governors could not entirely escape from suspicions of favouritism, rightly or wrongly felt both in England and in the Colony.

Another factor was that up to 1808 there were no rules at all to guide the Governor in the exercise of his powers. Though Dundas certainly expected North to draw up a set of rules by which he would be guided in making selections, his instructions on the subject were vague. It was stated that the Governor should select the officers most deserving and best qualified to discharge the duties of the several offices "following as much as possible and with a due consideration and allowance for the different circumstances of Ceylon, the rules and regulations established in Bengal...."¹ In Bengal the principle of seniority had been established by the Charter Act of 1793, and was intended to check favouritism. It was perhaps intended by Dundas that merit as well as seniority should be weighed together in promotions. North however failed to draw any rules on the subject.

On account of all these factors the stage was set for a greater recognition of the principle of seniority in promotions. With varied interests to satisfy, the Governor would have tended to fall back on seniority as the safest mode of action, and as the one likely to bring the least amount of dissatisfaction. The Civil Servants themselves, especially those

¹Dundas to North, 13 March 1801. C.O. 55, 61.

who considered themselves to be overlooked, were becoming seniority conscious. The Colonial Office may have also been inclined to favour this principle to avoid favouritism by the Governor, real or imaginary.

By the end of North's period, seniority had already begun to be the more important consideration in promotions. This perhaps accounted for the reforming mood in which Maitland claimed that at the very beginning of his administration he explained to the Civil Servants that the nature of their advancement depended solely upon themselves. "Where they showed zeal and energy," he said, "they should be proportionately advanced, where they were indolent and inactive they should have no countenance under my Government."¹ He asserted that "resting any kind of weight upon mere seniority is a principle that never ought to be admitted in the island of Ceylon."²

The environment was however unsuitable for a reformer. A frequent disregard of seniority could only have brought about charges of favouritism, and would in fact have weakened the position of the Governor. Besides, by drawing a list of Civil Servants according to their rank, which was forwarded to the Governor for his information in 1807, the Colonial Office laid more emphasis on seniority.³ As it appeared from this list that the standing of some of the Civil Servants was different from what it was hitherto understood to be in the Colony, Maitland

¹Maitland to Camden, 19 October 1805. C.O. 54, 18.

²Maitland to Robert Peel, 16 October 1811. C.O. 54, 41.

³Edward Cooke to Maitland, 11 June 1807. C.O. 54, 27.

circulated it among them and invited representations from those who conceived that a mistake had been made with regard to their rank.¹ There was thus a considerable amount of discussion about the rank of Civil Servants, with the result that the Governor, as well as the Civil Servants, became more seniority conscious than ever before.

These difficulties in making changes of personnel in the Service appear to have tempted Maitland to rectify North's omission to draw rules for the guidance of the Governor in arranging promotions. He divided the Civil Service into three classes and fixed rules of promotion from one class to another. The first class of the Service was to consist of the five highest offices, which were to be the final objects of ambition of the whole Service. The offices placed in this class were the Chief Secretary, the Revenue Commissioner, Vice-Treasurer and Accountant-General, Civil Auditor General, and Civil and Military-Paymaster-General.² Later the offices of Comptroller-General of Customs and the Resident at Kandy were added to this class. The second class of the Service was to consist of twenty five offices. All the Collectors and Provincial Judges, the Superintendent of the

¹Circular, ND 1807. C.O. 54, 29. It appears from the replies received that in the Colonial Office seniority list, those appointed at the time of the establishment of the Civil Service were given rank above those in employment from 1798 and subsequently absorbed into it. See memorials of Marshall, Bertolacci, and Lusignan. C.O. 54, 29.

²General Regulations of the Civil Service, ND. 1808. C.O. 54, 28.

cinnamon department, the Deputy Secretary, Commissioner of stamps, the Custom Master of Colombo, the Sitting Magistrates of Colombo and Jaffna, the first Assistant in the Chief Secretary's office and the Assistant in the Revenue Commissioner's office were placed in this class. Later the Judicial and Revenue Commissioners in Kandy and the Agents at Sabaragamuwa and Seven Korales were added on to it. The third class of the Service was to consist of twelve junior offices, mostly the Assistant offices wherever they were retained.¹

No Civil Servant was to be eligible for promotion to the first class unless he had served over seven or eight years in the island. To hold an office in the second class it was necessary to have three years service in the island. The term of service was to be calculated from the time of arrival in the island, and leave of absence in Europe was not to be considered as being part of this period. As an encouragement to study the native languages, it was stipulated that an officer of the third class, who had attained proficiency in them, would be eligible for promotion to the second class in two years, while an officer of the second class, who had attained higher proficiency, was to be eligible for promotion to the first class in six years.² It should be noted that this scheme placed revenue and judicial officers on one scale of promotions, thus putting an end to any idea of a separate judicial service.

¹General Regulations of the Civil Service, ND 1808. C.O. 54, 28.

²Ibid.

Maitland's rules have the appearance of making a fair balance between the claims of seniority and those of merit. They positively recognized seniority and also provided for merit promotions in the case of proficiency in the native languages. Besides, when it was known that a good number in the second class, who had completed seven years service, would compete with each other for the few posts in the first class, and that those in the third class, who had completed three years, would compete for each vacancy in the second class, the rules appear to have left considerable freedom of choice to the Governor. It should also be noted that there were variations of salaries and other advantages among offices belonging to the same class, so that here too the Governor was left with much freedom to favour or disfavour particular individuals.

Maitland's rules, however, failed to arrest the tendency for seniority to predominate in promotions. It was accentuated when during the second decade of the 19th century the Civil Servants became more conscious of the advantages to be derived from the Service. As we have seen, the prohibition of private trading had the effect of making the Civil Servants look to the Service alone for the realization of their aspirations.¹ One significant result of this was that a competition developed among them to secure the higher places in the Service. This competition instead of taking the very desirable and healthy form of trying to display

¹See p. 295.

superior merit, turned into a very inconvenient discussion of each others claims based on seniority.

The extent to which seniority became important is reflected in the discussions that took place as to what constituted seniority. Such points as whether leave of absence in England or temporary suspension involved loss of seniority, and whether the arrival of one Civil Servant before the other, when both were appointed by the same despatch, or even whether the occurrence of one name before the other in the despatch conveying the appointment, gave one seniority over another were disputed, urged as claims for promotion, and were taken into consideration by the Governor.¹ It was no small wonder that Brownrigg could cry in despair. "I have ever found it a hopeless and thankless task," he wrote, "to endeavour to reconcile the claims of contending candidates and quite endless to attempt solving the ingenious arguments by which each would prefer himself to his competitor."²

To avoid some of these discussions, Barnes drew up a new list of Civil Servants in the order in which they were nominated and urged that they be ranked accordingly.³ This was approved by the Colonial Office which ruled that when more than one appointment took place by the same despatch, they should take rank according to the time of their arrival

¹For some details of such discussion see Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65. There were several instances which showed that the above factors were weighed in arranging promotions. See Brownrigg to Bathurst, 5 February 1814. C.O. 54, 51. Brownrigg to Bathurst, 8 November 1817. C.O. 54, 66.

²Brownrigg to Bathurst, 8 November 1817. C.O. 54, 66.

³Barnes to Bathurst, 23 November 1821. C.O. 54, 80.

and the commencement of duties, and that if they arrived together by their respective ages.¹ Though these steps removed the inconvenience and embarrassment involved in the discussion of the relative seniority of Civil Servants, they led to a stricter compliance with it in promotions.

The Governor naturally found himself almost helplessly placed amidst the claims and counter-claims of this privileged group of public servants. It was only in a few appointments to the Kandyan country, and that too after much hesitation and explanations, which stressed the need to be more careful in selecting officers to serve there, that Brownrigg and Barnes were able to exercise some discretion, and overlook seniority.² The weakness of their position is seen by the fact that they considered it necessary to give the reasons for their selections by way of minutes addressed to the Civil Servants.³ Barnes went to the extent of asserting that "he recognizes no obligation ... to promote Civil Servants with reference alone to their seniority..."⁴ He was however not seriously disposed to overturn it, for he informed the Secretary of State that he had exercised a discretion in favour of the Civil Servants appointed to the Kandyan country, on the understanding that they were not to look forward to any further superior offices in precedence to their seniors.⁵

¹Bathurst to Paget, 16 July 1822. C.O. 55, 66.

²See Brownrigg to Bathurst, 5 June 1816. C.O. 54, 61. Also, Barnes to Bathurst, 7 September 1821 C.O. 54, 80.

³See Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65. Also, Barnes to Bathurst, 7 September 1821. C.O. 54, 80.

⁴Minute, 13 August 1821. C.O. 54, 80.

⁵Barnes to Bathurst, 7 September 1821. C.O. 54, 80.

While the Governor was thus subjected to the rule of seniority, it became the duty of the Colonial Office to resist it, however feebly and ineffectively. "I desire that it may be distinctly understood by the Civil Servants," wrote Bathurst, "that I can never allow seniority alone to be an irresistible claim to promotions. The Governor of the Colony, being responsible for the due execution of the public service, he must necessarily in his selection of the Civil Servants, be guided not merely by their relative seniority, but by his own sense of their qualifications for particular employments or by their general aptitude for public business."¹ It was however too late to arrest the tendencies that had set in.

At the time of the formation of the Civil Service, the gift of the Colonial Office to what it considered an inadequate salaries was a favourable retirement and pensions scheme. Dundas, who originated the idea, specifically stated that considering the small scale on which it was proposed to regulate the salaries of Civil Servants, some arrangement ought to be made with a view to making a provision for their retreat.² He also thought that to induce Civil Servants to look forward to a 'certain and competent independence' after a given number of years service, was the best security against abuse.³ Pensions were to be

¹Bathurst to Barnes, 25 July 1823. C.O. 55, 66.

²Dundas to North, 13 March 1801. C.O. 55, 61.

³Ibid.

proportionate to the duration and importance of the services rendered. As regards duration, Dundas thought that it should neither be too short nor too long. The former defect, he thought, would not only expose the State to great expense, but would also deprive it of experienced Civil Servants, while the latter would expose the Civil Servants to 'great severity', and "extinguish those feelings of expectation, which are the best incentives to integrity, and zeal, and lead them either to indifference in the discharge of their duties, or to acquire the means of returning to Europe by less honourable pursuits".¹

The Colonial Office drew up a plan in accordance with these ideas.² According to this it was proposed to create a Civil Fund, which was to be managed by a committee of trustees, consisting of the Chief Secretary, the President of the Board of Revenue, and three other persons to be named by the Governor. An annual payment was to be made to this fund from the revenues of Ceylon, equal in amount to ten per cent of the aggregate of all the salaries paid to the Civil Servants, the Government reserving the right to discontinue such payment. A similar amount was to be credited to the fund out of the deductions from the salaries of the Civil Servants. As a means of augmenting the fund the committee was empowered to lend its money at interest not exceeding twelve per cent. The pensions to be paid from the fund were to be proportioned according to the length of service and the rank of the office. After twelve years

¹Dundas to North, 13 March 1801. C.O. 55, 61.

²Hobart to North, 8 February 1803. C.O. 55, 61.

of service Civil Servants holding offices bringing salaries of £3000 per annum were to be entitled to a pension of £700 per annum, those with salaries of £2000 per annum were to have £600 per annum, and those with salaries of £1500 per annum were to have £500 per annum. Juniors who were appointed Writers in the first instance were to have the option of retiring after twelve years of service with a pension of £400 per annum. This was to be advanced to the amount of the pension attached to the highest office they may have attained at the time of retirement. Another means of increasing the amount of the pension was by prolonging the duration of service. Those who completed fifteen years of service were to be entitled to a pension of £500 per annum irrespective of the situation which they held. This was to increase to £600 per annum by a further three years' service.¹

Closely related to the pension scheme was a system of furlough. Though the climate of Ceylon was recognized to be less prejudicial to Europeans, and though the short term of service required from the Civil Servants perhaps removed the need for such a provision, it was thought necessary, as in India, to give the Civil Servants an opportunity of returning to England on leave of absence. It was therefore provided that they would be allowed a furlough for two years at any time within the twelve years, with the facility of drawing during this period an allowance of £300 per annum from the civil fund.²

¹Hobart to North, 8 February 1803. C.O. 55, 61.

²Dundas to North, 13 March 1801. C.O. 55, 61. Also, Hobart to North, 8 February 1803. C.O. 55, 61.

The pension scheme was naturally well received by the Civil Servants and the Governor. North, who had earlier stated the opinion that twenty to twenty five years' service should be required from the Civil Servants, raised no objections to the new scheme.¹ Instead he thanked Lord Hobart for the attention he had shown to the Civil Servants of his government, and expressed the hope that it would not fail to animate them with "the most ardent zeal in the performance of their duty".² The Civil Servants considered it a 'liberal' measure, and when North gave them the option of deciding whether to contribute to the fund or not, nearly all of them opted to contribute.³ The only significant change which took place in the implementation of the scheme during the time of North concerned the management of the fund. Basing himself on the ground that the money belonging to the fund could not be invested in the Colony, and that sufficient security cannot be obtained when it is lent out, North initiated the practice of receiving it in the Government Treasury, and issuing debentures at nine per cent interest. As we shall see later this practice had an important effect on the development of the fund.

¹North to Hobart, 16 March 1802. C.O. 54, 6.

²North to Hobart, 1 January 1804, C.O. 54, 13.

³The expectations of some of them were not satisfied even by such a favourable scheme. They asked for the privilege of retiring after five years. Memorial of Arbuthnot and others, C.O. 54, 13.

The prominent feature of the pension scheme thus established was the facility given for early retirement. The inducements that were held out for the prolongation of services covered adequately only those who failed to reach situations of £1500 and above within the first twelve years of service. Such persons would perhaps be induced to stay, either in expectation of a higher situation and its accompanying pension, or purely for the sake of a higher pension. Those who reached situations of £1500 within the first twelve years would be induced to prolong their stay only by the expectation of situations of £2000, which were so few in number. The only means of augmenting their pension left to those who reached the latter situations was to be appointed to the office of Chief Secretary in the Colony. This was indeed a far more remote hope. By facilitating early retirements the pension scheme thus tended to destroy the main purpose for which a separate Civil Service was desired - that is specialization in the conditions of Ceylon. One can perhaps detect here a concealed desire at the Colonial Office for the early retirement of seniors so as to ensure the quicker promotion of juniors.

This aspect of the scheme naturally attracted the attention of Maitland, when he was in a reforming mood. As the period when the Civil Servants would be retiring had not yet arrived, he did not actually experience the difficulties that he anticipated. However, he expressed his views quite frankly and fearlessly when he discussed the probable combined effects of the system of recruitment and retirement.

"My objections arise," he wrote, "on the one hand out of the Civil Servant's youth originally, but still more out of his youth when his service is over. The first naturally renders him useless for the first years of his service, the last leads him to consider his whole service here not as a completion of a life of business by gaining a moderate independence, but as a kind of disgusting but necessary prelude to deciding what line of life he will adopt. For the first six years we naturally have not much to look for from him; in the last six years he looks at nothing, and thinks of nothing, but when his time will be up, and just at the period of life when his services are most valuable, when the idleness and dissipation of youth have subsided, when we have a right to expect, and he the power of rendering essential service to Government, just at that period he is in fact enticed to quit the service and to look elsewhere."¹

The most certain remedy was to lengthen the period of service, with or without an increase of the amount of pension. This was suggested by Maitland, and later by A. Bertolacci, a retired Civil Servant.² Maitland pointed out that it could be carried out without any difficulty in the instance of all new appointments. Perhaps because of an awareness that the proposal would not be acceptable to the Colonial Office, he also suggested an alternative. He said that the Governor should be armed with the power to retain the services of a Civil Servant for a period of two or three years or till the end of his term

¹ Maitland to Castlereagh, 17 August 1808. C.O. 54, 28.

² Maitland to Castlereagh, 17 August 1808. C.O. 54, 28. Bertolacci suggested that the Civil Servants should be enabled to lengthen their services up to twenty one years, and that those who had become entitled to pensions of £400 and £500, should be enabled to increase them by £100 for every three years of protracted service. Those entitled to pensions of £600 and £700 were to be enabled to increase them by £125 and £150 for every three years. Bertolacci, Agricultural, Commercial and Financial interests of Ceylon, pp. 406-434.

as Governor by paying him both pension and salary.¹ He argued that this proposal did not involve additional expenses because with the retirement of a Civil Servant another would have to take his place. The only difference would be that the same amount of money that would be paid to two persons would in such instances be paid to one. He was aware that it would temporarily stop the advancement of the juniors, but believed that it was a minor consideration when compared with the benefits that would be gained by retaining experienced officers. He thought that by making it an optional power the risk of this benefit falling into the hands of unsuitable persons would be avoided, while all the Civil Servants would be made to look to the Governor as the medium through which it could be obtained.²

The Colonial Office was not faced with alternatives that would have been equally beneficial. One was the most certain remedy for the problem, while the other could have brought about only temporary benefits at the risk of granting the Governor powers difficult to exercise and liable to abuse. However it decided on the latter, and give Maitland's successor the power to adopt it.³ The reason given for this decision was that it did not impose additional 'obligations' on the Civil Servants, and that it did not involve further expenses.⁴ As the

¹ Maitland to Castlereagh, 17 August 1808. C.O. 54, 28. Also, Maitland to Robert Peel, 17 October 1811. C.O. 54, 41.

² Maitland to Castlereagh, 17 August 1808. C.O. 54, 28. Also, Maitland to Robert Peel, 17 October 1811. C.O. 54, 41.

³ Liverpool to Brownrigg, 5 November 1811. C.O. 55, 62.

⁴ Ibid.

period of service required for retirement could also have been lengthened without incurring additional expenses, it must be supposed that the real difficulty was the unwillingness to impose additional obligations on the Civil Servants.

The worst fears of Maitland that the Civil Service would become a prelude to another career did not however materialise in practice. When the time at which Civil Servants were eligible for retirement arrived in the second decade of the 19th century, most of them displayed an unwillingness to retire early. Several factors accounted for this reluctance. Firstly, there was the tendency already noticed for the Civil Servants to turn towards the Service for the realization of their aspirations.¹ Secondly, there seem to have been little prospects for retired Civil Servants to build careers elsewhere. A few attempts were indeed made in this direction. One Civil Servant for instance unsuccessfully applied for re-employment elsewhere.² Some applied to draw their pensions, while residing in Ceylon or at the Cape of Good Hope as speculators. Though originally refused this was subsequently allowed.³ There were however almost none to follow them. On the whole those who wished to retire early seem to have been faced with the prospect of idleness at too early a period of life. This is

¹See pp 295, 330.

²Bertolacci to Huskisson, 15 July 1814. C.O. 54, 54.

³For some instances see Bathurst to Barnes, 16 May 1825. C.O. 55, 66. Goulburn to Tolfrey, 31 July 1817. C.O. 54, 64.

seen from the unsuccessful attempts of two retired Civil Servants to re-join the Service. Thirdly, there was the fact that most Civil Servants failed to make the much desired fortunes. This should be viewed with the desire that must have been prevalent at the time to live up to the social status demanded by family connections, or to that of a retired colonial servant. Besides, such factors as the cost of living in England may have entered into their calculations.

The attempts to secure additional advantages from the Service, as well as the reluctance to retire early, were well marked in the numerous claims that were put forward by the Civil Servants, and in certain practices which developed. These claims were usually made individually because the means of success was still thought to be found in the ability to win the favour of the Governor and the Secretary of State. It was only towards the end of this period that a successful collective effort was made.

The discussion of these claims took place amidst the general need for economy which we have already noticed. This need was all the most important with regard to claims on the pension fund because of a change that had occurred in its nature. North's measure of accepting the money belonging to the fund in the Government Treasury paved the way for the destruction of its real and independent existence. Maitland discontinued the practice of issuing debentures for the funds deposited with the Government, but failed to make alternative arrangements to maintain a separate fund or to devise other means of augmenting

it. By 1813 the Government had even ceased to contribute the donations fixed by the original constitution of the fund. When the future of the fund came up for discussion in this year, Brownrigg did not recommend its reversion to its original footing. Instead he urged a logical step further in the direction in which developments had taken place by recommending that an account of the fund should be kept by the Government, which merely showed on one side the amount of donations and stoppages, and on the other the amount of the pension paid.¹ The Colonial Office rightly viewed the question as one affecting the original principles of the fund and the interests of its subscribers. "It was important to them," wrote Bathurst, "to have a constant record of the principles on which their pensions rested, and not to receive a pension for which they had paid the price of a reduced salary, as a pure gratuity from the Government."² However the Colonial Office as well as the local Government failed to make the fund once more real and independent. The money belonging to it continued to remain with the Government, the civil fund committee maintaining paper accounts of them. The committee ceased to interest itself in finding ways and means of augmenting the fund, resting on the guarantee given by the Government for the payment of the pensions. Thus pensions virtually became a Government responsibility.

¹Brownrigg to Bathurst, 31 August 1814. C.O. 54, 52.

²Bathurst to Brownrigg, 10 May 1815. C.O. 55, 63.

The claims that were put forward by the Civil Servants occasioned much discussion in the Colony. Brownrigg found, much to his annoyance, that the civil fund committee consisting of Civil Servants, was inclined to consider itself as vested with original deliberative power as regards claims on the fund.¹ He found that without his knowledge the committee had answered in writing questions submitted by the Civil Servants on the construction of various clauses in Lord Hobart's despatch, thereby sometimes bringing about a premature discussion of points which could finally be settled only by a reference to the Home Government.² In the course of giving opinions on the questions that were deliberated, some members had made remarks on the merits of other Civil Servants thereby bringing about illwill between individuals.³ On account of these difficulties, and taking into consideration the fact that the civil fund had ceased to have an independent existence, Brownrigg suggested that the committee should be requested to lodge its correspondence in the Chief Secretary's office.⁴ But the Colonial Office still held to the original principles of the fund and regarded the committee as a body of 'private individuals' who had the duty of superintending its accumulation.⁵ It instructed the Governor to submit

¹ Brownrigg to Bathurst, 31 August 1814. C.O. 54, 52.

² Brownrigg to Bathurst, 18 November 1816. C.O. 54, 62.

³ Ibid.

⁴ Ibid.

⁵ Bathurst to Brownrigg, 10 May 1815. C.O. 55, 63.

all claims on the fund to the committee before they were forwarded to the Secretary of State.¹ Some of the difficulties experienced by the Governor were removed by making its proceedings secret, and by laying down the rule that its decisions should be communicated by the Governor's authority.²

Though the Governor thus felt the full force of the claims made by the Civil Servants, and consequently much anxiety and embarrassment, he had the comparatively easy mode open to him of recommending a claim and sending it to the Colonial Office for a final decision. The Colonial Office, as in other matters concerning the Civil Service, was torn between two worlds. On the one hand it could not entirely avoid considering the cases that came for decision, as matters of patronage. When it is known that some of the applications were supported by persons of influence the temptations were indeed very great. Some of them were based on precedents which had occurred at a time when the Colonial Office had been too free with its patronage. On the other hand the Colonial Office had to pay sufficient heed to the new forces working towards economy and efficiency. Though the claims were made individually they could no longer be viewed in that manner. Experience showed that the sanction given to a particular claim gave rise to others or to the adoption of a general practice. Concessions which had been allowed earlier as personal

¹Bathurst to Brownrigg, 30 August 1815. C.O. 55, 63.

²Bathurst to Brownrigg, 23 January 1817. C.O. 55, 63. Also, Brownrigg to Civil Fund Committee, 5 April 1818. C.O. 54, 71.

favours were not being "cited as rules for future decision".¹ "Requests of this nature," wrote Bathurst, on one occasion, "only prove the impropriety of ever having admitted a deviation from the rules of the pensinn fund and indicate more strongly the necessity of adhering literally to them."² Besides, some of the questions that cropped up involved a choice between favouring those already in the Service by encouraging them to stay longer, or creating the opportunity of making new appointments. Some of them also involved choosing between the seniors and the juniors already in the Service.

One question that was discussed arose from the fact that the original scheme had not provided for an augmentation of pension, purely on account of protracted service, to those who had become entitled to pensions of £500, £600 and £700, at the end of twelve years.³ The unwillingness of those who had reached the first class to retire early, and the consequent poor prospects of promotion experienced by those in the second class, raised the question whether a Civil Servant who was entitled to a pension of £500 per annum at the end of twelve years, could extend his service by another three years and become entitled to one of £600 per annum.⁴ The civil fund committee ruled that the original scheme

¹Bathurst to Brownrigg, 8 August 1816. C.O. 55, 63.

²Bathurst to Brownrigg, 30 August 1815. C.O. 55, 63.

³See p. 337.

⁴Memorial of Richardson, 9 October 1817. C.O. 54, 66.

gave this benefit only to those who had become entitled to a pension of £400 per annum at the end of twelve years.¹ This ruling prevailed throughout this period. Though this was an important matter which called for reform, and though certain proposals were placed before the Colonial Office by a retired Civil Servant, it took no notice of them.²

The above decision led to the question whether a Civil Servant could cease to contribute to the civil fund after the expiration of twelve years while still remaining in the Service. The civil fund committee, in spite of its responsibility to see to the augmentation of the fund, ruled that a Civil Servant had the option of stopping his contribution on the understanding that by doing so he would be excluded from acquiring a higher pension should he succeed to a higher office.³ This seems to have been accepted for it became the general practice for Civil Servants to exercise this option after twelve years service. It became a calculation especially among those who had reached situations of £1500 and £2000, who had very little prospects of further promotion, and who had also to contribute on larger salaries for uncertain periods, to cease their contributions.⁴ One effect of this was that the civil fund ceased to draw its best subscriptions and this

¹Proceedings of the Civil Fund Committee, 6 March 1811. C.O. 54, 62.

²See footnote on p. 338.

³Proceedings of the Civil Fund Committee, 6 March 1816. C.O. 54, 62.

⁴Brownrigg to Bathurst, 31 August 1814. C.O. 54, 52.

eventually made its paper accounts look poorer. But it strengthened the tendency for senior Civil Servants to prolong their service in the Colony.

The power given to the Governor to retain Civil Servants by paying both pension and salary became a subject of controversy. Though this was meant to be a discretionary power in the hands of the Governor, the Civil Servants were turning it into a right, as is evident from the memorials that were sent claiming this privilege. The Colonial Office was at first inclined to confirm it. It even approved the claims of two Civil Servants without a definite recommendation from the Governor in their favour.¹ Subsequently, it decided to apply to Ceylon the rule adopted for England by Parliament that one half of the pension to which a person was entitled would abate if such a person held an office under Government of equal or greater emoluments.² Brownrigg, on the other hand, was for a time undecided whether to exercise this power or not. He was at first contemplating ways and means of deriving its benefits "without adopting a distinction liable to be thought invidious to the Service in general".³ But finally he decided to resign the discretionary power vested in him and did not even carry out the two cases already sanctioned by the Colonial Office.⁴ In the face of objections from the Governor,

¹Bathurst to Brownrigg, 8 August 1816. C.O. 55, 63.

²Bathurst to Brownrigg, 9 November 1819. C.O. 55, 63.

³Brownrigg to Bathurst, 1 August 1813. C.O. 54, 48.

⁴Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65.

it was clearly not possible for the Colonial Office to abide by its earlier decision, even if it had wished. Accordingly instructions were issued that no pensions should in future be paid till a Civil Servant had actually retired from the Service, though there was to be no objection to those entitled to retirement continuing in it.¹

The attitude of the Governor is partly explained by the need for economy which he faced, and which was so often pressed upon him by the Colonial Office. Brownrigg was also conscious that pensions were now not paid from an actual fund, but had become a charge on the revenue, which had little to spare.² It also reflected the fact that it was no longer necessary to adopt such expedients to retain Civil Servants. The more important reason however was the difficulty of exercising this power in a small Service consisting of well connected Civil Servants. However justly and impartially it might be used, it would always be much open to the accusation of favour.³ Besides, however much it afforded the chance of retaining the services of experienced men, yet it would have made the Service less desirable to the juniors, by diminishing their chances of promotion.⁴ On this question both the Governor and the Colonial Office had to choose between favouring the seniors or the juniors

¹Bathurst to Brownrigg, 17 April 1819. C.O. 55, 63.

²Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65.

³Brownrigg to Bathurst, 1 August 1813. C.O. 54, 48.

⁴Brownrigg to Bathurst, 16 July 1818. C.O. 54, 71.

in the Service, and the choice fell upon the latter.

Brownrigg was however much in favour of other connected claims. For a long time it was generally understood in the Colony that Civil Servants were eligible for leave in terms of Lord Hobart's rule,¹ only within the first twelve years of service.² But on the strength of the sanction given by the Colonial Office to a leave application from a person who had completed twelve years' service, it became a general practice for Civil Servants to obtain leave either before or after the completion of this period of service.³ This development had the effect of encouraging the seniors to return to the Service.

It immediately led to another claim as it appears that the Civil Servants who were entitled to retirement considered the furlous allowance of £300 per annum insufficient. Brownrigg sanctioned the payment of the amount of pension to such a Civil Servant going on leave of absence.⁴ (£600 per annum). In effect this amounted to his retirement with the option of returning to the Service in two years. This particular payment was approved by the Colonial Office.⁵ Brownrigg then signified his intention of making it a general rule stating that it was 'just and reasonable' to allow it.⁶ The Colonial Office gave the subject more

¹See p. 335.

²Proceedings of the Civil Fund Committee, 6 March 1816. C.O. 54, 62.

³See Brownrigg to Bathurst, 31 March 1815. C.O. 54, 55. Also, Bathurst to Brownrigg, 10 October 1815. C.O. 55, 63.

⁴Brownrigg to Bathurst, 6 February 1816. C.O. 54, 59.

⁵Bathurst to Brownrigg, 5 August 1816, C.O. 55, 63.

⁶Brownrigg to Bathurst, 28 February 1817. C.O. 54, 65.

'mature' deliberation and finally withheld its sanction from the proposal. Apart from considering the payment of pensions till the date of actual retirement improper, the Colonial Office once again faced the need for economy as well as the task of choosing between the seniors and the juniors in the Service.

An entirely new benefit that was conferred on the Service after the first successful collective effort by the Civil Servants was the establishment of the widow's fund. From the time of North, when the Colonial Office was more free with its patronage, it became the practice for the Governor to recommend, and the Colonial Office to sanction, the payment of pensions to widows of Civil Servants who had died in the Service.¹ The first payment became a precedent for others until Brownrigg, who was faced with a need for economy, asked for instructions for his future guidance, pointing out that it was a burden which was becoming more serious every year.² The Colonial Office hesitated for a while because it found it difficult to resist claims that were strengthened by precedents, and perhaps by actual distress. It noted that it was a matter too serious to be adopted without absolute necessity, but failed to give definite instructions.³ Subsequently, it expressed itself against the adoption of a general rule that the family of every Civil

¹See Brownrigg to Bathurst, 30 April 1813. C.O. 54, 47.

²Ibid.

³Bathurst to Brownrigg, 18 February 1814. C.O. 55, 63.

Servant was entitled to a permanent provision at the expense of the Colony, and instructed that in no case was the Governor in future to grant such a pension for a longer period than two years.¹ By 1819, the financial factor was too important even for such a concession. As such, on the occasion of another claim, Bathurst stated that it was "absolutely necessary to make a stand against perpetuating a charge of this nature", and he saw no better mode of making that determination known to the Civil Servants, than by refusing it.²

The attitude taken by the Colonial Office seems to have led the Civil Servants to think in terms of establishing a widow's pension fund. The idea originated with Bertolacci who claimed that he had urged it on Brownrigg while all the others were indifferent to it. Subsequently, he drew up a detailed plan and incorporated it in his book which was published about this time.³ Attempts to draw the attention of the Colonial Office to this plan did not succeed, and the matter remained in abeyance till it was revived in 1820. A day before his departure from Ceylon, Brownrigg forwarded a plan drawn by the Civil Servants to establish a widow's pension fund. It was perhaps Brownrigg's parting gift to the Civil Service, and he urged it on the ground that the salaries of the Civil Servants, especially those who did not have the

¹Bathurst to Brownrigg, 20 August 1817. C.O. 55, 63.

²Bathurst to Brownrigg, 20 March 1820. C.O. 55, 63.

³Bertolacci, A. Agricultural, Commercial, and Financial interests of Ceylon, p.425.

chance of rising to higher situations, were too small to enable them to make provision for their families.¹ He also stated that this was a means of avoiding frequent applications for relief. This plan was approved by the Colonial Office with slight modifications thus adding another privilege to the Service.

"Although the plan if carried into effect most produce an annual increase of the expenditure," wrote Bathurst, "... yet I am not disposed on that account to object to it, or to deny that the augmentation of expense is compensated by the advantages which will accrue from its establishment both to the comfort of the Civil Servants and to the credit of the Government."

As finally adopted the plan provided for the establishment of a fund from the subscriptions of the Civil Servants and Government donations. Married subscribers were to pay an annual subscription of £24 per annum during the period of their 'natural lives', while unmarried subscribers were to pay £10 per annum during the same period. In addition married subscribers on becoming members, or unmarried subscribers on getting married, or widowers on getting re-married, were to pay a fine fixed by a table calculated according to the difference in ages between the husband and wife. Pensions of £300 per annum were to be paid from the sixth year of the inauguration of the fund. Only widows of those who had paid six years subscription were to be entitled to pensions. But married subscribers on becoming members, and unmarried

¹Brownrigg to Bathurst, 1 November 1820. C.O. 55, 66.

²Bathurst to Barnes, 1 November 1820. C.O. 55, 66.

subscribers on getting married, were to have the option of paying six years subscription all at once to ensure pensions for their widows. Those above sixty years of age were not to be allowed to become members. If the death of a Civil Servant was to take place within the first six years, the widow was to be paid an allowance of £150 per annum till the sixth year. But in the case of such an event the members were to pay additional subscriptions.¹ The above system of subscriptions shows that much greater care was taken to see that the new fund would not become as great a financial burden as the former one. For the same reason the Colonial Office insisted that the subscriptions should be paid with such additional amounts as would enable the money to be remitted to the Agent in London at the prevailing rate of exchange. The latter was to ensure the accumulation of the fund by investing the money in England.²

The chief feature of the Service thus established was its exclusive character. While the manner of recruitment and promotions directly led to the establishment of the exclusive principle, the other privileges attached to the Service recognized its existence and in turn strengthened it. It became accepted that only a person who had secured an appointment from the Secretary of State belonged to the Civil Service. The prohibition against local recruitment to offices considered as be-

¹See Bathurst to Paget, 17 July 1822. C.O. 55, 66.

²Bathurst to Paget, 1 November 1820 and 17 July 1822. C.O. 55, 66.

longing to the Civil Service almost invariably established the rule that vacancies would be filled from among those in the Service. The salary structure was based on the assumption that only persons sent from England would be found in the Service. It brought about so wide a gap between Civil Service salaries and those of other local employees that it added a strong reason to safeguard the privileged and exclusive character of the Service. Similarly the pension scheme not only became a highly valued privilege attached to the Service, but also a mark which distinguished a Civil Servant from any other employee. An appointment from the Secretary of State, the enjoyment of a comparatively high salary, promotions to the higher offices of the State which carried with them superior powers, the exclusive right of contributing to the civil fund, and as we shall see later, a privileged position in society became the chief attributes of a Civil Servant.

The rules that brought about an exclusive Service were put to several tests. The rule of recruitment in England underwent a test on account of the desire on the part of the Governors to secure employment to certain Englishmen who accompanied them to the Colony in expectation of it.¹ The usual mode of action was to give them employment in a lower situation and thus establish a claim for absorption in the Civil Service. The pressure on patronage in England occasionally compelled the Colonial Office also to send some without regular appointments to the

¹See Maitland to Robert Peel, 16 October 1811. C.O. 54, 41. Liverpool to Brownrigg, 5 November 1811. C.O. 55, 62, for some instances.

Civil Service, but with letters of recommendation introducing them to the Governor's favourable attention. The distinction between a Civil Service and a non-Civil Service appointment was too clear for such persons not to aspire to the former. The rules of the Civil Service prevented their promotion to situations which carried with them higher salaries, power and status in the Colony. They seem to have felt the exclusion in other ways too. J. W. Bennett, one of those sent by the Secretary of State without a regular appointment found that it affected his social life in the Colony.

"Being one of the few gentlewomen by birth and education in Ceylon," he wrote, "my wife's society was courted by everyone, and by many who pretended to feel honoured by her acquaintance. But no sooner had your Lordship's despatch reached Ceylon, and it became known that I was not confirmed to general service, but to the lowest of all colonial appointments, and inferior to the many held by the lowest class of society in the Colony, than the manners of people assumed a different complexion, and my wife was, with myself, condemned to feel the degrading difference between the Civil Service and a colonial appointment."¹

He therefore asked Bathurst "to restore my wife to her proper station in the limited society of Colombo, by appointing me to the Civil Service".²

On account of the above factors local appointments were usually accompanied, or followed, by requests for their absorption in the Civil Service, carefully denying motives of interference with the patron-

¹Bennett to Bathurst, 6 October 1819. C.O. 54, 75.

²Ibid.

age of the Secretary of State. Apart from the undesirability of excluding them from the society of the Civil Servants various other local circumstances, such as a knowledge of the local languages or suitability for a particular post, were usually urged to strengthen such claims.¹ The Colonial Office naturally viewed such recommendations coming from the Governor as a threat to its powers. Maitland was told on one occasion "that if the principle that the Governor's recommendation for the time being of those young men in his immediate confidence and family to be employed was thus extensively acceded to, the patronage would at once be transferred from the Government at home to the Governor abroad."² It was after repeated requests, accompanied perhaps by an exertion of influence at home, that some of them were appointed to the Civil Service. Those appointed in this manner were few in number and they did not lead to any disturbance of the principle of recruitment.

None of the persons recommended for appointment in the above manner belonged to the second species of establishment consisting mainly of local Europeans. The privileges of the Civil Service were too exclusive, and the gap between it and the other Services too wide, to permit a person who had functioned in the lower offices, however creditably it may have been, to rise to the Civil Service. From the point of view of

¹ For some instances see Brownrigg to Bathurst, 26 July 1816. C.O. 54, 60. Brownrigg to Bathurst, 30 April 1813. C.O. 54, 47.

² Castlereagh to Maitland, 11 June 1807. C.O. 55, 62.

emoluments the gap thinned out occasionally in a particular case, when through some circumstances a local European was able to enjoy a salary of over £300 per annum.¹ But such persons were not recommended to be absorbed to the Civil Service, perhaps on account of the fear that if appointed to the lowest of Civil Service offices they could not be kept back from promotions like the rest in the Service because of the rules governing them. Besides the privileged position of the Civil Servant brought about strong social barriers. The Civil Servants kept up a separate society from which the local Europeans were necessarily excluded. Admittance of local men into the Service would have also meant their admittance into the exclusive social group, which under the circumstance of the time the Governors would be reluctant to recommend and the Civil Servants unwilling to accept.

The attitude of the Government towards the local European community is seen from the fate of an application from a local person for appointment to the Civil Service. It came from Jacob Bernand, one of the former Dutch Civil Servants, who applied to be placed in the Civil Service "not instated in the rank he formerly held in the [sic] Colonie".² The Governor instated in the rank he formerly held in the [sic] Colonie".² The Governor

¹The Supreme Court, when it was presided over by Alexander Johnston, favoured the local Europeans in certain appointments over which it had control. Thus the Registrars of the Supreme and Admiralty Courts were Dutchmen who enjoyed salaries over £300 per annum. It was clear that this was much disliked by the Governor. For instance Barnes objected to a Court order requiring the Fiscals (Collectors) arriving in Colombo to attend at the office of the Registrar of the Supreme Court, on the ground that it was degrading to the Civil Servants. See Barnes to Bathurst, 20 July 1825. C.O. 54, 89.

²Memorial of Bernand, N.D. 1812. C.O. 54, 42.

in Council, through whom it was forwarded, failed to make a positive recommendation in his favour. It merely resolved to request the Secretary of State to authorize the payment of an allowance equal to what is granted on the coast to the Civil Servants of the late Dutch Government.¹ When the matter was referred to Maitland, who was by then out of office, he acknowledged that Bernand was by far the ablest man in the island among the Dutch, and that he had been of 'infinite utility' to the Government. He was therefore inclined to recommend his appointment to the Civil Service, but on condition that he was not allowed to rise.² To recommend in such terms was to deny the slightest chance of success at the Colonial Office, and the application was eventually refused. Only one person of Dutch origin was absorbed into the Civil Service and special circumstances certainly made it an exceptional case. He was described as one who had received a 'liberal' education in England, and was "perfectly an Englishman in feeling and language".³

The exclusive employment of Civil Servants in situations normally reserved for them was also put to several tests. The existence of the army brought about a situation where there were military officers of rank stationed in the different provinces. Prior to the establishment of the Civil Service, North had appointed a number of them to function as Magi-

¹Council resolution of 24 February 1812. C.O. 54, 42.

²Maitland to Chapman, 21 August 1812. C.O. 54, 45.

³Brownrigg to Bathurst, 30 April 1813. C.O. 54, 47.

strates and Agents of Government. He was satisfied with their work, especially in remote areas. They were also less expensive.¹ With the establishment of the Civil Service the Colonial Office laid down the rule that no military officer could hold a civil office unless specially appointed by the King's command.² It brought forward many arguments against the employment of military men in civilian duties. Such appointments were considered to be always productive of jealousy and dissatisfaction.³ They were thought to interfere with the military duties of these officers.⁴ The real objection was perhaps conveyed by the argument that such appointments were against "a principle of justice towards those gentlemen, who have embarked in the Service with the expectation of arriving progressively at situations of increased emolument".⁵ In fact the Colonial Office showed an undue desire to see that offices held by military men with advantage, which could also be carried on by civilians, were handed over to the latter.⁶

¹See p. 166.

²Hobart to North, 8 February 1803. C.O. 55, 62.

³Ibid.

⁴Ibid.

⁵Ibid.

⁶Thus for instance prior to 1803 the duty of supplying provisions for the army was carried out by a Commissary of Grain, who was a military officer. Hobart instructed North to suppress this office and establish instead the office of Garrison-Storekeeper, to be held by a Civil Servant. Hobart to North, 7 May 1803. C.O. 55, 62.

This attitude of the Colonial Office was put to a test during the time of Maitland, when he appointed a military officer as Collector of Batticaloa uniting in him both civil and military power. He was perhaps attempting to test the mood of the Colonial Office for he called it an 'experiment'.¹ However, to justify this step he argued that on looking round him he found no Civil Servant who had sufficient talents or steadiness to perform the arduous duties connected with the agricultural development of the Batticaloa district.² He also assured the Colonial Office that he would not have adopted this measure if it threw out of employment any one of the regular Civil Servants.³ The Colonial Office was as yet not inclined to accept such a change. Maitland was therefore reminded of the principles on which the Civil Service was formed.

"The principles on which the establishment of Ceylon is formed," wrote Castlereagh, "is that the Civil Servants shall rise in gradation, and that no person shall be placed on the civil establishment, who has not commenced as a lowest Writer. If this principle be allowed to be broken in upon in one instance, there can be no security that it will not be intrenched upon in another, and the whole system which has been established may gradually fall to pieces."⁴

¹Maitland to Camden, 28 February 1806. C.O. 54, 20.

²Ibid.

³Ibid.

⁴Castlereagh to Maitland, 11 June 1807. C.O. 55, 62.

Maitland expressed his dissatisfaction with this decision in no uncertain terms.

"When I saw the richest district in a state of ruin and destruction," he wrote, "and when I looked round me and found no Civil Servant who could be placed there ... I did deem it a case where I thought I might make an exception."¹

The exclusive principle was put to a further test during the time of Brownrigg when the Kandyan kingdom was added to the British dominions. When this happened, instead of calling for the enlargement of the Civil Service, Brownrigg adopted the expedient of appointing military officers stationed in the different provinces as civilian agents, giving them a small addition to their military pay for performing the new duties. This was partly because he felt the need to keep the persons appointed to the Kandyan provinces for longer periods in their posts. He was aware that unlike in the Maritime Provinces frequent changes would involve the difficulty of introducing a succession of new people to the Chiefs and inhabitants.² The rules of the Civil Service governing promotions did not permit such a long term in a particular office. Brownrigg also saw a need to guard against a difference of opinion between the civil and military authorities in the new provinces.³ The main consideration however was the fact that the Civil Service as it

¹Maitland to Castlereagh, 25 February 1809. C.O. 54, 31.

²Brownrigg to Bathurst, 26 July 1816. C.O. 54, 60.

³Brownrigg to Bathurst, 19 February 1818. C.O. 54, 70.

was then formed was not capable of expansion, without involving a considerable increase of expenditure which the Colony could not afford.¹ Because of the prevailing need for economy the Colonial Office had no alternative but to sanction the measures adopted by Brownrigg, and to allow the opportunity of making a number of new appointments to slip away.² It displayed an intention of re-considering the matter when more information was available on the state of the revenue in the new provinces. But it was soon found that they did not add very much to the resources of the state to permit such a re-consideration. Thus the justification for the existence of an exclusive Civil Service was much weakened. It began to enjoy a right to certain offices of the State which were not separated from the rest according to any consistent principle.

A more limited attempt to break through the rules of an exclusive Service occurred when Englishmen holding certain offices which were excluded from it mainly on account of the fact that they were regarded as special posts which could not fit into the general scheme of things, applied to contribute to the Civil Service pension scheme. These claims were made individually and were treated as such during the time when the Colonial Office was more free with its patronage. Accordingly, those who

¹Brownrigg to Bathurst, 8 January 1819. C.O. 54, 73.

²Bathurst to Brownrigg, 10 November 1819. C.O. 55, 63.

held the office of Master Attendant, Civil Engineer and Surveyor-General, Superintendent of the Botanic Gardens, and Superintendent of Delft, were permitted to contribute to the fund and become entitled to the lowest rate of pension (£400 per annum). They were not entitled to any of the other privileges of the Service. However, when those to whom this concession was granted retired and others took their place it was withdrawn. The Colonial Office refused to permit those outside the Civil Service to contribute to the fund on the ground that such an indulgence would give rise to others and result in much inconvenience. The claims of some of those outside the Service to contribute to the newly established widow's fund were similarly refused.¹ The only outside group which laid a successful claim to participate in both schemes, on the grounds of a sanction given by Lord Hobart in B03, were the Colonial Chaplains.²

The exclusive character of the Civil Service, which was accompanied by a privileged and exclusive position in society, placed obstacles in the way of exercising disciplinary control over it. The consciousness that Civil Servants were well connected at home, and the uncertainty of the Colonial Office attitude was in any case unfavourable to the emergence of a stricter approach towards matters of disciplinary control.³ Besides

¹Bathurst to Barnes, 3 October 1823. C.O. 55, 66.

²Proceedings of the Civil Fund Committee, 29 August 1821. C.O. 55, 66. Bathurst to Paget, 24 August 1821. 17 July 1822. C.O. 55, 66.

³There is one case on record where the Colonial Office intervened to restore an erring Civil Servant to a high position much against the wishes of the local Government. See case of H. Marshall in C.O. 55, 44. Also, Brownrigg to Liverpool, 22 August 1812. C.O. 54, 44; Brownrigg to Goulburn, 14 August 1813. C.O. 54, 48.

the smallness of the Colony, as well as of the Civil Service, helped to bring about personal relationships between the Governor and the Civil Servants, which could hardly be entirely ignored. In this situation a tendency to favour individuals, as well as a temptation to show a concern for the welfare of the Civil Service as a whole were to some extent unavoidable. The conflict between the judiciary and the executive brought about a tendency to bring the Governor and the Civil Servants together. While the Civil Servants looked to the Governor for protection, the Governor must have been conscious of the fact that too strict an attitude towards the Civil Service would affect his position in the Colony.

The above factors were undoubtedly present to a greater or lesser degree in the cases that cropped up during this period. But a general factor which was present throughout in matters of disciplinary control was the need to preserve the prestige of the Civil Service. It arose out of a general feeling at the time, which was well stated by Maitland, that the empire in India rested on "the most cautious maintenance and the most scrupulous attention to the superiority of Europeans over the natives".¹ The exclusive character of the Civil Service made this supposition and that of the maintenance of the prestige of the Civil Service very largely identical.

¹Memorandum, 30 August 1811. C.O. 54, 41.

As we have already seen Maitland showed a general reluctance to inquire into the conduct of Civil Servants.¹ Even where inquiries were conducted there appears to have been a desire to avoid too much publicity about them. Too open an inquiry into the conduct of a Civil Servant would have indeed destroyed his exalted position. "Although it is common custom in this country when suspicions are entertained against individuals possessing power and influence," wrote Wood who was called upon by Maitland to inquire into the conduct of the Collector of Jaffna,² "to publish by beat of tom tom that all complaints would be heard against them, I yet conceive that such publicity regarding the servants of Government might be attended with injustice, as in the first place it proclaimed the suspicion, and in the second gives encouragement to the querulous habits of the natives to which they are sufficiently addicted already."³ He declared his intention of avoiding the introduction of the Collector's name in the papers that might become public.⁴ Maitland, who on account of his early enthusiasm had taken the preliminary step of removing the Collector before commencing inquiries from a belief that proper inquiries would not be possible with the offending officer residing in the district because the inhabitants were afraid

¹See p. 304.

²See p. 304.

³Wood to Maitland, 30 November 1805. C.O. 54, 20.

⁴Ibid.

to state anything against the persons under whose immediate control they lived,¹ seems to have later accepted the position advocated by Wood.

The same considerations limited the choice of punishments. Thus for instance there was nothing to prevent the Government instituting legal proceedings against an erring Civil Servant either as a punishment or to recover money due to the Government. But "the better mode", said Maitland, "is to get rid of them from the island than to allow them to rot in jail here to the discredit and disrepute of His Majesty's Civil Service at large."² When assessing punishments the fact whether a case had received publicity or not became important. This is seen from Brownrigg's attitude to two cases that occurred during his time. One involved Lusignan, who was then Collector of Trincomalee, in whose Kachcheri a cash deficit of 81,000 rix-dollars was detected.³ The other involved M. J. Smyth, the Collector of Galle, in whose office a deficit of 30,000 rix-dollars was detected.⁴ The first case was undoubtedly the more serious especially because it happened to be the second offence of this particular officer. But Brownrigg did not even hold an inquiry into it. He failed to bring it under the notice of the Colonial Office until

¹Maitland to Camden, 28 February 1806. C.O. 54, 20.

²Maitland to Windham, 28 February 1807. C.O. 54, 25.

³See Brownrigg to Bathurst, 29 January 1820. C.O. 54, 76.

⁴See Brownrigg to Bathurst, 24 October 1818. C.O. 54, 71; and, 31 January 1820. C.O. 54, 76.

the time of his departure when he entered a strong plea on his behalf.¹ The second case was viewed more seriously because the Collector had held the shroff responsible for the deficit and sued him before the Provincial Court. The trial resulted in the shroff being held responsible for part of the amount, while it also revealed that the Collector had kept a private account with the shroff and that he had made use of some cash derived from the sale of paddy rents to liquidate some private debts with him.² In dealing with these two cases Brownrigg was no doubt influenced by a personal attachment to Lusignan, who had been very useful to him during his period of administration.³ But the difference in treatment reveals another factor. "The publicity which was given to this very improper transaction," wrote Brownrigg, about the case of Smyth, has rendered it wholly impossible for me to treat his case with that lenity which I should otherwise feel inclined to do, purely in consideration of his family. For I consider his character so much degraded in the eyes of the natives that it is not consistent with the honour of the Government that he should again be employed".⁴ While the sensitivity to society in Ceylon thus

¹Brownrigg to Bathurst, 29 January 1820. C.O. 54, 76.

²Brownrigg to Bathurst, 31 January 1820. C.O. 54, 76.

³Brownrigg to Bathurst, 29 January 1820. C.O. 54, 76.

⁴Brownrigg to Bathurst, 31 January 1820. C.O. 54, 76.

worked towards a desire to avoid publicity in Civil Service disciplinary matters it may have also made the Civil Servants conscious of the need to preserve some form of incorruptibility in the eyes of the people.

Patronage in England, the need to satisfy the aspirations of those setting out as Civil Servants, and the policy of exclusiveness, not only prevented the best organization of the Service, but also led to its development along lines which raised a doubt about its utility. That doubt was expressed by its inclusion among the subjects assigned to the Commissions^{er} of Eastern inquiry appointed in 1823.¹

¹Instructions to the Commissioners of inquiry, 18 January 1823. C.O. 49, 8.

Chapter VI

PRELUDE TO REFORMS

By the third decade of the nineteenth century the development of the administrative machinery and more particularly that of the Civil Service was fairly complete. Few changes took place after this till the implementation of the Colebrooke-Cameron recommendations. During this period the emphasis shifted to a discussion of reforms. The background to this discussion was not wholly favourable to the Civil Service as it was then constituted. The exclusive principle had failed to place the efficiency and utility of the Service beyond doubt. The growing liberal atmosphere made the need to preserve this principle no longer identical, at least among some persons, with the maintenance of British power. The emphasis on economy and efficiency, now felt with greater intensity, placed the Colonial Office and the local Government on the defensive, and led to the emergence of the first proposals for reform.

As regards recruitment, the practice of nomination in England, which was by now fixed, had not provided a sufficient guarantee of competency among the recruits, because of the system of patronage with which it was connected. Sufficient care had not been taken to ensure ability, and too much had been left to personal inclinations, chance and accident. Barnes, for instance, cited several instances where military officers who had resigned their commissions had been appointed to

the Service.¹ Besides, nine out of ten appointed to the Service, he said, were "boys who had just left school".² Horton found in 1831 that out of the 36 Civil Servants, there were 11 'decidedly incompetent', 9 'just within the pale of competency', 14 'decidedly competent', and 2 'whose merits and demerits were not yet known'.³

Recruitment in England also prevented the possible emergence of a policy of admitting local men, who functioned in the lower services, to higher situations, though it is a matter of doubt whether even if the local government had been given the power of recruitment the necessary environment for such a change would have been prevalent.

The disadvantages arising out of the mode of recruitment were accentuated by the non-emergence of a scheme of training. The only apprenticeship which the recruits had was a few years' experience as an Assistant. This experience was also of a limited nature on account of the shortness of the period during which a Civil Servant functioned as an Assistant. As we have seen, though from time to time it was considered desirable to have a larger number of Assistants, the Civil Service as it was then constituted seems to have offered no solution.⁴ The Government was in fact faced with a dilemma. While on the one hand the

¹Barnes to Huskisson, 6 December 1828. C.O. 54, 101.

²Ibid.

³Horton to Goderich, 22 November 1831. C.O. 54, 114.

⁴See pp. 314 - 315.

efficiency of the Service could not be materially improved without having a training ground in the form of Assistant offices, such offices could not also be created without overburdening the limited finances of the Colony.

In spite of the determination expressed by Bathurst, the rule that emerged with regard to promotions was that of seniority.¹ After 1822 more frequent examinations were held in the native languages to enable Civil Servants to acquire merit on that account. The order of 1822 was partially enforced on the new-comers as is seen by the fact that two newly arrived Civil Servants, though promoted to higher situations, were placed in an acting capacity and on lower emoluments on account of the fact that they had not acquired a knowledge of the languages.² This element of compulsion made the few new recruits take up the study of the languages more seriously. It however failed to excite the old Civil Servants, who formed a large proportion of the Service, and who therefore continued to be generally ignorant of the languages. Besides, the examinations were not conducted in a systematic manner,³ and as the Deputy Secretary to the Government observed, the tendency was to make a 'mockery' of them.⁴ In any case qualifications in the native

¹ See p. 333.

² J. Price and J. Barnett, who were appointed acting agent Seven Korālēs and acting Collector Batticaloa respectively. Barnes to Bathurst, 4 February 1825. C.O. 54, 88.

³ The examinations were usually conducted by a senior Civil Servant of the area assisted by the Mudaliyars, and did not differ very much from what has already been noticed in p.

⁴ Observations of P. Anstruther, see Horton to Goderich, 14 December 1831. C.O. 54, 114.

languages appears to have interfered very little with promotion by seniority, as is seen by the fact that those who acquired a knowledge of Sinhalese were sent to the Tamil provinces and vice-versa according to their normal standing in the Service.¹

Such a situation arose mainly because of the existence of a line of promotions, which was rightly termed a line of succession. Quite apart from the classes that had been fixed by Maitland, each office appears to have acquired a relative position in an ascending scale. The offices at the centre, which belonged to the first class of the Service each acquired a position according to variations in salaries and importance such as membership of Council. Similarly the offices of Collector and Provincial Judge assumed positions in this scale according to variations in salaries, and other advantages such as the amount of the Commissions and locality. The lowest position in the scale were the offices of Assistant, which though few in number had also variations of importance.

A Writer arriving in the island ascended from one position to another in this scale. On arrival he first functioned as an extra-Assistant in the Chief Secretary's office, and then ascended to the position of 2nd Assistant and 1st Assistant in the same office. If he was not called upon, through the exigencies of the Service (as sometimes happened) to assume the position of a Collector or Provincial Judge, he

¹Observations of P. Anstruther, see Horton to Goderich, 14 December 1831. C.O. 54, 114.

was usually made to function as an Assistant to the Collector of Jaffna or Colombo. The small number of Assistant offices did not keep him long as an Assistant and he then moved on to one of the inferior Collectorates or Provincial Courts. Here he was shuttled between districts and between revenue and judicial work till called to one of the superior Collectorates or Provincial Courts. Here too he was shuttled between districts, and between judicial and revenue work, and if fortunate enough ended in a situation of the first class. The limited places in this class, and the reluctance of those who had reached them to retire early, limited the progress of many of the Civil Servants to the situation of Collector and Provincial Judge.¹

One result of the emergence of this line of promotion was that the Governor lost the power to retain the most suitable individual in a particular office. It was not always likely that a good Collector was an equally good Judge, or vice versa, and that a successful Collector or Judge would be equally successful as Vice-Treasurer, Auditor-General, and so on. Many a time the Governor, noticing the suitability of a Civil Servant for a particular post, desired to retain him for a longer period in that situation. However, the system of promotions was such that if he persisted he would have made the very merit of the Civil Servant a detriment to his advancement.

¹The above conclusions are drawn from an analysis of the names appearing in the annual fixed establishments.

This difficulty sometimes led to the adoption of such expedients as the granting of a temporary increase of salary to make the position in which a Civil Servant was retained equal in point of emoluments to that to which a promotion was due, proportionately reducing this amount from the salary of the junior person appointed to the latter.¹ On one occasion the most unusual expedient was adopted of nominally promoting a Civil Servant to the office due to him and then making him exchange duties with another, both retaining the salaries attached to their real positions.²

Another result of conforming to a line of promotions was the occurrence of frequent changes. The retirement, death, or leave of absence of a Civil Servant usually brought about a whole line of changes as each Civil Servant almost automatically moved one step up the ladder.³ The frequency of changes was more marked during the Governorship of

¹ Thus for instance in 1830 when the office of Deputy Secretary fell vacant J. Walbeoff who was entitled to it was granted an additional salary of £320 per annum in order to retain him as Superintendent of Cinnamon. This amount was reduced from the salary of P. Anstruther who was appointed as Deputy Secretary. Barnes to Murray, 4 October 1830. C.O. 54, 107.

² Blair Anderson was nominally promoted as Provincial Judge Batticaloa, but was retained as an Assistant in the Chief Secretary's office, while another person was sent as Provincial Judge on lower emoluments. Barnes to Goderich, 18 January 1828. C.O. 54, 101.

³ On obtaining leave of absences it was the practice for Civil Servants to vacate their positions. The next in point of seniority then succeeded. See Horton to Goderich, 31 January 1832. C.O. 54, 117.

Brownrigg than at any time before or after. After 1822 the necessity for such changes lessened on account of the fact that many of those who were entitled to retirement were continuing in the Service, and consequently only a few Writers were coming in. But generally speaking, it was usual for a Civil Servant to change positions eight to ten times during the first twelve years of service, though most of them only involved moving from one district to another, or from the Provincial Court to the Kachcheri or vice versa.¹

Certain offices were more affected than others by the frequency of changes. Generally speaking the offices that were least affected were those at the centre, belonging to the first class, because of the tendency of those who had acquired them to remain in office, some of them being even unwilling to obtain leave of absence for fear of losing their positions.² One office most materially affected was that of Collector. A Civil Servant was rarely able to remain as the Collector of a particular district for more than two or three years. Of the Collectorates those remotely situated, and comprising generally of the more backward areas of the island, had the added misfortune of having as Collector a person who was also new to the island. Frequent changes had of course the advantage of giving the Civil Servants a fleeting experience of al-

¹The above conclusion is drawn from the names appearing in fixed establishments prepared in February or March each year, and does not take into account the changes that took place between the preparation of these returns.

²H.A. Marshall for instance unsuccessfully attempted to obtain an assurance that he would be allowed to return to his post of Auditor-General. Memorial, of Marshall, 17 November 1825. C.O. 54, 92.

most every district in the island. But their stay was not sufficiently prolonged, either to give them a more thorough knowledge of the variations in the customs, habits and people of the different districts, or to make use of whatever experience they had gained in a particular district. However, it sometimes happened that a Civil Servant would return to the same district in which he had been stationed before, though in a different capacity. In such instances the previous experience would have undoubtedly been of much benefit. The picture that Peter Gordon, a liberal critic, of whom we shall say more later, drew of a Collector, was that of a man ignorant of the languages, place and people, not a man of business or in health, even absent on leave, with a heavy burden of office work, and called upon to levy petty and complicated taxes, to manage 'vile' monopolies, to enforce payments and to conduct actions in court.¹ "The whole detail of course," he said, "falls to the native servants of the revenue department."² Though this picture may have been slightly overdrawn, it is indeed true that the frequency of changes and the other connected factors weakened district administration. In fact material inconvenience was avoided through the existence of Clerks in the offices who were generally more fixed, and to whom important duties appear to have been delegated, and in revenue administration through the existence of the Mudaliyars. The Kachcheri and Koralē Mudaliyars in particular, func-

¹Gordon, paper on 'the actual political condition of Ceylon'. C.O. 54, 112.

²Ibid.

tioned as an effective assistants to the Collector in fact though not in name.

Frequent changes also adversely affected the office of Provincial Judge. It prevented specialization, which was perhaps more desirable in judicial than in revenue work, especially in view of the variety of the law administered in Ceylon. The fact that the judges were not bred to the law, nor acquainted with the laws of Ceylon, naturally evoked the criticism of the liberals.¹ In fact here too material inconvenience seems to have been avoided by the existence of Secretaries and Interpreters of courts, who thereby acquired a degree of importance and power, which would not have been prevalent with a more permanent judge.²

As regards the retirement and pension scheme only one change of significance occurred between 1822 and 1833. This was the withdrawal of the Colonial Office sanction to a practice which had developed for Civil Servants who were entitled to retire, to obtain two years' leave of absence with the option of deciding at the end of it whether to retire or return to the Service, and in the event of the former decision to obtain the difference between the amount of the pension and the furlough allowance from the time of their departure from the island. This practice had encouraged Civil Servants to leave Ceylon without coming to a final decision regarding retirement, and caused inconvenience by

¹Gordon, paper on 'the actual political condition of Ceylon'. C.O. 54, 112.

²Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

compelling the Colonial Office to postpone the filling of the vacancy.¹ Barnes was therefore directed to inform the Civil Servants that in future they would be entitled to pensions only from the date on which they declared their intention to retire.² Barnes attempted to obtain a 'reasonable and fair' indulgence of giving six months time to decide on it without prejudice to the right of drawing pensions from the date of departure.³ He urged this on the ground that Civil Servants who had resided in the island for many years were unacquainted with the expense of living and other circumstances which may have occurred during a lengthened absence.⁴ The Colonial Office however declined to alter the decision.⁵

The Colonial Office attitude perhaps reflected a concealed anxiety caused by the fact that so many who were entitled to retire were continuing in the service. Thus for instance in 1826, 13 out of about 36 Civil Servants in the Service were those entitled to retire, most of them holding the highest offices.⁶ This development had the advantage of removing the fear that the Civil Service would be deprived of valuable

¹ Colonial Office minute, 10 October 1828. C.O. 54, 102.

² Goderich to Barnes, 30 May 1827. C.O. 55, 69.

³ Barnes to Goderich, 27 December 1827. C.O. 54, 98.

⁴ Barnes to Goderich, 27 December 1827. C.O. 54, 98.

⁵ Huskisson to Barnes, 13 May 1828. C.O. 55, 69.

⁶ Commissioners of Colonial Audit to Commissioners of the Treasury, 16 April 1829. C.O. 54, 106.

experience by early retirements. However, as Bertolacci pointed out, the decision to remain in the Service was perhaps the result of mere procrastination from year to year without a plan, and without the advantage that could be derived from a more settled mind.¹ Besides, the fact that those who were thus continuing in the Service held the highest offices brought about the tendency to dishearten the juniors, who naturally saw little prospect of reaching higher situations, and to drive them out of the Service without giving them a fair chance of proving their worth.

These developments must be viewed against the background of the declining state of the Civil Fund. As the Commissioners of Colonial Audit pointed out, the original calculations of the fund had rested on the assumption that pensions would in all instances be claimed as they became due and that subscriptions would therefore always amount to 10 per cent of the whole of the Civil Service salaries.² But as we have seen the practice had developed for Civil Servants, especially those who drew higher salaries, to discontinue subscriptions.³ This, together with the fact that junior Civil Servants, who became entitled to pensions after paying comparatively small subscriptions, were being induced to leave the Service, set in a tendency to weaken the fund.⁴

¹Bertolacci, Agricultural, Commercial, and Financial interests of Ceylon, p. 434.

²Commissioners of Colonial Audit to Commissioners of the Treasury, 16 April 1829. C.O. 54, 106.

³Civil Servants who held situations of £1500, £200 and £300 paid to the fund by way of subscriptions, £150, £200, and £300 per annum respectively, while those who held situations of less than £1500 paid £70 or £80 per annum. Memorandum of Bertolacci, 26 March 1829. C.O. 54, 106.

⁴Ibid.

Thus in this sphere too the Government was faced with a difficult situation. To enforce the rules in such a manner as to induce all the Civil Servants to retire as they became entitled to do so, would not only have deprived the Government of their services, but would also have brought upon the pension list many healthy lives, and made the fund insufficient to meet claims. On the other hand, the practices that had developed not only weakened the fund, but also induced the juniors to quit just at a time when their experience would be of most value. Thus it was clear that a revision of the rules was the only solution.

The above analysis of the various aspects of the Civil Service tend to show some of the difficulties brought about by the exclusive principle. With a policy of excluding local men from higher office, it was believed that the exclusive principle would produce the specialists required in the civil administration of Ceylon, at the same time benefiting the persons sent out as Civil Servants. It certainly would have been a justifiable principle if the Civil Servants had been carefully selected, properly trained, and exclusively eligible to offices which were considered to require special knowledge and experience. But the absence of proper schemes of recruitment and training, which we have noticed, very largely removed this justification. The exclusive principle also failed to produce the desired results in the administration. The rules on which the Service was formed, and the practices which they occasioned in such matters as promotions and retirement, together

with the fact that they were in operation in a small service, very largely destroyed the potentialities which the exclusive principle undoubtedly possessed.

By closing the higher offices to those in the lesser services, the exclusive principle tended to perpetuate social barriers in the colony. The Civil Service fell in line with the tendency in Ceylon to associate different groups, either racial or caste, with different occupations. The public service as it was found towards the end of this period was divided into three almost monopolistic groups, with considerable social barriers between them, and with very little moveability from one to another. Within these groups there were also fairly rigid subdivisions. At the top were the Englishmen, both in and out of the Civil Service, who had very little social intercourse with the rest of the community. Among them the gentlemen of the Civil Service occupied a more privileged position, both in the administration, and in the society of the Colony. They formed an exclusive group of rulers, almost a special caste, with its own peculiar exclusiveness, privileges and prejudices. Below them were certain other Englishmen, who functioned as heads in certain departments, but who were excluded from the benefits of the Civil Service, though not always from the society of the Civil Servants. Below these groups there was the local European community, from whose ranks the Sitting Magistrates, Clerks of public offices, Postholders, Secretaries of Courts, were almost exclusively selected.¹

¹This conclusion is drawn from an analysis of the names appearing in a return of the fixed establishments submitted to the Colebrooke-Cameron Commission, See C.O. 416, 7.

There appear to have been at least two groups within this community. The higher situations were conferred on families reputed to be of higher social status, while the lower situations were held by the rest of the community. The recurrence of family names leads one to the conclusion that certain families were well represented in the public service.¹

The predominance of the local European community in the above situations may have been partly the result of a preferential treatment by the Government both in imparting English education, and in selecting personnel. It certainly shows that the native inhabitants of whatever race or caste, were given very little encouragement to compete for the above posts. This is seen by the fact that even where they acquired a knowledge of English, they seldom went beyond the situations of Interpreter, and Schoolmaster.² Even where they were employed in office work as translators, they bore the traditional title of Liyane Aratchi and were separate from the rest of the clerical establishment.³ It should also be noted that the local European community would have been more anxious to secure Government employment as a means of living, and consequently more anxious to make use of the limited facilities provided

¹ ~~An analysis of~~ ^{See} the names appearing in a return of the fixed establishments submitted to the Colebrooke-Cameron Commission, See C.O. 416, 7.

² Ibid.

³ Ibid.

at the few English educational institutions.

Throughout the period of our study the employment of the Sinhalese and Tamils was mainly confined to their traditional office of Headmen of varying ranks and castes. The more wealthy and influential families among the different castes continued to occupy the important and influential positions of Kachcheri and Koralē Mudaliyarṣ, though occasionally persons from other families had also been brought in.¹ The less influential families among the different castes occupied the office of Muhandiram, Aratchchi and Vidāne. The poorer people belonging to the different castes supplied the Government offices with its numerous Lascarins.

The exclusive character of the Civil Service naturally placed limits to the aspirations of the men in these lower services. As regards the local European community the long period of exclusion from superior offices, and the poor salaries which a majority of them received, had brought them down from the position of affluence which they had enjoyed as the former rulers of the island, and resulted in the loss of social status especially in the eyes of the native people. The picture that J. A. W. Bennett drew of the community at Galle, though not perhaps applicable to every burgher family, and to every district, may have nevertheless been a true picture of the declining state of the community as a whole.

¹See pp.197-198.

"Of the few remaining families," he wrote, "scarcely a trace remains of that independence and wealth by which the Dutch gentry of Pt de Galle was distinguished, antecedent, and for a long time subsequently to the cession of the island to the British arms; for these families, which, during the dominion of the East India Company of the Netherlands, lived in the best style, and in a manner suitable to their opulent circumstances, are, from their sudden privation of emoluments, and consequent changes, reduced to a condition of considerable embarrassment, living by the sale of their jewels and other valuables that may remain from the wreck of better days."¹

A majority of this community appear to have been reconciled to the idea of exclusion from higher office. But a few higher families continued to entertain the hope of an appointment to the Civil Service. This is reflected in the feeling that appears to have been prevalent that those educated in England stood a chance of securing a Civil Service appointment. Consequently two influential and comparatively prosperous families were tempted to educate two sons in England with a view to getting them appointed to the Civil Service. The first of these attempts was made by S. C. Vanderstraaten, a son of the Registrar of the Supreme Court of Ceylon. Having received his education in England, and being just about to return to Ceylon, he applied to the Colonial Office for a Civil Service appointment.²

¹Bennett, Ceylon and its Capabilities, p. 350.

²Memorial, 3 July 1826. C.O. 54, 96. This application was supported by Sir Alexander Johnston, who, while noticing that his knowledge of the English, Sinhalese, Portuguese and Tamil languages, would alone have induced him to recommend him, also dwelt upon the services of his father who had functioned as the Registrar of the Supreme Court for twenty years. Johnston to Bathurst, 3 July 1826. C.O. 54, 96.

Though the Colonial Office appears to have placed his name in the list of candidates no appointment took place.¹ The second application came from Van Lynden, a son of Baron Van Lynden, the latter being a person entitled to special consideration from the British, on account of the fact that he was one of the first Dutchmen to have taken the oath of allegiance.² The argument put forward in this application is worthy of note. After stating that his father's endeavours to enter the Civil Service had failed because of the fact that he was not a born Englishman, he argued that this difficulty did not exist with regard to him as he was born in the island under the British flag.³ This shows that a generation had grown up to whom the old political objections did not apply. The Colonial Office decided to bring the Lyndens under the favourable consideration of the local government, but declined to depart from the established rule in their favour.⁴

As regards the native population, any aspirations of entering higher office could naturally only be expected among the Mudaliyar families. Such aspirations were not entirely wanting. The Mudaliyars, and those belonging to their families, had a well marked disposition

¹ Colonial Office Minute, N.D. 1826. C.O. 54, 96.

² Memorial, 30 November 1827. C.O. 54, 106.

³ Van Lynden to Charles Bagot, 26 November 1829. C.O. 54, 106.

⁴ The application was made through Charles Bagot, the British Ambassador in the Netherlands, who reported that he belonged to 'the very first' family in Holland. Bagot to Murray, 3 December 1829. C.O. 54, 106.

to acquire a knowledge of the English language, and improve their position through that means. In fact during the time of Maitland two sons of Mudaliyars were sent to England for their education at the expense of the Colony. After having been under private tutors for some time the two youths followed courses of study at Oxford and Cambridge.¹ Both appear to have been trained to become preachers of the gospel. One in fact entered the priesthood and on arrival in the Colony was made a Sinhalese Colonial Chaplain. But the other created a problem for Barnes, for he returned without a profession or appointment. Nor did he receive any instructions from the Secretary of State as to his future. Barnes felt it incumbent on the Government to do something for him, as otherwise he would be worse off than when he left.² He therefore re-created the post of Chief Translator, and appointed him to it with a salary of £400 per annum.³

The experience of this youth in entering a type of occupation different from the traditional ones was not encouraging. Barnes reported that in spite of a European education and 'introduction with good society' in England he was not received by the gentlemen of the civil and military establishments, and that the mortifying feeling which

¹Henrique de Saram and Balthazar de Saram. The former was at Oxford and the latter at Cambridge. There is an interesting correspondence between these two youths and the Colonial Office, during the period 1815-1820 in the volumes marked 'offices and individuals' in the C.O. 54 series.

²Barnes to Hay, 18 June 1827. C.O. 54, 98.

³Ibid.

this excited in his mind is generally supposed to have caused his death.¹ He expressed the decided opinion that a person of colour would feel himself placed in a very embarrassing situation in the Civil Service, as he was sure that it would not be agreeable to the Civil Servants to see such a person come among them.²

On the other hand the inability to rise to a higher social position acknowledged by the rulers, and consequently respected by the inhabitants, appears to have made the Mudaliyars cling all the more to the traditional position which they occupied, and the traditional offices which they held, and placed obstacles to change. This is reflected in a statement reported to have been made by the second Maha Mudaliyar in reply to a question that had been put to him by the Commissioners of inquiry, as to why he did not adopt the European dress. "Nature has given us two different colours," he had replied, if I adopt the European dress I shall be among the last of the Europeans. If I retain my own dress I am among the first of my own race."³

|| Ideas of reform were stimulated by the liberal and utilitarian environment that was growing in England, and more particularly by the attacks on the abuse of all forms of patronage, and the demand for economy and efficiency. Liberal and utilitarian concepts, and the cry for retrenchment, had a more immediate relevance to the stage of social and economic

¹Barnes to Hay, 18 June 1827. C.O. 54, 98.

²Ibid.

³Horton to Goderich, 14 December 1831. C.O. 54, 114.

development at which England had arrived. Yet they not only provided a standard by which to judge institutions, policies and actions in other places, but also came to be regarded as ideals that could and should be striven after everywhere.

The Colonies naturally attracted the attention of the liberals and utilitarians as they formed a significant branch of English political and economic life, and an important sphere of patronage. This is evident from the greater Parliamentary interest that was shown with regard to the administration of the Colonies, and which manifested itself in motions and orders calling for various returns, particularly revenue and expenditure returns, and the consequent appointment of many committees and commissions of inquiry.

Underlying this interest was the disappointment, in the words of Joseph Hume, "that Colonies instead of being an addition to the strength of the country increased its weakness".¹ "The drain which was caused by the Colonies" was an illustration of the harmful effects of the application of erroneous policies, and the maintenance of institutions which placed obstacles to the free development of the individual.² All questions of expenditure incurred in the administration of the Colonies were indiscriminately viewed as illustrative of the abuses of patronage.

¹Speech of Joseph Hume, on a motion calling for separate accounts of the revenue and expenditure, civil and military, of Ceylon, Mauritius, Trinidad, Malta and the Cape of Good Hope. Hansard's Parliamentary Debates, new series, Vol. VIII, pp. 147-254.

²See Debate on Ceylon, 27 May 1830. Ibid., Vol. XXIV, pp. 1155-1170.

As Wilmot Horton disapprovingly noted, it was a situation where "public virtue and administrative capacity exclusively hinged upon retrenchment, and diminution of expenditure in the abstract..."¹

Several individuals falling within this broad group were more particularly interested in the affairs of Ceylon. A liberal of smaller stature let loose by the enthusiasm of the more powerful ones was Peter Gordon. He was described as a renter or an agent of a renter, who had lost all the capital that had been invested through disagreements with the functionaries of the Madras Government.² He complained bitterly of the oppressive treatment he had suffered, and of his inability to secure redress through a Court in which decisions were not left to a jury.³ The 'love of freedom and the natural rights of man' made Gordon perform a self-appointed mission of inquiry into the affairs of Ceylon, travelling about the country, meeting people, and collecting information for the purpose. His story entitled 'The actual political condition of Ceylon' made its appearance in Indian newspapers and evoked considerable interest in Ceylon.⁴

¹Horton to Goderich, 14 December 1831. C.O. 54, 114.

²Introduction by an unknown writer to Gordon's paper on 'The actual political condition of Ceylon', C.O. 54, 112.

³Ibid.

⁴Gordon also gave evidence before the Committee inquiring into the affairs of the East India Company. More particulars regarding his career could be obtained from this evidences. See Third report and Minutes of Evidence from the Select Committee of the House of Commons on the Affairs of the East India Company.

A liberal in a more influential position, and who carried about him far greater weight, was Sir Alexander Johnston, a retired Chief Justice of Ceylon. His liberal instincts were deeprooted and were considerably sharpened as a result of the recurring clashes that had occurred between him and the local executive. They manifested themselves very early in his career as is seen from the proposals he submitted as early as 1806 to James Fox on Indian reforms,¹ and the proposals he submitted to the marquis of Londonderry in 1809 on reforms in Ceylon.² Among the liberals he performed a more constructive role and pioneered certain successful measures of reform, while several others came very near success. Among the successful measures, of which he was the prime mover, were the gradual abolition of slavery,³ the removal of the restrictions on European colonization,⁴ and the introduction of the trial by jury in the Supreme Court.⁵ As we have seen he came very near success, but eventually failed, in creating a more independent Judicial Department, and increasing the powers of the Council.⁶

¹ See documents submitted by Johnston to the Select Committee of the House of Commons on the affairs of the East India Company, Vol. IV, Judicial.

² Proposals submitted by Johnston to the Marquis of Londonderry, N.D. 1809. Mendis (ed.) Colebrooke-Cameron Papers, Vol. II, pp. 221-226.

³ The abolition of slavery was first recommended by the De Meuron Committee of inquiry. The first regulations on the subject were made by North and Maitland. It was, however, Johnston who gave vitality to the movement by persuading a number of slave proprietors, chiefly Burghers, to volunteer to emancipate the children born of their slaves. This was followed by more regulations on the subject. For details see C. R. de Silva, Ceylon under the British Occupation, Vol. I, p. 223 and pp. 272-279.

⁴ See p. 311. It appears that Johnston was the chief adviser to Maitland on this subject.

⁵ See pp. 80-81.

⁶ See p. 78.

The parliamentary group of radicals interested in Ceylon were led by John Stewart, who was almost always supported by Joseph Hume. They were generally less informed about local conditions, sometimes factually incorrect, and always in the role of destructive critics. Their eyes were immediately fixed on the politics of England, and consequently their appeal was mainly directly towards the prospective European capitalist, whose enterprising spirit was held back by restraints.¹

The liberals naturally found many matters in Ceylon which called loudly for reform. A detailed analysis of their views on social and economic affairs does not fall within the purview of this study. It should however be noted that their criticisms were generally directed against the maintenance of a monopolistic economy and the institutions of a feudal society. As early as 1809, Johnston had urged the abolition of monopolies and compulsory services, and the removal of the restrictions on the free disposal of property both to Europeans and the native inhabitants.² The demand for a select committee to inquire into the affairs of Ceylon made by the radical group in Parliament in 1830 was particularly directed to draw the attention of the House to the injurious system of carrying on trade, and to the means of extending colonization.³ The system of compulsory services escaped their attention

¹See Debate on Ceylon, 27 May 1830. Hansard's Parliamentary Debates, new series, Vol. XXIV, pp. 1155-1170.

²Proposals submitted by Johnston to the Marquis of Londonderry, N.D.1809. Mendis (ed.) Colebrooke-Cameron Papers, Vol. II, pp. 201-205.

³Speech of Stewart, 27 May 1830. Hansard's Parliamentary Debates, new series, Vol. XXIV, pp. 1155-1162. Also evidence of Stewart, 21 April 1831. Third Report and Minutes of evidence from the Select Committee of the House of Commons on the affairs of the East India Company.

probably because they were less informed about the subject. Gordon found the maintenance of monopolies, compulsory services and feudal concepts of property, the penalties inflicted and the coercive powers exercised to enforce them, prejudicial to industry and enterprise. They were to him 'a disgrace to the age', and "an offspring of unchecked power, which reflected upon the degree of liberty enjoyed by the subjects".¹ If free how much more can these men and these acres produce was a question posed by Gordon and common to all liberals.²

The administrative structure was viewed by Gordon as the machinery which organized and sustained the above social and economic system.

"Before considering the revenue system of Ceylon," he wrote, "it may be remarked that her Civil Service can be regarded as the civil department of the army of occupation, her revenue system collection of the Jaghire, and I regret to say it her legislature, and the whole of the colonial judicial department, is but the finer network, the save-all of the revenue system."³

He noted that the Magistrate, the Judge, the Fiscal and the Collector, all regarded revenue as the chief object of Government.⁴

The adjustment of the governmental machinery to suit the contemplated social and economic reforms naturally became part of the liberal programme. Hence the absolute nature of the Governor's legis-

¹Gordon, 'The actual political condition of Ceylon'. C.O. 54, 112.

²Ibid.

³Ibid.

⁴Ibid.

lative and executive powers came in for sharp liberal criticism. "A whim becomes a law instantly," alleged Gordon. "It is law for the Governor to arrest, refuse Habeas Corpus, and to transport without showing cause or granting trial."¹ He asserted that the laws which the Supreme Court was bound to observe were nothing but the mandates of the executive officer.² It was, however, Johnston who played the more constructive role. His early attempts to reform the existing Council have already been noted.³ The proposals he first made in 1809, and repeated later, went much further. He urged the adoption of a constitution similar in principle to the British constitution, but modified to suit the religious and moral feelings of the people, and the circumstances of the country.⁴ He went as far as to suggest the creation of a legislative assembly consisting of representatives sent from the different provinces of the country.⁵ He also urged the removal of the Governor's powers to banish individuals without trial.⁶

¹Gordon, 'The actual political condition of Ceylon'. C.O. 54, 112.

²Ibid.

³See p. 56.

⁴Proposals submitted by Johnston to the Marquis of Londonderry, No. 1809. Mendis (ed.) Colebrooke-Cameron Papers, Vol. II, pp. 221-226.

⁵Ibid.

⁶Ibid.

This liberal approach to such matters was a sharp contrast to the attitudes maintained by all the executive heads in Ceylon from the time of North, but was more in line with the stand which had usually been taken by the Supreme Court. Barnes once again appealed to the usual need to preserve the strength of the executive. He took his stand on two grounds. Firstly, he maintained that there was no inconvenience resulting from the existing form of Government.¹ He pointed out that the Governor's powers to banish individuals were seldom exercised except in the case of vagrants from the continent who, if not immediately sent away, would 'inundate' the island.² He also regarded the existing Council well suited to the needs of the island.³ Secondly, he raised doubts as to whether the necessary material existed for the formation of a new form of government. A government in which the people had a share was for him completely out of the question.

"Whatever utopian ideas theorists may cherish of universal fraternity without regard to colour, religion or civilization," he wrote, "or whatever notion levellers may wish to see adopted, I am decidedly of opinion that this people cannot, or ought not to have under existing circumstances any greater share in the government, than they have at present."⁴

¹Barnes to Colebrooke, 10 September 1830. C.O. 54, 112.

²Ibid.

³Ibid.

⁴Ibid.

As to whether there were other elements in the population who could provide the material for a new government, he went on to point out that the land was almost wholly possessed by the native inhabitants, and that there was only one European agriculturalist who had settled in the island, though there were one or two others making experiments.¹ He therefore argued that until they increased in number, had an interest in the soil, and formed an important, intelligent, and wealthy portion of society, it would not be expedient to change the form of government.² Thus while the liberals generally believed that only a more liberal form of government could attract Europeans into the country, Barnes held that their settlement should precede the formation of a new government. Having thus ruled out representative government, he argued that the only way to form another type of government was either to vest the officials appointed to the Council with more power, such as the right of deciding measures proposed by the Governor, and of originating measures, or to have an official Council independent of the Governor, which had no power to originate measures, but to which all laws must be submitted in the first instance.³ He decidedly objected to the former as it would involve the executive head in discussion, while the latter he said would produce dissention and schism among

¹Barnes to Colebrooke, 10 September 1830. C.O. 54, 112. In making this estimate Barnes did not take into consideration the large number of Portuguese and Dutch settlers in the island.

²Ibid.

³Ibid.

officers, and bring the Governor, as well as the Government, into contempt in the eyes of the governed.¹

Horton was less uncompromising than Barnes. Before he became Governor he expressed in Parliament his view that in ceded Colonies where there was only an executive head, there should be a Council with the power to remonstrate against the acts of the Governor where they differed.² But he too was opposed to any form of representative government.

"There is but one plan in my opinion to be acted upon in any Asiatic dependency such as Ceylon," he wrote, "and that is for the Secretary of State to advise His Majesty to send out a Governor whom he ought to trust, and whom he does trust, and to support that Governor as long as his conduct justifies it...."³

The independence of the judiciary, its separation from executive authority, and the appointment of men bred to the law as judges, were important aims in the liberal programme. They were generally treated as indispensable preliminaries to fostering individual enterprise and initiative. Stewart argued that the absence of a proper administration of justice had deterred settlers from going out to Ceylon.⁴ "Could it expected," asked Hume, "that any individual should go to settle under

¹Barnes to Colebrooke, 10 September 1830. C.O. 54, 112.

²Speech of Wilmot Horton, 11 June 1830. Hansards Parliamentary Debates, new series, Vol. XXV, 296.

³Horton to Goderich, 13 October 1832. C.O. 54, 118.

⁴Speech of Stewart, 27 May 1830. Hansard's Parliamentary Debates, new series, Vol. XXIV, pp. 1155-1162.

such an arbitrary government."¹ They held that the judges should be made completely independent of the Government. Gordon deplored the lack of an adequate separation of powers. He found the Collectors exercising the 'veiled' powers of a revenue judge, the Magistrate acting as 'the concubine' of the Collector, and the Provincial Judge ignorant and unsettled.² Here too it was Johnston who was the far more important reformer. His early attempts at judicial reform have already been noted.³ Supported by John Stewart in Parliament, he again urged the abolition of the Provincial Courts, and the extension of the jurisdiction of the Supreme Court over the whole island.

The liberal approach in the above matters was again a contrast to the attitude of the local Government. The concept of judicial independence was too strong to be openly opposed. Barnes therefore only denied that he had ever interfered in the administration of justice except in the capacity of a member of the High Court of Appeal.⁴ Both Barnes and Horton were however opposed to a complete separation of the executive and the judiciary. Perhaps having the interests of the executive in mind Barnes believed that any such attempt would be 'highly injurious',⁵ while Horton thought that society in Ceylon had not reached

¹Speech of Joseph Hume, Hansard's Parliamentary Debates, new series, Vol. XXIV, pp. 1165-1170.

²Gordon, 'The actual political condition of Ceylon', C.O. 54, 112.

³See p. 79.

⁴Barnes to Bathurst, 6 April 1828. C.O. 54.

⁵Barnes to Colebrooke, 10 September 1830. C.O. 54, 112.

the stage of development where a rigid demarcation was desirable.¹ Both Barnes and Horton therefore only gave a qualified assent to the proposal to abolish the Provincial Courts. As early as 1821 Barnes had expressed his willingness to it provided there was a local appeal from the decisions to the Governor in Council.² Horton agreed to the proposal of his Deputy Secretary that the extension should be carried out first in the Colombo district, and thereafter extended to the other districts if found to be beneficial.³ In case the Provincial Courts were to remain as they were both Barnes and Horton were opposed to the appointment of barristers to preside over them. Barnes pointed out that though professional judges would be supposed to be better qualified in the law, they would not be very different from the Civil Service judges, since they would also have to learn everything anew, the laws administered in Ceylon being not the same as the laws of England. In fact he believed that an experienced senior Civil Servant would be better fitted for it than a total stranger coming from England.⁴

¹Horton to Goderich, 14 December 1831. C.O. 54, 114.

²Barnes to Bathurst, 12 March 1821. C.O. 54, 79. Also Barnes to Bathurst, 4 March 1825. C.O. 54, 88.

³Horton to Goderich, 14 December 1831. C.O. 54, 114.

⁴Barnes to Colebrooke, 10 September 1830. C.O. 54, 112.

Horton joined with his Deputy Secretary in arguing that even under the imperfect state of the Civil Service the Provincial Courts had functioned well, and that much more could therefore be expected with Civil Servants more carefully selected, trained, and more continuously employed in judicial work.¹

The constitution of the Civil Service was another important sphere which attracted liberal attention. The only aspect which concerned the radicals in Parliament was the expensiveness of the civil establishments. It gave them an opportunity, in which they delighted, of making another attack on patronage. They deplored the fact that the revenue of the island was not adequate to meet its expenditure, and pointed an accusing finger at patronage. Hume alleged that the salaries allotted to officers were not according to the duties that they performed, but according to their rank and connections, and to the importance of those through whose interests they get their appointment.² "Good God," he exclaimed after presenting a series of inaccurate facts about the salaries of certain officers, "was it not desirable that such a subject should be referred to a committee which might inquire who all those persons were and what duties they performed."³ The question of patronage did not interest Gordon. He laid emphasis on the inefficiency of the Service,

¹Horton to Goderich, 14 December 1831. C.O. 54, 114.

²Speech of Hume, 27 May 1830. Hansard's Parliamentary Debates, new series, Vol. XXIV, pp. 1165-1170.

³Ibid.

and, more particularly on the imperfect position of the Collector and the Provincial Judge. To him the expensiveness of the civil establishments, especially in the judicial sphere, was because the Mudaliyars were not trusted with power.¹ In this sphere too Johnston was the far more important reformer. He was the first to have come forward with the radical proposal of abolishing the Civil Service, and throwing open the higher situations to qualified natives as well as Europeans. This proposal was first made as early as 1809, but the principle was repeated in 1830, though more specifically with reference to India.²

It is necessary to examine the attitude of mind in which Johnston approached the question. One feature that was noticeable throughout his career in Ceylon was his attachment to the local European community. With the limited patronage at his disposal he broke through many obstacles and appointed local Europeans to high situations. It seems therefore likely that Johnston had fairer deal to this community in mind when he made his proposals. In any case he appears to have been free from the prejudices generally prevalent during the time against local Europeans, or half-castes as they were commonly called, and believed that they should have the same privileges of a British born European.³ Other factors also took Johnston in the same direction.

¹Gordon, 'The actual political condition of Ceylon', C.O. 54, 112.

²Proposals submitted by Johnston to the Marquis of Londonderry, N.D.1809. Mendis (ed.) Colebrooke-Cameron Papers, Vol. II, pp. 221-226. Also, Evidence of Johnston, 9 July 1832. Minutes of evidence taken before the Select Committee of the House of Commons on the affairs of the East India Company, Vol. IV, judicial.

³Evidence of Johnston, 9 July 1832. Minutes of evidence taken before the select committee of the House of Commons of the affairs of the East India Company, Vol. IV, Judicial.

While in the Colony he took a great interest in oriental culture and achievements, which interest he pursued even after retirement.¹ This naturally gave him a more balanced view of the Asians than was possessed by most Englishmen of the time. "Natives are just as competent as Europeans can be," he told the committee inquiring into the affairs of the East India Company, "to legislate for their own wants and their own country."² Above all Johnston showed the liberal search for a colonial policy applicable to the East, which while being more equitable, would, it was believed, strengthen rather than weaken the attachment of the Colony. "I felt it to be my duty to state it officially as my opinion," he said, "that the surest way of retaining Ceylon, and the rest of our Indian possessions, was to admit the natives of the country to a share in the Government of the country, and to allow them to administer justice to their countrymen."³ He believed that the native inhabitants of the upper classes, both in India and in Ceylon, if made eligible to higher offices of state and given a feeling that the offices and the honours which they held depended upon the continuance of British supremacy, were more likely to support it with all their influence in the country, than if they felt that they had no such offices

¹He brought with him to England certain manuscripts of Ceylon chronicles, and was instrumental in making the arrangements to have them translated and published. See Edward Upham to Huskisson, 10 October 1827. C.O. 54,100.

²Evidence of Johnston, 9 July 1832. Minutes of evidence taken before the select committee of the House of Commons on the affairs of the East India Company, Vol. IV, Judicial.

³Ibid.

or honours to lose by the overthrow of ~~that~~ supremacy.¹ The liberal view on this question was also at variance with the attitude prevailing in the Colony. Though the opinions expressed by Barnes and Horton were immediately occasioned by a proposal made by the Colebrooke-Cameron Commission, to throw open the Service, it is convenient to note them here, especially in view of the fact that these opinions were before the Commissioners before they finalized their recommendations.

Barnes raised the fear of losing the Colony.

"As to the propriety of gradually introducing natives into those situations at present held by Europeans," he wrote, "I wish to know where you propose to draw the line. Admitted to one situation they would have an equal claim to another, so that unless you contemplate the supersession of all the European authorities not excepting the Governor, I could not see where you could stop. My opinion is that the line is now well defined, that the natives are perfectly content, and that it ought not to be invaded."²

Besides, Barnes was in complete disagreement with the liberal idea of equality. "I have no hesitation in saying," he wrote, "that black faces and white never can be so amalgamated together in society as to be upon an equal footing - the one or the other must predominate."³

Horton was less uncompromising. He was prepared to assent to the proposition subject to the condition ~~that~~ the admission should take place whenever they possessed the necessary qualifications.⁴ However

¹Evidence of Johnston, 9 July 1832. Minutes of evidence taken before the Select Committee of the House of Commons on the affairs of the East India Company, Vol. IV, Judicial.

²Barnes to Colebrooke, 10 September 1830. C.O. 54, 112.

³Ibid.

⁴Horton to Goderich, 14 December 1831. C.O. 54, 114.

he went on to specify qualifications difficult to expect in the social context of the time. Identifying, perhaps correctly, one direction in which liberal thinking germinated, he pointed out that to compare the exclusion of the Catholics in England from office with the exclusion of the Mudaliyars and other higher classes of natives from office in Ceylon was not the same.

"The strength of the catholic question," he wrote, "consisted in the fact that the Catholics were not to be distinguished from the Protestants in their habits, connections, information and civil character, except so far as the exclusive law did distinguish them. The higher classes of the natives here if admitted into civil office tomorrow, would neither in their habits, connections, information, or civil character be identical with the Europeans."¹

Horton in fact thus posed the question as to whether 'Anglicization' should precede a policy of admitting the native inhabitants to high office, or vice versa. Though Horton created the impression that it should precede, the Mudaliyars were in fact not likely to change unless they saw it as a means to improve their social position. Many of the Mudaliyar families had in fact changed their religion on account of the insistence of the Dutch, and were seen to be imitating European customs on occasion.² They also showed no dislike for an English education, Perhaps they might have been tempted to a further change in their ways of life if they saw a prospect of social improvement. As it

¹Horton to Goderich, 14 December 1831. C.O. 54, 114.

²J. Cordiner, A description of Ceylon, Vol. I, p.109. R. Percival, An Account of the island of Ceylon, pp. 240-241.

was however the Mudaliyars did not wish to become the last among the Europeans.

The other factor to which Horton drew attention was the prevalence of caste. He pointed out that the higher caste Headmen were too much under the prejudice of caste to allow the ranks subordinate to them to emerge from their 'regulated inferiority', and maintained they must dispossess themselves of it before they could be admitted into an equal eligibility to office with Europeans.¹ He recorded two circumstances connected with the second Maha Mudaliyar to prove that the Mudaliyars were not prepared to give up their superior caste position. The first related to an invitation extended by the Chief Justice to this Mudaliyar to serve in a Grand Jury in the event of the establishment of such an institution. The Mudaliyar had replied that if he is likely to meet any Burgher who had a 'taint of low caste blood in him' as a fellow juryman, he wished to decline as he could not make up his mind to such a degradation.² Horton also referred to a conversation which he had with the same Mudaliyar where he had asked him whether he would sit at his table if he had as his guest a man of talent, and education, but who had a taint of low caste blood in him. He had replied that he would not, unless it was considered an act of discourtesy towards the Governor.³ The Mudaliyar had also expressed his preference

¹Horton to Goderich, 14 December 1831. C.O. 54, 114.

²Ibid.

³Ibid.

for continued ineligibility to office rather than give up his caste position if such was the nature of the bargain.¹ "How can the local Government refuse employment to a Burgher of Character or talent, or to an educated native," he asked after narrating these instances, "because a Mudaliyar Civil Servant would not sit in the same room with him."²

Horton also recorded the experience of a Wesleyan Missionary, who had appointed a low caste man as a School Master in a school where the rest were high caste men. The School Masters had refused to work, unless a distinction was made by seat or position. The Missionary had successfully resisted in this instance, though, it was stated, in others he was obliged to make lower benches.

"Mr. Clough as an individual, and founding his conduct on religion," wrote Horton, "might make an experiment of resistance with success. But if the Governor were to disgust the natives of the higher caste by forcing a man of inferior caste among them, and compelling them to give up their employment unless they would associate with him, it is not too much to say that the Colony would be thrown into a state of all but rebellion."³

Horton was correct in his assessment of the attitude of the higher caste people towards the lower. Like Barnes, they were indeed not levellers. The Vellales (farmers) often lamented the tendency to disregard the distinctions of superiority and inferiority among castes.⁴

¹Horton to Goderich, 14 December 1831. C.O. 54, 114.

²Ibid.

³Ibid.

⁴Petition of 33 inhabitants of Bentote, 20 June 1829. No. 115, C.O.416, 19. Also Petition of 713 inhabitants of Colombo, 2 July 1829. No. 126, C.O. 416, 29. Similar petitions are found in C.O. 416, 29-32.

"Although men are all of one make," wrote Anthony Fernando, a fisher-caste inhabitant of the Maritime provinces, "still as the workmanship of a gold chain is formed of different particles, so the casts [sic] are introduced to distinguish them, and this distinction of [sic] cast has been for many ages preserved under Kings and other personages."¹ Though Horton was correct in his assessment of the situation yet, by expecting the higher castes to give up voluntarily their privileged position, he was as we shall see later looking for social change at the wrong end.

The liberal atmosphere that thus grew around problems in Ceylon, placed both the Colonial Office and the local Government on the defensive and forced both into more activity. The radicals in England compelled the Colonial Office to submit to Parliament various returns of revenue and expenditure and papers relating to the administration of justice. They embarrassed the Colonial Office by involving it in a debate on Ceylon,² and occasionally by asking questions on the floor of the House.³ The local Government was also forced into more activity. It had to submit various returns required from time to time, to correct erroneous facts presented by the radicals in Parliament, to correct

¹Petition of Anthony Fernando on the grievances of the people of the Maritime provinces, 9 May 1829. C.O. 145, C.O. 416, 29.

²~~See p.~~ This debate was occasioned by the demand for a Select Committee of the House of Commons to inquire in the affairs of Ceylon.

³See Hansard's Parliamentary Debates, new series, Vol. XXV, p.27.

false impressions created by newspaper reports on the financial situation in Ceylon. It took great pains to show that Ceylon was not a burden to the 'mother country'.¹ Above all, it had to meet the liberal criticism that was being levelled against the policies and institutions of the Government. The extent to which the local Government was sensitive to liberal criticism is seen from the care that was taken by Barnes to submit his comments on the latter. The comments made by Barnes were generally limited to admitting or contradicting particular facts and contained no thoughtful defence of the old system.² He was inclined to dismiss the liberals as unworthy of attention. The comments sent by Horton were drawn up at his request by his Deputy Secretary, Anstruther. This contained by far the best defence of the existing system, for it attempted at a historical explanation for the existence of certain factors, explaining why reforms were delayed, what reforms were practicable, and what not.³ He thereby drew attention to factors which the liberals generally tended to overlook.

"If I were called upon for any defence of the system on which the Government had been administered," wrote Anstruther, "I would compare the present with that which we found in operation thirty years ago when the Government came into our hands. The important and obvious changes

¹See Campbell to Bathurst, 28 February 1823. C.O. 54, 84. Barnes to Huskisson, 19 December 1828. C.O. 54, 101. Barnes to Bathurst, 8 November 1824. C.O. 54, 86. Barnes to Bathurst, 8 April and 28 April 1827. C.O. 54, 97.

²Observations of Barnes. See Barnes to Hay, 22 January 1831. C.O. 54, 112.

³Observations of P. Anstruther, See Horton to Goderich 14 December 1831. C.O. 54, 114.

now practicable, nay almost inevitable, even were the Government to discourage improvement were then impracticable."¹

Anstruther's thinking shows that in spite of the many disagreements with liberal ideas noticed before, the liberal environment had given an impetus to reforms. This is seen from the several measures that were adopted or contemplated. A change in the Constitution took place with the appointment of Horton as Governor. The power that had been given to former Governors to banish individuals without trial was withdrawn.² The Constitution and powers of the Council were stipulated in the Royal Instructions issued to Horton, and not left, as before, to be regulated by ordinary instructions. Though no change was made in the composition of the Council, considerable changes were made in its powers. The Council could not as yet meet unless summoned by the Governor, and members could not originate a legislative enactment, or a debate on a question, unless it was proposed by the Governor. But if a member considered a law fit to be enacted, or a subject fit to be debated, he was given the right to transmit a written statement to the Governor and to have it inserted in the minutes of the Council. The Governor was also now required to consult the Council, and to obtain its advice, in the exercise of all his powers, unless the question was of so urgent and pressing a nature as not to admit of delay. On such occasions, however, the matter was to be speedily brought

¹Observations of P. Anstruther, See Horton to Goderich, 14 December 1831. C.O. 54, 114.

²The clause conferring this power was omitted from the Royal Instructions issued to Horton. Mendis (ed.) See Royal Instructions to Governor Horton, 30 April 1831. Colebrooke-Cameron papers, Vol. II, pp. 142-153.

before the Council for revision and sanction. The members of the Council were given the freedom of debate and vote. The Governor could still act on his opinions, and against the wishes of the Council, or a majority in it. But in such instances the members dissenting were to be allowed, as before, to record their dissent on the minutes of the Council, which were to be submitted to the Home Government at the earliest opportunity. Besides, the minutes of all the proceedings of the Council were to be regularly kept and transmitted home every six months.¹ These changes resulted in the transfer of the responsibility for the administration of the Colony from the Governor in Council to the Governor and Council. The new Council had a good start when Goderich chided the Councillors for being mere passive instruments of the Governor.² Horton, who was the bearer of a measure of constitutional reform also brought with him a new spirit, when he declared soon after his arrival that "the vital principle of the financial administration of the Colony should be uncompromising publicity, nothing kept back or even obscured by complexity or bad arrangement".³ In order to se-

¹Royal Instructions to Horton, 30 April 1831. Mendis (ed.), The Colebrooke-Cameron papers, Vol. II, pp. 142-53.

²In reply to a despatch in which Horton had stated that he had the unanimous consent of the Council to the principles of his government, Goderich stated that such consent was of no particular value as indicating a genuine accordance of opinion as the Council had also acquiesced in the principles of the former Governor which were in some important points different. This remark excited the Councillors who had functioned under both regimes. Horton took offence over the insinuation that he was disposed to discourage free expression. Horton to Goderich, 1 October 1832. C.O. 54, 118.

³Minute, 10 November 1831. C.O. 54, 114.

cure a discussion of legislative measures, both inside and outside the Council, he laid down the rule that the Council could not pass legislative enactments until they were read at two different meetings. Immediately after the first reading, a draft of the proposed law was to be published in the Government Gazette and any objections to it were to be laid before the Council and filed in the minutes.¹ Horton also took steps to start a newspaper which was named the Colombo Journal.² Though it was under Government control its very establishment undoubtedly marked a change of political climate. For the first time in the history of British legislation in Ceylon, regulations of the Government were disallowed, and on such grounds as the severity of the laws, and their incompatibility with judicial independence.³ At about the same time the administration of justice in Ceylon was considered so defective and inconvenient that judicial reforms which had long been postponed were treated as a matter of urgency which could not await the report of the commission of inquiry.⁴ Soon after his arrival Horton directed the discontinuance of the custom of erecting arches and ornamenting the roads, whenever the Governor and the Supreme Court Judges travelled about the country.⁵ A direction by the Colonial Office to discontinue the practice

¹Horton to Goderich, 19 January 1832. C.O. 54, 118.

²For the first issues of the Colombo Journal see C.O. 59, 1-2.

³See Bathurst to Paget, 19 September 1821. C.O. 55, 66. Barnes to Huskisson, 1 April 1828. C.O. 54, 101. Barnes to Murray, 17 February 1830. C.O. 54, 107. Barnes to Goderich, 7 June 1831. C.O. 54, 113.

⁴Murray to Barnes, 21 October 1828. C.O. 55, 69.

⁵Horton to Goderich, 3 October 1832. C.O. 54, 118.

of having Lascarins as attendants, though not well received by the Governor and the Civil Servants, was nevertheless partially carried out.¹ Horton issued a minute in which the Government servants were informed that in future Lascarins employed as a mark of honorary distinction, or those called upon to execute any duty which could be regarded as private, must be paid out of the salaries of the employers as their retention was considered unnecessary for public purposes.² Though convinced that the system of compulsory services was objectionable only in theory, Barnes found it necessary, in the face of liberal opposition, to initiate certain reforms. Without abandoning the rights of the Government with regard to the services of the people, he adopted the measure of hiring voluntary labourers for the cinnamond department.³ He also exempted the 'Moormen', who were described as the most 'industrious' class of people, from personal services or taxes in lieu of them.⁴ Horton also committed himself to a gradual abolition of compulsory services.⁵ Thus it is seen that the balance between authoritarian and liberal forms of Government, which had been prevalent in the Colony, was tilted in favour of more liberal institutions even before the Colebrooke-Cameron

¹ See pp 139-140.

² Minute, 1 October 1832. Horton to Goderich, 2 October 1832. C.O. 54, 118.

³ Barnes to Goderich, 11 October 1831. C.O. 54, 113.

⁴ Regulation V, 28 June 1830. Barnes to Murray 12 June 1830. C.O. 54, 107.

⁵ Minute, 10 November 1831. C.O. 54, 114.

Commission submitted its recommendations for administrative reform in Ceylon. The cry for economy compelled both the Colonial Office and the local Government to pay more attention to retrenchments. The Treasury in England repeatedly drew the serious attention of the Colonial Office to the excess of expenditure over revenue in the Colony and urged retrenchments.¹ The Colonial Office in turn continued to emphasise the need for economy. Barnes received several despatches, some of which seem to have even annoyed him, urging reductions.² Horton, too, was briefed before his departure, and consequently arrived with the determination, which was common to all the Governors as they arrived, to do so much at least as would raise the value of the Colony in the opinion of the British nation.³

There was indeed nothing less doubtful than the fact that the expenditure incurred on civil establishments in Ceylon, was out of proportion to its revenue. Thus taking the expenditure statements of 1829 into consideration it could be seen that out of a total revenue of £361,791 approximately £120,088 was spent on fixed establishments.⁴ The fixed contingent charges, amounting approximately to £85,450, were also mainly incurred on establishments, or perquisites connected with

¹ Commissioners of the Treasury to Hay, 5 August 1826. C.O. 54, 95. Commissioners of the Treasury to Colonial Secretary, 22 December 1827, C.O. 54, 99.

² See Bathurst to Barnes, 1 September 1826, and Goderich to Barnes, 21 August 1827 for two such instances. C.O. 55, 69.

³ Horton to Goderich, 9 November 1831. C.O. 54, 114.

⁴ Return of the fixed establishments for 1829. See C.O. 416, 7. The figures for 1829 are taken for purposes of illustration on account of the fact that the Colebrooke-Cameron Commissioners based their recommendations on them.

them.¹ It should also be noted that some of the unpaid Headmen enjoyed tax exemptions, thus occasioning a loss of revenue.

One feature of this expenditure was the disproportion occasioned by the Civil Service salary structure. Thus, for instance, in 1829 out of the above total expenditure approximately £39,765 was spent on 35 Civil Servants.² The clerical establishment consisting of about 244 Clerks, and Secretaries of Courts, cost approximately £13,588.³ The local Magistracy consisting of about 15 individuals cost approximately £3,072.⁴ The Headmen on the fixed establishment consisting of about 79 individuals cost approximately £3,235.⁵

The Colonial Office, when it urged reductions, had in mind mainly the large number of persons employed in inferior situations, "whose salaries though small in the abstract, swell the establishment to an extent unprecedented in any of the colonial possessions of the Crown." It was indeed that branch of the establishment that immediately attracted the attention of the local Government too. Thus Paget announced a reduction of the salaries of the Clerks, though it was to take effect only with new appointees.⁶ The number of Headmen on the fixed establishment were to be gradually reduced as vacancies occurred.⁷ A reduction of the

¹Return of the fixed establishments for 1829. See C.O. 416,7. The figures for 1829 are taken for purposes of illustration on account of the fact that the Colebrooke-Cameron Commissioners based their recommendations on them.

²The above figure is extracted from the salaries appearing in the fixed establishments for 1829. See Return of fixed establishments for 1829. C.O. 416,7.

³Ibid.

⁴Ibid.

⁵Memorandum showing the amount of pay and allowances drawn monthly by

allowances of the Headmen of the Cinnamon Department was announced in 1825.¹ Two pension funds that had been established for the superannuation of the Clerks and Magistrates, were discontinued on the instructions of the Secretary of State, when they were brought before his notice by Barnes.² Reductions were also made in the salaries of the Chief Justice, Puisne Justice, and Advocate Fiscal.³ The guarantee of a pension on retirement, which these Judges had hitherto enjoyed was withdrawn.⁴

But all these measures only touched the fringe of the problem. While the Colonial Office continued to keep its eye on local patronage, the local Government was faced with considerable difficulties. As was pointed out both by Barnes and Horton, local patronage involved the social

(cont.) the several district Headmen in the Maritime provinces, 4 February 1830, C.O. 416, 8.

⁶Paget to Bathurst, 21 October 1822. C.O. 54, 82.

⁷Horton to Goderich, 9 November 1831. C.O., 54, 114.

¹Barnes to Bathurst, 5 March 1825. C.O. 54, 88.

²These pension funds had been established by Paget in 1822. He had however failed to obtain the sanction of the Secretary of State. Consequently, Barnes reported this omission, pointing out at the same time that the funds having been erroneously calculated, would result in the Government having to bear part of the expenditure. He however stressed the necessity of establishing some sort of scheme. In fact he did not carry out the first order to abolish these funds, until he was found fault with for failing to carry out instructions. See Barnes to Bathurst, 22 September 1826. C.O. 54, 93. Barnes to Huskisson, 29 March 1829. C.O. 54, 101. Also Murray to Barnes, 14 November 1828. C.O. 55, 69. and Goderich to Barnes, 22 July 1827. C.O. 55, 69.

³Goderich to Barnes, 5 August 1827. C.O. 55, 69.

⁴Ibid. Also, Murray to Barnes, 21 October 1828. C.O. 55, 69.

and political stability of the country. Barnes already experienced considerable embarrassment from the dissatisfaction which prevailed among the Clerks consequent to the abolition of the pension fund.¹

"To deny the people all participation in their own concerns," he wrote, about the Headmen, "would be the most effective measure that could be adopted to alienate their attachment to the existing Government."²

Horton, too, pointed out that these appointments and distinctions supplied a cheap means of sustaining the influence of the Government.³

He therefore requested that if further reductions were considered necessary such changes should appear to emanate exclusively from the Home Government, to mitigate the loss of influence of the local Government.⁴

The most expensive part of the establishment, which was the Civil Service, continued to present its own difficulties in affecting reductions. The new environment naturally held back any idea of further increase of salary. But the social forces which we have observed in previous chapters continued to operate to maintain its salary structure at the existing level. This is seen from the care that was taken to rectify a drop in the real salaries of the Collectors consequent on the withdrawal of the practice of issuing debentures and accommodation bills in 1825.⁵

¹Memorial, of 144 Clerks of Colombo. See Barnes to Huskisson, 29 March 1829. C.O. 54, 101. Also Horton to Goderich, 29 September 1832. C.O. 54, 118.

²Barnes to Bathurst, 8 April 1827. C.O. 54, 97.

³Horton to Goderich, 21 November 1831. C.O. 54, 114.

⁴Ibid.

⁵Minute of 4 July 1825, and Regulation VIII, 4 July 1825. C.O. 54, 89.

The emoluments of the Collectors were more immediately affected by this change as they had previously been able to convert their commissions issued in rix dollars into sterling at 1s. 9d. a rix-dollar by applying for a debenture issued at that rate.¹ Thus the Collectors experienced a loss of actual income in proportion to the largeness of their commissions. Apart from the need which Barnes would have certainly felt of maintaining the existing salary structure of the Civil Service, he also feared that it would affect the value of the office of Collector, and also diminish the incentives in the Service by reducing the number of situations which entitled Civil Servants to higher pensions.² He therefore increased the fixed salaries of Collectors from £650 to £750 per annum, and urged its adoption on the ground that the increase was more than counter-balanced by the saving on the commission.³ Besides this he implemented, subject to the approval of the Secretary of State, a plan which he said would stimulate the Collectors to greater exertion. They were given an additional commission of three per cent on the net revenue they collected in a district beyond the average receipts of the three preceding years. This could only be claimed by a Collector who did not vacate his office by promotion or otherwise, within three years.⁴

¹Barnes to Bathurst, 26 July 1825. C.O. 54, 89.

²Ibid.

³Ibid.

⁴Minute, 29 June 1825. C.O. 54, 89.

It is difficult to imagine what benefits Barnes expected from this scheme, for as he himself pointed out, a Collector would seldom remain three years in a particular district. This in turn could have only meant that a Collector would seldom regard it as an incentive for greater exertion. His scheme in fact only reflected the anxiety of the local Government to maintain existing salaries of the Civil Service.

In fact both Barnes and Horton made a strong case for the maintenance of the existing salary structure of the Service. Barnes viewed it from two interconnected angles. Firstly, there were the usual aspirations of the Civil Servants to be taken into consideration. Besides pointing out the fact that no gentleman entering the Service had retired with what 'deserved the name of a fortune', he stated his conviction that Civil Servants should be well remunerated especially in view of the fact that a person entering the Service sacrificed the best portion of his life in a country so distant from home.¹ Secondly, he held that whatever the salary structure of the Civil Service was it would continue to attract men from England, and that the effect of lower salaries would be that instead of attracting efficient men it would bring in less efficient men.² Horton viewed it more from the second angle, though the former would have also undoubtedly affected him. He had little sympathy for the radical cry for economy, though he very much believed in their demand for efficiency. Consequently he tried to show that they were incompatible

¹Barnes to Huskisson, 6 December 1828. C.O. 54, 101.

²Barnes to Huskisson, 5 August, 1825. C.O. 54, 101.

with one another. He considered the reduction of the salaries of the Civil Servants an economy of a doubtful nature. To induce candidates to come forward under the stimulus of an adequate remuneration was for him a pervading principle of a Civil Service. In a distant Colony that adequacy was determined by the prospects held out of revisiting the native country with a 'competency', after the discharge of their public duties. He held that otherwise it would be impossible to attract efficient men. Hence he considered it to be the 'truest economy' to pay a higher price if first rate qualifications could thereby be secured.¹

Like the Governors before them, both Barnes and Horton therefore believed that the only savings that could be affected in the Civil Service were by a reduction of offices and by a consolidation of duties. As we have seen, by 1822 Barnes had already carried out certain reductions and consolidations. Further steps were taken in the same direction after 1822. The office of Resident at Kandy was abolished with the death of D'Oyly.² The Provincial Courts at Calpentyn and Batticaloa were abolished and the duties were entrusted to the Collectors, who were paid additional emoluments for the purpose, thereby abandoning the principle so long maintained of keeping the offices of Collector and Provincial Judge separate.³

¹Minute, 10 November 1831. C.O. 54, 114. Also Horton to Goderich, 14 December, 1831. C.O. 54, 114.

²Barnes to Huskisson, 5 August 1828. C.O. 54, 101.

³Ibid.

The reduction of offices which had thus been carried out from time to time had in fact reduced the total number of offices belonging to the Civil Service. It was generally felt in the Service that it had in fact been too much mutilated and that no more changes were possible.¹ Consequently though Horton arrived with the determination of reducing the number of offices he looked around and found it no more possible. He directed a map to be prepared pointing out the usual places of residence of the members of the Civil Service, and the estimates of revenue and of population in the districts, and concluded that far from admitting reduction or consolidation the Civil Service must in fact progressively increase in proportion to the increase of population.² Thus it is seen that the essential difficulty which faced British administration in Ceylon was the problem of providing out of meagre local resources for an establishment of highly paid European officials. The development of the administrative structure along the lines which we have noticed in previous chapters had superadded an expensive European civil and judicial establishment to a native establishment, which had not fundamentally changed in character or in numbers, from that which had existed under former governments. Only a radical approach to increase the revenue, or to reduce expenditure by an overall change of the administrative structure, could have really solved the problem.

¹Evidence of R. Boyd, 2 November 1830. C.O. 416, 7.

²Minute, 10 November 1831. C.O. 54,114.

Without such an approach the desire to reduce expenditure, but the inability to do so within the established framework, only led to much illfeeling between the local Government and the Colonial Office. The occasion for the outburst was the creation of certain Assistant offices, mainly to accommodate certain Writers who had been sent out from England. Though the total cadre in the Service had been reduced by the abolition of offices, the Colonial Office had continued to send Writers even above the vacancies occasioned by death or retirement. This, combined with the fact that those entitled to retire were continuing in the Service, brought about a situation where some Writers were continuing as Assistants in the Secretary's office above the usual period. The choice before Barnes was to keep them in the Secretary's office, or to send them out into the districts. He chose the latter, though it involved an increase of their salary from £500 per annum to £512 per annum, which was the amount usually paid to Assistants in the districts.¹

Goderich, by whom this news was received, wrote a despatch which amounted to a censure of the Governor's conduct, blaming him for disregarding the frequent injunctions sent by his predecessor to bring about a diminution of expense and for adding more to an 'already overcharged establishment'.² This compelled Barnes to defend himself, and the general feeling against patronage perhaps made him bold in his defence. Besides

¹Barnes to Huskisson, 5 August 1828. C.O. 54, 101.

²Goderich to Barnes, 22 July 1827. C.O. 55, 69.

pointing out that all he did was to employ Writers, who had been sent out, more usefully in the districts, he harped on the difficulties of his situation created by the uncertainties of the Colonial Office attitude.

"I cannot here refrain, from observing," he wrote, after mentioning certain reductions that he had carried out, "that in no instance in reporting these diminutions in the charges of the civil establishment have I received the smallest expression of approbation, so that I feel all the embarrassment of my situation, for whilst on the one hand I am positively censured for any increase of expenditure, I am on the other applauded only by inference in making reductions."¹

Pressed by frequent orders to effect economy, Barnes was also led to make a remark that were it in his power to remodel the European establishments, vast sums might be saved, and equal if not superior efficiency attained.² This remark came within the notice of the Treasury in England, which directed the attention of the Colonial Office to it.³ The latter showed its annoyance by commenting upon the 'unusual style' adopted by the Governor, and also by expressing the hope that the remark had not been made without a careful examination of the subject. It nevertheless directed Barnes to submit his recommendation for reform.⁴

¹Barnes to Huskisson, 5 August 1828. C.O. 54, 101.

²Barnes to Bathurst, 8 April 1827. C.O. 54, 97.

³Commissioner of the Treasury to Colonial Secretary, 22 December 1827, C.O. 54, 99.

⁴Huskisson to Barnes, 21 March 1828. C.O. 55, 69.

Barnes was thus compelled to draw up proposals for reform in order to show that there was nothing 'chimerical' in his statement. His efforts, however, produced a scheme wholly unsuitable to the times. His scheme was based on three premises. Firstly, he believed that the reduction of the salaries of the Civil Service as it was then constituted was impracticable. Secondly, he showed that there was nothing peculiar in the education or qualifications of the Civil Servants which made them exclusively fitted for the performance of their duties. Thirdly, he noted the existence of military officers in the island who were "men of matured minds and settled habits, and perfectly qualified to execute civilian duties without the slightest interference with their military avocations".¹

Arguing on these premises he proposed the gradual abolition of the Civil Service, and the recruitment of military officers to perform its duties. Field officers of the army were thus to be appointed to the chief offices which were held by Civil Servants, both at the centre of Government, and at the Provincial Courts and Collectorates. The Commandants of garrisons, who were to be called 'civil and military administrators', were to combine both functions in the districts, while half pay officers were to be appointed as Provincial Judges, purely to function in that capacity. The Assistants that would be required were to be selected from among Captains and Subalterns.²

¹Barnes to Huskisson, 6 December 1828. C.O. 54, 101.

²Ibid.

Barnes saw an objection in principle or practice to the appointment of military officers to perform civilian functions. He thought that far from leading to inconvenience, district administration would in fact be strengthened, both in time of war and peace, by the whole energies of a district being centred on one individual. He countered a possible objection to the employment of military men as Judges by pointing out that the Civil Service Judges were also not professional men, nor continuously employed in it, but those taken out 'promiscuously' from the Civil Service. To him the only security which the Civil Service provided was respectability of character, and forfeiture of advantages, if removed. He believed that equal respectability could be found in the military officers and that equal security could be looked for in their professional hopes and expectations. He was also able to show a considerable reduction of expenditure as one advantage of his scheme, for in addition to military pay, the new officers were to be given less than half the amount paid to Civil Servants.¹

Despite certain advantages which Barnes was able to show in favour of his scheme, it was unnoticed by the Colonial Office. Besides affecting the patronage of the Secretary of State, which the Colonial Office had no intention of totally abandoning,² his scheme was unsuitable to

¹Barnes to Huskisson, 6 December 1828. C.O. 54, 101.

²See Bathurst to Barnes, 10 May 1825. C.O. 55, 66.

the age. Being a military man he was naturally biased towards his profession. A conservative by temperament, he viewed the problem as purely one of reducing expenditure, and maintaining existing standards, and was undisturbed or unconcerned by the ideals growing around him. But ideals were disturbing other men in other places. The movement for economy in England was not just one of chopping down expenditure by any expedient, but was a much larger movement which involved forms of Government. About the time that Barnes was formulating his proposals a lament was heard in the British Parliament about the fate of Ceylon which was presided over by a military Governor.¹ Besides, the appointment of military officers on full pay or on half pay, to civilian posts, was a form of patronage which was under much criticism at the time.²

Wilmot Horton who succeeded Barnes, and who was the first civilian Governor after a succession of military men, naturally brought with him a civilian approach to the problem of reform. He was reading Bertolacci's book on Ceylon during his voyage, and was consequently very much influenced by the ideas which had been put forward by him nearly fifteen years before. In any case he quoted extensively from Bertolacci to guard against a notion that he was recommending alterations ill suited to the local circumstances of the Colony, without sufficient experience

¹Speech of Stewart, Hansard's Parliamentary Debates, Vol. XXIV, pp. 1155-1162.

²Motion of R. Gordon, 26 April 1830. Hansard's Parliamentary Debates, Vol. XXIV, p.65.

of it. As former Under-Secretary of the Colonial Office, Horton also had a personal knowledge of the feelings and interests of the Colonial Office on this matter, and may have been motivated by a desire to put forward a scheme which did not unduly disturb its interests. Above all he also had the advantage of having had recently experienced the trend of events in England, both in and out of Parliament, though not always in sympathy with what was said and done. He showed this awareness when he declared soon after his arrival that "His Majesty's Government and the English nation have the right to expect that the Civil Service of this, or any other Colony, should be accurately proportioned to the real duties to be executed by the members of that Service". "It is not only necessary," he added, "that those duties should be real, but that they should not be created by the operation of a system which unnecessarily multiplies them."¹

Horton however did not visualise any radical change in the constitution of the Civil Service. As we have seen he was totally opposed to any change in the salary structure. The only change that he was prepared to recommend was the lengthening of the period of service required of the Civil Servants. Even here he failed to formulate concrete proposals. He therefore only aimed at making the Civil Service, as it was then constituted, a more efficient instrument of Government. He was well aware that in the new environment liberal salaries could only be justified by a guarantee that those receiving them were men

¹Minute, 10 November 1831 . C.O. 54,114.

previously prepared for their duties, who were determined to gain an intimate acquaintan~~ee~~ with the laws, customs and character of the inhabitants, and the agricultural and commercial state of the Colony. With an eye on the manner in which recruitment took place in England, with the knowledge that little attention had been paid to qualifications, he urged that the Home Government should institute an adequate examination as an 'indispensable preliminary' to any appointment to the Service. He believed that such an examination, if properly conducted, would ascertain the competency that he had in mind. Candidates were to be not more than 20 and not less than 18 years of age. In addition to a liberal education they would only be required to have a practical knowledge of Arithmetic, and a general knowledge of the principles of English Law and the rules of evidence. On arrival in the Colony they were to be made to turn their immediate attention to the study of the native languages, Colonial history and laws. Before appointment to any office they were to pass a rigid examination in the languages spoken in that part of the country where they were to execute their civil functions. They were then to obtain a knowledge of the forms of business and the system of colonial accounts in one of the Assistant's offices, previous to receiving an actual appointment of responsibility.¹

While recognizing that seniority was a convenient rule to regulate promotions he wanted the right to appoint competent persons to particular

¹Minute, 10 November 1831. C.O. 54, 114. Also Horton to Goderich, 14 December 1831. C.O. 54, 114.

situations although in such instances seniority would be contravened. He also hoped to discontinue the practice of promoting Civil Servants who had acquired a knowledge of the Sinhalese language into Tamil provinces and vice versa, observing that those who looked for promotions indiscriminately should take the trouble of acquiring a knowledge of both languages. As far as was practicable Collectors were also not to be removed from districts with which they had acquired a familiarity.¹

These ideas of reform expressed by Horton contained nothing new. Similar ideas had been held by almost all the Governors from the time of North. But Horton failed to examine why they had not taken effect before. Besides, Horton, like Barnes, failed to view Civil Service reforms in the much larger context of administrative and social reform in Ceylon. The reform of the Service besides being tied to the interests of a powerful group of Englishmen, to whom both Barnes and Horton were sympathetic, also involved the consideration of social problems to which by inclination they were not attracted. It was amidst the existence of such a situation that the most important among the liberals set their minds on the problems of administrative reform in Ceylon.

¹Minute, 10 November 1831. C.O. 54, 114.

Chapter VII

THE REFORMS OF COLEBROOKE AND CAMERON

The most important among the liberals who were concerned with Ceylon were W. M. G. Colebrooke¹ and C. H. Cameron,² who came out to investigate the administration of its affairs. They had the advantage of bringing to bear on the inquiry new ideas, which were absent or suppressed among the officials sent to govern the Colony, and the first hand knowledge of the country, which their position as official inquirers gave them. The rather urgent problem which faced them was to make the Colony prosperous in the eyes of the British people. Through the influence of the prevailing new ideas they were undoubtedly convinced, even before their arrival, that such prosperity could be looked for only by fostering private enterprise. They therefore set themselves the task of creating a suitable environment which would attract men with capital into the country, and which would also encourage greater exertion among its inhabitants. The practical task was to devise institutions which would foster the above development, avoiding at the same time any discrimination between races and classes. The work of the

¹William Macbean George Colebrooke, 1783-1870. He was educated at Woolwich military college primarily for a military career. He served in the army in various parts of the Empire, including Ceylon - 1805-1809 and India. After the work of the Commission was over he served as Governor of a number of West Indian islands.

²Charles Hay Cameron, 1795-1880. He was called to the bar in 1820. After the work of the Commission in Ceylon he went to India in 1835 as a member of the Law Commission. In 1843 he became fourth member of the Supreme Council of Bengal. In 1875 returned to Ceylon as a coffee planter.

Commission in fact marked the first real attempt to examine the feasibility of the application of liberal ideas to the situation in Ceylon. Colebrooke and Cameron elevated the isolated liberal cries, in and out of the Colony, into a unified programme of action.

The Commission to inquire into the affairs of Ceylon and certain other colonies was appointed in 1823. "Such a commission might indeed be less necessary in the island of Ceylon", said Robert Wilmot, Under-Secretary for colonies,"but Government had no hesitation to extend it to that island likewise, to satisfy the public on the manner in which its resources were managed."¹ The Royal Commission of 18 January 1823 appointed W. M. G. Colebrooke, J. T. Bigge, and W. Blair as commissioners. Bigge and Blair were compelled to return to England before the Commission reached Ceylon. Colebrooke was joined in Ceylon by D. Riddell, but his stay was also shortlived, as he left in a few months to take up the post of Colonial Treasurer in New South Wales. C. H. Cameron was then appointed to the Commission and he worked with Colebrooke to finalise its recommendations.

As far as Ceylon was concerned, therefore, Colebrooke and Cameron were the two Commissioners with whom we are mainly interested. Colebrooke, though a military officer, was an economist, who had come under the influence of Adam Smith, Jeremy Bentham, James Mill and the Radicals.² Cameron was an accomplished scholar and lawyer, and a disciple of Bentham.³

¹Hansard's Parliamentary debates, New series, Vol. vii, p. 1, 801.

²Mendis, (ed.) The Colebrooke-Cameron Papers, Vol. 1, p. xxxiii

³Ibid.

Colebrooke arrived in the island in April 1829, having spent over five years at the Cape of Good Hope and Mauritius. Cameron arrived in March 1830 and left Ceylon with Colebrooke in 1831. Under these circumstances it was Colebrooke who conducted the inquiry. Though Cameron was sent specially to inquire into judicial affairs, even in that branch Colebrooke had conducted the inquiry nearly to a close by the time the former arrived. In fact Cameron returned to England on the assurance of Colebrooke that the evidence he had collected was sufficient.¹ The reports were drafted in England amidst the general enthusiasm created by the reform act of 1832, and a strong consciousness that they would be laid before the British Parliament. For convenience they reported on separate subjects; Colebrooke on general administration, revenue, establishments and expenditure, and Cameron on judicial institutions and procedure. It was rarely that they offered separate comments on each other's field.

The inquiry was conducted mainly through a series of questionnaires,² which were addressed to the revenue and judicial officials. But when the commission was published in Ceylon, Colebrooke received a large number of petitions from the inhabitants, most of them containing particular grievances, which the Commissioners were not empowered to inquire into if they had wished. Some of the petitions however con-

¹Colebrooke, Report upon the administration, 24 December 1831. C.O.54,122.

²For the questionnaires sent to the Collectors, Provincial Judges, Agents of Government, and Magistrates, see C.O. 416, 13.

tained complaints of a general nature, which gave the Commissioners an insight into the lines on which the people were thinking and may have suggested some of the questions which were put to the officials. In addition both Colebrooke and Cameron travelled about the country occasionally hearing verbal representations. But the body of evidence collected in this manner was comparatively small.

The questionnaires also display the strong liberal concepts with which Colebrooke was imbued. Many of the questions were directed at finding out to what extent the institutions and policies in Ceylon were compatible with those which the Commissioners assumed to be very necessary for free economic development.

An understanding of the local environment in which the Commissioners worked is also important as it may have encouraged them further in recommending liberal institutions. Barnes appears to have disliked the very idea of a Commission of inquiry. He was convinced of the 'staggering effect' that it would produce in the minds of the people, who, he thought, were incapable of understanding the nature of an inquiry without complaint.¹ Indeed the very occurrence of such an inquiry was a threat to the exalted position which the executive had enjoyed in the Colony. This dislike of the Commission was accentuated by the Colonial Office decision requiring him to send his answers to certain charges that had been laid against him by Bennett, through

¹Barnes to Bathurst, 2 October 1825. C.O. 54, 89.

the Commissioners.¹ He was also much annoyed when certain proposals which he had submitted to drain a tract of land for cultivation were referred to the Commissioners for their opinion, and he regretted that his 'first essay' for the public improvement should have been given over to the decision of 'strangers'.²

The above circumstances reduced the co-operation between Barnes and the Commission to a bare minimum. A request made by Colebrooke for copies of despatches was made by Barnes a matter of reference to the Home Government.³ He refused to answer a query made by the Commissioners as to the reasons for the continued existence of regulation 1 of 1824, in spite of its disallowal by the Home Government.⁴ When the Commissioners requested him to give his opinion on some of the subjects on which they were inquiring, he did so under protest, arguing that it was not intended to make the 'King's representative' subordinate to 'His Majesty's Commissioner'.⁵ Finally, when before his departure Colebrooke submitted some of the opinions he had formed and requested his comments

¹Perhaps because of the disappointment occasioned by the inability to secure a Civil Service appointment, Bennett laid several charges against Barnes at the Colonial Office. Barnes submitted his answers through the Commissioners, who did not attempt to hold an enquiry of their own into them. They merely reported that the answers given by Barnes were satisfactory. See p. For details of the charges made by Bennett and of the answers given by Barnes see C.O. 54, 108, 110.

²See Bathurst to Barnes, 2 February, 1825, C.O. 55, 66. Also, Barnes to Bathurst, 2 October 1825, C.O. 54, 69.

³Barnes to Murray, 16 July 1829. C.O. 54, 105.

⁴Barnes to Commissioners, 24 January 1830. C.O. 54, 112. See p.

⁵Barnes to Commissioners, 10 September 1830. C.O. 54, 112.

on them he again entered into the discussions only under protest.¹

"The continued state of jealousy and misunderstanding with the chief authorities, in which the Commissioners lived in the island," wrote Horton, "made them, I fear, disposed to construe any sort of cordial understanding as a proof of unworthy compliance."² This observation, though intended to ridicule the Commissioners, was not without an element of truth.

A special report drawing the immediate attention of the Colonial Office to the "state of the laws for the protection of personal liberty in the island", showed very early, in which direction the Commissioners were moving.³ In this they recommended the immediate repeal of regulation i of 1824 and the fourth section of regulation xii of 1806.⁴ They also dwelt on the uncertain foundations in which the general right of the Supreme Court to issue mandates in the nature of writs of Habeas Corpus rested, and recommended that it should be expressly granted the same powers of protecting the liberty of the subject, as was exercised by the Court of King's Bench in England.⁵ Because of the reluctance of the Governor to relinquish the right of imprisoning without control or supervision they regarded an Order in Council as the most decisive

¹Marginal comments by Barnes on Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

²Horton to Goderich, 1 October 1832. C.O. 54, 118.

³Commissioners to Murray, 30 April 1830. C.O. 54, 121.

⁴Ibid., see pp. 72-76.

⁵Ibid.

and appropriate mode of setting the question at rest.¹

The instructions issued to the Commissioners enabled them to take a wide view of the problems of Ceylon.² They were to inquire into the general administration of the Government, the extent of the Governor's powers, and the control exercised by him over the departments, the effectiveness of the Council, the state of all public offices and the extent and sources of their pay, emoluments and pensions, the state of religion, education, commerce and finance, and on the state of the civil and criminal law and procedure and police. With regard to Ceylon special attention was drawn to land tenure, land grants, land tax, forced labour, slavery, pearl fishery, the working of the Charter of Justice, the judicial establishments of the Kandyan provinces, and the system of the Civil Service with special reference to pensions.

The Commissioners soon found that the subjects which they had to inquire into in Ceylon presented a series of interconnected problems. The ability to view these connected problems as a whole, and the general liberal and utilitarian standpoints on which the Commissioners judged, gave the recommendations which they submitted a large degree of unity.

The key to the understanding of Colebrooke's proposals for administrative reform is provided by his recommendations for the reform

¹Commissioners to Murray, 30 April 1830, C.O. 54, 121.

²Bathurst to Colebrooke and Bigge, 18 January 1823. C.O. 49, 8.

of the economic and social system which, as we have seen, had taken the Government towards authoritarianism. A detailed analysis of his views on these subjects does not fall within the purview of this study. The main recommendations should however be briefly noted, in order to clarify the nature of their connection with administrative reform. Colebrooke brought with him to the inquiry of these subjects an immense dislike, on principle, of the interference of the State as a producer and merchant. Though this principle decided his approach towards the problems, Colebrooke also found much public dissatisfaction against the old system. It will suffice for the purposes of this study to note in brief four important measures which he recommended. Firstly, he strongly objected to the Government monopolies of production and commerce which had been maintained in Ceylon. Apart from the fascination for free trade which he brought with him, and which was popular with the commercial interests in England, the petitions which he received were a clear indication of the practical hardships which those monopolies had occasioned to the people and the dissatisfaction which they created.¹ Although they had been a source of profit to the Government, Colebrooke believed that it was in no degree proportionate to the injury which they did to the inhabitants, and generally to the resources of the country.² He therefore recom-

¹There are a number of petitions protesting against monopolies, taxes, and compulsory services in C.O. 416, 29-32.

²Colebrooke to Barnes, 12 January 1831. C.O. 54, 112. Also Colebrooke, Report upon the revenues of Ceylon. C.O. 54, 122.

mended the abandonment of the Government plantations in cinnamon, and the abolition of its monopoly in trade, which was the most important of the Government monopolies.¹ Though the state of the revenue would not permit the abolition of the salt monopoly, which ranked next, he recommended the immediate reduction of the monopoly price of salt, and the ultimate abandonment of the monopoly.² Again, the Government was also to abandon its coffee and pepper plantations, and all similar interference in a productive role.³ Secondly, Colebrooke objected to the system of compulsory services in Ceylon, which as we have seen, was vitally connected with the old social, economic and administrative order, and which, as Cameron observed, "obtrudes itself at every step upon an inquirer into the conditions of Ceylon".⁴ Here too, apart from the desire in principle to allow a free labour market, he found the people much dissatisfied, especially in view of the enforcement of the system without regard to its former rights and usages.⁵ He regarded the system as an oppressive interference with the occupations of the people, retarding every little project of improvement, and limiting their industry to the cultivation of only what is requisite to satisfy their actual wants.⁶ The system had been

¹ Colebrooke, Report upon the revenues of Ceylon, C.O. 54, 122.

² Ibid. After writing the above report Colebrooke wrote a special memorandum in which he urged the abolition of the salt monopoly. Colebrooke to Stanley, 20 November 1833. C.O. 54, 145.

³ Colebrooke, Report upon the establishments and expenditure, 28 May 1832. C.O. 54, 122.

⁴ Cameron, Report on the judicial establishments and procedure, 31 January 1832. C.O. 54, 122.

⁵ Colebrooke, Report upon the compulsory services, 16 March 1832. C.O. 54, 145. For petitions see C.O. 416. 29-32.

⁶ Ibid.

much abused in practice, especially by the Headmen who enforced it.¹ It had led to the maintenance of the caste system by keeping the people tied down to caste occupations,² and had deterred settlers from coming in.³ Supported by a body of official and unofficial opinion Colebrooke therefore recommended its abolition. In fact he believed that the further maintenance of the system would disturb the tranquility of the country.⁴ The third important recommendation which he made concerned the grain tax. He objected to a tax collected only on the grain crops throughout the island, and not on any other articles of colonial produce, because of its undue pressure on one branch of agriculture, of the first importance to encourage. Its collection, he thought, resulted in the vexatious interferences of the revenue farmers.⁵ "As nine-tenths of the rural population are engaged in this branch of agriculture," he wrote, "their indigence under the present system of labour and contribution may be sufficiently inferred. The policy therefore of encouraging the application of capital to land by relieving it from those burthens will need no further illustration."⁶ Colebrooke therefore recommended the redemption of the grain tax.⁷

¹ Colebrooke, Report upon the compulsory services, 16 March 1832. C.O.54,145.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Colebrooke, Report upon the revenues, 31 January 1832. C.O. 54, 122.

⁶ Ibid.

⁷ Ibid.

Colebrooke's plan for increasing the revenue was thus a long term one which was based on private enterprise. He expected that the above measures would not only lead to greater exertion and capital accumulation among the native inhabitants, but would also bring in settlers both from India and from Europe, either as capitalists or as labourers.¹ Their settlement was to be further encouraged by a more free system of land grants without discrimination on racial grounds. The only criterion was to be the possession of capital to develop the land taken.

Colebrooke saw no objection to European colonization. He also saw no necessity for taking any special precautions in admitting colonists. But he objected to an exclusive and privileged class of settlers, assisted by Government, for while being unjust to others, it would be unfavourable to the settlers themselves, by the jealousy it would excite among the native landholders.²

"If European colonization in Ceylon should be effectually promoted," he wrote, "the benefits to be expected from it would depend in a greater degree on the impartial spirit of the Government, and the discontinuance of those distinctions in society which have hitherto led the natives to regard Europeans as a caste imbued with many of their own prejudices, and entitled to certain privileges from which they are systematically excluded."³

¹Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

²Colebrooke, Report upon the administration, 24 Dec. 1831, C.O. 54, 122.

³Ibid.

Having thus envisaged the development of a more competitive economy and society, without reference to race or caste, the recommendations in the administrative sphere logically followed. Colebrooke found the position held by the Governor incompatible with a free economic development.

"After a careful review of the system," he wrote, "I am bound to report my opinion that while it is free from some of the prominent objections to those which have been adopted on the continent of India, the general spirit and tendency of it has been unfavourable to the improvement of the country. Some beneficial measures have from time to time been adopted, but no regular control has been exercised over the acts and proceedings of the Governor, nor has his recognized responsibility for the measures adopted by him, on his own judgment been rendered practically efficient. From the remoteness of the Settlement, the nature of the Government, and the absence of all open discussion of public affairs, the Governor has been almost the exclusive organ through whom authentic information has been derived, and with whom any measure of improvement has originated. Without his co-operation no beneficial change could be effected, and the inhabitants have been accustomed to regard his authority as absolute."¹

Similarly the power of banishing individuals without trial was considered "incompatible with the interests of the country, in the encouragement which it is desirable to hold out to the settlement of Europeans".²

Not surprisingly therefore, Colebrooke recommended measures which were intended to reduce the powers of the Governor. In future he was not to be allowed to exercise the power of banishing individuals except in cases where the tranquillity of the country might be en-

¹Colebrooke, Report upon the administration,

C.O. 54, 122.

²Ibid.

dangered.¹ Having found the existing Council too subservient to the Governor, he recommended in its place the creation of two Councils. To assist the Governor in all details relative to the revenue and disbursements of the island, and to supersede the appointment of committees for such matters, an Executive Council was to be formed, composed of Civil Servants holding the offices of Chief Secretary, Treasurer, Auditor-General, Collector of Customs Colombo, and the Government Agent for the Colombo district.² Returns of revenue and disbursements were to be laid before this Council and the opinions of the members were to be recorded. The Council was to have authority to call for information when required and the minutes of its proceedings were to be transmitted to the Secretary of State.³ One object in creating such a Council was to pave the way for a future legislature separated from the duties of an executive nature.⁴ By this means it was also intended to introduce a greater regularity and a stricter control over public expenditure, than was found under the former system.⁵

Horton opposed the creation of this Council as he was in doubt of its practical utility. He held that the Governor was sufficiently con-

¹Colebrooke, Report upon the administration,

C.O. 54, 122.

²Ibid.

³Ibid.

⁴Ibid.

⁵Memorandum of Colebrooke in reply to Horton's objections, 25 February 1833. C.O. 54, 121.

trolled by the former practice of referring to the Council estimates over £75. Besides, after pointing out that the practice had been for the Governor to give written decisions on estimates, petitions etc., he argued that the submission of such small items to a Council would impede the course of public business by unnecessary checks and refinements.² There was much to be said in favour of Horton's view as the Colony already suffered from over centralized financial control, and the interposition of a Council could have perhaps increased the difficulties. Horton however overlooked Colebrooke's desire to pave the way for a gradual separation of the legislature from the executive, without giving the Governor an exclusive control over the latter.

Far more important were Colebrooke's proposals for the creation of a Legislative Council. The main lines of reform were no doubt suggested by the defects and ineffectiveness of the old Council, which had failed to become a material and effective branch of the Government. But the underlying aim seems to have been the creation of a more suitable environment for individual development avoiding at the same time discrimination on racial grounds. The Council was to be composed of a larger number of Civil Servants than was found in the former, among whom were to be included the Heads of general departments at the seat of government, the Attorney-General, and the Government Agent of the Colombo district. Provision was also to be made for the admission of respectable inhabitants, both European and Native.¹ The enlargement of

¹ Colebrooke, Report upon the administration, C.O. 54, 122.
² Horton to Goderich, 1 October 1832. S.O. 54, 118.

the official element in the Council was not a matter for surprise and evoked no protests. But the idea of the people of the country participating in the Government at Council level was a radical departure from the tradition of government under foreign rule in Ceylon. It did not arise out of a demand for Representative Government by either the Europeans or native inhabitants in Ceylon. The absence of any such demand is easily understood. There were, as we have seen, only a few English Agriculturists in the island,¹ while as Horton observed, the few English merchants did not have much property interests in the island.² Besides, Horton observed that they were not merchants in the real sense of the word but mere agents between native and European and Coast merchants, and were doing business for commissions. Horton believed that men so circumscribed could not be willingly tempted to give time and pains to administrative duties, for they knew that the benefits of any improvement would not necessarily fall on them or their children.³ The local Europeans, though more numerous, had not been led to expect such a change at the centre of government. As they were not consulted it is difficult to determine their reaction to the proposal. The same was true of the rest of the native community. In short, as Auckland, one of the merchants observed, there was no 'public' in the

¹See p. 395.

²Horton to Goderich, 23 January 1833. C.O. 54, 127.

³Horton to Stanley, 25 October 1833. C.O. 54, 130.

English acceptance of the term.¹

This of course did not mean that the various groups did not have their particular interests to display. The European agents or merchants had questions of trade which affected them and on which they occasionally held meetings and adopted resolutions. But perhaps because of the smallness of numbers a semi-official approach to the Governor, or an official communication through the means of a petition, appear to have been considered sufficient to safeguard their interests. The Ceylonese similarly had common interests, as well as particular communal and caste interests. A long tradition of governmental practice had taught them to seek redress whenever such interests were affected by petitioning the Governor or the officials. If the petitions were particular complaints they were inquired into through the local authorities. Where general representations had been made against laws and regulations they were noticed or not according to the views which the Governor held on the subject.² To Colebrooke these petitions were an indication of the existence of a community attentive to the changes in the law.³ His liberal instincts made him feel that these people were entitled to expect that their interests and wishes would be respected. "Although the ignorance and prejudice which still prevail generally

¹See Horton to Goderich, 1 October 1832. C.O. 54, 118.

²Colebrooke, Report upon the administration.

C.O. 54, 122.

³Ibid.

throughout the country," he wrote, "may preclude the adoption of their views upon all subjects, it would be consistent with the policy of a liberal government that they should have an opportunity of freely communicating their opinions on the effect of the legislative changes that may be proposed."¹ Colebrooke did not share the fear that such consultations would weaken the Government's hold on the people. Instead, he believed that it would give weight, support and stability to the Government.²

The views of Colebrooke and those who were opposed to him displayed two fundamentally different approaches. The attitude of Barnes and Horton to the idea of broadening the Council have already been noted.³ Horton now attempted to prevent the acceptance of these suggestions. The main stand which he now took was that the changes which he had carried out were sufficient and that any further steps were premature.⁴ All the Civil Servants whom he consulted, in order to build up a climate of opinion against the reforms, agreed with him.⁵ "The natives from their ignorance and inability to form correct opinions on political subjects," wrote D. J. Gogerly, the missionary who was

¹Colebrooke, Report upon the administration.

C.O. 54, 122.

²Ibid.

³See pp 394 - 396.

⁴Horton to Goderich, 1 October 1832. C.O. 54, 118.

⁵Ibid.

consulted, "require to be under a strong government in reality and in appearance."¹ Auckland, described as one of the most intelligent and important among the merchants, considered the European society outside the government service too small to render it advisable.² C. E. Layard, one of the above Civil Servants, was however not unmindful of another factor. "I have no doubt," he wrote, "that the measures lately adopted, and in contemplation are of a nature not only to make the inhabitants begin to feel their independence, but to seek opportunities of shewing it: and if once taught their rights the Ceylonese would be as anxious to support them as any of His Majesty's subjects."³ This view appears to be close to the attitude in which Colebrooke seems to have approached the question. Underlying his proposals there seems to have been a belief that the establishment of more liberal institutions was an essential preliminary not only to attract European settlers into the country, but also to stimulate a spirit of greater exertion among the native inhabitants. "Such a Council," he wrote, "is not proposed as an institution calculated in itself to provide effectually for the legislation of the island at a more advanced stage of its progress. It will however tend to remove some of the obstacles which have retarded the improvement of a settlement possessed of great natural resources."⁴ With such an approach the existence or

¹Horton to Goderich, 1 October 1832. C.O. 54, 118.

²Ibid.

³Ibid.

⁴Colebrooke, Report upon the administration,

C.O. 54, 122.

or not of a demand for admission was of no consequence. Colebrooke's approach was certainly more realistic with regard to the native population, who as Cameron noted, were brought up in a tradition of servility to Europeans,¹ and who had not been brought up in a tradition of parliamentary government. Under such conditions it was certainly necessary that the Government should give the lead, if it was considered desirable to establish more liberal institutions. Besides, the proposal to admit native inhabitants into the Council along with Europeans falls into line with the need which Colebrooke saw to avoid discrimination.

To give the legislature thus created as much independence as possible, and to obviate the objections urged against involving the Governor in public discussions,² Colebrooke proposed that the latter should take no part in its deliberations, and that the members should take an oath of secrecy not to divulge the opinions of each other.³ This proposal was no doubt a reflection in the dominating position which the Governor had occupied under the former system and the subservience of the Civil Servants who had functioned in the former Council.

Since these proposals involved the position of the Governor in the colony, they naturally evoked strong opposition from Horton, who gathered both official and unofficial opinion in his support. It was

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

²See p. 395.

³Colebrooke, Report upon the administration C.O. 54, 122.

described as a recommendation founded on a feeling of jealousy and mistrust of the Governor's authority.¹ The fear was raised that it would weaken the Government, especially in the eyes of the native population, by making the Governor "a political puppet possessed of a name but destitute of authority".² It was also argued that if strictly applied, it would leave the Governor without a spokesman in Council to explain the principles on which laws were recommended, and to meet any objections that might be raised.³ But on the other hand, as the Governor would continue to possess a power to appoint at least some of the Civil Servants to the offices which entitled them to membership of both Councils, it was feared that he would continue to wield considerable private influence, with the result that a more arbitrary power would be substituted for direct official control.⁴ Besides, if the Governor was to be given the power to ratify legislation, it was thought inconsistent that he should not have knowledge of the opinions of those opposed to him, so that he could present his own views on them to the Secretary of State.⁵ On this point it appears from the reply given by Colebrooke that it had not been intended to exclude the

¹See Horton to Goderich, 1 October 1832. C.O. 54, 118.

²Ibid.

³Ibid.

⁴Ibid.

⁵Ibid.

Governor from a full knowledge of the proceedings, and a power to reject the proposals of the Council.¹ Finally, Colebrooke was also blamed for overlooking a factor of 'first importance' in modern legislation. "Even in an Asiatic Colony like this, imbued with all the prejudices of caste and prescription", wrote Horton, "it would be ten thousand times better that the Legislative Council should carry on their deliberations in public, than that this jealous system of sworn secrecy and concealment should be adopted."²

Thus Colebrooke's proposals were subjected to a series of objections grounded both on theoretical and practical considerations. It was certainly true that the proposals very much affected the position which the Governor had enjoyed in the Colony. It was also true that with the tradition of government prevalent in the Colony, it was likely that the officials would in practice be controlled by the Governor. By recommending secret proceedings of which the Governor was later to obtain a knowledge, Colebrooke also fell into a somewhat inconsistent position. The fact was that in trying to modify the institution, which was still to be largely official, in a way which would avoid subservience to the Governor, and in trying to meet the objection raised by Barnes to involving the Governor in public discussions, Colebrooke fell into inconsistent positions, and also laid himself open to objections on theoretical grounds. But the inconsistent positions taken

¹Memorandum of Colebrooke in reply to Horton's objections, 25 February 1833. C.O. 54, 121.

²Horton to Goderich, 1 October 1832, C.O. 54, 118.

by Horton and Barnes show that the real objection may have been a reluctance to part with power.

The rules proposed for the functioning of the Council showed a desire to adapt it to suit the needs of the country. Each member of the Council, as well as the Governor was to have the power of proposing measures for deliberation. When approved by a majority bills founded upon them were to be drafted and printed for general information. Petitions of the inhabitants when presented by the members were to be discussed and recorded in Council. The reports of the Government Agents after circuit were similarly to be laid before the Council. It was also to have the authority to call for public papers, to take evidence, and direct the Government Agents to hold inquiries and supply information.¹ These measures seem to have been generally aimed at creating a well informed legislature. The Supreme Court Judges were given the power of certifying that the legislative acts were not repugnant to the Acts of Parliament or Order in Council applicable to Ceylon. The recommendation to create the above Council marked the first real attempt to establish a political organ over what had hitherto been a pure Civil Service administration. It is evident from the questions that were put to some of those who gave evidence, and the recommendations that followed, that in other branches of the administrative machinery Colebrooke faced the same problem of creating a system which would foster individual enterprise, and which would be acceptable if

¹Colebrooke, Report upon the administration.

European colonization were to take place to any great extent,¹ but which would at the same time avoid discrimination between races and castes.

The immediate problem that had to be faced, and which the Home Government expected much from the Commission, was a reduction of expenditure. The necessity for such reductions became clear when Colebrooke saw the large expenses incurred for civil establishments, which had hitherto been maintained mainly for the collection of the revenue. Although the greater part of the land and internal rents were collected by tax farmers, who bound themselves to pay regularly to Government the charges of collection, including the establishments of the Commissioner of Revenue, and Kachcheries, were estimated at more than 22 per cent of the collection on that head.² The expenses of the Cinnamon Department, including the charges of collection and sale, in other words the management of the monopoly, were moderately estimated at 28 per cent of the collection. The customs revenue was raised at a much lesser expense, being about 7 per cent of the collection.³ It became therefore clear during the very early stages of the inquiry that general reductions would have to be carried out in the civil establishments.⁴

¹A question that was put to R. Boyd, the Revenue Commissioner, was: "Do you conceive that the present arrangement for the civil administration of the district would be efficient or otherwise if European colonization were to obtain to any extent?" Evidence of Boyd, 2 November 1830. C.O. 416, 7.

²Colebrooke, Report upon the revenues.

C.O. 54, 122.

³Ibid.

⁴Colebrooke to Barnes, 12 January 1831. C.O. 54, 122.

The need became more real when it was realised that these establishments were sustained by a revenue system, which Colebrooke considered objectionable, and which he believed ought to be altered. The cinnamon and the salt monopolies, both of which were found to be objectionable in principle and practice, accounted for approximately £166,000 of a total gross revenue of £330,000.¹ When Colebrooke therefore decided that in the interests of the development of the island it was necessary to break through monopolies, and recommended the abolition of the cinnamon monopoly, the necessity for reductions became obvious. As a fall of revenue was immediately to be expected, the implementation of "the most indispensable reforms in the revenue system" exclusively hinged upon a reduction of the civil establishments.² These establishments were so connected with the revenue system that it had in fact given the Governor and the Civil Servants, who decided upon policy, an interest in maintaining it. As Colebrooke noted, the Government had delayed the measures of retrenchment by which alone it could have effected a reform in the system of revenue.³

Having thus decided that reductions were necessary, it became a matter of deciding in which spheres such reductions could be carried out. The Clerical establishment, though perhaps capable of a reduction

¹ Colebrooke, Report upon the establishments and expenditure. Also, Report upon the Revenues. C.O. 54, 122.

² Ibid.

³ Ibid.

in numbers, was already too poorly paid. It was in fact its discouraging prospects which attracted the attention of Colebrooke.¹ In any case it formed only a small proportion of the total expenditure, and entered very little into his calculations. Though Colebrooke considered the ultimate reduction of the number of Headmen desirable, as we shall see later, he did not consider such a measure expedient until other avenues were opened up for them. Here too, it was more a matter of making the offices that would be retained more respectable than of carrying out a reduction of emoluments. The lesser services were thus incapable of yielding the money that would be required to balance revenue and expenditure under the new situation. It therefore became clear that the necessary reductions would have to be carried out in the European superstructure that had been built.

In this sphere also the general disposition in the Colony was, as we have seen, to retain the existing structure and emoluments and to carry out a reduction of offices.² But the local Government had also reached a point where it was also unwilling or unable to point out any such effective reductions.³ Colebrooke turned his attention to the matter. The abolition of the cinnamon monopoly enabled him to recommend the abolition of the Cinnamon Department, and the transfer of

¹ Colebrooke, Report upon the administration.

C.O. 54, 122.

² See pp 417 - 418

³ See p. 419.

whatever duties that would be left over to the Agents of Government, and the Collector of Customs.¹ The office of Deputy Secretary was to be abolished and the duties of the Chief Secretary were in future to be performed by the Secretary himself.² The offices of Commissioner of Revenue and Paymaster-General were to be abolished, the duties being transferred to the departments of the Auditor-General and Vice-Treasurer respectively.³ This would make these departments responsible for checking and superintending both receipts and expenditure. Having considered the maintenance of separate and independent Governments of the Kandyan and Maritime provinces to have been 'impolitic', since it had checked the assimilation which it was considered desirable to promote between various classes, and led to the maintenance of the influence of the Kandyan Chiefs, sometimes of the prejudice of the people, Colebrooke recommended the union of the Kandyan and Maritime Governments.⁴ This proposal, as well as the fact that he considered that the island was divided into too many Collectorates, prompted him to recommend a reduction of the number of main provincial administrative units. Such a step was considered all the more practicable in view of the reduction of duties that would be brought about by the simplification of the revenue system, the abolition of compulsory services, and the appointment of a

¹Colebrooke, Report upon the establishments and expenditure.
C.O. 54, 122.

²Ibid.

³Ibid.

⁴Colebrooke, Report upon the administration.

C.O. 54, 122.

responsible department for the direction of public works, which he elsewhere recommended.¹ Parts of the Kandyan provinces below the mountains, which were thought to have a nearer and a more natural connection with those of the Maritime provinces, were to be joined together, and the whole island formed into five main provinces, the five principal stations being at Colombo, Galle, Jaffna, Trincomalee and Kandy.² A senior officer to be called "Government Agent" was to be placed at each of these stations to be in charge of the revenue administration in all its branches. Assistants subordinate to them were to be placed at other stations within the provinces according to their needs. It appears from Lord Goderich's despatch of 1833 that the creation of fifteen such Assistant Agencies had been proposed.³ Though the chief authority was to be vested in the Government Agent of the province, the inhabitants were to be required to refer to the Assistants in the first instance.⁴ It was hoped that this plan for the provincial administration of the country, while enabling a substantial reduction of establishments, would give the junior officers a practical knowledge of the country, and the nature of their duties than under the former system.⁵

¹Colebrooke, Report upon the establishments and expenditure, C.O. 54, 122.

²Ibid. Also Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

³See Goderich to Horton, 23 March 1833. C.O. 55, 74.

⁴Colebrooke, Report upon the establishments and expenditure, C.O. 54, 122.

⁵Ibid.

Besides these reductions, however, Colebrooke had to take into account certain increases which he considered necessary. With the hope prevailing in his mind that the new environment would attract men with capital into the island, the office of Civil Engineer and Surveyor-General assumed a new importance. Colebrooke considered the former department inadequate and recommended the appointment of a qualified Civil Engineer to be the head of it with five district surveyors to be stationed in the provinces. The direction and execution of public works in the island, which had hitherto devolved on the Collectors, were in future to be performed by this department.¹ The Civil Engineer was also to survey the country and mark the boundaries of the disposable waste lands, also giving their nature and description. He was to ascertain where tanks, canals and embankments, might be repaired and constructed, and where roads and communications might be advantageously opened. The publication of such reports, he believed, would be calculated to attract persons possessing capital to settle in the island.²

All the above recommendations found no objection with the local Government. The abolition of the office of Revenue Commissioner had in fact been in contemplation for some time as it was of doubtful utility. The existence of the office of Deputy Secretary could have been justified only so long as the Chief Secretary happened to be a

¹ Colebrooke, Report upon the establishments and expenditure, C.O. 54, 122.

² Ibid.

nonentity.¹ Events and forces had strongly worked towards a unification of the Kandyan and Maritime Governments and its final fruition had only been a matter of time. The reduction of the number of Collectorates, under the pressure of retrenchment, was not entirely unexpected. Horton considered the new plan for the provincial administration preferable to the former system.² The expansion of the Civil Engineer's Department was also much welcomed.³

When these reductions, and some others unconnected with the Civil Service, and the amount of revenue which was expected to be lost, were weighed together Colebrooke would have been still faced with the problem of balancing the new budget. The main problem of reform therefore began to revolve round the future of the Civil Service as it was then constituted. Colebrooke did not hold a detailed inquiry into the working of the Civil Service, or the state of its efficiency, probably because it was a subject too connected with Colonial Office administration. It is however clear from the questions that were put to witnesses, and the scattered remarks in the reports, that he was aware of the manifold defects of the Service.⁴ The relatively young age of recruitment, which did not ensure the recruit

¹Horton to Goderich, 3 October 1832. C.O. 54, 118.

²Horton to Stanley, 22 November 1833. C.O. 54, 130.

³Horton to Goderich. 16 February 1833. C.O. 54, 127.

⁴See Evidence of Boyd, 2 November 1830. C.O. 416, 7. Evidence of Eden, 26 October 1829. C.O. 416, 8. Colebrooke to Hay, 15 June 1832. C.O. 54, 121. Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

a proper education in England, the absence of a knowledge of the local languages, the predominance of the rule of seniority in promotions, the frequent removals which injured the public interests, the constant interchange of revenue and judicial work, seem to have all entered into the consideration of the problem.

With the need which prevailed for economy in expenditure, the salary structure of the Service naturally became a more immediate object of reform. We have seen in former chapters the circumstances under which the Civil Service salary structure originated and remained intact. Colebrooke was not unaware of the fact that it was necessary to keep up these high salaries if the policy was to encourage men from England to occupy these situations. But as we shall see later, he was contemplating an alteration in this policy. Alterations in the Civil Service salary structure were therefore not only no matter of regret, but perhaps a necessary step to initiate a different policy. Appendix C shows the salaries which were attached to the different situations in 1833 and those recommended by Colebrooke. It will be seen from this statement that a very drastic reduction of salaries was recommended. Horton estimated that they brought about a 40 per cent reduction in the emoluments of the Civil Servants.¹

These salary reductions were not unconnected to the objections which Colebrooke took to the exclusive principle of the Civil Service. Apart from limiting the choice to a few individuals whenever a situation

¹Horton to Stanley, 31 August 1833. C.O. 54, 129.

fell vacant, Colebrooke found that it involved the maintenance of distinctions, which he thought did not conduce to development. "The maintenance of such distinctions by the European Governments in Ceylon," he wrote, "appears to me to have had a very injurious effect upon the people and have retarded the improvement of the country...."¹ It appears from the advice tendered to Goderich, that Colebrooke quite rightly considered the higher offices of a State the 'natural objects of ambition' among its people, and that to close the door against them was to deprive them of a 'fair share' of the advantages derived from public employment.² Besides, having envisaged the emergence of a more competitive economy and society, it was but natural that Colebrooke should object to the monopolies in the public service and desire a much more free movement within it, according to ability and qualifications, and without reference to caste or race.³ Above all, Colebrooke realised the difficulty of providing out of the local revenues for a Civil Service based on an exclusive principle, and which had to be paid not according to the usual factors operating to determine wages, but according to the aspirations of those setting out from England. In judging this question he had to take into consideration not merely the existing numbers in the Service, but those who would be required in an expanding economy. A Service organized on such principles could only have been maintained at the expense of keeping the

¹Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

²See Goderich to Horton, 14 September 1832. C.O. 55, 74.

³Colebrooke, Report upon the establishments and expenditure, C.O. 54, 122.

rest of the public service under-paid and open to corruption and abuse.

"The reductions have pressed heavily on the public functionaries," he wrote, in reply to criticisms against them, "and while they are complained of, it is still apparent that they must be carried further, and the administration of the Government must henceforth be provided for on a different principle. The attempt to provide for the public service exclusively by means of a stipendiary establishment involves the employment of a body of European functionaries who expect high remuneration and a vast number of petty native officers, who receive allowances inadequate to their support. These persons who really govern the country without any responsibility to the people are too often corrupt...."¹

Colebrooke therefore believed that the Government would derive much advantage from the acquirement of a competent class of local men, who would unite local information with a general knowledge, and who would eventually be capable of holding responsible situations upon reduced salaries.² There was also the expectation of a class of colonists from whose ranks public servants could be drawn at much lesser expense.³ As we shall see later, Colebrooke was also faced with the problem of compensating the class of Headmen and Kandyan Chiefs, who were expected to lose many privileges by the abolition of the compulsory services. As the employment of military men in civilian duties in the Kandyan provinces had been attended with much success, Colebrooke considered it economic and advantageous to provide for their continued employment. He saw no objection to uniting civil duties

¹Memorandum drawn in reply to criticisms, 18 July 1834. C.O. 54, 145.

²Colebrooke, Report upon the establishments and expenditure, C.O. 54, 122.

³Memorandum, 18 July 1834. C.O. 54, 145.

with the military command.¹

All the above reasons seem to have combined to prompt Colebrooke to recommend the radical policy of relaxing the exclusive principle of the Civil Service and opening it to competition without reference to race and caste.² Such a policy, he believed, would not only hold out a strong incitement for improvement, but would also strengthen the attachment of the people to the British Government.³

The Civil Service was involved with the interests of too many individuals for these recommendations to pass unopposed. Horton, who acted as the spokesman for these interests, protested at the 'appalling reductions' and raised the usual fear of having as Civil Servants a "mortified and disgruntled set, in whose mind hope is extinguished".⁴ Some of the grounds on which Barnes and Horton based their objections to throwing open the Civil Service have already been noted.⁵ Horton now attempted to bring the argument to a different level by challenging the Commissioner to give the names of the native inhabitants to whom the situations held by members of the Civil Service were objects of ambition. He was also unaware of any person capable of executing

¹Colebrooke, Report upon the establishments and expenditure, C.O. 54, 122.

²Colebrooke, Report upon the administration. C.O. 54, 122.

³Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

⁴Horton to Stanley, 31 August 1833. C.O. 54, 129.

⁵See pp 402 - 405.

such duties.¹ He therefore concluded that the recommendations were premature. It is certainly true that Colebrooke's recommendation did not arise out of a pressing demand, either by the native inhabitants, or by the local European community, for admission into the Civil Service, though as we have seen, members of the latter group had occasionally ventured to apply for them. It should however be noted that when the abolition of the system of compulsory services was known the Kandyan Chiefs made a strong claim for judicial and revenue employment.² The absence of a widespread demand for admission was however not an indication of the absence of a desire to hold higher situations, but rather the lack of a suitable environment in which it could arise and find expression. The Mudaliyars of the Maritime provinces, as we have seen, derived satisfaction from the traditional positions which they occupied because of the want of something better.³ The local European community which had suffered many disappointments were naturally not led to expect such a change. It is worthy of note that the strongest claim for higher employment came from the Kandyan Chiefs, who still remembered the taste of power and position.⁴ Here, as in the case of

¹Horton to Goderich, 23 January 1833, C.O. 54, 127.

²Petition of the Kandyan Chiefs, ND 1833. C.O. 54, 128.

³See p. 387.

⁴Petition of the Kandyan Chiefs, ND 1833. C.O. 54, 128.

the Council, Horton and Colebrooke approached the question differently. While the existence of a demand for admission was for Horton indicative of a time for change, Colebrooke seems to have rightly believed that changes of this nature had to be Government sponsored in Ceylon. He may have had indeed little doubt that given the necessary encouragement there could be any number of local recruits. He noted how the establishment of schools even on a limited scale had enabled the native inhabitants to qualify themselves for lower situations.¹ The Archdeacon, who was at the head of the schools establishment during this time, referring to the English schools at Jaffna and Kotte, noted that "there will in a few years be more educated young men amongst the Malabar and Sinhalese than Government can employ".² "The opinion I entertain," he added, "is that they will be too well educated for the station they will fill, and surpass in knowledge not a few of the Europeans who will have the local rule over them."³ It is in the light of this approach to the problem that Colebrooke's recommendation that the intention of the Government to throw open the Civil Service to the native inhabitants should be publicly declared assumes special importance.⁴ It is also in this connection that his proposal for more direct State

¹Colebrooke, Report upon the administration. C.O. 54, 122.

²J.M.S. Glenie to Horton, 30 March 1833. C.O. 54, 128.

³Ibid.

⁴Colebrooke, Report upon the administration. C.O. 54, 122.

control and participation in imparting English education appears significant.¹ By extending English education he wished to hold out the means by which the native inhabitants could qualify themselves for some of the higher appointments.² The practicability of the plan rested on the question whether the officials who would be sent to govern the country would, like Colebrooke, regard it as compatible with security, and whether in the light of the past development of the Civil Service, and the nature of the Government, the rulers sent to the colony would be able to divest themselves of the feeling of being an exclusive and superior class.

One part of the plan on which, as we have seen, Horton grounded one objection was the difficulty of making appointments without reference to caste.³ There was undoubtedly the difficulty of making the higher castes, the Vellales in particular, consent to the appointment of men of inferior castes to function in areas where they predominated. But in expecting such a willing consent the Government was perhaps overlooking an important social change that was taking place, more particularly in the Maritime provinces of Ceylon. The British Government in Ceylon had not followed a consistent policy on the question of caste. The fact that the caste system was closely bound to the revenue

¹He recommended that the Government Schools which had hitherto been under the charge of the Missionaries, should be placed under a Commission composed of Missionaries as well as Government officials. He also recommended the founding of a College in charge of a Professor appointed from England. Colebrooke, Report upon the administration, C.O. 54, 122. Also, Report upon the establishments and expenditure, C.O. 54, 122.

²Colebrooke, Report upon the administration, C.O. 54, 122.

³See pp 404 - 405.

system had tempted the Government to enforce it whenever its own rights were affected.¹ At the same time it had been less disposed to use State authority in order to maintain social laws or customs which did not affect Government interests but which were equally vital to the preservation of the old order. Under the uncertainty thus created, the old order became unhinged. Though petitions from castes very low in the social scale asking for benefits are significantly absent among the petitions that were received by Colebrooke, it appears from the petitions sent by the farmer and the fisher castes in particular, that the castes lower to them were no longer inclined to accept all the rules and customs which had bound them to a particular position in society.² These petitions in general complained of the irregularity in the observance of the former customs by the low caste people, who had "became proud and [sic] gaining from time to time the advantages of one particular thing after another".³ They stated that the low caste people were assuming the privileges belonging to the higher, such as riding in palanquins at marriage ceremonies, white washing houses, and adorning in jewels of gold and silver, with the result that no distinctions of superiority or inferiority appeared to exist. It appears from these petitions that this sense of emancipation

¹All the Proclamations and the Regulations concerning the system of Compulsory services for instance safeguarded the right of the Government to enforce them according to caste.

²For a few instances see petition of 40 Vellale inhabitants of Matara, No. 101, 12 June 1829. Petition of 713 inhabitants of the villages of Colombo, No. 126, 2 July 1829. Petition of 13 Inhabitants of Galle, No. 116, 12 June 1829. Petition of Anthony Fernando and others, No. 145, 9 May 1829. C.O. 416, 29.

³Petition of 13 inhabitants of Galle, No. 116, 12 June 1829. C.O. 416, 29.

had pervaded almost all the lower castes.¹ Colebrooke noted that the rivalry between the inferior castes was as great as the jealousy of the higher towards the lower. He noticed with satisfaction the contest between the barber and the washer castes where the former had contested the right of the latter to demand their services.² One group of petitioners stated that as a result of all this endless scuffles had taken place and the public peace and tranquillity had been disturbed.³ It should also be noted that a certain disposition to change caste occupations had existed even during Dutch times, and was seen again when Barnes called in voluntary labourers for the Cinnamon Department.⁴

As against all this was the tendency of the Government, which Colebrooke also noticed, to favour the pretensions of the farmer caste in state appointments.⁵ Under the policy initiated by North, and carried forward by successive Governors, the Headmen of castes other than farmers had been gradually reduced as vacancies occurred and the people brought under the district Headmen who belonged to the farmer

¹The above petition is particularly instructive. It stated that Goldsmiths, Washers, Barbers, Chunam burners, Jaggoriers, Tom Tom Beaters, and Olyas had assumed privileges prohibited to them.

²Colebrooke, Report upon the administration (marginal note). C.O. 54, 122.

³Petition of 713 inhabitants of the villages of Colombo, No. 126, 2 July 1829. C.O. 416, 29.

⁴Barnes adopted a measure of hiring voluntary labourers for the Cinnamon Department instead of compulsorily recruiting them and he found people of all castes including the higher ones coming forward as volunteers. Barnes to Goderich, 11 October 1831. C.O. 54, 113.

⁵Colebrooke, Report upon the administration. C.O. 54, 122.

caste. Most of the lower castes were perhaps too small in numbers, dispersed in different areas, and weak, to be inclined to protest against it. Two castes least affected by the above reductions, because of the existence of the fish tax, the pearl fisheries, and the cinnamon monopoly which kept alive their usefulness, were however, sufficiently numerous and powerful to complain against the injustice of their subjection to the power and control of the farmer Headmen. The fisher caste was the most active in protesting. They attributed the suppression of their Headmen to the influence which the farmer Headmen exercised over Civil Servants and other officials and to their advice that these appointments were unnecessary.¹ After complaining that they had been pressed to serve the Government in spheres other than those which they were accustomed to, they again attributed it to the mis-representations, injustice and influences, of the farmer Headmen.² They complained that because of the position which these Headmen occupied in the sitting Magistrate's and Provincial Courts, Kachcheries, and Korales, all channels of communication with the Government were closed to them.³ The immediate purpose of these petitions

¹Petition of 30 fisher caste inhabitants of Weligama, No. 138, ND 1829, C.O. 416, 29. Petition of 427 Fisher caste inhabitants of Tangalle, Matara, Weligama, Galle, Panadura, Alutkuru Korale, and Negombo. C.O. 54, 131. There are other such petitions in C.O. 54, 29-32.

²Petition of 30 fisher caste inhabitants of Weligama, No. 138, ND. 1829, C.O. 416, 29. Also, Petition of 427 fisher caste inhabitants of Tangalle, Matara, Weligama, Galle, Panadura, Alutkuru Korale, and Negombo. C.O.54, 131.

³Ibid.

was to get back lost positions, and may have been initiated by interested persons. Yet they also show that unlike other castes, the fishers and the cinnamon peelers, who had many wealthy persons among them, were no longer inclined to regard the farmers as superiors, and to accept what one group of fishers described as "slavery to Vellale Headmen".¹

Under these circumstances Colebrooke's proposal for the gradual elimination of caste considerations in state appointments was not as impractical as it appears to have been at first sight. It was certainly more practicable in a new class of appointments in which the Government was at liberty to lay down its conditions.² In view of the abandonment of the system of compulsory services and the caste rivalries that existed, and also in justice to the castes who had lost their own Headmen such a step was also perhaps necessary. The practicability seems to have hinged upon the ability and willingness of the local Government to disentangle itself from a close partnership it had formed with the numerically strong, and more powerful, farmer caste.

The reform of the Headman system was closely connected with all the above. Colebrooke found this system closely tied to the old social and economic order, which he wished to see superceded.

"The employment of the Native Headmen on their present footing in the civil administration of

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Petition of 427 fisher caste inhabitants of Tangalle, Matara, Weligama, Galle, Panadura, Alutkuru Korale, and Negombo. C.O. 54, 131.

²The fact that changes were easier in a new class of appointments is seen from the promotion of the Mudaliyar of the washer caste to be the cashier of the Treasury. Colebrooke, Report upon the administration (marginal note). C.O. 54, 122.

the country," he wrote, "has tended to foster the prejudices of caste, and to favour the abuses of authority, which however generally complained of, it must be difficult to prevent. Their inadequate remuneration, where they are paid at all, must dispose them to avail themselves unduly of the ancient customs, and the influence of their stations and the duties they discharge in calling out the people for the Government service gives them a control over the productive classes."¹

When Colebrooke arrived in the island he was met with a body of official opinion loudly complaining of the abuses of the Headmen.² Official opinion while recognising this was not less unmindful of the fact that the Headmen played an indispensable role in the system of Government. "These abuses are now acknowledged," wrote Colebrooke, "and the Government had endeavoured to suppress them... The importance of their functions to society is however not less conspicuously noticed than the perversion and abuse of their power..."³ Official opinion therefore on the whole tended to regard the system as a necessary evil. Even with the dependence of the people on the Headmen, and the general fear which seems to have been prevalent to make complaints against them, Colebrooke also received a large number of petitions setting forth complaints against particular Headmen, as well as complaints of a general nature.⁴ These complaints may have been partly occasioned by the peculiar forms of competition for these posts. The petitions received from the Tamil provinces certainly show some such

¹Colebrooke to Barnes, 12 January 1831. C.O. 54, 122.

²Evidence of Collectors, Answers to questions 62-65. C.O. 416, 26-28.

³Memorandum, 18 July 1834. C.O. 54, 145.

⁴These petitions are dispersed in the volumes marked C.O. 416, 29-32.

factionalism.¹ Some of them may have been sent by the low caste people, who had lost their Headmen, and who as a result had both genuine and imaginary grievances against the high caste Headmen. In any event the petitions were a clear indication that the Headman system, like the rest of society of which it formed a vital part, was unhinged.

The fact that a majority of the Headmen depended for their influence among the people, and for their remuneration, on the direct and indirect advantages which they had derived from the old social and economic system, made them also an interested group in preserving it. Thus for instance Colebrooke found that one reason for the failure of an attempt that had been made in 1820 and 1827, to license fishing boats instead of collecting from the fishermen a tax on the quantity of fish caught by them, was the secret opposition of the Headmen to it.² By this measure some of them, who had been in the habit of farming the collection of the tax, lost certain advantages, while all of them lost the right to collect a share of the fish for themselves as a perquisite. A group of fishermen also stated in a petition that the opposition of the Headmen was one reason for the failure of the experiment.³ Similarly when Barnes carried out a partial measure to abolish compulsory services in the Cinnamon Department, he found the Headmen joining with the people

¹ See p. 199.

² Colebrooke, Report upon the revenue. C.O. 54, 122.

³ Petition of 49 fishermen, 29 December 1830. C.O. 54, 131.

in acclaiming it, while secretly discouraging it.¹ This opposition was understandable since by that measure the Headmen of this caste lost the principal source of their emoluments. The Headmen, especially those in the Kandyan provinces, objected to the extent to which the Government had exacted the services of the people and contrary to ancient usages and customs.² Colebrooke referred to an incident where four Headmen, also of the Kandyan provinces, were tried for disobedience of orders, in refusing to work, and in inciting the people to do the same.³ This dissatisfaction may have arisen out of the fact that much of the odium of unpopular services fell on the Headmen, who had to enforce the Government orders. Besides, the Headmen were also liable for punishment for the non-attendance of the people. In spite of all this, however, the Headmen as a body were in no mood to welcome a complete change of the system on which their ascendancy rested.

Colebrooke therefore saw the importance of winning over the support of these Headmen for a change of system.

"The co-operation of the Headmen in effecting any change of system," he wrote, "can however only be expected where advantages are held out to them equivalent to the loss of influence or profit they may sustain, and this advantage will necessarily consist in the prospect of advancement

¹Barnes to Goderich, 11 October 1831. C.O. 54, 113.

²~~See p.~~

²Colebrooke, Report upon the compulsory services. C.O. 54, 145.

³Ibid.

in the public service for themselves or their families, or in the means of establishing themselves as may suit their habits by attention to agriculture and commerce."¹

He believed that by such liberal encouragement it would be possible to divert the influence which these Headmen wielded, in support of the views of the Government for the improvement of the country.²

Besides, he noticed that by encouraging the principal families in the island to become competitors for petty employments, they had neglected other pursuits by which they might have improved their resources, and benefitted the country by their exertion.³ Colebrooke was also conscious of the need to make the Headmen acceptable to all castes and classes, especially in view of caste rivalries, and the expected arrival of a class of European colonists.⁴

All the above factors were present in the suggestions which Colebrooke made for the improvement of the system. It was clear at the outset that though the abolition of compulsory services would lead to a reduction of duties, a large body of Headmen would still be required in the civil administration, especially for police duties, in the apprehension of criminals. A reduction of numbers was therefore

¹Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

²Colebrooke, Report upon the administration. C.O. 54, 122.

³Ibid.

⁴See evidence of Boyd, 2 November 1830. C.O. 417, 7.

not possible to an extent which would enable the Government to pay adequate salaries to those retained. The payment of regular and adequate salaries, which only could have transformed the Headman into a different type of state official, being thus impossible, Colebrooke proposed that at the village level there should be a return to those economical arrangements by which the inhabitants of each village or community elected their own Municipal officers.¹ This was not a novel principle, for a form of electing Headmen prevailed in the Tamil districts.² What Colebrooke therefore proposed was the extension of the practice throughout the island, giving it at the same time a more regular form. The Headmen were to be elected by the inhabitants of each village, who were proprietors of land or houses, the Government Agent or his Assistant collecting the votes for the purpose, and deciding by majority vote. The qualification for the office was to be the possession of property in the village, and the appointments were to be subject to renewal every three years.³ To complete the plan Colebrooke proposed to resurrect and extend the old system of the Gamsabha, or Village Council, which still survived in the Kandyan provinces, and which, with a Headman presiding over it, would decide upon small disputes in the village.⁴

¹ Colebrooke, Report upon the administration, C.O. 54, 122. Also, Memorandum, 18 July 1834. C.O. 54, 145.

² See p. 197.

³ Colebrooke, Report upon the administration, C.O. 54, 122. Also, Memorandum, 18 July 1834. C.O. 54, 145.

⁴ Memorandum, 18 July 1834. C.O. 54, 145.

Colebrooke thus suggested a very practical scheme, which he believed had many advantages. Firstly, he was of opinion that by this means the internal revenue of the country might be collected with less expense to the Government, and with greater satisfaction to the people, than by an appointed agency.¹ Secondly, it would give the people greater satisfaction by enabling those attached to a caste, trade or religion, to select their own Headmen until habits and customs changed.² Thirdly, by giving to officials responsible to the people the management of a variety of minor details the stipendiary European and native establishments could be limited, and their functions reduced to that of exercising a general control.³ He believed that this would not only enable the Government to interpose its authority with greater effect, but would also strengthen the attachment of the people to the Government.⁴ Lastly, he believed that it would obviate the objections that might be raised to the settlement of Europeans in the country.

"The formation of European colonies or settlements in favourable situations, with the same privilege of preserving their own customs, and of managing their internal affairs by persons freely chosen by themselves," he wrote, "would be a powerful means of promoting the success of such undertakings, and of diffusing a better system throughout the country."⁵

¹Memorandum, 18 July 1834. C.O. 54, 145.

²Ibid.

³Ibid.

⁴Ibid.

⁵Ibid.

At the district and provincial level Colebrooke sought to create a different category of Headmen. Since they were to serve all classes and castes, they were to be appointed without reference to caste, and were to be adequately remunerated by fixed salaries.¹ Though Colebrooke at first favoured monetary payments, while writing the report he recommended the extension of the Kandyan practice of granting tax exemptions on the lands held by them equal to a part or whole of the salary fixed.² In addition the Headmen were to be encouraged by land granted with the same privilege of holding them tax free as a part of the salary.³ A knowledge of the English language was to be made compulsory for the native Headmen of this category, and they were to be freely promoted to higher offices according to ability and qualifications.⁴ It was here that Colebrooke's proposals for the reform of the Headmen system merged with the Civil Service reforms. He thereby created an opening through which the proposal to throw open the higher offices to the native inhabitants could be realised, while also linking the Headmen with the rest of the administrative machinery, instead of leaving them isolated as before.

¹ Colebrooke, Report upon the administration. C.O. 54, 122.

² Colebrooke, Report upon the establishments and expenditure, C.O. 54, 122.

³ Ibid.

⁴ Colebrooke, Report upon the administration, C.O. 54, 122.

Colebrooke's proposals found little favour with the local Government. The tendency was to dismiss them rather unreasonably. Barnes regarded the proposals as coming from a person totally unacquainted with the relations between the European Governors and the native governed.¹ "Does he think," he asked, "the more power that is given to them, the less they will abuse it."² Horton also called it a 'speculative view' of the question,³ probably because he considered the advancement of the native inhabitants to higher offices as impracticable. The attitude of Barnes and Horton showed that here, as in other spheres of reform, the practicability of the plan rested on the willingness of the local Government to give it a fair trial.

The reform of the judicial branch of the Civil Service fell more particularly into the hands of Cameron. His approach towards problems was similar to that of Colebrooke. Travelling through the wilderness that surrounded a good part of the country he noticed the remnants of a past glory in the shape of ruined tanks, temples etc. which made him wonder about "the former populousness and civilization of the island," and reflect on the means by which it might be revived.⁴ "I do believe," he wrote, after noting the importance of the restoration

¹ Marginal comments by Barnes. See Colebrooke to Barnes, 12 January 1831. C.O. 54, 112.

² Ibid.

³ Horton to Goderich, 14 December 1831. C.O. 54, 114.

⁴ Cameron to Hay, 3 November 1830. C.O. 54, 131.

of the tanks, "that if the administration of the affairs of the island were such as to encourage the settlement of European capitalists, such an enterprise might and would be successfully carried on by private speculators".¹

His subject of investigation was in a sense more important than the others not only because it was, as we have seen, one which had occasioned many conflicts and controversies among the British, but also because it was a field which created a much wider interest among the people. As Riddell observed, the Commissioners were 'inundated' with petitions protesting against the decisions in the courts.² Many of them contained particular grievances, and seem to have been made in the hope of getting a decision of a court reversed. But there were also petitions containing general complaints on the different aspects of the administration of justice.³

The most important issue which had disturbed the British was the nature of the relationship between the executive and the judiciary. On this issue Cameron brought with him a convinced desire for judicial independence, which became apparent from the special report which the Commissioners submitted.⁴ Not surprisingly therefore he disliked the

¹Cameron to Hay, 3 November 1830. C.O. 54, 131.

²Riddell to Horton, 21 March 1832. C.O. 54, 118.

³There are several such petitions dispersed in the volumes marked C.O. 416, 29-32.

⁴See p. 433.

role which the Governor played in the judiciary. He found the relations subsisting between the local judges and the executive government "incompatible with judicial independence".¹ He deplored the dependence of the judges on the Governor's pleasure, and objected to the mode in which they obtained advice in matters of doubt.²

Cameron also brought with him a strong dislike for the maintenance of separate and independent jurisdictions over distinct classes of persons or territories subject to the same Government, and desired uniformity in judicial institutions and procedure.³ When deciding upon these uniform institutions and modes, Cameron naturally brought to bear on the recommendations a preference for British institutions, which he brought with him. Apart from the need to make the Courts acceptable to all classes he saw Ceylon as the "fittest spot on our Eastern dominions in which to plant the germ of European civilization..."⁴ It also presented a fairly open field for such preferences as the judicial institutions already in existence were those established by the British.⁵ Unlike others, who while desiring such uniformity were nevertheless inclined to have a separate jurisdiction for the Europeans,

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

²Ibid.

³Ibid.

⁴Ibid.

⁵Ibid.

Cameron favoured no such distinctions on grounds of race. He regarded the separate jurisdiction which had been given to the Supreme Court over Europeans as "an unfair and invidious" distinction, especially since there was not the same ground for it in Ceylon as in India - the law administered to both Europeans and natives being the Roman Dutch Law.¹

"The very first thing that struck me when I began to examine the judicial institutions of Ceylon," he wrote, "was the abundance and even luxury of judicature in which the European population was revelling The Europeans in Ceylon have in fact something like a monopoly of the finer sorts of justice; my object is to destroy that monopoly; to throw open the most efficient courts in the island to all the King's subjects."²

The petitions that were received by the Commissioners enabled Cameron to determine on some of the defects in the administration of justice in which the people were interested. One complaint that was made was about the excessive stamp duties which, it was stated by some petitioners, sometimes amounted to almost the sum in litigation.³ Cameron could not but agree that if the protection of the law was to be granted to the great mass of the native population it must be granted gratuitously. He stated that on account of the general poverty of the people fees and stamps which, from their small amount would seem to place scarcely any obstacle to the attainment of justice by the

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

²Observations of Cameron, in reply to criticisms, 4 August 1832. C.O.54, 120.

³Petition of Anthony Fernando and others, No. 145, 9 May 1829. Petition of 713 inhabitants of the villages of Colombo, No. 126, 2 July 1829. Petitions of 14 persons of Colombo, No. 103, 10 May 1829. C.O.416,29.

poor in England, must frequently operate as a complete denial of it in Ceylon, by indiscriminately repressing litigation.¹ Cameron disapprovingly noted how insignificant an object a large class of people who could not pay for justice had been in the eyes of the local Government. "The community being thus divided into those who can afford to pay for justice, and those who cannot," he wrote after referring to Brownrigg's minute of 15 October 1816, "the inconvenience of the former class, as distinguished from the latter, is openly designated as the public inconvenience; and the poor are plainly told that the Government will only distribute justice gratuitously at the seasons when the sale of it is slack."²

Another matter for complaint was the distance of the courts and the delays in obtaining judgment. One group of petitioners stated that as the courts were situated at a distance of 24 to 25 miles, and as suits were being deferred for a long time, they were compelled to walk many a time in order to obtain justice.³ They stated that persons did not dare to take small cases before the courts, but bore them with patience. Cameron recognized that "the condition of the native inhabitants of the island imposes upon a Government which has their improvement at heart the necessity ... of providing a cheap and accessible judicature..."⁴

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

²See p.

³Report upon the judicial establishments and procedure, C.O. 54, 122.

⁴Petition of 33 inhabitants of Bentota No. 115, 20 June 1829. Petition of 713 inhabitants of the villages of Colombo, No. 126, 2 July 1829.C.O.416,29.

⁴Cameron, Report upon the judicial establishments and procedure, C.O.54, 122.

One matter which interested a group of petitioners was the fact that unlike the Dutch Landraad Courts, the Courts established by the British had no Mudaliyars and Muhandirams in them.¹ Cameron recognized that the fact that the European judges were insufficiently controlled by public opinion was a defect in the constitution for the Provincial and Sitting Magistrate Courts.

"The audience who frequent their courts," he wrote, "consists of natives, with whom the judge does not associate, and whose good opinion is of little or no importance to him. There is no bar in his court; there is no person present to whom, either officially, or from motives of respect, he is called upon to sum up the evidence, and to state his view of the law applicable to the state of facts the evidence establishes."²

He argued that under such circumstances the judges would only take pains over cases from the motive of satisfying their own "conscientious love of justice", or from the apprehension of an appeal court.³

"It is contrary to all our experience of human nature", he wrote regarding the former, "that they should find in the recesses of their own minds a sufficient motive for the exertion of that unremitting attention, which is necessary for the investigation and decision of the matters which come before them, and of their imperturbable patience which can alone control the movements of indignation, which the importunity, folly, impertinence, and knavery of Indian suitors and Indian witnesses are calculated to excite."⁴

¹Petition of 13 inhabitants of Galle, No. 116, 12 June 1829. C.O.416,29.

²Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

³Ibid.

⁴Ibid.

As regards the latter Cameron found that the proceedings of the local judges had been very insufficiently controlled by the appeal Courts. He found the constitution of the Minor Courts of appeal more defective than that of the courts of original jurisdiction. The judges who presided over them, like those whose decisions they were appointed to correct, had no education adapted to their functions. They too sat without juries or assessors, and their proceedings attracted even less attention.¹ Some members of these courts were those from whose decision an appeal was made. Cameron also criticized the limitations that had been imposed on the right of appealing to these courts on the alleged ground that appeals in cases of trifling value serve only to encourage petty litigation.² He ridiculed the assumption underlying this, that all petty litigation was an evil.

"A suit for a sum under £1.13sh. 6d.", he wrote, "may indeed seem an object of contempt to an European Judge. Considering any individual case by itself, he would probably rather pay the amount claimed than be at the trouble of examining and deciding the question between the parties. But in the eyes of a native of Ceylon, of the lower class, such a sum appears, and with great reason, an object of very high importance, an object the unjust detention of which is calculated to excite in his mind the most violent animosity against the person who commits the wrong, and the Government which fails to redress it."³

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

²Ibid.

³Ibid.

Cameron found the High Court of appeal better constituted because of the existence of the Supreme Court Judges in it. But he considered the Governor and the Civil Service members who had sat on it superfluous for any "legitimate purposes of judicature".¹ As the Court always sat in Colombo its judgments were in general founded upon only such matters as appeared in the records transmitted by the original court.² As this Court entertained only cases in which the sum in litigation exceeded £30 only a small portion of the suitors in the Provincial Courts had the benefit of an appeal to it. None of the suitors in the Sitting Magistrates Courts, which tried the far greater number of cases, had the benefit of such an appeal. Thus Cameron found that 19 out of 20 suitors were excluded from the benefit of access to this Court.³

One other feature which attracted the attention of Cameron, and of which the petitions were also an indication, was the 'litigiousness' of the people, and the fact that court houses and legal proceedings were being made use of by means of perjuries, conspiracies, and forged documents.⁴ Cameron, supported by the Law Officers of Ceylon, was inclined to attribute it to 'lack of moral principle' among the

¹Cameron, Report upon the judicial establishments and procedure, C.O.54, 122.

²Ibid.

³Ibid.

⁴Ibid.

people.¹ Behind that however was the general uncertainty of the times in such matters as land tenures and social laws. It was another sign of the disintegration of the traditional society which we have noticed before. It was perhaps also an indication of the failure of the former system of justice and the ignorance of the judges, which left the Court houses at the mercy of interested parties, especially those Headmen placed in positions of power without responsibility.² Cameron recognized that in any new system it was necessary to guard against the danger that the judicatures themselves would be employed as a means of perpetrating the injustice which it is the object of their establishment to prevent.³ Assuming also the role of a moral reformer he expressed the hope that a well constituted judicial system would be an efficient means of establishing better morals.⁴

Thus Cameron set himself the formidable task of creating a system of judicature, which while retaining its uniformity, would cater to the widely different interests of the rich and the poor, European and native. This in fact meant that in the judicial sphere he wished to assert the idea of individual liberty without reference to race, class or caste.

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122. Also opinions of J. Perring, the Advocate Fiscal, and W. Morris, the Deputy Advocate Fiscal, 13 October 1832, C.O. 54, 118.

²See p. 163.

³Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

⁴Ibid.

The first task was no doubt to break down existing distinctions. To break down the special privileges enjoyed by the Europeans he recommended the withdrawal of the special jurisdiction of the Supreme Court.¹ This proposal naturally aroused the greatest opposition among the others who expressed opinions on Cameron's recommendations. Writing admittedly on behalf of the interests and inclinations of those who had been under the jurisdiction of the Supreme Court, Justice Charles Marshall questioned the "expediency and justice of withdrawing an extensive and important branch of the population of Ceylon, including all the Mercantile Houses of Colombo and other ports, and the numerous firms in India, which are represented by these Houses, from a jurisdiction with which ... they are perfectly satisfied."² The Law Officers of the Ceylon Government stated that this measure would be productive of great discontent and dissatisfaction among the European population.³ Both Justice Marshall and the Chief Justice, Richard Ottley, urged that the Supreme Court should be given original civil jurisdiction over the district of Colombo.⁴ Because the greater number of cases in which the Europeans were involved occurred in Colombo, and because the greater number of the persons then subject to the jurisdiction of the Supreme Court resided within this

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

²Observations of Marshall, ND. 1832. C.O. 54, 120.

³Opinions of Norris and Perring, 13 October 1832. C.O. 54, 118.

⁴Observations of Marshall, ND 1832. C.O. 54, 120. Also, Ottley to Goderich, 3 November 1832. C.O. 54, 120.

district, they thus hoped to protect the special interests which they had in mind, avoiding at the same time objections on grounds of discrimination based on colour. Cameron however strongly opposed it. He objected to the attempt to divide causes as important or unimportant by means of an external characteristic. "It leads," he wrote, "to the impolitic invidious, and irritating distinctions, which array the community in hostile ranks, crying out on the one hand for rights withheld, and on the other for privileges invaded."¹ Besides, Cameron saw a positive advantage in mixing up cases in the inferior courts. He thought that it would compel the Judges to be more active than when they were only given the cases arising between the native inhabitants, who in their eyes were 'comparatively insignificant'.² A judge forced to inquire carefully into the more difficult cases, which attracted public notice from the great amounts they involved, or from the distinguishing rank of the litigating parties, would, he thought, have the strongest motive to use diligence and acquire learning. By force of habit or otherwise, he would not then grudge the exercise of that skill in deciding such causes "as are interesting only to the obscure and friendless litigants".³ In the liberal climate of 1832 the reasons given by Cameron did not, as James Stephen observed, admit

¹ Observations of Cameron, 4 August 1832. C.O. 54, 120.

² Ibid.

³ Ibid.

of any valid answer.¹

Amidst general concurrence, judicial uniformity was also asserted when Cameron recommended the replacement of the various jurisdictions then existing, by one uniform system of District Courts, acting under a uniform set of rules and procedure.² The number was not indicated in the report, but it appears from the instructions sent by Goderich that twenty divisions had been decided upon his advice.³ This in fact meant a reduction in the total number of judicial units in Ceylon. The compelling reason for having a lesser number is not difficult to find. Though Cameron criticised the lack of training and consequent weaknesses of the Civil Service judges, and recognized the necessity of remedying it, his whole scheme of reform was based on the assumption that the Civil Servants would continue to preside over these courts. Besides a lack of faith in the native character, which Cameron strongly displayed, he may have had in mind the need to make the courts acceptable also to the European population. A court constituted with a European as a Judge would naturally be more expensive than one in which a native inhabitant presided. Consequently the need to keep the judicial expenses at the existing level, of which Cameron was conscious, may have prevented a recommendation to establish a greater number of units.

¹Observations of James Stephen, 7 August 1832. C.O. 54, 120.

²Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

³See schedules attached to despatch from Horton to Goderich 23 March 1833. C.O. 55. 74.

A number of measures were conceived to make the Courts thus constituted more suitable to the native inhabitants of all classes. One important measure that was recommended was the extension of the practice which prevailed in the Kandyan provinces of associating with the Judge a panel of three Assessors. They were to be chosen in the same manner as the Jurymen of the Maritime provinces.¹ Any two Assessors were to be empowered to give a verdict after the judge had summed up the evidence and stated his opinion of the law.² The judge was however to have the power of giving a contrary decision if he was so inclined. Cameron believed that such an institution would be a legal organ for the effectual expression of public opinion on judicial matters.³ Besides, he thought that an institution like a Jury was the 'best school' to discipline the minds of the people for the discharge of public duties.⁴ These proposals were generally welcomed in principle. No great obstacles to their implementation were foreseen. Justice Marshall however raised the doubt, which in fact would apply to any system, whether Judges and Assessors could be found equal to the respective duties assigned to them.⁵

Another measure that was recommended for the benefit of all classes was that these Courts should try all cases occurring within the locality, irrespective of the value of the matter in dispute.⁶ With

¹Cameron, Report upon the judicial establishments and procedure, C.O.54, 122.

²Ibid.

³Ibid.

⁴Ibid.

⁵Observations of C. Marshall, 16 June 1832. C.O. 54, 120.

⁶Cameron, Report upon the judicial establishments and procedure, C.O.54, 122.

the same object in view Cameron recommended the extension of the practice of investing the Courts with both civil and criminal jurisdiction.¹ Supported by the opinion of Justice Marshall as to the practical success of uniting such jurisdictions in the former Sitting Magistrate's Court, Cameron hoped that it would save the people the trouble and expense of finding out which Court was competent to try their cases, and that it would also enable them to refer all their little grievances to the same arbitrator.² To facilitate the poorer classes Cameron recommended the abolition of all fees of court and stamps, and the payment of the witnesses on both sides.³ There was no objection in principle to the above proposals. The Law Officers however raised the fear that it would result in a 'flood of litigation' and that it might bring a heavy burden on the finances of the country.⁴ To deter those who would use the courts for purposes of fraud and oppression, Cameron proposed to invest the judge with the power of fining and imprisoning, with or without the concurrence of the Assessors, those who in his opinion had attempted to pervert or obstruct the course of justice.⁵ The Law Officers, undoubtedly drawing upon the experience

¹Cameron, Report upon the judicial establishments and procedure, C.O.54, 122.

²Ibid.

³Ibid.

⁴Opinions of Norris and Perring, 13 October 1832. C.O. 54, 118.

⁵Cameron, Report upon the judicial establishments and procedure, C.O.54, 122.

of the former Civil Service judges, called it a 'large and fearful discretionary power' for offences of a doubtful and undefined character. Besides pointing out that this recommendation went counter to the principles involved in proposing assessors, they raised the doubt whether the necessary qualities could reasonably be expected from Civil Servants, in view of their previous studies and employment, and the sudden and unexpected manner in which they were frequently called upon to preside over a Court, as a result of the system of promotion by seniority.¹

Another recommendation which was made, which Cameron thought would also benefit poor litigants was the adoption of a more summary mode of proceeding in the District Courts. Pleadings were to take the form of an oral altercation between the parties under the superintendence of the judge. They were to be subject to cross examination, with or without the assistance of lawyers. Cameron believed that this mode of pleading would prevent conspiracies to a great extent by bringing the whole suit from beginning to end before the European judge. He also thought that in the state of society in Ceylon the European judge who had to distribute justice could only do so effectually by the exercise of something like a paternal authority.² The Law Officers agreed that in the majority of cases that occurred among the lower classes this method was necessary to secure justice. They however pointed out that too rigid a

¹Opinions of Norris and Perring, 13 October 1832. C.O, 54, 118.

²Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

rule would affect the cases arising amongst Europeans, Merchants, and the higher classes of the native inhabitants, to whom the argument did not apply, and who in consequence would be much inconvenienced. They therefore urged that there should be an option to plead in writing.¹

Judicial independence, a more regular control over the local judges, and the preservation of the unity of the law, which would be impaired by the decisions of a number of independent judges, were aimed at in the proposal to transform the Supreme Court into an Appeal Court of the most comprehensive kind.² Cameron also believed that this was the only way of making a Court consisting of distinguished judges available to all the litigants.³ It was to have original jurisdiction only in the higher criminal offences. To give the inhabitants a cheap and easy access to the Court, Cameron proposed the division of the island into three circuits and the establishment of periodical circuits. The circuit judges were to hear all appeals for redress against the decision of the lower courts and were to have the power to re-hear a case either in part or wholly. While on circuit the judges were to perform the functions which were formerly carried out by the Advocate Fiscal under the direction of the Governor, of examining the records of the courts of original jurisdiction, and of advising the local judges on all matters of

¹Opinions of Norris and Perring, 13 October 1832. C.O. 54, 118.

²Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

³Observations of Cameron, 4 August 1832. C.O. 54120.

law and practice. The control over the judges was to be transferred to the Supreme Court, the Governor only retaining a power to suspend a judge.¹ These proposals were generally well received and there was a recognition of the advantages likely to result from the superintending control of the Supreme Court. The Law Officers however raised the fear that in practice it would increase litigation, undermine the District Courts, and in fact throw the entire judicial business of the Colony into the hands of the Supreme Court. They argued that it would weaken the authority of the District Judge in the eyes of the native people and that the beneficial effect of a local Judge residing amongst them would be lost.²

After submitting his report Cameron seems to have undoubtedly felt that his scheme fell far short of that of his colleague in one important respect. Apart from the honorary and unpaid duty of functioning as Assessors, it held out little prospect of employment to the native inhabitants. Cameron therefore later suggested a slight modification of the scheme to achieve "the very important and beneficial purpose of giving to a class of native functionaries the skill and integrity to render them fit for becoming judges of original jurisdiction".³ Though convinced of the lack of moral principle among the native inhabitants, he recognized that the best way to strengthen it was to employ them in

¹Cameron, Report upon the judicial establishments and procedure, C.O. 54, 122.

²Opinions of Norris and Perring, 13 October 1832. C.O. 54, 118.

³Cameron to Goderich, 18 August 1832. C.O. 54, 121.

the solution of real and practical questions.¹ Supported by Colebrooke, who however suggested a modification, Cameron recommended that one of the assessors should be made a paid permanent assessor who would have the prospect of promotion to the office of judge.²

"By such an appointment," he wrote, "4/5 of the salary necessary for a European Judge will be saved, the honourable ambitions of the upper classes of natives will be safely gratified, and the great mass of people will be bound by ties of affection to a Government which ceases to withhold offices of power and emoluments from its native subjects as soon as they become qualified to fill them with advantage to the native community."³

The modification that was suggested by Colebrooke was that instead of having a permanent assessor a certain number should be registered and paid according to the services to which they were summoned.⁴

Thus in the judicial sphere Cameron undoubtedly made a bold attempt to achieve several objects under one system. The most important question was whether the attempt to secure the interests of the large proportion of the poor classes under this system was practicable. Colebrooke was perhaps more realistic, when while desiring judicial uniformity, he also stated the wish of the native inhabitants that a means might be afforded to them for a summary decision of the numerous petty cases which arose, for it was extremely inconvenient to them to be obliged to refer to

¹Cameron to Goderich, 18 August 1832. C.O. 54, 121.

²Ibid.

³Ibid.

⁴Observations of Colebrooke, 24 September 1832. C.O. 54, 122.

the regular courts.¹ He therefore urged the establishment of Village Councils for the settlement of such disputes.²

The recommendations of Colebrooke and Cameron aroused much discussion and also hostility in the colony. The irony of it was that Horton, who announced the appointment of the Commission in Parliament, should be at the head of the opposition which aimed at preventing the implementation of its recommendations. Apart from writing despatches and private letters refuting the arguments of Colebrooke and Cameron, and pointing out difficulties in the implementation of their recommendations, he attempted to create the impression that public opinion in the colony was hostile to them. To refute the assertion of Colebrooke that he was supported in his views by the most intelligent public servants and other persons long resident in the island³ he obtained the views of certain Civil Servants and unofficials, arbitrarily selected for the purpose, and forwarded them to the Secretary of State.⁴ Much against the wish of the Law officers of Ceylon, who feared that any expression of opinion by them would be considered 'impertinent and obstructive',⁵ he required them officially to send in their views and for-

¹Colebrooke to Barnes, 12 January 1831. C.O. 54, 112. Also, Observations of 24 September 1832. C.O. 54, 122.

²Ibid.

³Colebrooke, Report upon the administration, C.O. 54, 122.

⁴See Horton to Goderich, 13 October 1832. C.O. 54, 118.

⁵Norris and Perring to Anstruther, 13 October 1832. C.O. 54, 118.

warded them to the Secretary of State.¹ The Colombo Journal, which was under his control, also indulged in criticisms and attacks on the Commissioners.

The extent, and the manner in which the Colebrooke-Cameron recommendations were implemented, and the direction which they took in practice under the influence of the local Government could well be the subject of a fascinating study. Space permits us only to note that the main principles of reform enunciated by Colebrooke and Cameron, and the chief measures which grew out of them, were accepted by Goderich, the Secretary of State. The abolition of the system of compulsory services was carried out at the suggestion of the Commissioners by an Order in Council.² The other revenue reforms were directed to be carried out by the despatch of 23 March 1833.³ The recommendations for the establishment of Councils was carried out with some modifications by the additional Royal Instructions issued to Horton dated 20 March 1833.⁴ It was considered a 'measure of first importance' to break through the principle of an exclusive Civil Service.⁵ The Civil Service reforms were

¹ See Horton to Goderich, 13 October 1832. C.O. 54, 118.

² Order in Council, 12 April 1832. See Goderich to Horton, 3 May 1832. C.O. 55, 72.

³ Goderich to Horton, 23 March 1833. C.O. 55, 74. Also Goderich to Horton, 12 October 1832. C.O. 55, 74.

⁴ Additional Royal instructions to Horton, 20 March 1833. Mendis, (ed.) *The Colebrooke-Cameron papers*, Vol. I, pp. 305-319.

⁵ See Goderich to Horton, 14 September 1832. C.O. 55, 74. Also, Goderich to Horton, 4 May 1832. C.O. 55, 74.

therefore ordered by a despatch of 23 March 1833.¹ The Judicial reforms were incorporated into a new Charter of Justice dated 18 February 1833.² It appeared undoubted that the 'liberals' had won the day. "The struggle is over," wrote Horton privately to Stanley, "the Commissioner has triumphed over me."³

¹Goderich to Horton, 23 March 1833. C.O. 55, 74.

²Charter of Justice, 18 February 1833. Mendis, (ed.) The Colebrooke-Cameron Papers, Vol. I, pp. 320-349. Also Goderich to Horton, 23 March 1833. C.O. 55, 74.

³Horton to Stanley, 25 October 1833. C.O. 54, 130.

C O N C L U S I O N

When the British occupied the Maritime Provinces of Ceylon they found, much to their dislike, that it was necessary to maintain the Headmen in a share of power. This necessitated the establishment of another European structure over whatever that remained of the Headman system.

The administrative super-structure established by the British had necessarily a British character about it. There was an irresistible tendency to think in terms of offices and institutions familiar to them in England, or those suggested by the experience of colonial administration, especially that of India. The duties assigned to them were such that they resulted in the maintenance of the old social and economic order in Ceylon.

In a sense the structure and authority established by the British in the Maritime Provinces were more effective and the transfer of power was more complete than during Portuguese and Dutch times, on account of the greater number of executive and judicial officers that were sent to the provinces, and the concentration of original authority in their hands. The Headmen changed further from the position which they had occupied at the advent of British rule. As before, however, they were associated with European officials at all levels, where they continued to exercise much influence both on the Government and the people, with a still lesser sense of responsibility.

In the Kandyan country, after a short lived attempt, on the grounds of policy, to govern through a greater part of the former administrative machinery, a European structure was superimposed on a part of the former feudal organization, which was retained though greatly changed in character. The Kandyan Chiefs were naturally admitted to a greater share of power than the Headmen of the Maritime Provinces. They also wielded great influence by virtue of the fact that more than the Maritime Headmen they were acknowledged as 'the natural leaders' of society. Generally speaking, however, the former feudal organization broke down and the Chiefs and Headmen fell into the position of their counter-parts in the Maritime Provinces.

One of the main motivating factors behind the establishment of the European structure was the desire to transfer effective power and authority into British hands. But when creating institutions, in defining and dividing their powers, and in running the administrative machinery, the new rulers could not avoid a duality of thought and action with regard to the form and purpose of Government. Apart from an irresistible fondness for the principles supposed to be found in the British Constitution, and apart from the need to take into account the interests of the European residents in Ceylon, the new rulers were naturally influenced by the rapid political, social and economic changes taking place in Europe, accompanied by a clash of ideas and the emergence of new ideals. As against the forces and tendencies generated by these factors was the consciousness that institutions were being devised

for a country recently conquered, where the allegiance of the people was not as yet certain, and where British supremacy had to be established. The people were different from the rulers in very many respects and they were living under a different social and economic order. While the forces coming from outside, and from the more developed society, carried them towards more liberal institutions, those coming from within took them towards authoritarianism. This pull in opposite directions was one of the main threads which ran through the development of the administrative structure in Ceylon.

The main body of men through whom the transfer of power and authority to British hands was carried out was organized into a Civil Service on the lines of the Covenanted Service of the East India Company. In their respective positions they were the 'eyes and ears' of the Governor. Following the Dutch, and in accordance with the belief at the time that the empire in India rested on the cautious maintenance of the superiority of the Europeans over the natives, the Service was kept exclusively European. It was composed of men recruited under the system of patronage in England. Patronage combined with the general belief of the time that administrative authority could be entrusted only to those whose social status was such that its exercise would be instinctive with them, resulted in the arrival in Ceylon of a group of well connected Civil Servants. These men who came from such a distance naturally had the aspiration of returning to England with sufficient means to live in comfort. Some of them may have had the intention of creating fortunes and returning like

the 'Nabobs' of India. The need to satisfy these aspirations prevented the best organization of the Service. It also made it expensive, and this expensiveness prevented its expansion. This factor combined with the need that was felt to give employment to the Dutch led to the emergence of another 'species' of establishment. The public service was divided into three distinct groups with very little mobility from one to another. The position which the Englishmen occupied made the ^{local Europeans} appear less respectable in the eyes of the people. The employment of the Sinhalese and Tamiles was still mainly confined to their traditional offices to which they clung with a remarkable fondness. Among them the farmer caste enjoyed a considerable accession of power.

The liberal and utilitarian environment in England gave an impetus towards administrative reform in Ceylon. The liberals found much to criticize. The efficiency and utility of the Civil Service as it was then organized was much in doubt. The public service was a considerable burden on the revenue. The revenue was in turn dependent on a socio-economic order, which was obnoxious to the liberal critics of the day and oppressive to the people. The fact that the salaries of the Civil Servants depended on a precarious revenue made them reluctant to disturb it. The interests of the Headmen were also tied to the old order. The Civil Servants formed an important group whose interests the local Government was inclined to respect, and the Headmen could not be displaced without affecting the social and political stability of the country.

It was in such a situation that reformers from outside had a useful

role to play. Colebrooke and Cameron elevated disparate liberal tendencies inside and outside the Colony into a unified programme of action. The important problem that they faced was to make the Colony more prosperous. The ideas of the day made them feel that this could be achieved only through the promotion of private enterprise. The lack of capitalists in the island disposed them to favour colonization. In their view this required the abandonment of the old socio-economic order. This in turn required the liberalization of the administrative machinery. Colebrooke in addition realized the importance of winning over the Headmen to the change of system and gradually superceding their employment on the former basis. This required a more open policy towards the public service.

APPENDIX APROPOSED OFFICE ESTABLISHMENT FOR THE GOVERNMENT OF CEYLON

Rank in office	To be filled by	
<u>The Council</u>		
Governor in Council		
First Member	Commander of the Forces	} No salary
Second Member	Head of the ?	
Third Member	Chief Secretary to Government	
Secretary to the Council	Deputy Secretary to Government	
<u>The Governor and his Office</u>		
The Governor		£10,000*
Lieutenant Governor		1,500
Private Secretary		500
Chief Secretary to Government		3,200
Dy. Secy. to Government		1,280
First Assistant		512
Second Assistant		320
Third Assistant		3300
<u>Treasury</u>		
Treasurer	The Governor	No salary
Vice Treasurer		2,000
One Assistant		384
<u>Pay Office Civil & Military</u>		
Paymaster General		} 1,600
Civil & Military		
One Assistant Civil Department		320

* No Allowance for extra expenses on the King's Birthday or otherwise.

Rank in office	To be filled by	
One Assistant Military Department		320
Garrison Storekeeper Colombo		600
Depy. Paym. Galle		500
Do. Do. Trincomalee		500
<u>Accountant's Office and Auditor of Civil- and Judicial Accounts</u>		
Accountant Genl. & Auditor of Civil Judicial Accounts	Accountant General	1,600
One Assistant Audr. Dept.		320
One Assistant Acct. Dept.		320
<u>Board of Revenue & Commerce</u>		
President	Chief Secretary to Governmt.	} No Salaries
First Member	Vice Treasurer	
Second Member	Accountant General	
Third Member	Paymaster General	
Secy to the Board of Revnue and Commerce	Secretary	1,024
First Assistant		384
Second Do.		300
<u>Offices Subordinate to the Board of Revenue & Commerce</u>		
<u>Cinnamon Plantation</u>		
Superintendent		1,280
First Assistant		400
Second Do.		300

Rank in office	To be filled by	
<u>Survey Department</u>		
Surveyor General		512
Six Surveyors under him in the Six Provinces	Six Officers of Engineers late in the Dutch Service @ 100 Rix Dollars	767
<u>Land Revenue</u>		
<u>Colombo</u>		
Collector*	*Besides this Salary the	512
First Assistant	Collector to receive a	340
Second do.	Commission of $\text{£}1\frac{1}{2}$ per cent on the net amount which he shall pay into the Treasury & $\frac{1}{2}$ per cent to 1st Assistant	300
<u>Jaffna</u>		
Collector	Ditto	512
First Assistant		340
Second Do.		300
<u>Matura</u>		
Collector	Ditto	512
First Assistant		340
Second do.		300
<u>Putlam</u>		
Collector		512
One Assistant		320
<u>Trincomalee</u>		
Collector		512
One Assistant		320

Rank in Office	To be filled by	
<u>Batticaloa</u>		
Collector		512
First Assistant		320
Second do.		320
<u>Sea Customs</u>		
<u>Columbo</u>		
Collector	This Officer to be charged with the care of the Export and Import Warehouse to draw a Commission of one per cent on his net collection.	320
<u>Galle</u>		
Collector	Ditto	320
<u>Civil Courts</u>		
<u>Colombo</u>		
President		1,500
2nd Member & Register of Lands		640
Secretary		384
Assistant		127
<u>Matura</u>		
President		1,024
2nd Member & Register of Lands		512
Secretary		300
<u>Jaffna</u>		
President		1,280
2nd Member & Register of Lands		512
Secretary		320
<u>Putlam</u>		
President		767
2nd Member & Register of Lands		388
Secretary		300

Rank in Office	To be filled by
<u>Trincomalee</u>	
President	767
2nd Member & Register of Lands Secretary	388 300
<u>Batticaloa</u>	
President	767
2nd Member & Register of Lands Secretary	388 <u>300</u>
	<u>£48,919</u>

In the expectation of further Accounts respecting the Post Office it is omitted in the Establishment herewith transmitted.

APPENDIX BMAITLAND'S CLASSIFICATION OF THE CIVIL SERVICE

Chief Secretary to Government
 Commissioner of Revenue
 Civil Auditor General
 Vice Treasurer and Accountant General
 Civilian Military Paymaster General

2nd Class

Collector of Colombo
 Provisional Judge of Colombo
 Collector of Jaffnapatnam
 Provincial Judge of D.
 Superintendant of Cinnamon
 Deputy Secretary to Government
 Head Civil Servant at Trincomalee
 Collector of Galle
 Collector of Matura
 Provincial Judge of Matura
 Provincial Judge of Galle
 Collector of Chilaw
 Collector of Manar
 Collector of Calhua
 First Assistant in the Secretary's Office
 Second Assistant in the Secretary's Office
 Collector of Batticola
 Custom Master of Colombo
 Garrison Storekeeper of Colombo

3rd Class

consists of

Assistant to the Commissioner of Revenue
 Assistant to the Treasurer
 Assistant to the Paymaster General
 Assistant to the Civil Auditor General
 Assistant to the Superintendant of Cinnamon
 Assistant to the Collector of Colombo
 Assistant to the Collector of Jaffna
 Assistant to the Collector of Trincomalee
 Collector of the Wanny
 Custom Master of Jaffna

APPENDIX CNOTES ON THE CIVIL SERVICE OF CERTAIN OTHER COLONIES

During our period of study Ceylon was usually grouped with the Cape of Good Hope, Mauritius, Malta, and Trinidad. Apart from the size of these Colonies a common factor which led to this grouping was that in all of them there were financial difficulties. Of them only Ceylon had a Civil Service which was constituted according to fixed rules. In all of them the higher offices were usually held by Englishmen, the patronage being shared by the Secretary of State, the Commissioners of the Treasury, and the Governor. Recruitment was to particular situations, and not to a rank of Writer as in Ceylon. In the Cape of Good Hope and Malta there was a mixture of Englishmen and local men in the lower situations. Although unlike in Ceylon there was in theory no obstacles to those holding inferior situations to rise to the higher, in practice the higher situations went to competitors from England. There was no regulated pension scheme comparable to the one in Ceylon in any of the above Colonies. Pensions were paid out of the colonial revenues, the amount varying according to time, place, and individuals. They were generally lower than in Ceylon. In the Cape of Good Hope, as in Ceylon, the highest salary drawn by a Civil Servant (excepting the Governor and Chief Justices) was £3,000 per annum. In Malta the highest was £1,000 per annum. Unlike in Ceylon in both places there was no lower

limit distinguishing offices held by Englishmen from the others. In both places the Commissioners who inquired into their affairs recommended a more liberal policy towards the Civil Service.

APPENDIX DSCHEDULE No. 1 - OFFICES ABOLISHED

Establishment of 1833	Salary per annum	New Schedule
	£ s d	
Commissioner of Revenue	3,000 0 0) Abolished
Paymaster-General and Commissioner of Stamps	2,000 0 0	
Second Assistant, Col- onial Secretary's Office	512 0 0	
Private Secretary to the Governor	500 0 0	
Sitting Magistrate of Colombo	1,000 0 0	
Sitting Magistrate and Fiscal of Jaffna	610 0 0	
Sitting Magistrate of Tangalla	180 0 0	
Sitting Magistrate of Veligama	135 0 0	
Sitting Magistrate of Poneryn	135 0 0	
Sitting Magistrate of Kandy	135 0 8	
Sitting Magistrate of Galle	100 0 0	
Sitting Magistrate of Kalpitiya	67 10 0	
Registrar of the Vice- Admiralty Court	270 0 0	
	<u>8,674 10 0</u>	

SCHEDULE No. 2CIVIL OFFICES OF THE YEARLY VALUE OF £500 AND ABOVE

Establishment of 1833	Salary per annum			New Schedule	Salary per annum		
	£	s	d		£	s	d
*Governor	8,000	0	0	Governor	7,000	0	0
Colonial Secretary	2,000	0	0	Colonial Secretary	2,000	0	0
First Assistant, Colonial Secretary's Office	640	0	0	Assistant Colonial Secretary and Clerk to the Executive and Legislative Councils	600	0	0
Treasurer	2,000	0	0	Treasurer and Commissioner of Stamps	1,500	0	0
Auditor-General	2,000	0	0	Auditor-General and Comptroller of Revenue	1,500	0	0
Civil Engineer and Surveyor General	800	0	0	Civil Engineer and Surveyor-General	800	0	0
Postmaster-General	512	0	0	Postmaster-General	300	0	0
Master Attendant of Colombo	700	0	0	Harbour Master of Colombo	700	0	0
Master Attendant of Galle	500	0	0	Harbour Master of Galle	500	0	0
Collector of Customs	1,574	0	0	Collector of Customs	1,000	0	0
Collector of Colombo	1,541	0	0	Government Agent at Colombo	1,200	0	0
Assistant Collector of Colombo	512	0	0	Assistant Government Agent at Colombo	300	0	0
Assistant Collector at Kalutara	512	0	0	Assistant Government Agent at Kalutara	400	0	0
Collector of Galle	1,000	0	0	Government Agent at Galle	1,000	0	0
Collector of Tangalla and Mātara	1,107	0	0				

*1831 salary £10,000

Colonial Secretary salary £3,000.

Schedule No. 2 (cont.)

Establishment of 1833	Salary per annum			New Schedule	Salary per annum		
	£	s	d		£	s	d
Collector of Batticaloa	785	0	0	Assistant Government Agent at Mātara	400	0	0
Collector of Trincomalee and Agent of Government for Tamankaduva	1,338	0	0	Assistant Government Agent at Batticaloa	400	0	0
Collector of Jaffna	1,226	0	0	Government Agent at Trincomalee	1,000	0	0
Assistant Collector at Jaffna	512	0	0	Government Agent at Jaffna	1,200	0	0
Collector at Mannār	788	0	0	Assistant Government Agent at Jaffna	300	0	0
Collector at Chilaw	1,014	0	0	Assistant Government Agent at Mannār	400	0	0
Revenue Commissioner of Kandy	1,500	0	0	Assistant Government Agent at Chilaw	400	0	0
Agent of Government at Kurunāgala	1,000	0	0	Government Agent at Kandy	1,200	0	0
Agent of Government at Ratnapura	500	0	0	Assistant Government Agent at Kurunāgala	400	0	0
				Assistant Government Agent at Ratnapura	400	0	0
	<u>32,061</u>	<u>0</u>	<u>0</u>		<u>24,900</u>	<u>0</u>	<u>0</u>

SCHEDULE No. 3CIVIL UNDER £500 PER ANNUM

Establishment of 1833	Salary per annum			New Schedule	Salary per annum		
	£	s	d		£	s	d
Superintendent-General of Vaccination	450	0	0	Superintendent-General of Vaccination	450	0	0
Five Assistants at £90 each	450	0	0	Five Assistants at £90 each	450	0	0
Master Attendant of Trincomalee	400	0	0	Harbour Master of Trincomalee	400	0	0
Assistant Engineer and Surveyor	300	0	0	Assistant Engineer and Surveyor	300	0	0
Superintendent of the Botanical Gardens	250	0	0	Superintendent of the Botanical Gardens	250	0	0
Supervisor of the Pearl Banks	200	0	0	Supervisor of the Pearl Banks	500	0	0
(Agent of Government at Badulla	135	0	0	Assistant Agent at Badulla	400	0	0
(Agent of Government at Alupota	67	10	0	Assistant Agent at Alupota	400	0	0
* (Agent of Government at Ruanvälla	67	10	0	Assistant Agent at Ruanvälla	400	0	0
(Agent of Government at Matalē	67	10	0	Assistant Agent at Matalē	400	0	0
(Agent of Government at Fort King	45	0	0	Assistant Agent at Fort King	400	0	0
(Agent of Government at Maḍavalatānna	90	0	0	Assistant Agent at Maḍavalatānna	400	0	0
	<u>2,522</u>	<u>10</u>	<u>0</u>		<u>4,750</u>	<u>0</u>	<u>0</u>

*These offices were held by Military officers who received in addition their full Military allowances.

SCHEDULE No. 4JUDICIAL OFFICES OF THE YEARLY VALUE OF £500 AND OVER

Establishment of 1833	Salary per annum			New Schedule	Salary per annum		
	£	s	d		£	s	d
Chief Justice	3,000	0	0	Chief Justice	2,500	0	0
Puisne Justice	2,250	0	0	Senior Puisne Justice	1,500	0	0
His Majesty's Advocate-Fiscal	1,800	0	0	King's Advocate	1,200	0	0
Deputy Advocate-Fiscal and Master in Equity	1,200	0	0	Deputy King's Advocate	1,000	0	0
Registrar of the Supreme Court	600	0	0	Registrar of the Supreme Court	600	0	0
Provincial Judge of Colombo	1,600	0	0	District Judge of Colombo	1,000	0	0
Provincial Judge of Galle	1,600	0	0	District Judge of Galle	1,000	0	0
Provincial Judge of Trincomalee	1,152	0	0	District Judge of Trincomalee	1,000	0	0
Provincial Judge of Jaffna	1,500	0	0	District Judge of Jaffna	1,000	0	0
Provincial Judge of Kalpitiya	500	0	0	District Judge of Chilaw and Puttalam	500	0	0
Judicial Commissioner of Kandy	2,000	0	0	District Judge of Kandy	1,000	0	0
Agent of Government at Ratnapura	500	0	0	District Judge of Ratnapura	150	0	0
				District Judge of			
	<u>17,702</u>	<u>0</u>	<u>0</u>		<u>12,450</u>	<u>0</u>	<u>0</u>

SCHEDULE No. 5JUDICIAL UNDER £500 PER ANNUM

Establishment of 1833	Salary per annum			New Schedule	Salary per annum		
	£	s	d		£	s	d
Fiscal of Colombo	350	0	0	Fiscal of the Western Province	350	0	0
Private Secretary to the Chief Justice	270	0	0	Private Secretary to the Chief Justice	270	0	0
Private Secretary to the Puisne Justice	180	0	0	Private Secretary to the Senior Puisne Justice	180	0	0
Provincial Judge of Batticaloa	250	0	0	District Judge of Batticaloa	250	0	0
Provincial Judge of Mannar	200	0	0	District Judge of Mannar	200	0	0
Sitting Magistrate of Kalutara	-			District Judge of Kalutara	135	0	0
Sitting Magistrate of Panadure	135	0	0	District Judge of Panadure	225	0	0
Sitting Magistrate of Negombo	225	0	0	District Judge of Negombo	225	0	0
Sitting Magistrate of Balapitiyimodera	135	0	0	District Judge of Ambalangoḍa	225	0	0
Sitting Magistrate of Matara	225	0	0	District Judge of Matara	225	0	0
Sitting Magistrate of Hambantōḷa	135	0	0	District Judge of Hambantōḷa	135	0	0
Sitting Magistrate of Mullaitivu	180	0	0	District Judge of Mullaitivu	225	0	0
Sitting Magistrate of Point Pedro	67	10	0	District Judge of Point Pedro	157	10	0

Schedule No. 5 (cont.)

Establishment of 1833	Salary per annum	New Schedule	Salary per annum
	£ s d		£ s d
Sitting Magistrate of Mallagam	135 0 0	District Judge of Mallagam	225 0 0
Sitting Magistrate of Kayts	67 10 0	District Judge of Kayts	157 10 0
Sitting Magistrate of Chavakachchēri	135 0 0	District Judge of Chavakachchēri	225 0 0
(Judicial Agent at Kurunāgala	135 0 0	District Judge of Kurunāgala	150 0 0
(Agent of Government at Badulla	135 0 0	District Judge of Badulla	150 0 0
(Agent of Government at Alupota	67 10 0	District Judge of Alupota	150 0 0
(Agent of Government at Ruanvālla	67 10 0	District Judge of Ruanvālla	150 0 0
* (Agent of Government at Matalē	67 10 0	District Judge of Matalē	150 0 0
(Agent of Government at Fort King	45 0 0	District Judge of Fort King	150 0 0
(Agent of Government at Maturaja	90 0 0	District Judge of Nuvara Eliya	150 0 0
	<u>3,297 10 0</u>		<u>4,460 0 0</u>

*These offices were held by Military officers who received in addition their full Military allowances.

SCHEDULE No. 6ECCLESIASTICAL OFFICES OF THE YEARLY VALUE OF£500 AND ABOVE

Establishment of 1833	Salary per annum			New Schedule	Salary per annum		
	£	s	d		£	s	d
Archdeacon and King's Visitor	2,000	0	0	Archdeacon and King's Visitor	1,500	0	0
Senior Colonial Chaplain	900	0	0	Senior Colonial Chaplain	900	0	0
Colonial Chaplain at Galle	700	0	0	Colonial Chaplain at Galle	700	0	0
Colonial Chaplain at Trincomalee	700	0	0	Colonial Chaplain at Trincomalee	700	0	0
Colonial Chaplain at Kandy	700	0	0	Colonial Chaplain at Kandy	700	0	0
	<hr/>				<hr/>		
	<u>5,000</u>	<u>0</u>	<u>0</u>		<u>4,500</u>	<u>0</u>	<u>0</u>

SCHEDULE No. 7ECCLESIASTICAL UNDER £500 PER ANNUM

Establishment of 1833	Salary per annum	New Schedules	Salary per annum
	£ s d		£ s d
Colonial Chaplain at Colombo	400 0 0	Colonial Chaplain at Colombo	400 0 0
Sinhalese Chaplain at Colombo	400 0 0	Sinhalese Chaplain at Colombo	400 0 0
Malabar (Tamil) Chaplain at Jaffna	200 0 0	Malabar Chaplain at Jaffna	200 0 0
Clergyman of the Dutch Church	350 0 0	Clergyman of the Dutch Church	350 0 0
	<u>1,350 0 0</u>		<u>1,350 0 0</u>

SCHEDULE No. 8OFFICES NEWLY CREATED

	Salary per annum £
<u>Civil:</u>	
Assistant Agent at Negombo	400
Assistant Agent at Galle	300
Assistant Agent at Hambantota	400
Assistant Agent at Kandy	300
<u>Judicial:</u>	
Second Puisne Justice	1,500
Private Secretary to Second Puisne Justice	180
District Judge of Nuvarakalaviya	150
<u>Ecclesiastical:</u>	
College Professor	300
	<u>3,530</u>

RECAPITULATION

Offices	Establishment 1833	Establishment New Schedule
Abolished	£ 8,674 ¹ / ₂	£ -
Civil	(of £500 and above (under £500	24,900 4,750
Judicial	(of £500 and above (under £500	12,450 4,460
Ecclesiastical	(of £500 and above (under £500	4,500 1,350
New Creations	-	3,530
	<u>70,607¹/₂</u>	<u>55,940</u>

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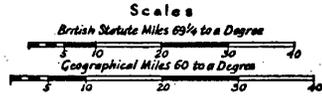
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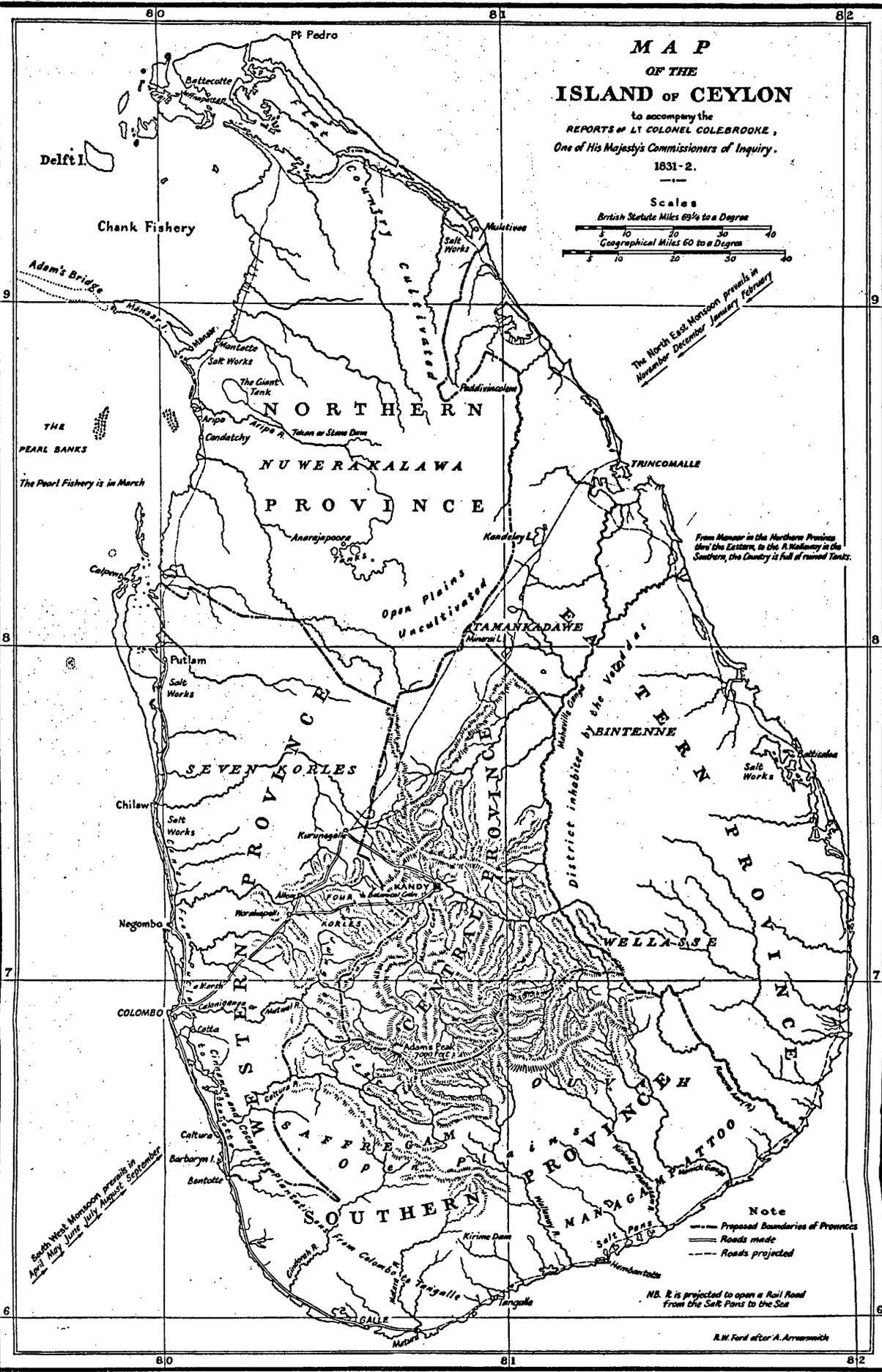
MAP OF THE ISLAND OF CEYLON

to accompany the REPORTS of LT COLONEL COLEBROOKE, One of His Majesty's Commissioners of Inquiry. 1831-2.



The North East Monsoon prevails in November December January February

From Mannar in the Northern Province, from the Eastern to the R. Waddya in the Southern, the Country is full of raised Tanks.



South West Monsoon prevails in April May June July August September

Note

- Proposed Boundaries of Provinces
- Roads made
- - - Roads projected

N.B. It is projected to open a Rail Road from the Salt Pans to the Sea

R.M. Ford after A. Arrowsmith